



**NOTICE OF PUBLIC MEETING**  
**CITY OF ALBANY**  
**CITY COUNCIL**  
 Council Chambers  
 333 Broadalbin Street SW  
 Wednesday, October 22, 2008  
 7:15 p.m.

**OUR MISSION IS**

*"Providing quality public services  
 for a better Albany community."*

**OUR VISION IS**

*"A vital and diversified community  
 that promotes a high quality of life,  
 great neighborhoods, balanced  
 economic growth, and quality public  
 services."*

**AGENDA**

1. CALL TO ORDER
  2. PLEDGE OF ALLEGIANCE TO THE FLAG
  3. ROLL CALL
  4. SCHEDULED BUSINESS
    - a. Business from the Public
    - b. City Council Deliberation and Tentative Decision
      - 1) SP-12-08 and AD-01-08, applications for construction of a shopping center on the south side of Santiam Highway, west of Goldfish Farm Road SE. [Verbal]  
 Action: \_\_\_\_\_
    - c. Second Reading of Ordinance
      - 1) VC-03-07, vacating a portion of Ferry Street SW, between Queen Avenue and the Southern Pacific Transportation Company Railroad right-of-way, and adopting findings. [Pages 1-25]  
 Action: \_\_\_\_\_ ORD. NO. \_\_\_\_\_
    - d. Adoption of Resolutions
      - 1) Approving exemption from the competitive bidding process for the purchase of one International Life Line Highliner ambulance through an existing contract with the City of Eugene and Hughes Fire Equipment. [Pages 26-27]  
 Action: \_\_\_\_\_ RES. NO. \_\_\_\_\_
      - 2) Appropriating a special purpose grant and authorizing the Library Director to sign a contract between the City of Albany and SirsiDynix for a radio identification tracking and materials handling system. [Pages 28-29]  
 Action: \_\_\_\_\_ RES. NO. \_\_\_\_\_
      - 3) PA-01-08/VR-05-08, Orezona Building Company LLC, rescinding the approval of tentative partition plat and variance applications granted by the Albany City Council on June 11, 2008. [Pages 30-32]  
 Action: \_\_\_\_\_ RES. NO. \_\_\_\_\_
    - e. Adoption of Consent Calendar
      - 1) Approval of Minutes
        - a) August 25, 2008, City Council Work Session [Pages 33-36]
        - b) September 10, 2008, City Council Meeting [Pages 37-40]
        - c) September 22, 2008, City Council Work Session [Pages 41-43]
        - d) September 24, 2008, City Council Meeting [Pages 44-46]
      - 2) Adopting the identity theft protection policy for the city of Albany. [Pages 47-51] RES. NO. \_\_\_\_\_
      - 3) Authorizing short-term operation loans from available cash reserves to the General Fund and Public Transit Fund. [Pages 52-53] RES. NO. \_\_\_\_\_
      - 4) Accepting easements from:
        - a) Mary Hubler. [Pages 54-57] RES. NO. \_\_\_\_\_
        - b) Deena Frishkorn. [Pages 58-61] RES. NO. \_\_\_\_\_
        - c) Earl Stutzman. [Pages 62-65] RES. NO. \_\_\_\_\_
      - 5) Accepting and appropriating a special purpose grant from the Oregon Department of Land Conservation and Development to assist with completion of Goal 5 tasks in City's Periodic Review Work Program. [Pages 66-68]  
 RES. NO. \_\_\_\_\_
- Action: \_\_\_\_\_

f. Award of Bid

1) Awarding contract to PetroCard Systems, Inc., for commercial fuel for police vehicles. [Page 69]

Action:\_\_\_\_\_

g. Appointment

1) Appointing John Hartman to the Human Relations Commission. [Pages 70-73]

Action:\_\_\_\_\_

h. Report

1) SD-07-07, Fabian Estates, LUBA remand public hearing. [Page 74]

Action:\_\_\_\_\_

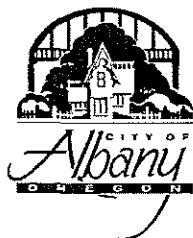
5. BUSINESS FROM THE COUNCIL

6. NEXT MEETING DATE: Work Session Monday, November 10, 2008  
Regular Session Wednesday, November 12, 2008

7. ADJOURNMENT

City of Albany Web site: [www.cityofalbany.net](http://www.cityofalbany.net)

*The location of the meeting/hearing is accessible to the disabled. If you need special accommodations to attend or participate, please notify the Human Resources Department in advance by calling (541) 917-7500.*



TO: Albany City Council

VIA: Wes Hare, City Manager  
Greg Byrne, Community Development Director

FROM: Mike Leopard, Infrastructure Analyst

DATE: October 15, 2008, for the October 22, 2008, City Council Meeting

SUBJECT: File VC-03-07: Vacation of Ferry Street SW right-of-way, north of Queen Avenue SW

Action Requested:

Read for a second time the vacation ordinance for vacation of the Ferry Street SW right-of-way, north of Queen Avenue SW.

Discussion:

The owner of the property to the east of the right-of-way (Celtic Enterprises LLC - Gary Brown) petitioned the Council to initiate the vacation. On July 26, 2007, the City Council directed staff to initiate the vacation of Ferry Street between Queen Avenue SW and the railroad right-of-way.

On February 11, 2008, the Planning Commission held a public hearing and voted to recommend that the City Council approve the vacation.

On February 27, 2008, the City Council held a public hearing on the proposed street vacation. The Council voted to give tentative approval with conditions for the vacation. The conditions included the requirement that the applicant pave a 24 foot wide shared private access way from Queen Avenue SW to the railroad right-of-way within the area to be vacated and that a legal agreement between affected property owners be prepared that identifies the responsibilities for long term maintenance of the access way. Both of these conditions have been met.

While the Council did not specify that they wanted to review the maintenance agreement, we have attached a copy with this memo for your information.

If you have any questions, please call me at 917-7641 or e-mail [mike.leopard@cityofalbany.net](mailto:mike.leopard@cityofalbany.net).

Budget Impact:

None.

MAL

Attachments – Vacation Ordinance, Maintenance Agreement

*U:\Community Development\Planning\Current\2007\07vc03ccmemo 2nd reading.doc*

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE VACATING A PORTION OF FERRY STREET SW, BETWEEN QUEEN AVENUE AND THE SOUTHERN PACIFIC TRANSPORTATION COMPANY RAILROAD RIGHT-OF-WAY, IN ALBANY, OREGON; AND ADOPTING FINDINGS.

WHEREAS, on July 26, 2007, the City of Albany City Council directed staff to initiate the vacation of this portion of right-of-way (File VC-03-07); and

WHEREAS, notices of public hearings were mailed, posted, and published as required by state and local law; and

WHEREAS, the Albany Planning Commission held a public hearing on February 11, 2008; and

WHEREAS, the Albany Planning Commission recommended that the City Council pass this ordinance on the first reading only until the conditions of approval are met (driveway/access paving or financial assurances); and

WHEREAS, the Albany City Council held a public hearing on February 27, 2008, and took first reading on the vacation ordinance, and;

WHEREAS, the applicant has satisfied all conditions of approval that needed to be met before this ordinance is adopted.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: Subject Property. The portion of Ferry Street SW (see legal description on attached Exhibit A and map labeled Exhibit B) is hereby vacated.

Section 2: Findings. The Findings, Conclusions, and Conditions in the Staff Report attached as Exhibit C are hereby adopted in support of this decision.

Section 3: Easement Retained. The City retains a public utility easement over the entire area being vacated. The easement will benefit the City, as well as franchise utilities, their successors, assigns, authorized agents, and/or contractors.

Section 4: Access Easement Retained. The City retains an access easement over the entire area being vacated. This access easement is for the benefit of the adjacent parcels (as described in Linn County Microfilm Deed Records DN2006-17224, MF428-739, MF403-14, and MF989-576) and the Southern Pacific Transportation Company. This easement also provides legal access rights over the vacated area for emergency response vehicles.

Section 5: Emergency Clause. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of this city of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon its passage by the Council.

Section 6: The City Recorder shall, within 10 days of the effective date of this ordinance, file a certified copy of the ordinance with the County Clerk, County Assessor, and County Surveyor (ORS 271.150). The petitioner for the vacation shall bear the recording costs.

Passed by Council: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

*U:\Community Development\Planning\Current\2007\07\vc03 ordinance and cc sr revised.doc*

## EXHIBIT A

### Right-of-Way Vacation VC-03-07

A tract of land located in the southwest one-quarter of Section 7, Township 11 South, Range 3 West, Willamette Meridian, City of Albany, Linn County, Oregon, that consists of:

ALL of that right-of-way of Ferry Street from the north line of Queen Avenue to the southerly right-of-way line of the Southern Pacific Railroad.

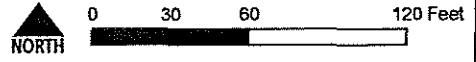
EXCEPTING THEREFROM that 16-foot-wide strip previously vacated by City of Albany Ordinance No. 3921 as recorded by Vacation Document in MF Volume 135, Page 58 of the Linn County, Oregon Deed Records on May 25, 1976.

More particularly described as follows:

Beginning at the northwest corner of Lot 9, Block 1 of the Mary B Industrial Subdivision; thence, South 38°54'35" West, 67.60 feet to the northerly extension of the west boundary of the Ferry Street right-of-way, said point also being North 8°47'35" West, 14.56 feet from the northeast corner of that tract owned by Peter and Glenna Slenning as described in MF428-739, Linn County, Oregon, Deed Records; thence, South 8°47'35" East, 339.77 feet along the west right-of-way line of Ferry Street to the north line of the Queen Avenue right-of-way, said point also being the southeast corner of that tract owned by Michael R. Johnson and Timothy L. Jordan as described in MF403-14, Linn County, Oregon, Deed Records; thence, North 87°15' East, 50.28 feet to the east boundary of the Ferry Street right-of-way, said point also being the southwest corner of Lot 13, Block 1 of the Mary B Industrial Subdivision; thence, along the west boundary of said Mary B Industrial Subdivision, North 8°47'35" West, 390.55 feet to the point of beginning.

This area being vacated contains 18,258 square feet (0.42 acres) of land, more or less.

EXHIBIT B  
Legal Description Map  
VC-03-07



Point of Beginning  
[NW Corner Lot 9, Blk 1  
Mary B Industrial Sub.]

Southern Pacific Railroad  
Right-of-Way

Previously Vacated  
Right-of-Way

Slenning Tract  
MF428-739

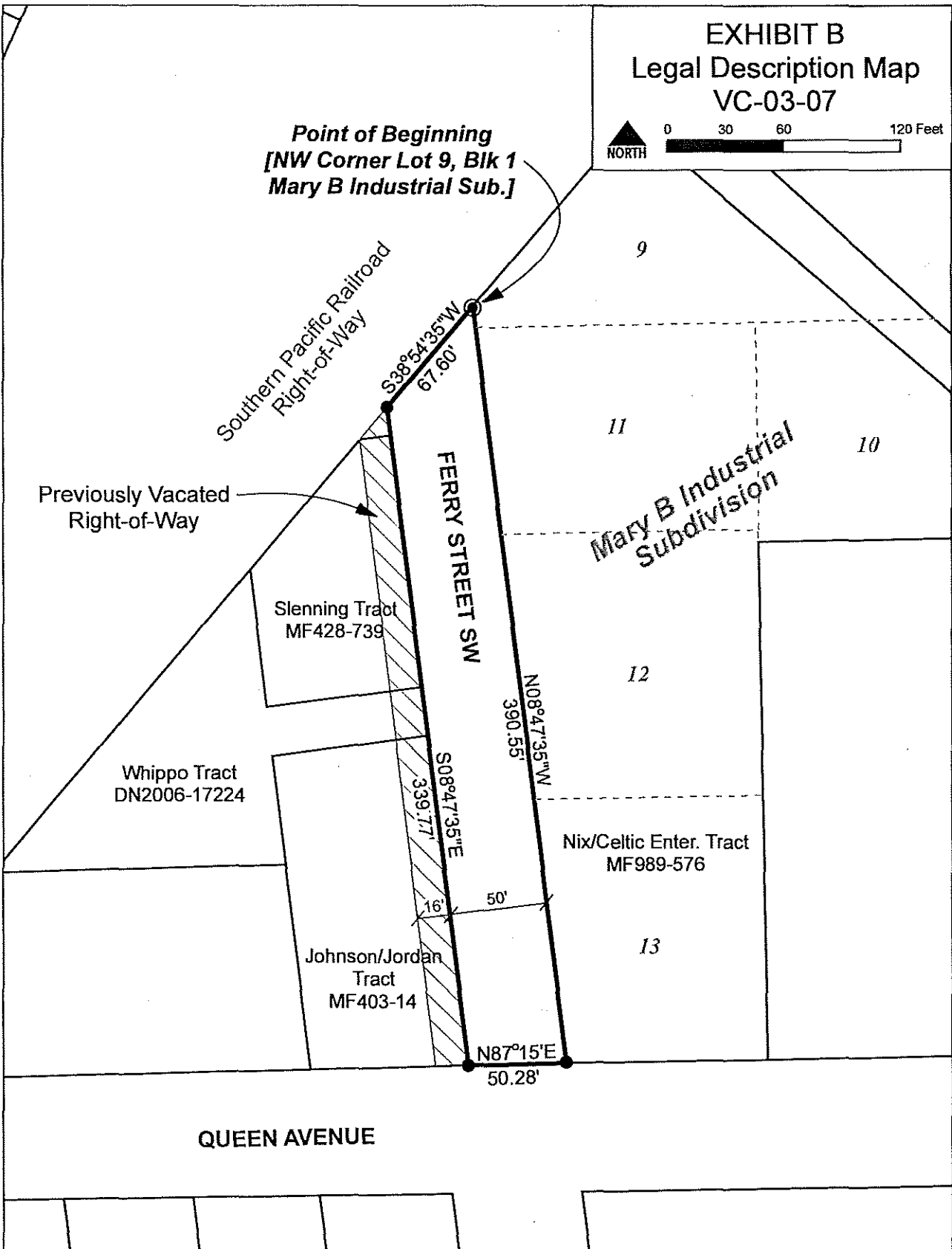
Whippo Tract  
DN2006-17224

Johnson/Jordan  
Tract  
MF403-14

Mary B Industrial  
Subdivision

Nix/Celtic Enter. Tract  
MF989-576

QUEEN AVENUE





# Community Development Department

333 Broadalbin Street SW, P.O. Box 490, Albany, OR 97321

Phone: (541) 917-7550 Facsimile: (541) 917-7598

## STAFF REPORT

### Vacation (Public Street Right-of-Way)

<b><u>HEARING BODY</u></b>	CITY COUNCIL
<b><u>HEARING DATE</u></b>	Wednesday, February 27, 2008
<b><u>HEARING TIME</u></b>	7:15 p.m.
<b><u>HEARING LOCATION</u></b>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW

### **GENERAL INFORMATION**

DATE OF REPORT:	February 20, 2008
FILE:	VC-03-07
TYPE OF APPLICATION:	Vacation of that portion of Ferry Street SW, between Queen Avenue on the south and the railroad right-of-way on the north.
REVIEW BODIES:	City Council (The Planning Commission held a public hearing on February 11, 2008.)
APPLICANT:	The Albany City Council initiated the vacation at the request of Gary Brown; owner of Tax Lots 2601, 2613, and 3100 (Linn County Assessors Map No. 11S-03W-07CB).
ADDRESS/LOCATION:	Right-of-way adjacent to 1630 Ferry Street SW (see Staff Report Attachment A)
MAP/TAX LOT:	Street right-of-way and adjacent properties are shown on Linn County Assessor's Map No. 11S-03W-07CB
TOTAL LAND AREA:	Approximately 18,255 square feet (0.42 acres)
PURPOSE OF REQUEST:	Vacation of public right-of-way to allow for new development on adjacent property to be constructed on the property line with no front yard setback.
EXISTING LAND USE:	Unimproved public right-of-way (Ferry Street SW); currently used as access to three parcels on the west side of the right-of-way.
NEIGHBORHOOD:	Jackson Hill
SURROUNDING ZONING:	North: LI (Light Industrial) East: LI (Light Industrial) South: LI (Light Industrial) West: LI (Light Industrial) (See Staff Report Attachment B)
SURROUNDING USES:	North: Railroad switching yard South: Light industrial uses East: Vacant light industrial use West: Light industrial uses



## NOTICE INFORMATION

A notice of public hearing was mailed to surrounding property owners on January 28, 2008. The site was posted on January 23, 2008, in accordance with Section 1.410 of the Albany Development Code. Two legal notices have been published in the *Albany Democrat-Herald* on January 28, and February 4, 2008, in accordance with Oregon Revised Statute (ORS) 271.110.

At the time this staff report was prepared (February 20, 2008), the Albany Planning Department had received a letter from Stephen and Peggy Whippo, owners of Tax Lot 2500 on the west side of this portion of Ferry Street SW. This letter is attached to the staff report as Attachment G.

## PLANNING COMMISSION RECOMMENDATION

The Albany Planning Commission recommended APPROVAL WITH CONDITIONS of this Vacation application for a portion of the Ferry Street SW right-of-way, north of Queen Avenue (File VC-03-07). The proposed conditions are found in this staff report.

## CITY COUNCIL DECISION

### MOTION TO APPROVE

*If the findings in the staff report adequately address testimony presented at the public hearing, the City Council may approve the application based on the findings and conclusions of the staff report.*

I MOVE that the City Council APPROVE WITH CONDITIONS the application that would result in the vacation of a portion of the Ferry Street SW right-of-way, north of Queen Avenue SW (File VC-03-07). This motion is based on the findings and conclusions of the staff report and testimony presented at the public hearing.

### MOTION TO DENY

*If the City Council determines that there is insufficient evidence to demonstrate that the review criteria have been met, the City Council may deny the application.*

I MOVE that the City Council DENY the application for the vacation of a portion of the Ferry Street SW right-of-way, north of Queen Avenue SW (File VC-03-07).

## STAFF ANALYSIS

### Vacation File VC-03-07

The Albany Development Code (ADC) contains the following review criteria which must be met for this application to be approved. Code criteria are written in *bold italics* and are followed by findings, conclusions, and conditions where conditions are necessary to meet the review criteria.

## OVERVIEW

This portion of Ferry Street is a 360-foot-long section of unimproved public right-of-way between Queen Avenue and the Southern Pacific railroad right-of-way. The Ferry Street right-of-way is currently used for access to three parcels along its west boundary, one parcel on the east, and the railroad yard to the north. This section of Ferry Street right-of-way was initially 66 feet wide. In 1976, the City vacated the westernmost 16 feet of the right-of-way between Queen Avenue and the railroad right-of-way.

The owner of the property to the east (Gary Brown) is proposing to construct a mini-storage development on his property (SP-40-07). The proposed design of the storage facility has buildings being located up to the west property boundary (along the Ferry Street right-of-way). Because this is currently adjacent to a public right-of-way, there is a required "front yard" setback. In order to eliminate the "front yard" setback requirement, the applicant has chosen to request that Ferry Street be vacated. That would result in the west boundary of his property no longer being considered a "front yard," and the setback would not be necessary. [See Staff Report Attachment C.]

At the September 26, 2007, City Council meeting, the Council agreed to initiate the vacation application in order to relieve the applicant of the responsibility of obtaining a signature from the Southern Pacific (Railroad) Transportation Company. The railroad company, and all other affected property owners, received notice of the proposed vacation and were given an opportunity to comment.

(1) *The requested vacation is consistent with relevant Comprehensive Plan policies and with any street plan, city transportation or public facility plan.*

#### FINDINGS OF FACT

1.1 The following Comprehensive Plan policies have been identified as relevant to this review criterion:

##### **GOAL 11: Public Facilities and Services**

- a. Prohibit the construction of structures over public water lines and easements.
  - b. Prohibit the construction of structures over drainage improvements and easements.
  - c. Prohibit the construction of structures over public wastewater lines and easements.
- 1.2 Sanitary Sewer. Sanitary sewer utility maps indicate that an 8-inch public sanitary sewer main lies within the southern 150 feet of the area proposed for vacation. Laterals tapped from this main appear to serve each of the parcels adjacent to this section of right-of-way.
- 1.3 Water. Water utility maps indicate that a 2-inch public water line lies within the southern 250 feet of the area proposed for vacation. Water services tapped from this water line appear to serve the three parcels along the west boundary of this section of right-of-way.
- 1.4 Storm Drainage. Storm drainage utility maps indicate that catch basins at the northeast and southeast corners of Ferry Street SW and Queen Avenue SW collect runoff from these streets. The runoff is then routed through a short length of pipe to a ditch along the east side of Ferry Street SW north of Queen Avenue SW, which runs to the ditch along the south boundary of the railroad property.
- 1.5 Other Utilities. City staff has contacted the various other utility providers about this proposed right-of-way vacation. Based on information gathered from these private utilities, applicant submittals, and other as-built drawings, it has been determined that there are other utilities (such as natural gas, phone, etc.) within the area to be vacated.
- 1.6 Transportation. The right-of-way proposed for vacation is a dead-end section of Ferry Street SW located north of Queen Avenue SW. The length of the street is about 360 feet. The street is classified as a local street and is not improved. The street has a gravel surface and currently provides access to four parcels zoned Light Industrial. The road is also used by the railroad to access their facilities at the north end of this section of right-of-way.

- 1.7 Transportation. Albany's Transportation System Plan (TSP) does not identify this portion of Ferry Street SW as being a part of the City's arterial/collector street system, nor does it anticipate linking or connecting this portion of Ferry Street SW with another street.

### CONCLUSIONS

- 1.1 There are public sanitary sewer, water, and storm drainage facilities within this portion of the Ferry Street SW right-of-way proposed for vacation. (See Staff Report Attachment D.) Because of the locations of these facilities, staff recommends that a public utility easement be maintained over the entire area proposed for vacation. This easement would provide access rights to the City and other utility companies and would prohibit the construction of any permanent structures within this area.
- 1.2 The proposed vacation does not conflict with Albany's TSP.

### CONDITION

- 1.1 The City will retain a public utility easement over the entire area proposed for vacation. This easement will allow legal access to the area for maintenance of any existing utilities, or construction of new facilities, and would prohibit the construction of any permanent structures within this easement.
- (2) *The requested vacation will not have a negative effect on access between public rights-of-way or to existing properties, potential lots, public facilities or utilities.*

### FINDINGS OF FACT

- 2.1 The area proposed for vacation is a section of Ferry Street SW right-of-way, north of Queen Avenue SW. This portion of Ferry Street SW is a 360-foot-long unimproved public right-of-way that terminates at the south boundary of the Southern Pacific railroad yard. The right-of-way currently provides access to four parcels and the railroad yard to the north.
- 2.2 The parcels adjacent to this section of Ferry Street SW right-of-way are zoned Light Industrial (LI). The parcels on the west side of the right-of-way are developed with small scale commercial/light industrial uses. The parcel on the east side of the right-of-way is being proposed for a self-storage facility (SP-40-07). The parcel on the east also has access from Queen Avenue SW and Industrial Way SW.
- 2.3 There are public utilities within this portion of right-of-way (see Findings under Criterion 1). In order to maintain access to these utilities, a public utility easement will be kept over the entire vacated area.
- 2.4 Approval of this vacation request would result in creation of several land-locked parcels. In order to provide access to those parcels, an access easement will be retained over the right-of-way proposed for vacation. This access easement will be for the benefit of those parcels adjacent to the right-of-way, as well as the railroad, and for emergency response vehicles.
- 2.5 Ferry Street SW currently has a gravel surface that is maintained by the City of Albany. Even so, gravel and dirt are often pulled onto Queen Avenue SW by exiting vehicles, creating a maintenance problem.
- 2.6 ADC 12.100(1) requires that approaches and driveways to public streets be paved.
- 2.7 ADC 9.130 requires a minimum paved width of 24 feet for two-way driveways.
- 2.8 In order to comply with the ADC provisions that driveways be paved, construction of driveway pavement within Ferry Street SW would need to be imposed as a condition of approval for the vacation. The parcels that use the existing right-of-way for access are already developed, so an opportunity to condition future development to make the improvement is unlikely.

- 2.9 If the vacation is not approved, the current development application for the parcel adjoining the east side of the right-of-way would be required to comply with ADC 12.060. That would require the development to both provide a setback from the right-of-way and also construct a partial width street improvement to City standards along the site's entire Ferry Street SW frontage.
- 2.10 Once vacated, this portion of Ferry Street SW will function as a driveway access to the parcels that currently take access from the street and the railroad. In order to better accommodate that function into the future, the access road must be paved by the applicant to a minimum width of 24 feet between Queen Avenue SW and the railroad right-of-way.
- 2.11 The applicant's proposed mini-storage development on the adjacent property to the east cannot be approved until the vacation is finalized. It is possible that the applicant would choose to pave the driveway in the vacated area in conjunction with other paving work associated with the mini-storage development. In order to allow for combining this paving work, the City will accept a financial assurance for the driveway paving as meeting the requirement for having the vacation ordinance read a second time. The financial assurance must be in a form acceptable to the City Attorney and must be equivalent to 150 percent of a construction estimate for the work that is approved by the City.
- 2.12 The applicant (Gary Brown; Celtic Enterprises, LLC) has submitted a letter (see Attachment F) requesting that the condition to pave the driveway access within the vacated area be limited to a shorter section adjacent to Queen Avenue SW. If the City Council agrees with the applicant, the condition for paving the access way will be modified for the notice of decision.

#### CONCLUSIONS

- 2.1 The area proposed for vacation is not needed for connectivity between public rights-of-way.
- 2.2 A public utility easement will be maintained over the entire area proposed for vacation to allow access to the various utilities within this area.
- 2.3 An access easement will be retained in order to provide access rights to the parcels located adjacent to Ferry Street SW, the railroad to the north, and for emergency response vehicles.
- 2.4 Once vacated, Ferry Street SW will serve as a driveway access. The driveway will need to be paved to a minimum width of 24 feet for the full distance between Queen Avenue SW and the railroad right-of-way to the north.
- 2.5 Even with construction of a private driveway, the burden on development of the parcel east of Ferry Street SW is much less than what would be required should the right-of-way not be vacated.
- 2.6 The applicant has the option of providing to the City a financial assurance for the driveway work.

#### CONDITIONS

- 2.1 The City will retain a public utility easement and an access easement over the full area proposed for vacation.
- 2.2 Prior to the second reading of the vacation ordinance, the applicant must either pave the access road in Ferry Street SW, between Queen Avenue SW and the railroad right-of-way, or provide a financial assurance for the work equivalent to 150 percent of a construction cost estimate approved by the City.

- (3) *The requested vacation will not have a negative effect on traffic circulation or emergency service protection.*

#### FINDINGS OF FACT

- 3.1 The area proposed for vacation is a gravel dead-end street providing access to four parcels and the railroad yard.
- 3.2 Emergency services vehicles must have legal access to each of the adjacent parcels and to the railroad yard to the north.
- 3.3 In order to maintain access to these existing uses, an access easement will be retained over the area proposed for vacation.
- 3.4 A condition of approval for the vacation will be to pave a private access road from Queen Avenue SW to the railroad right-of-way to a minimum width of 24 feet. Paving the access road will improve emergency vehicle access to the adjacent properties and minimize the amount of gravel and dirt carried onto Queen Avenue SW from Ferry Street SW.

#### CONCLUSIONS

- 3.1 In order to maintain legal access from Queen Avenue SW to these existing uses, an access easement will be retained over the area to be vacated that will benefit the adjacent parcels and the railroad and allow access by emergency response vehicles.
- 3.2 The requested vacation will not have a negative effect on traffic circulation and pavement improvements that are required as a condition of the vacation approval and will improve emergency vehicle access to the area.

#### CONDITION

- 3.1 See Conditions under Criterion 2 above.
- (4) *The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.*

#### FINDINGS OF FACT

- 4.1 The right-of-way to be vacated will be incorporated into the parcels directly abutting it or revert back to the owners of the properties from which the right-of-way was dedicated. The Linn County Cartographic Supervisor has determined that upon vacation the eastern half of the original right-of-way will transfer to Tax Lot 2601 and the western half of the original right-of-way would go to Tax Lots 2500, 2501, and 2502, based on the frontages of those parcels. Because 16 feet of the original right-of-way was previously vacated, the properties along the west side of Ferry Street SW would receive only 17 feet of the remaining 50-foot right-of-way. This property distribution is shown on Staff Report Attachment E.
- 4.2 The area to be vacated is currently being used by adjacent property owners for access to their parcels/businesses.
- 4.3 The area proposed for vacation would not become part of the adjacent properties "front yard" setback, and therefore would not require additional landscaping, etc.
- 4.4 Pavement improvements that will occur as a condition of the vacation approval will improve emergency vehicle access to the area.

- 4.5 If the right-of-way is vacated, maintenance responsibility over the driveway/access would shift to the owners of the properties benefited by the access easement.

### CONCLUSIONS

- 4.1 No additional landscaping will be necessary if the area is vacated because the vacated area will no longer be considered a "front yard" for the adjacent parcels.
- 4.2 Paving the access road will provide a cleaner, more stable surface for vehicle access (including emergency vehicles) to each of the parcels (and railroad property) using the road for access.
- 4.3 The adjacent property owners and the railroad company would assume maintenance responsibility of the driveway/access within the vacated area.

### CONDITION

- 4.1 See Condition 2.2.

**(5) *The public interest, present and future, will be best served by approval of the proposed vacation.***

### FINDINGS

- 5.1 The area proposed for vacation is an unimproved right-of-way. The area to be vacated is currently being used by adjacent property owners for access to their properties.
- 5.2 Retaining an access easement over the area to be vacated will assure access rights to all property owners along the vacated right-of-way, as well as emergency vehicles.
- 5.3 Retaining a public utility easement over the area to be vacated will provide the City and other utility companies the right to access the utilities within the area.
- 5.4 Paving the shared access from Queen Avenue SW to the railroad right-of-way would satisfy the Development Code requirement regarding improving driveways (ADC 12.100). The paving will also improve emergency vehicle access and minimize the amount of gravel and dirt carried onto Queen Avenue SW from Ferry Street SW.
- 5.5 Upon final approval of the vacation, the City will no longer have any maintenance responsibility for the street within the vacated area. Public utility maintenance within the vacated area would still be the City's responsibility.
- 5.6 ORS 227.178 (1) states: Except as provided in subsections (3) and (5) of this section, the governing body of a city or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after the application is deemed complete.
- 5.7 ORS 227.178 (5) states: The 120-day period set in subsection (1) of this section may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 245 days.
- 5.8 ORS 227.178 (10) states: A city may not compel an applicant to waive the 120-day period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 227.179 as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.

- 5.9 ORS 227.179 (1) states: Except when an applicant requests an extension under ORS 227.178 (5), if the governing body of a city or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days after the application is deemed complete, the applicant may file a petition for a writ of mandamus under ORS 34.130 in the circuit court of the county where the application was submitted to compel the governing body or its designee to issue the approval.
- 5.10 This application was deemed complete on January 7, 2008; therefore the city has until May 6, 2008 to make a final decision (120 days), unless the applicant requests an extension to the 120-day limit.
- 5.11 On February 27, 2008 the Albany City Council held a public hearing regarding the proposed vacation of a portion of Ferry Street right-of-way, north of Queen Avenue. As part of their deliberations, the Council voted to include an additional condition to the approval of the vacation application. This additional condition is that the applicant must have a legal agreement prepared that identifies the parties responsible for ongoing maintenance of the driveway/access that the applicant must pave within the vacated right-of-way. The applicant must submit a copy of this maintenance agreement, signed by all affected property owners and recorded by Linn County, to the City before the vacation ordinance will be read a second time.

CONCLUSIONS

- 5.1 Without an extension to the 120-day limit, the City must make a final decision (second reading of the ordinance) regarding this application by May 6, 2008.
- 5.2 In an attempt to allow as much time as possible for the applicant to complete the required paving, it is recommended that the applicant request an extension of the 120-day limit.
- 5.3 In order to allow for time to take this vacation application back to the Council for denial if the condition of paving is not met before the deadline to make the final decision on the land use application, the applicant must either complete the paving, or provide the appropriate financial assurance for the paving, at least 4 weeks prior to the expiration of the 120 days.

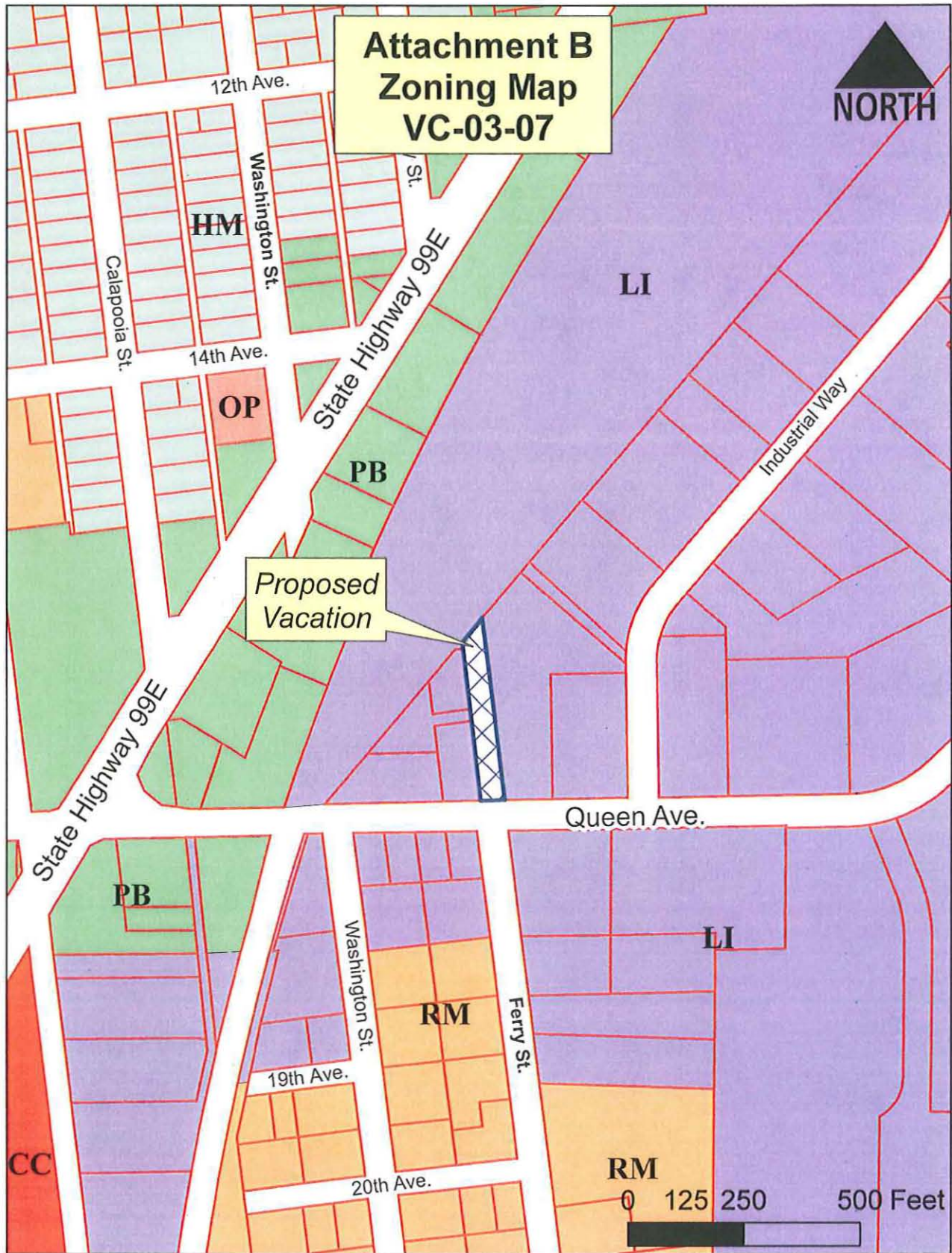
CONDITIONS

- 5.1 The applicant must complete the required driveway/access paving, or provide financial assurance for the paving, at least 4 weeks prior to the expiration of the 120-day land use decision limit. If an extension of the 120-day limit is requested by the applicant, then the paving requirement must be satisfied at least 4 weeks prior to the expiration of the amended land use decision limit.
- 5.2 The applicant must submit to the City a shared maintenance agreement that details how the shared access way will be maintained after the vacation is finalized. This agreement must be signed by all parties that will have some responsibility for ongoing maintenance of the access way. The agreement must also be recorded with Linn County.



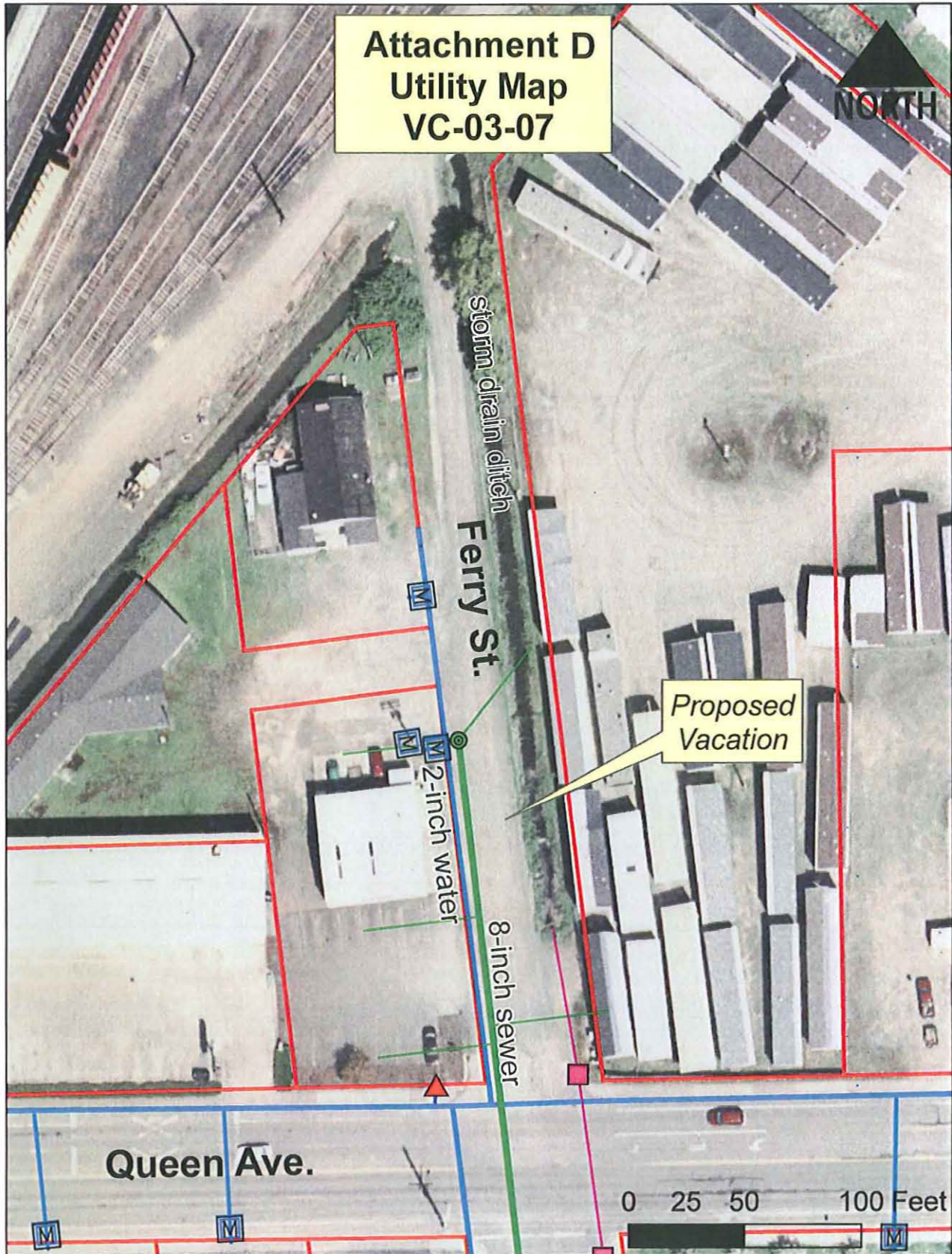






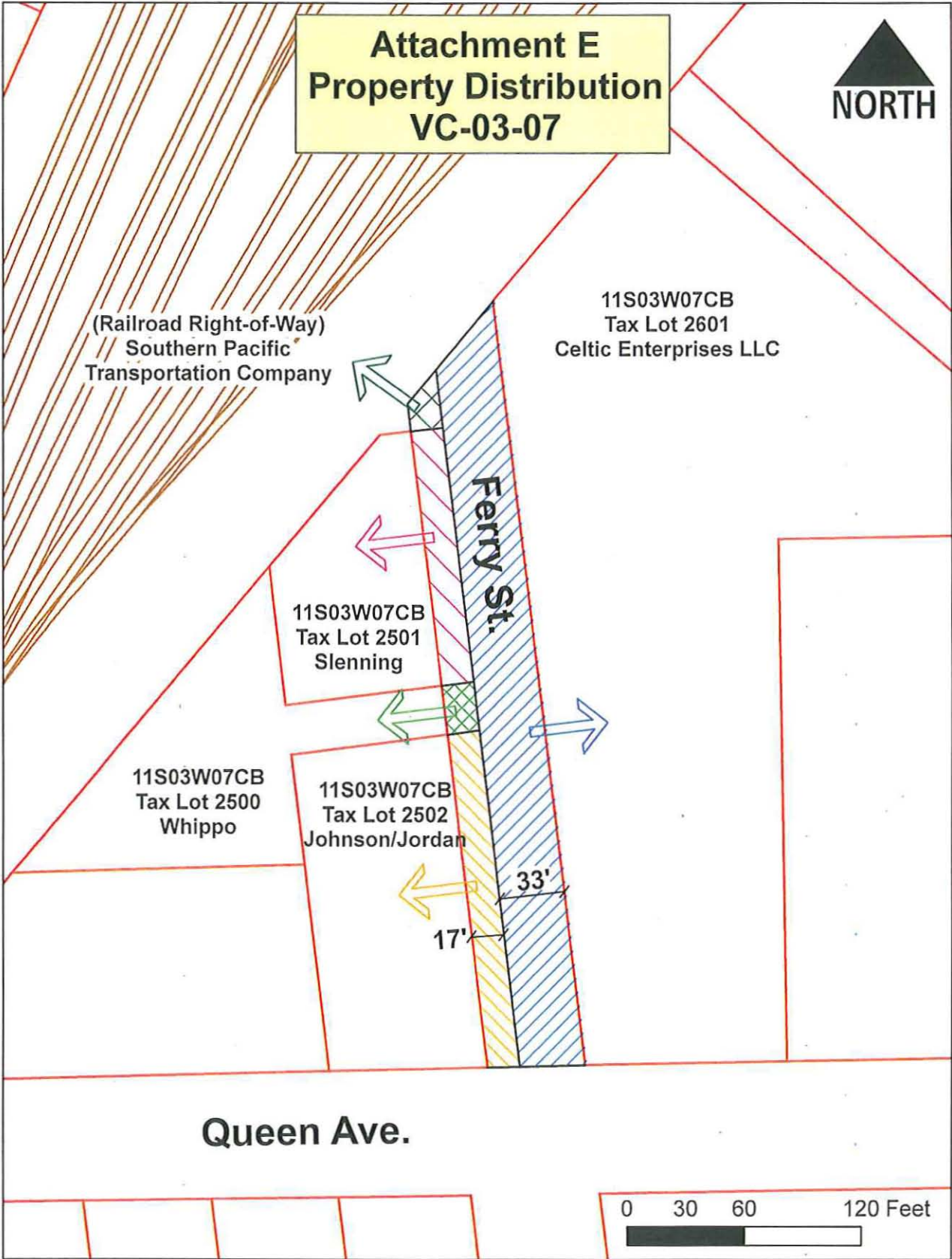








**Attachment E  
Property Distribution  
VC-03-07**



# Attachment F

## CELTIC ENTERPRISES, LLC

P.O. Box 614

Albany, OR 97321

Phone 541-979-6917••••e-mail [gary@gbrownrealtor.com](mailto:gary@gbrownrealtor.com)

January 30, 2008

Mr. Don Donovan  
City of Albany Planning Dept.  
333 Broadalbin SW  
Albany, OR 97321

Re: Ferry Street vacation application

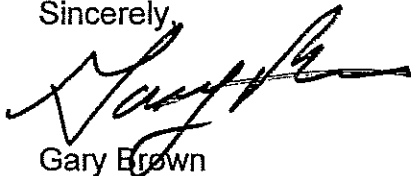
Don:

In reference to the city's possible requirement for us to pave the section of Ferry Street for which we are requesting vacation, I can understand the concern that accessing Queen Avenue from a graveled Ferry Street could cause pavement deterioration. However, it makes no sense for us to pave our side of the easement as it is for ingress from Queen Ave. It is the other side of the easement that would drag gravel onto the street.

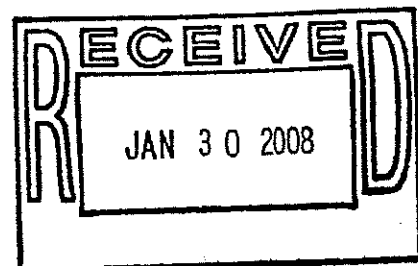
I am requesting that the Planning Dept. consider letting us pave an apron to drive on for accessing Queen. I am willing to pave the apron on both sides of the easement for a distance of 25 to 30 feet, or whatever you deem necessary to preserve the integrity of Queen's pavement.

Please let me know the position of the Planning Department on this as soon as possible. As always, thank you for your help.

Sincerely,



Gary Brown



*RECORDING REQUESTED BY*  
**AND WHEN RECORDED RETURN TO:**  
Gary Brown  
Celtic Enterprises LLC  
P.O. Box 614  
Albany, OR 97321

---

(Space above this line for Recorder's use only.)

## **Reciprocal Driveway Easement & Maintenance Agreement**

### **Recitals**

1. THIS RECIPROCAL EASEMENT AGREEMENT is made and entered at the date executed below.
2. The City initiated a street vacation for an unimproved portion of Ferry Street which is the property governed by this easement. The vacated property subject to this reciprocal easement agreement is described in Exhibit A attached hereto and depicted in Exhibit B incorporated herewith ("Property").
3. The City's road vacation is filed under VC-03-07 by the City of Albany Planning Division. As a consequence of the street vacation, several property owners abutting the vacated street now take ownership of a portion of the vacated street.
4. As a condition of approval for the vacation of this street, the City is requiring that a private driveway be paved from its access point from Queen Avenue to the Southern Pacific Railroad property. The width of the driveway will begin at the width of the existing Ferry Street paved access and will taper to a 24-foot width in a distance of approximately 70 feet. From that point to the Southern Pacific Railway property, it will be 24 feet in width. Celtic Enterprises, LLC will pay all costs associated with construction of this driveway. There will be additional paving installed at the same time on the West side of the driveway immediately adjacent to the property owned by Michael Johnson and Timothy Jordan. The width of that additional paving will be approximately 7 feet. Johnson and Jordan will pay this additional paving at the pro-rated overall cost of the driveway paving. The location of the paving and the specifications of the paving are shown on Exhibit B.
5. Grantor Stephen Whippo and Peggy Whippo ("Grantor Whippo") own a tract abutting a portion of the Property that is more particularly described in the Linn County Recorder's Office, Deed Ref. DN2006-17224.
6. Grantors Peter C. Slenning and Glenna R. Slenning ("Grantor Slenning") own a tract abutting a portion of the Property more particularly described in the Linn County Recorder's office at Volume 428, pg 739.

7. Grantors Michael R. Johnson and Timothy L. Jordan ("Grantor Johnson/Jordan") own a tract abutting a portion of the Property that is more particularly described in Linn County Recorder's office at Volume 403, pg 14.

8. Grantor Celtic Enterprises LLC ("Grantor Celtic") holds equitable title to a tract abutting a portion of the Property held by Grantor Betty L. Nix, Trustee of the John T. Nix, Jr. Credit Shelter Trust ("Grantor Nix"). This tract consists of four separate parcels described in the following three deeds as recorded in the Linn County Oregon Deed of Records: Vol. 989, pg. 574, Vol. 989, pg. 576, Vol., 1552, pg. 560.

9. Grantee Southern Pacific Railroad owns the land that abuts the north line of the Property.

10. After the vacation of the street, the private driveway is not part of the city-maintained road network.

11. This easement is intended to create a permanent and reciprocal right-of-way for a driveway benefiting Grantors' and Grantee's property and to provide for the maintenance and repair of such private driveway. The driveway is shown on Exhibit "B" attached hereto and incorporated herewith.

12. The use of the term "Grantor" and "Grantees" includes their respective heirs, successors, or assigns to this Agreement. "Grantors" includes all grantors listed in paragraphs 5-8 above. Use of the "Grantors" in this agreement does not nullify the intent of the Grantors to also benefit as grantees of the easement contained herein.

### **Easement and Maintenance Terms**

1. **Recitals Incorporated.** The above recitals are material and incorporated herein.

2. **Easement Area.** This easement is granted for the paved driveway that the City of Albany is requiring as set out in paragraph 4 of the Recitals above. The Property subject to this easement is depicted on the attached Exhibit A.

3. **Easement Use.** Grantors hereby grant to each other a perpetual non-exclusive easement for ingress and egress from Queen Avenue for Grantors' for pedestrian and vehicular traffic only and for emergency service vehicles as necessary. Grantors hereby grant to Grantee a perpetual non-exclusive easement for ingress and egress from Queen Avenue for Grantee's for pedestrian and vehicular traffic only and for emergency service vehicles as necessary. Each Grantor shall also be allowed the right to install any sub-surface storm drain lines to the drainage ditch along Grantor Celtic/Nix's property that may be reasonable necessary in the future at the Grantor's own expense.

4. **Nature of Use.** Use of the right-of-way shall be on a regular, continuous, nonexclusive, non-priority basis, benefiting all parties, their successors, assigns, lessees, mortgagees, invitees, guests, customers, agents and employees. However, no party's rights hereunder shall lapse in the event of that party's failure to use the easement and right-of-way on a continuous basis.

11. **Dispute Resolution.** Any dispute or claim that arises out of or that relates to this agreement, or to the interpretation or breach thereof, or to the existence, scope, or validity of this agreement shall be resolved by arbitration in accordance with the then effective arbitration rules of (and by filing a claim with) Arbitration Service of Portland, Inc., and judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof. The parties acknowledge that mediation helps parties settle their dispute and any party may propose mediation whenever appropriate through Arbitration Service of Portland or any mediator selected by the parties. The parties hereby stipulate to the use of a single arbitrator. The parties also may use another form of arbitration should all parties to the dispute so stipulate.

12. **No Third Party Benefit.** Nothing in this Agreement, express or implied, is intended or shall be construed to confer on any person, other than the parties to this Agreement, any right, remedy, or claim under or with respect to this Agreement.

13. **Severability.** If any provision of this Agreement shall be invalid or unenforceable in any respect for any reason, the validity and enforceability of any such provision in any other respect and of the remaining provisions of this Agreement shall not be in any way impaired.

14. **Entire Agreement.** This Agreement (including the documents and instruments referred to in this Agreement) constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter.

IN WITNESS WHEREOF, the owner(s) have hereunto set their hands in duplicate.

Grantors:

Date: 10-03-08

Stephen Whippo  
Stephen Whippo

Date: 10-3-08

Peggy Whippo  
Peggy Whippo

Date: 10-03-08

Peter C. Slenning  
Peter C. Slenning

Date: 10-03-08

Glenna R. Slenning  
Glenna R. Slenning

Date: 10/03/08

Michael R. Johnson  
Michael R. Johnson

Date: 10-3-08

Timothy L. Jordan  
Timothy L. Jordan



Date: 10/3/08  
3/10/08

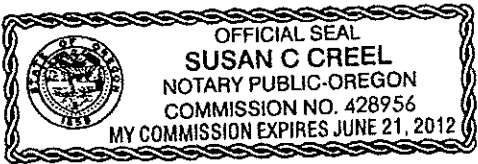
Date: 10/3/08  
3/10/08

[Signature]  
Gary Brown, Authorized Member  
Celtic Enterprises, LLC

Betty L. Nix Trustee  
Betty L. Nix, Trustee of the John T. Nix, Jr. Credit  
Shelter Trust

STATE OF OREGON )  
 ) ss.  
County of Linn )

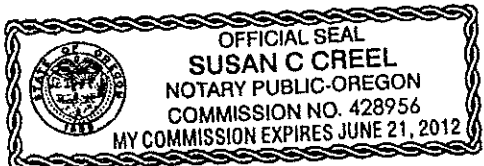
The foregoing instrument was acknowledged before me this 3<sup>RD</sup> day of OCTOBER, 2008 by STEPHEN WHIPPO.



[Signature]  
Notary Public for OREGON  
My commission expires: 6-21-2012

STATE OF OREGON )  
 ) ss.  
County of Linn )

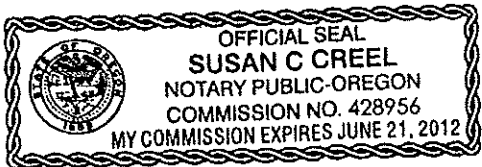
The foregoing instrument was acknowledged before me this 3<sup>RD</sup> day of OCTOBER, 2008 by PEGGY WHIPPO.



[Signature]  
Notary Public for OREGON  
My commission expires: 6-21-2012

STATE OF OREGON )  
 ) ss.  
County of Linn )

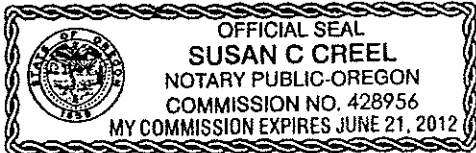
The foregoing instrument was acknowledged before me this 3<sup>RD</sup> day of OCTOBER, 2008 by PETER C. SLENNING.



[Signature]  
Notary Public for OREGON  
My commission expires: 6-21-2012

STATE OF OREGON )  
 ) ss.  
County of Linn )

The foregoing instrument was acknowledged before me this 3<sup>RD</sup> day of OCTOBER, 2008 by GLENNA R. SLENNING.



Susan C Creel  
Notary Public for OREGON  
My commission expires: 6-21-2012

STATE OF OREGON )  
 ) ss.  
County of Linn )

The foregoing instrument was acknowledged before me this 3<sup>RD</sup> day of OCTOBER, 2008 by MICHAEL R. JOHNSON.



Susan C Creel  
Notary Public for OREGON  
My commission expires: 6-21-2012

STATE OF OREGON )  
 ) ss.  
County of Linn )

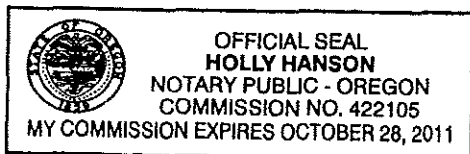
The foregoing instrument was acknowledged before me this 3<sup>RD</sup> day of OCTOBER, 2008 by TIMOTHY L. JORDAN.



Susan C Creel  
Notary Public for OREGON  
My commission expires: 6-21-2012

STATE OF OREGON )  
 ) ss.  
County of Linn )

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of October, 2008 by GARY BROWN.



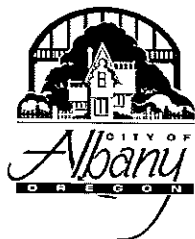
Holly Hanson  
Notary Public for Oregon  
My commission expires: 10/28/11

STATE OF OREGON            )  
  ) ss.  
County of Linn                )

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of October, 2008 by BETTY L. NIX.

Holly Hanson  
Notary Public for Oregon  
My commission expires: 10/28/11





TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: John Bradner, Fire Chief *JB*  
DATE: October 14, 2008, for October 22, 2008, City Council Meeting  
SUBJECT: Ambulance Purchase – Cooperative Agreement

RELATES TO STRATEGIC PLAN THEME: • An Effective Government

Action Requested:

City Council approval by resolution for the following:

1. An exemption from the competitive bidding requirements for the purchase of one International Life Line Highliner ambulance through an existing contract with the City of Eugene, Oregon, and Hughes Fire Equipment, Inc.
2. To issue a Notice of Intent to Award Contract and authorize the City Manager to enter into a contract for \$199,211 with Hughes Fire Equipment, Inc. for the purchase of one International Life Line Highliner ambulance.

Discussion:

The Fire Department purchased three Life Line ambulances in fiscal year 2006-07. Albany City Council approved the purchase of one additional ambulance in the Fire Department's 2008-09 fiscal year budget.

A contract exists between Hughes Fire Equipment, Inc. and the City of Eugene, Oregon, for International Life Line Highliner ambulances. The City of Eugene, Oregon, contract allows other public entities to participate in their bid, pursuant to ORS Chapter 279A.200-215.

Purchasing through an existing contract will save the Fire Department months of time and money that it would take to conduct a formal solicitation process.

Budget Impact:

\$199,211 (100-25-1201-70005 Fixed Assets)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING EXEMPTION FROM THE COMPETITIVE BIDDING PROCESS FOR THE PURCHASE OF ONE INTERNATIONAL LIFE LINE HIGHLINER AMBULANCE THROUGH AN EXISTING CONTRACT WITH THE CITY OF EUGENE, OREGON, AND HUGHES FIRE EQUIPMENT, INC.; TO ISSUE A NOTICE OF INTENT TO AWARD CONTRACT WITH HUGHES FIRE EQUIPMENT, INC.; AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR \$199,211 WITH HUGHES FIRE EQUIPMENT, INC. TO PURCHASE ONE INTERNATIONAL LIFE LINE HIGHLINER AMBULANCE.

WHEREAS, the City of Eugene, Oregon, has a contract with Hughes Fire Equipment, Inc. for the purchase of International Life Line Highliner ambulances; and

WHEREAS, the City of Eugene's contract with Hughes Fire Equipment, Inc. includes cooperative procurement language which allows other public entities to use their contract to procure goods and services, pursuant to ORS Chapter 279A.200-215; and

WHEREAS, the Fire Department is requesting approval to use the City of Eugene contract to procure an ambulance to achieve cost and time savings by expediting the procurement process; and

WHEREAS, if the City does not receive any formal protests to the Notice of Intent to Award, as prescribed by ORS 279A.215, the City Manager may award the purchase of an International Life Line Highliner ambulance to Hughes Fire Equipment, Inc.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council authorizes the Fire Department an exemption from the competitive bidding process for the purchase of an International Life Line Highliner ambulance through an existing cooperative procurement contract with the City of Eugene, Oregon, and Hughes Fire Equipment, Inc.; and

BE IT FURTHER RESOLVED that the Albany City Council authorizes the City Manager to enter into a contract for \$199,211 with Hughes Fire Equipment, Inc. to purchase one International Life Line Highliner ambulance.

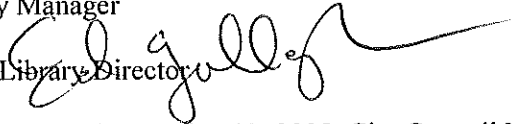
DATED AND EFFECTIVE THIS 22ND OF OCTOBER 2008.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Ed Gallagher, Library Director   
DATE: October 15, 2008, for the October 22, 2008, City Council Meeting  
SUBJECT: RFID RESOLUTION CORRECTION

RELATES TO STRATEGIC PLAN THEME: • Effective Government

Action Requested:

Motion to repeal Resolution No. 5686 and adopt the corrected Resolution attached.

Discussion:

The purchase of the RFID system will come from the Oregon Community Foundation and will have no impact upon the Library Renovation Fund, which I erroneously included in my previous memo for the October 8, 2008, City Council meeting. All other information on the Resolution is the same.

Budget Impact:

None.

EG:kg  
Attachment

*G:\ADMIN\EdG\CC Memos, etc\RFIDCCMemoOct22,08.docx*

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROPRIATING A SPECIAL PURPOSE GRANT AND AUTHORIZING THE LIBRARY DIRECTOR TO SIGN A CONTRACT BETWEEN THE CITY OF ALBANY AND SIRSIDYNIX FOR A RADIO FREQUENCY IDENTIFICATION TRACKING AND MATERIALS HANDLING SYSTEM (RFID) BEGINNING OCTOBER 9, 2008, AND REPEALING RESOLUTION NO. 5686.

WHEREAS, the Library Department requested proposals from five firms through a formal competitive Request for Proposal (RFP) process; and

WHEREAS, SirsiDynix was the apparent successful vendor; and

WHEREAS, the Albany City Council was presented with the results from the RFID RFP on September 10, 2008, and directed the Library Director to negotiate a contract with SirsiDynix; and

WHEREAS, the fee proposal submitted for the required RFID exceeded the estimated costs and negotiations were conducted to achieve a best and final cost proposal; and

WHEREAS, a contract has been negotiated with SirsiDynix, satisfactory to both parties, and attached as "EXHIBIT A", and

WHEREAS, \$260,000 is currently budgeted, but \$92,800 of additional funds are required to complete the RFID Project; and

WHEREAS, funds are available from the Oregon Community Foundation; upon request from the Library Director; and

WHEREAS, Oregon Local Budget Law provides that expenditures in the year of receipt of grants, gifts, bequests, or devices transferred to the local government in trust for a specific purpose may be made after enactment of a resolution or ordinance authorizing the expenditure (ORS 294.326(3)); and

WHEREAS, Resolution No. 5686 adopted on October 8, 2008, erroneously had funding for the RFID come from the Library Renovation Fund.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council does hereby repeal Resolution No. 5686, and authorizes the Library Director to sign a contract between the City of Albany and SirsiDynix for the RFID System beginning October 9, 2008; and

BE IT FURTHER RESOLVED that the additional Oregon Community Foundation grant in the amount of \$92,800 is hereby appropriated as follows:

	Resources	Requirements
Oregon Community Grant Fund 203-45-5033-42820	\$92,800	
Oregon Community Grant Fund 203-45-5033-70005		\$92,800

DATED AND EFFECTIVE THIS 22nd DAY OF OCTOBER 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



TO: Albany City Council  
VIA: Wes Hare, City Manager  
Greg Byrne, Community Development Director  
FROM: Don Donovan, Planning Manager  
DATE: October 15, 2008, for the October 22, 2008, City Council Meeting  
SUBJECT: File PA-01-08/VR-05-08, Orezona Building Company LLC Applications  
Rescind City Council Approval

Action Requested:

Rescind the City Council approval of the Orezona Building Company LLC Partition Tentative Plat and Variance applications.

Discussion:

On June 11, 2008, the Albany City Council granted approval with conditions of a Tentative Partition Plat application to divide a parcel of land into two parcels of land, and a Variance application to allow four parcels to share an access easement. The applicant/property owner was Jason Schaefer for Orezona Building Company LLC.

The City Council decision was appealed to the state Land Use Board of Appeals (LUBA). The property owner and the appellant have negotiated a settlement of the appeal. The property owner/applicant has agreed to sell the property to owners who will not divide the property for a specified period of time. To make sure the property is not divided, the property owner has agreed to ask the City Council to rescind (or terminate) the approval. The LUBA appeal will be withdrawn.

We discussed with the City Attorney the proper process for withdrawing approval of these applications and he recommended the City Council pass a resolution that rescinds the approval.

Subsequent to the time we received the request to rescind approval of the application, the property was sold. So, the previous property owner (Orezoza) and the new property owners (Briggs) have both signed the letter asking that the approval be rescinded.

A resolution that will rescind the approval and the letter from the property owners are attached to this memo.

If you have questions before the City Council meeting, please let me know.

Budget Impact:

None.

*U:\Community Development\Planning\Current\2008\08pa01ccm4.dd.docx*



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION RESCINDING THE APPROVAL OF TENTATIVE PARTITION PLAT AND VARIANCE APPLICATIONS GRANTED BY THE ALBANY CITY COUNCIL ON JUNE 11, 2008.**

**WHEREAS, on June 11, 2008, the Albany City Council granted approval with conditions of a Tentative Partition Plat application to divide a 1.59-acre parcel of land into two parcels of land, and a Variance application to allow four parcels to share an access easement (City of Albany Files PA-01-08 and VR-05-08); and**

**WHEREAS, the property for which the Tentative Partition Plat and Variance applications were approved is designated on Benton County Tax Assessor's Map No. 10S-4W-25BC as Tax Lot 5100; and**

**WHEREAS, the owner of the property and the applicant for the Tentative Partition Plat and Variance applications was Jason Schaefer for Orezona Building Company LLC; and**

**WHEREAS, the Benton County Tax Assessor now lists Eric and Kristin Briggs as the owners of the property for which the Tentative Partition Plat and Variance applications were approved; and**

**WHEREAS, Jason Schaefer and Eric and Kristin Briggs have delivered to the City of Albany a letter requesting that the approval of the Tentative Partition Plat and Variance applications be terminated; and**

**WHEREAS, the letter is attached to this resolution as Exhibit A.**

**NOW, THEREFORE, BE IT RESOLVED that the Albany City Council rescinds the approval of the Tentative Partition Plat and Variance applications (Files PA-01-08 and VR-05-08).**

**DATED AND EFFECTIVE THIS 22nd DAY OF OCTOBER 2008.**

**ATTEST:**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Thursday, September 25, 2008

Orezona Building Company LLP

Mr. Don Donovan  
Planning Manager City of Albany  
333 Broadalbin Street SW  
Albany, OR 97321

Dear Mr. Donovan,

Please terminate the partition application/ approval for the property address 2543 Valley View Dr. Albany, OR 97321.

Thank you,  
Orezona Building Company LLP



Jason Schaefer  
Partner

Eric C. Bagg  
Kristen L. Bagg } Property owners  
as of 10/6/08

RECEIVED  
OCT 14 2008  
dc

APPROVED:

CITY OF ALBANY  
CITY COUNCIL (WORK SESSION)  
Municipal Court Room  
Monday, August 25, 2008  
4:00 p.m.

MINUTES

CALL TO ORDER

Mayor Dan Bedore called the meeting to order at 4:00 p.m.

ROLL CALL

Councilors present: Councilors Ralph Reid Jr., Floyd Collins, Bessie Johnson, Dick Olsen, and Sharon Konopa.

Councilors absent: Councilor Jeff Christman

BUSINESS FROM THE PUBLIC

There was no business from the public.

NORTH ALBANY WATER SERVICE DISCUSSION

Assistant City Engineer Jeff Blaine said there are two memos in the agenda packet for discussion: Water Service Outside the Urban Growth Boundary (UGB) and North Albany Water Service Alternatives. Blaine said the water service outside the UGB issue is actually the longer of the two reports so he will start with that.

Blaine said that in the summer of 2007 the Council discussed a request for water from the Brown, Foss, and Sams' families that led to the Council's consideration of potential policy changes for water service outside the UGB. Council directed staff to conduct more research and report back. In order to completely answer the Council's questions staff retained a consultant for hydraulic modeling of the water system. Difficulty in finding a competent modeler resulted in a delay in bringing this item back to the Council. CH2M-Hill was ultimately retained and the work is now complete.

Blaine introduced Engineering Associate I Chris Goins. Blaine said Goins spent a lot of time with the consultant on this project and did a great job.

Blaine displayed a map that showed parcels that have water service in orange, and parcels that are eligible for one service per the current policy in blue (see agenda file).

The options before the Council are to codify the existing connection criteria as currently established in Res. No. 3363, or codify language to allow any parcels outside the UGB and adjacent to an existing waterline one service connection and not limit additional connections to parcels created through subdivisions or partitions. With each of these, staff suggests the Council consider four additional connection criteria, as listed in the staff memo.

Blaine said there are no state of Oregon rules that prohibit the Council from making this decision. There are advantages and disadvantages for both scenarios.

Blaine said that by expanding water service and thus promoting growth outside the UGB, it is unknown if there is a potential for septic failures similar to the failures that prompted the large annexation in North Albany several years ago.

Councilor Bessie Johnson asked why the properties that have service already are so sporadically spread out over the large footprint area. Councilor Floyd Collins explained that there were 13 separate water districts in the 1970s. The Parker Water District was the focal point to work with Benton County and bring the others in; Dumbeck Water District was the only one that stayed out.

Collins said another key question is how to plan for urban reserve for future consideration. Cities need to modify the UGB as they approach their maximum density. There needs to be discussion about how far to extend the UGB, yet it can't be predicted too far out. Because Benton County allowed the subdivisions to go in so much of the area is already urbanized. We need some form of transitional standards for where services are now, to where they might be in the future.

Councilor Dick Olsen said we need to consider how we can get all these residents across the North Albany bridge. We need another bridge, but traveling through the downtown area should not be an option.

Bedore said, the only thing that will prevent urbanization is to control who gets water; so the current policy we have may be the best way to go.

Johnson asked if there is anything we can do to prevent Benton County from allowing people to build and put wells in outside the UGB. So often these wells run dry and then they approach the City for services. Public Works Director Diane Taniguchi-Dennis said that the Benton County has initiated a regional water supply discussion that includes groundwater availability and quality. The current policy allows some access if there is a waterline already

fronting the property on a case by case basis. We can charge connection fees under the current policy but to charge a different rate we would have to wait for the North Albany County Service District (NACSD) to dissolve, or negotiate a new agreement. If the Council wanted to modify the current policy, they could, but the rate restrictions would still exist.

Councilor Sharon Konopa said that under Measure 49, if Benton County changes zoning, property owners could make a claim up to five years. She supports current policies because once we start encouraging more connections then it is promoting urbanization without prior planning. She does not want to promote more rural residential growth outside the UGB. Benton County needs to know the City's concerns.

Collins agrees we should keep the current policy.

Taniguchi-Dennis said, staff would like to codify the language rather than pass a resolution. She suggested the Council could still allow connections on a case by case basis for extreme circumstances if criteria were developed as part of the codified language.

Johnson asked if the Mennonite Church could be considered under the policy. Taniguchi-Dennis said no, because the current policy only applies to North Albany. Discussion followed. Johnson wants the policy to apply to all of Albany.

City Attorney Jim Delapoer advised that if the Council codifies the language, then it is law and it cannot be violated. On the other hand, the Council could make criteria which are subjective and not everyone will qualify. When we create exceptions to the rule we create opportunities to disappoint applicants. We should have very few criteria for exceptions to the policy and they should be objective. It could be difficult to write exceptions to codifications whereas policy gives you more flexibility. But, the policy means we will likely be approached more often for exceptions because it would be more difficult for staff to decide.

Blaine said that staying with the current policy could create a maximum of 60 requests; changing the policy would potentially create 160 more requests for service, in addition to the 60.

Councilor Ralph Reid prefers to have stricter control.

Collins said, this is why we need the state to recognize urban reserves. City Manager Wes Hare said, actually, the Senate Bill 182 Task Force is working on that now as a tool that can be applied broadly as well as more regional planning which goes directly to the issue with Benton County. It is too soon to see which way it will go, but it ties directly into the discussions we are having right now.

Johnson asked, what would happen if the policy were applied to all of Albany instead of just North Albany? Delapoer said it might violate Linn County code because they might not allow these types of extensions. It would be up to them to grant more flexibility. They do have some provisions for hazards.

Johnson likes the current policy and supports having high connection fees.

MOTION: Konopa moved to keep the current Resolution No. 3363 and add the four items criteria items listed on page 7 of the staff report. The motion died for lack of a second.

The Council wanted more time for discussion. Also, Councilor Jeff Christman was not in attendance and he would want the opportunity to participate.

Reid said, we are creating an elitist community by charging a high connection fee. Only those who are rich can connect.

This item will come back to a future work session.

Blaine discussed the second issue, North Albany Water Service Alternatives. Blaine handed out a map that showed all three cities: Albany, Millersburg, and Adair Village (see agenda file).

Blaine introduced Drew Foster with the city of Adair Village, and the consultant working with them on their water rights issues, Adam Sussman.

Blaine reviewed the water system improvements in North Albany and potential interconnections in Adair Village. Water system improvements included the deletion of two water piping projects identified in the Water Facility Plan and the need for a second transmission line between the Vine Street Water Treatment Plant and the Broadway Reservoir. The exact timing for the need of the second line is unknown but plant operators already have problems filling and draining the Broadway Reservoir and turnover challenges are also believed to exist.

Taniguchi-Dennis said that Albany is in deficit of water rights at build-out. We do have a shared water rights agreement with Millersburg that will meet that deficit. If we want more security, we could discuss potential options with Adair Village.

Taniguchi-Dennis said Albany is in a good position for a discussion with Adair Village because we currently have extra treatment capacity at this time to serve not only Albany, but also other communities. Adair wants to build a water treatment plant on the Willamette River. The treatment technology for a 2 mgd treatment plant is far different than the technology for a 10 mgd. Albany is capacity-rich right now, but water right-deficient at buildout.

Collins said piping details are secondary to the overall regional decision to work together for water rights retention.

Blaine said Sussman is currently working with Adair to try and secure their water rights. Konopa believes that until the water rights are secure, this conversation is premature. She thinks we should work with the state; at every legislative session there are discussions about water rights and an overall state plan. If our main objective is a secondary back up source for North Albany, why not put it in a different location? We already have two plants and no other city the size of Albany has three. She is looking out for Albany rate payers, who would be footing the bill for a third water treatment plant and cannot afford higher rates. She thinks we should put in a second pipe across the river to provide a back up for North Albany, and then wait for the state to create a statewide plan.

Hare said, another option is if Adair Village purchases water from Albany, which would help us to get a return on the extra capacity we have. We could then talk about a long-term water supply for both cities.

Olsen asked, can we hold a long-term water right without building a plant? Blaine said yes, but it requires justification for the need of the water right to the Oregon Water Resources Department. Adair Village has to go through the extension process, and they cannot do that based on their own needs within their urban growth boundary because there is not enough projected demand based on area and land uses. Without partnering with other water users, they will lose their water right. At the same time, it is unlikely that the state will issue Albany or Millersburg any more surface water rights. In other words, Adair Village has an asset but in order to develop it, they need to partner with us, or another community. We don't need to build a plant, but we can help to preserve their water rights and potential secure future water rights for Albany by justifying the need.

Blaine said another option is formation of a water commission through an intergovernmental agreement.

Reid doesn't agree with Konopa's suggestion to leave it up to the state. If the state were to give Albany more water rights, it would be as of the current date, which has no seniority. Adair Village's water rights are older and have precedence over the future water rights that will be issued. Regardless of how much rights a city has, seniority takes precedence. Konopa clarified that she thinks there will be legislative changes about water rights overall.

Collins said the legislature sees two issues: who is in line first, and if they can prove their water rights. If the proof is linked to the UGB, then we need to talk about water resources and future capacity. Konopa said, if communities have a high percentage of farmland with water rights, then we may lose them anyway. Discussion followed.

Johnson thinks this is a pressing need for Adair Village, although it may not be for Albany. Still, we need to be sensitive to regional needs, as well as future water rights needs and a backup source for North Albany. It would behoove us to continue discussions with Adair Village.

Konopa asked, what has this cost Albany so far? Taniguchi-Dennis said so far the cost has been in City staff time and consultant time for hydraulic modeling. Much of the technical analysis is needed information for managing the North Albany distribution and reservoir system.

#### COUNCILOR COMMENTS

Johnson said the Northwest Art & Air Festival was a huge success and seemed to be very well attended.

#### CITY MANAGER REPORT

Hare said February 14, 2009, is Oregon's 150<sup>th</sup> anniversary. An official recognition or event for Albany has not been discussed yet, although the Montieith Society is planning an event.

Hare said staff has received a request from those who applied for annexation of San Felicia Street. They have information that was discussed but was not presented at the last meeting. The applicants are asking if the Council will reopen the record at the August 27, 2008, Council meeting. Delapoer said he and the Planning staff concluded that the information they want to present would not be pivotal to the Council's decision. Also, it seems that the main motivation is to get the annexation on the November ballot and in order to meet that date, the Council would have to act at the next meeting. It seems unlikely we can meet the deadline anymore, anyway.

The consensus of the Council was to not reopen the public hearing.

Delapoer explained that according to City code, political signs cannot be put out until 45 days in advance of the election. However, "vote by mail" options have brought about a new dilemma. Ballots are mailed to service men and women several weeks in advance; presenting the question, should we extend the 45 day window? Delapoer said his interpretation is no. Linn County sends out 500 out of 60,000 ballots to service men and women, which is clearly diminimus. Also, since the ballots are mailed outside the United States, those voters would not benefit from getting extra time to look at signs anyway. Delapoer would like the Council to ratify his interpretation by motion.

Albany City Council Work Session  
Monday, August 25, 2008

MOTION: Johnson moved that political signs may be posted 45 days prior to the date that ballots are distributed to the general population by each county. Konopa seconded the motion and it passed 5-0.

Bedore handed out a letter from city of Dallas Mayor Jim Fairchild about the Centennial Celebration in Dallas (see agenda file).

ADJOURNMENT

There being no other business, the Work Session adjourned at 6:05 p.m.

Respectfully submitted,

Mary A. Dibble, CMC  
Deputy City Clerk

Reviewed by,

Stewart Taylor  
Finance Director

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CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
Wednesday, September 10, 2008  
Following ARA Agency Meeting

MINUTES

CALL TO ORDER

Mayor Bedore called the meeting to order at 7:28 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Bedore led the pledge of allegiance to the flag.

ROLL CALL

Councilors present: Sharon Konopa, Ralph Reid, Jr., Floyd Collins, Dick Olsen, Bessie Johnson, and Jeff Christman

SCHEDULED BUSINESS

Communication

Accepting a letter of resignation of Delia Guillen from the Human Relations Commission.

MOTION: Councilor Reid moved to accept the resignation of Delia Guillen from the Human Relations Commission and send a letter of thanks for her participation. Councilor Johnson seconded the motion and it passed 6-0.

Public Hearing

Adopting a supplemental budget for the 2008-2009 fiscal year, authorizing the purchase of property on Lochner Road from Chad Curry, and authorizing the City Manager to execute an agreement for conveyance of real property.

Bedore opened the public hearing at 7:29 p.m.

Parks & Recreation Director Ed Hodney explained that this project was originally budgeted in Fiscal Year 2007-2008 Parks & Recreation Fund (Park SDC Program). However, the acquisition did not take place as expected and the funds were not spent. Both resources and expenditures need to be increased in the Fiscal Year 2008-2009 Budget to accommodate the project. These adjustments will be made in the Parks SDC and the Parks Capital Improvements programs and are detailed in the resolution.

Keith Underdahl, 1055 19<sup>th</sup> Avenue SE, American Youth Soccer Organization (AYSO) Commissioner, spoke on the importance of this park. The condition of the current fields is a safety issue. Soccer is growing in Albany despite the limitations of available fields. He said it is an important purchase for the City.

No one else wished to speak.

Bedore closed the public hearing at 7:33 p.m.

Councilor Collins mentioned that the cost is a little over \$1.00 per square foot. He thinks it is a good buy.

MOTION: Reid moved to adopt the resolution adopting a supplemental budget for the 2008-2009 Fiscal Year; authorizing the purchase of property on Lochner Road from Chad Curry; and authorizing the City Manager to execute an agreement for conveyance of real property. Collins seconded the motion and it passed 6-0, and was designated Resolution No. 5655.

Business from the Public

There was none.

First Reading of an Ordinance

Amending Chapter 3.50 of the Albany Municipal Code (MCI WorldCom Network Services, Inc., franchise) by renewing the current agreement until September 11, 2013, and declaring an emergency.

City Attorney Jim Delapoe read for the first time in title only "AN ORDINANCE AMENDING CHAPTER 3.50 OF THE ALBANY MUNICIPAL CODE (MCI WORLDCOM NETWORK SERVICES,

INC., FRANCHISE) BY RENEWING THE CURRENT AGREEMENT UNTIL SEPTEMBER 11, 2013;  
AND DECLARING AN EMERGENCY.”

MOTION: Reid moved to have the ordinance read a second time in title only. Johnson seconded the motion and it passed 6-0.

Delapoer read the ordinance for a second time in title only.

MOTION: Reid moved to adopt the ordinance. Johnson seconded the motion. There followed discussion about the possible legislative changes regarding telecommunications and cellular phones.

Councilor Christman was concerned about the five year length of the contract. He said that considering the possible legislation changes regarding telecommunications and cellular phones, he would like it to be a two-year term. City Manager Wes Hare doesn't believe the contract would be an impediment to the statewide changes proposed for franchise agreements. He believes the franchise wants as long a contract as possible, but staff can express the Council's concerns. There followed discussion regarding statewide proposals.

Councilor Olsen asked, if there is a change in state rules, does the City have to change our franchise agreements? Hare said probably, depending on what the changes are to the rules.

AMENDING MOTION: Christman moved to amend the original ordinance to reflect a three year contract rather than a five year contract, ending September 11, 2011. Johnson seconded the motion and it passed 5-1, with Reid voting no.

VOTE ON THE MAIN MOTION: A vote was taken on the main motion with the amendment and it passed 6-0 and was designated Ordinance No. 5703.

#### Adoption of Resolutions

SP-12-08 and AD-01-08, calling up the “SmartCentres Site Plan Review” and “Adjustment” applications staff decision.

Councilor Konopa said she would be abstaining from voting and refrain from discussion regarding this item. She believes and has voiced her opinion in the past that the business being brought in is a WalMart of which she is against supporting. She cannot have an unbiased opinion on this matter. She has a conflict of interest.

Olsen also wished to abstain citing that he too is convinced that WalMart is the business that this project is preparing for. He will abstain because of bias.

Delapoer explained that the law in Oregon on land use matters says that a Councilor is not required to vote. In Albany there is a Charter provision that requires four votes on any matter. What that means is that any Councilor who is abstaining because of a conflict of interest or a bias can do so, unless their vote is necessary to make up the four vote requirement; then they are allowed to requalify themselves, but should refrain from participating in the discussion in any manner.

Christman said, all we are doing is asking that the decision be presented to the Council. Delapoer said that is correct, and no user or business has been identified or provided to staff.

Collins asked, why isn't this going to the Planning Commission? Community Development Director Greg Byrne explained that over a year ago the Council resolved that whatever application came forward, they, the Council, wanted to hear it. The appeal would then go to the Land Use Board of Appeals. Today's action brings the matter before the Council.

Planning Manager Don Donovan said the review criteria, 120 day time limit, and the appeal process is the same whether it comes before the Council or the Planning Commission.

Collins said this is unusual for the Council to call something directly to them without going to the Planning Commission. There followed discussion regarding the process and appeals. Johnson noted that because of the zoning decision it is important enough for the Council to make this decision directly and not take it to the Planning Commission.

Delapoer cautioned the Council to follow through on their earlier decision to have this issue come before them.

MOTION: Johnson moved to adopt the resolution calling up the “SmartCentres Site Plan Review” and “Adjustment” applications staff decision. Christman seconded the motion and it passed 4-0, with Konopa and Olsen abstaining, and was designated Resolution No. 5656.



Providing for additional revenue and offsetting expenses in the Central Services Fund.

Finance Director Stewart Taylor explained that in scheduling BEST training to increase staff's skills in performance improvement, the City invited neighboring jurisdictions to join us. By increasing the number of students, the cost per student decreased. Albany's costs were already budgeted, and no action is required on those costs. The resolution provides for the receipt of the additional funding from the outside agencies now attending that were not contained in the original budget. The resolution also provides for the offsetting expense that will occur from those attendees.

MOTION: Reid moved to adopt the resolution providing for additional revenue and offsetting expenses in the Central Services Fund and include a vote of confidence from the Council on the BEST Process Improvement Initiative. Johnson seconded the motion and it passed 6-0, and was designated Resolution No 5657.

Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) August 13, 2008, City Council Meeting
- 2) Accepting easements from:
  - a) Carl Eckhold and Amber Eckhold. RES. NO. 5658
  - b) Daniel K. Watson and Andrea M. Watson. RES. NO. 5659
- 3) Accepting a right-of-way dedication from Gloria Rose Pruitt. RES. NO. 5660
- 4) Appointing City Manager Pro Tems. RES. NO. 5661
- 5) Approving a liquor license for Chasers Bar & Grill, LLC, 435 Second Avenue.

MOTION: Johnson moved to adopt the Consent Calendar as presented. Konopa seconded the motion and it passed 6-0.

Report

SD-05-08, Thornton Lake Estates Subdivision LUBA remand.

Byrne explained that this item was remanded to the Council by the Land Use Board of Appeals (LUBA) because of a procedural error regarding Transportation Systems Analyst Ron Irish's testimony. Staff is recommending that the Council direct them to mail individual notices to those hearing participants entitled to notice informing them of the LUBA decision and inviting their written comments responsive to Irish's testimony. There would be an initial written comment period of seven days followed by a second seven day period, during which anyone can respond to comments received during the first seven day period. As required by state law, a final seven day period will be reserved for the applicant to respond. At the conclusion of this 21 day period, the record will close and staff will submit all of the material to the Council with staff comments and draft findings.

MOTION: Johnson moved to direct staff to reopen the record for written comment and proceed with the recommended procedure for conducting the remand proceedings required by the Land Use Board of Appeals decision on the Thornton Lake Estates Subdivision City Council approval, as presented in the memo for the September 10, 2008, City Council meeting. Reid seconded the motion and it passed 6-0.

BUSINESS FROM THE COUNCIL

Bedore mentioned that there would be a variety of commemorative events tomorrow, September 11, including one on the Linn County Courthouse steps.

Bedore said that he understood that the CALUTS Plan calls for something more attractive on the canal and he would like to see it move forward. Public Works Director Diane Taniguchi-Dennis said that staff is having internal discussions regarding the CALUTS Plan and finding a Project Manager. George Crandall was the original Project Manager and he may be available to return to the project.

Hare reported that staff has been continuing discussions regarding the railroad crossings on Water Avenue. Oregon Department of Transportation Rail's proposal is if the City agrees to close the Water Avenue crossings and two crossings east of Geary Street, ODOT Rail will pay for the safety improvements on Water Avenue. The proposal seems reasonable and he thinks the City should hold neighborhood meetings for the residents that will be affected. He is asking for Council direction if staff should go out to the neighborhoods to hold meetings. There followed a discussion regarding the railroad's responsibilities and the type of agreements the railroads are willing to concede to. Hare reminded the Council that this offer does address the City's immediate needs.

CONSENSUS: By consensus the Council directed staff to hold neighborhood meetings regarding the Oregon Department of Transportation Rail proposal.

The Council agreed to meet in Executive Session on Monday, October 6 regarding Periwinkle Creek litigation.

Albany City Council Regular Session  
Wednesday, September 10, 2008

The Council agreed to a Special Session with the Benton County Commissioners, on Tuesday, October 14.

NEXT MEETING DATE

The next Work Session of the City Council is scheduled for Monday, September 22, 2008, at 4:00 p.m., in the Municipal Court Room, at City Hall and the next Regular Session is scheduled for Wednesday, September 24, 2008, at 7:15 p.m., in the Council Chambers, at City Hall.

ADJOURNMENT

There being no other business, the meeting was adjourned at 8:30 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, CMC  
City Clerk

Stewart Taylor  
Finance Director

CITY OF ALBANY  
CITY COUNCIL (WORK SESSION)  
Municipal Court Room  
Monday, September 22, 2008  
4:00 p.m.

MINUTES

CALL TO ORDER

Mayor Dan Bedore called the meeting to order at 4:00 p.m.

ROLL CALL

Councilors present: Councilors Ralph Reid Jr., Floyd Collins, Bessie Johnson, Dick Olsen, and Sharon Konopa.

Councilors absent: Councilor Jeff Christman

BUSINESS FROM THE PUBLIC

Bill Root, 2634 Valley View Drive, said when he was out campaigning someone asked him a question he could not answer: who is responsible for the sidewalk in front of a property? City Attorney Jim Delapoer said that sidewalks are owned by the homeowner, so the responsibility for maintenance and the liability falls to the owner. The City may have a right-of-way or an easement, however. Root asked, who will be making repairs to the sidewalk along Water Avenue when it is converted from a two-way to a one-way street? Delapoer said, the property owner is responsible.

Root commented that we are known as the grass seed capital of the world, yet he has noticed dry lawn after dry lawn. Folks cannot afford the price of Albany water.

Delapoer asked the Council to diverge from the agenda to discuss a pressing issue regarding Thornton Lake Estates. He said Councilor Floyd Collins had a concern.

Collins said that at the previous Council meeting the Council was asked to review the Land Use Board of Appeals (LUBA) decision to remand the Council's decision regarding Thornton Lake Estates. The Council was told that there would be seven days to submit new information for the record; seven days to respond to new information submitted; and seven days for the applicant's rebuttal. Collins is concerned that he could not have responded in that short a time, even with his experience and knowledge. He wants the Council to reconsider the process, not the decision and motion, just the process.

Delapoer said Collins is concerned that the timeframe is too short. He described the history of the Thornton Lake Estates. The Council ultimately approved the subdivision, and the decision was appealed to LUBA. LUBA said that after the hearings were closed, Transportation Systems Analyst Ron Irish was asked about traffic accident data to which he elaborated on a previously provided memo, but there was no opportunity for the public to comment. LUBA said the public had the right to respond. There was not a need for a public hearing, but the public should have been allowed to respond since Irish's testimony found its way into the findings.

Delapoer described the Council's options: continue on the present course, with the first seven days ending tonight at 5:00 p.m.; or modify procedures and expand the time frames, as nothing in law would prevent it provided the timeframes are roughly equal; or finally, reopen the public hearing. Staff does not recommend the third option because the LUBA remand was on a narrow issue - the traffic comments - and it could be difficult for the Mayor to focus an audience during a public hearing on such a narrow issue. Also, time limits would apply. If we receive testimony in written form, however, there would be no limitations to the amount of information provided.

Collins said his intent is to just expand the timeframe in the process. Some of the issues raised in Irish's memo are fundamentally important to the future decisions of North Albany and require more time for folks to properly respond to the issues. Collins would like to see a 14/14/14 day timeframe for each step. Discussion followed.

Delapoer suggested a total of 14/14/7 day timeframe which would keep the time from running out too far. Collins said he would support that.

Councilor Sharon Konopa supports expanding the timeframe, but pointed out that notices on other citywide issues usually get only 10 days to respond. People often do not know land use laws so are at a disadvantage.

Collins said, we need to consistently walk the fine line between giving the public an opportunity to respond and providing the applicant reasonable turnaround time.

Councilor Ralph Reid is concerned extending the timeframes might cut into the time left in which the Council has to make a decision. He does not like making important decisions in a very short amount of time.

Delapoer said the remand is 90 days from the date the applicant demands to start the clock. We need to be cautious that we do not cause a procedural error in the timeline.

Councilor Bessie Johnson pointed out that under normal circumstances, this would not be an issue. She feels the neighbors have had sufficient time to respond and does not want to make a change that would set a precedent for other types of noticing.

Reid said, the only folks affected are those that have already testified. He does not want to reopen the public hearing. He is willing to allow more time so long as it is limited to those who already testified.

MOTION: Collins moved to add seven additional days for anyone to submit new information for the record (for a total of 14 days); to add seven additional days for anyone to respond to new information submitted during the first 7 days, (for a total of 14 days); and to retain seven days for the applicant's rebuttal in the Land Use Board of Appeals decision to remand the Council's decision in the East Thornton Lake Estates case. Reid seconded the motion and it passed 5-0.

Delapoer will contact the other attorney about the decision.

Reid asked staff to track how many additional comments come in during the seven day extension.

#### RED LIGHT CAMERA UPDATE

Police Chief Ed Boyd said the Queen Avenue and Geary Street camera is having a direct impact on the declining number of accidents. In the first six months officers have written 601 citations at that intersection. There have been just five accidents so far in 2008, down 21 accidents last year. Staff recommends the next location for a camera be 9<sup>th</sup> Avenue and Geary Street.

Johnson said citizens have told her that the cameras make a difference and they want more of them.

Collins pointed out that the intent of the cameras is to improve safety, not to generate revenue.

Finance Director Stewart Taylor said that Municipal Court staff attended a Redflex vendor conference. Redflex is working on customer service improvements for the program. The staff reported that the improvements are encouraging and will make the process even smoother.

Executive Assistant to the City Manager Laura Hyde said, as a citizen, this program is so valuable. Many times she has almost been hit by drivers running red lights. Accidents impact insurance rates and people's lives, so the positive impact of the program is great.

Crime Analyst Pat Hurley said, we are not limited by statute to how many cameras we can have, but we are limited to eight by the contract. Right now it takes three officers to review the tapes. It does not take long provided the officers do not have to research licenses and picture data. The process is fairly smooth for both the Police Department and Municipal Court.

#### KINDER PARK PLANS

Parks & Recreation Director Ed Hodney is at the work session tonight to give the Council one more opportunity to look at the KinderPark design plans. Staff has had two meetings with neighbors; the first was attended by 10 people and the second was attended by four, which included no new people. The first meeting included comments which resulted in changes to the design. The second meeting reinforced that the park design is moving in the right direction.

Hodney described the basic composition of the park: two ball fields, a playground, parking, and paths. The question now is if everything is well positioned on the property. There are 50 parking spaces and the lot is lighted, although the fields are not. The playground is centrally located and the plaza is lighted. The lights shine straight down so will not impose on neighbors.

Hodney described the wetlands on one side and the oak tree natural area on the other side of the path. Conduit will be laid as part of construction for possible future lights poles. A pedestrian crossing will be added at the urging of neighbors. Also the sidewalk from the end of the park to the church parking lot will be connected, although it will be an engineering challenge due to the steep slope and existing drainage.

Hodney said the project is out for bid now, and there has been significant interest in the project.

Reid said it would be nice if we can coordinate with Lowe's Home Improvement to improve the streets at this park at the same time they build. Public Works Director Diane Taniguchi-Dennis said that Ping's Restaurant signed a waiver of remonstrance. We could consider a Local Improvement District (LID), but there are home owners that may not think it is fair that they participate. The street designation will also be changed as part of the Transportation System Plan (TSP), which would bring about different requirements and funding options.

Konopa said an LID is appropriate for the east side, but the improvements would provide no benefit to those on the west side. Those homes have been there for many years and the road is sufficient for them. It was the Council's consensus to have staff look into an LID and return to a future meeting with alternatives.

REVISIONS TO RESOLUTION GOVERNING APPOINTMENT TO CITY BOARDS

Finance Director Stewart Taylor said that this is a housekeeping issue to bring into alignment with our current practices with policy. He asked if there were any questions about the staff memo.

Konopa asked, when we create a new commission, is that in a Resolution? Hyde said that when the Council creates a Commission it can be described in a Resolution or Ordinance; if by ordinance, then it is eventually codified.

Hyde said that another clarification that will be coming to the Council is a revision to the resolution creating the Public Safety Commission. The change is that when a specific Councilor makes an appointment and that position later becomes vacant, it is the original Councilor that gets to reappoint the position, not the entire Council.

Both items are coming to the October 8, 2008, City Council meeting.

OREGON WATER/WASTEWATER AGENCY RESPONSE NETWORK (ORWARN)

Taniguchi-Dennis described membership in the Oregon Water/Wastewater Agency Response Network (ORWARN) is to provide and to receive mutual aid in the case of an emergency. This is Oregon's response to a broader national effort to promote mutual aid agreements between agencies in light of recent disasters. There is no fee to join ORWARN. The ORWARN agreement includes a cost reimbursement provision for services. If Albany provides services to other agencies, it will be reimbursed for its cost to respond. If the City receives service from other agencies, the City will reimburse the other agencies their cost to respond. Albany has informally in the past provided limited assistance. The most recent was an agency's request for spare parts to do an emergency repair. The requesting agency has replaced the spare part that was used. Staff is asking for authorization to enter into this formal agreement.

Reid said this is similar to the mutual-aid agreements Albany has with other Fire and Police Departments. It is a step in the right direction towards cooperation.

MOTION: Reid moved to authorize the Public Works Director to enter into an agreement in the Oregon Water/Wastewater Agency Response Network. Collins seconded the motion and it passed 5-0.

COUNCILOR COMMENTS

Collins said he got a letter from John Hartman, dated September 15, 2008, regarding the proposed SmartCentre project. Delapoe recommended that he declare that he received the letter and enter it into the record so it will be included in the formal record that comes to the Council (see agenda file). Johnson said she got the letter as well.

Konopa said a citizen that lives on Oak Street and 11<sup>th</sup> Avenue called her. They want this street to be a one-way, otherwise they fear Lowe's customers will use their unimproved street as a short cut. She said that staff told the neighbors that the street could only be a one-way if Lowe's comes. Taniguchi-Dennis said staff will look into it.

Konopa said there is a lot to consider before Lowe's comes. She is anxious to see their plans and to make sure the correct processes are followed.

There is a joint Benton County Commissioner's meeting on October 14, 2008. They only have one hour available. Staff will look into getting a City bus for transportation.

Reid said the Linn-Benton Loop has a Lebanon bus in-house. They are doing test runs on the Lebanon-Albany-Corvallis route.

Staff noted that next week, all transit rides are free.

CITY MANAGER PRO TEM REPORT

Taylor said Hare will be back on Friday.

Reid congratulated Taniguchi-Dennis on earning her MBA from Willamette University.

ADJOURNMENT

There being no other business, the Work Session adjourned at 5:19 p.m.

Respectfully submitted,

Mary A. Dibble, CMC  
Deputy City Clerk

Reviewed by,

Stewart Taylor  
Finance Director

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
Wednesday, September 24, 2008  
7:15 p.m.

MINUTES

CALL TO ORDER

Mayor Bedore called the meeting to order at 7:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Bedore led the pledge of allegiance to the flag.

ROLL CALL

Councilors present: Sharon Konopa, Ralph Reid, Jr., Floyd Collins, Dick Olsen, Bessie Johnson, and Jeff Christman.

SPECIAL PRESENTATIONS

Certificates for those who contributed to the DARE motorcycle.

Police Chief Edward Boyd presented "Certificates of Recognition" to the individuals and businesses who contributed towards the D.A.R.E. Motorcycle. Contributors included:

- Dana Hinzman     Manager- Main Auto Body
- Corey Hooley     Painter- Main Auto Body
- Josh Schaffer     Painter- Main Auto Body
- Bruce Ferrell     Painter - Main Auto Body
- Roger Darby     Owner- Automotive Paint Specialists (APS)
- Corey Barton     Owner- No Dinx Inc.
- John Lewis     Owner- American Motorcycle Classics
- Joe Saltarello     Manager- American Motorcycle Classics
- Don Weber     Owner- Mr. Ed's Moto

Receiving a grant from Pacific Power.

Bedore explained that the City was awarded a grant for \$25,000, from Pacific Power for the Hydroelectric Power Project at the Vine Street Water Treatment Plant. He praised Peter Harr, Senior Project Manager, for his expertise on the project and gave him a symbolic check for \$25,000.

SCHEDULED BUSINESS

Business from the Public

No one wished to speak.

Adoption of Resolutions

Accepting the conveyance of property from Northwood Properties to the City of Albany for the construction and operation of the North Albany Pump Station.

MOTION: Councilor Collins moved to adopt the resolution accepting the conveyance of property from Northwood Properties to the City of Albany for the construction and operation of the North Albany Pump Station. Councilor Johnson seconded the motion and it passed 6-0, and was designated Resolution No. 5662.

SS-07-03, accepting the Engineer's Report and Financial Investigation Report for infrastructure improvements – Ellingson Road Sewer Extension Project.

Assistant Public Works Director/City Engineer Mark Shepard said this is the second step relating to the Ellingson Road sewer improvements for the SVC project. SVC Manufacturing is the primary property owner in the study area and is obligated to make Local Improvement District (LID) payments for the time of delay of its obligations in the development agreement. He said the costs for the sewer improvements will be assessed to benefiting properties. The City will participate in the project costs with Sewer System Development Charges for a portion of the assessments against the Wilt/Plemmons property.

Councilor Konopa asked, has the engineering and administrative costs been factored in? Shepard said, yes.

MOTION: Johnson moved to adopt the resolution accepting the Engineer's Report and Financial Investigation Report for SS-07-03, Infrastructure Improvements – Ellingson Road Sewer Extension Project. Councilor Reid seconded the motion and it passed 6-0, and was designated Resolution No. 5663.

ST-07-05, transferring appropriation for pedestrian island installations.

Shepard explained that the City received a grant from ODOT to do four islands. To date, two islands have been completed. Actual construction costs have risen significantly above the cost estimate developed in 2006 for the grant application. Therefore, the grant and City matching funds are not adequate to fund construction of all the islands. Staff estimates that completing the two remaining pedestrian islands will require an additional \$40,000. There is a reserve of \$40,000 in the Street Capital and Restoration Fund in the 2008-2009 budget. He said that although this would eliminate the City's ability to use these funds for matching a grant opportunity that might arise during the year, it is important to complete the pedestrian island project.

Bedore mentioned that the completed island on Queen Street, in front of West Albany High School, is clearly marked and provides a safe crossing for one of the busiest streets in Albany.

Collins asked if additional money could come from ODOT. Shepard said they were unable to get any, but would be very prudent with the Street Capital funds.

MOTION: Johnson moved to adopt the resolution transferring appropriation for ST-07-05, Pedestrian Island Installations. Councilor Christman seconded the motion and it passed 6-0, and was designated Resolution No. 5664.

Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) August 4, 2008, Work Session
  - b) August 11, 2008, Work Session
- 2) Authorizing an application for a grant from:
  - a) MDU Resources Foundation for general operating support of the 2009 River Rhythms concert series. RES. NO. 5665
  - b) James F. and Marion L. Miller Foundation for support of the 2009 Children's Performing Arts Series. RES. NO. 5666
  - c) Ann and Bill Swindell's Charitable Trust for support of the 2009 Children's Performing Arts Series. RES. NO. 5667
- 3) Accepting the 2008-2009 addendum #4 to the City of Corvallis Intergovernmental Agreement for the Linn-Benton Loop Transit System funding. RES. NO. 5668
- 4) Accepting right-of-way dedications from the City of Albany for the following:
  - a) Converting four barrier strips in the 1964 Eastgate Park Subdivision into right-of-way. RES. NO. 5669
  - b) Converting a 30-foot by 458.25 foot strip of land into 21<sup>st</sup> Avenue right-of-way. RES. NO. 5670
  - c) Converting a 20-foot by 60-foot area of land into Alco Street right-of-way. RES. NO. 5671
- 5) Executing a quitclaim deed to Ralph and Diane Nauman. RES. NO. 5672
- 6) Accepting an easement from Ralph and Diane Nauman. RES. NO. 5673

Johnson asked for item 2a) to be removed for discussion.

MOTION: Konopa moved to adopt the Consent Calendar with item 2a) removed for discussion. Reid seconded the motion and it passed 6-0.

MOTION: Johnson moved to adopt item 2a). Reid seconded the motion and it passed 6-0.

Report

W-07-03, Vine Street Water Treatment Plant seismic upgrades.

Shepard explained that staff is not asking for additional funding for this project, but rather for a change in project scope and associated project budget allocation. The costs to retrofit the 1912-1927 Control Building, Old Filter Building, and Soda Ash Building are substantially more than the current funds and grant available. They believe they can still meet the intent of the original project without additional funds with the newly developed proposed project scope. Details are in the report provided in the agenda. If the scope change is approved, all future expenditures on the project would be made from the Vine Street Water Treatment Plant Seismic Upgrades line item and no additional expenditure would be made from the Soda Ash Building Improvements project line item. The Water System Capital projects fund will remain in balance with no additional funding and expenditures.

MOTION: Collins moved to approve the revised project scope for the Vine Street Water Treatment Plant Seismic Upgrades and the re-allocation of funds that were originally designated for the seismic retrofit for the Soda Ash Building to the Vine Street Water Treatment Plant Seismic Upgrades project. Konopa seconded the motion and it passed 6-0.

BUSINESS FROM THE COUNCIL

There was none.

NEXT MEETING DATE

The next Work Session of the City Council is scheduled for Monday, October 6, 2008, at 4:00 p.m., in the Municipal Court Room, at City Hall, and the next Regular Session is scheduled for Wednesday, October 8, 2008, at 7:15 p.m., in the Council Chambers, at City Hall.

ADJOURNMENT

There being no other business, the meeting was adjourned at 8:52 p.m.

Respectfully submitted by,


Reviewed by,

Betty Langwell, CMC  
City Clerk

Stewart Taylor  
Finance Director





TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Stewart Taylor, Finance Director   
DATE: October 15, 2008, for the October 22, 2008, City Council Meeting  
SUBJECT: Identity Theft Protection Policy

RELATES TO STRATEGIC PLAN THEME: ● Safe City

RELATES TO: ● Ensure a safe community by protecting people and property

Action Requested:

By resolution adopt the Identity Theft Protection Policy.

Discussion:

On March 4, 2008, the City Manager and Finance Director signed an Identity Theft Protection Policy to safeguard personally identifiable information and to comply with Senate Bill 583, the Oregon Identity Theft Protection Act (OITPA). The policy placed responsibility on department directors to become familiar with the requirements of the act and to train employees in safeguarding protected information.

In September, the League of Oregon Cities distributed notice that cities that provide utility services would be subject to Federal Trade Commission (FTC) "Red Flag" rules. The FTC rules broaden the safeguards included in the City's Identity Theft Protection Policy and include requirements for specific operations where personal information is collected. The rules also include a list of 26 Red Flags that are examples of ways information may be presented or requested that could indicate that identity theft is occurring.

The Red Flag rules require that governing boards adopt a formal policy by November 1, 2008. The policy must include a program and procedures to do the following:

- identify Red Flags that exist in targeted operations;
- detect Red Flags when they arise;
- respond appropriately to Red Flags; and
- conduct an annual review of the Red Flag program and procedures.

The attached resolution adopts a policy that combines the previous Identity Theft Protection Policy with the FTC Red Flag rules.

Budget Impact:

None

ST

Attachment: Resolution

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RESOLUTION NO. \_\_\_\_\_

A RESOLUTION ADOPTING THE IDENTITY THEFT PROTECTION POLICY FOR THE CITY OF ALBANY.

WHEREAS, on March 4, 2008, the City Manager and Finance Director signed an Identify Theft Protection Policy to safeguard personally identifiable information and to comply with Senate Bill 583, the Oregon Identity Theft Protection Act (OITPA); and

WHEREAS, the policy placed responsibility on department directors to become familiar with the requirements of the act and to train employees in safeguarding protected information; and

WHEREAS, in September 2008, the League of Oregon Cities distributed a notice that cities that provide utility services would be subject to the Federal Trade Commission (FTC) "Red Flag" rules; and

WHEREAS, the FTC rules broaden the safeguards included in the City's Identify Theft Protection Policy and include requirements for specific operations where personal information is collected; and

WHEREAS, the Red Flag rules require that governing boards adopt a formal policy by November 1, 2008; and

WHEREAS, the attached policy combines the previous Identify Theft Protection Policy with the FTC Red Flag rules.

NOW, THEREFORE, BE IT RESOLVED that the City of Albany City Council hereby adopts Exhibit A as the Identity Theft Protection Policy for the City of Albany; and

BE IT FURTHER RESOLVED that the City Manager is directed to implement the policy and provide for the required annual review.

DATED AND EFFECTIVE THIS 22<sup>ND</sup> DAY OF OCTOBER, 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



**City of Albany**  
Finance Policy  
Policy #: F-04-08-002  
Title: Identity Theft Protection Policy

**Exhibit A**

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**Purpose** To outline procedures for compliance with Senate Bill 583, the Oregon Identity Theft Protection Act (OITPA) and Federal Trade Commission (FTC) Code of Federal Regulations (CFR) 16 CFR Part 681 – Identity Theft Rules.

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**Scope** This policy applies to all employees.

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**Policy** It is the policy of the City of Albany to protect identifying information and comply with the OITPA and FTC 16 CFR Part 681 – Identity Theft Rules.

Resolution No. \_\_\_\_ establishes the Identity Theft Protection policy.

This policy is used in conjunction with two additional guidance documents:

- Identify Theft – A Business Guide  
<http://10.1.20.123/phpsmb/browse.php?dir=%2FShared%2FIntranet%2FFinance%2FPolicies%2F&file=Identity+Theft+-+A+Business+Guide.pdf>
- Identify Theft – Red Flags  
<http://www.ftc.gov/os/fedreg/2007/november/071109redflags.pdf>  
(pages 63771 – 63774)

- 
- Guidelines**
1. **Safeguarding Identifying Information:** The City of Albany shall implement and maintain reasonable safeguards to protect Identifying Information, which is defined as “any name or number that may be used, alone or in conjunction with any other information, to identify a specific person”, such as: name, address, telephone number, social security number (SSN), date of birth, driver’s license or identification card, alien registration number, employer or taxpayer identification number, unique electronic identification number, computer internet protocol address, or routing code.
  2. **Social Security Number Protection:** Printing SSNs on any mailed materials not requested by the employee or customer unless redacted; or on cards used to access products, services, or City buildings (such as ID cards); or publicly posting or displaying SSNs is prohibited. Exemptions include requirements by the state of Oregon; federal laws including documents such as W2s, W4s, 1099s, etc; records that are



**City of Albany**

Finance Policy

Policy #: F-04-08-002

Title: Identity Theft Protection Policy

**Exhibit A**

required by law to be made available to the public; records for use for internal verification or administrative processes; and records used for enforcing a judgment or court order.

3. **Red Flag Program Requirements:** “Red Flag” means a pattern, practice, or specific activity that indicates the possible existence of identity theft. Departments must develop and implement a written program that includes the following elements:
  - a. Identify relevant Red Flags for the covered accounts maintained by the City;
  - b. Detect Red Flags that have been incorporated into the procedure;
  - c. Respond appropriately to any red Flags that are detected to prevent and mitigate identity theft; and
  - d. Review the program annually to reflect changes in risks and evaluate the protections in place.

Examples of Red Flags are identified in Supplement A to Appendix A of FTC 16 CFR Part 681 (pages 63771 – 63774), at the following link: <http://www.ftc.gov/os/fedreg/2007/november/071109redflags.pdf>

4. **Notification of Security Breach:** In the event that personal identifying information has been subject to a security breach, the City will provide notification of the breach to the customer or the employee as soon as possible in writing, or electronically if that is the primary manner of communication with the customer or employee, or by telephone if the person is contacted directly. The exception is if the notification would impede a criminal investigation.

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**Responsibility**

1. **Information Technology Department (IT):** IT is responsible to establish technical controls to safeguard personal information stored in electronic format and to document safeguard practices in writing.
2. **Human Resources Department (HR):** HR is responsible to include this Identity Theft Protection Policy as part of new employee orientation by documenting review of this policy and the concepts in “Identity Theft – A Business Guide”, located on the Intranet at: <http://10.1.20.123/phpsmb/browse.php?dir=%2FShared%2FIntranet%2FFinance%2FPolicies%2F&file=Identity+Theft+-+A+Business+Guide.pdf>



3. **Department Directors:** Department Directors are responsible to be familiar with the Identity Theft Protection Act and must develop and implement a written internal program that includes Red Flag requirements for their department. The internal program must be reviewed by the director annually.

Department directors are also responsible to include this policy in temporary employee orientation by documenting review of this policy and the concepts in "Identity Theft – A Business Guide".

4. **Employees:** Employees are responsible to comply with this policy and any internal processes as directed by their department. Noncompliance may result in formal disciplinary action up to and including termination of employment. Employees should contact their supervisor if they have questions about compliance with this policy.

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Supersedes: F-04-08-001	Created/Amended: Mar 4, 2008/Oct 22, 2008	Effective Date: November 1, 2008
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TO: Albany City Council  
 VIA: Wes Hare, City Manager  
 FROM: John Stahl, Assistant Finance Director JS  
 DATE: October 15, 2008, for the October 24, 2008, City Council Meeting

SUBJECT: Temporary loans to pay operating costs.

- RELATES TO STRATEGIC PLAN THEME:
- An Effective Government
  - A Healthy Economy

**CITY HALL**  
 333 Broadalbin SW  
 P.O. Box 490  
 Albany, OR 97321-0144  
 www.cityofalbany.net  
 (541) 917-7500

**ADMINISTRATIVE SERVICES**  
 City Manager's Office  
 (541) 917-7500  
 FAX (541) 917-7511

Finance/Recorder  
 (541) 917-7500  
 FAX (541) 917-7511

Municipal Court  
 (541) 917-7740  
 FAX (541) 917-7748

**COMMUNITY DEVELOPMENT**  
 Planning  
 (541) 917-7550  
 FAX (541) 917-7598

Building Division  
 (541) 917-7553  
 FAX (541) 917-7598

**ECONOMIC DEVELOPMENT**  
 (541) 917-7500  
 FAX (541) 917-7511

Call-A-Ride  
 (541) 917-7770  
 FAX (541) 917-7573  
 TDD (541) 917-7762

Transit  
 (541) 917-7667  
 FAX (541) 917-7573  
 TDD (541) 917-7678

**FIRE ADMINISTRATION**  
 (541) 917-7700  
 FAX (541) 917-7716

**HUMAN RESOURCES**  
 (541) 917-7500  
 FAX (541) 704-2324

**INFORMATION TECHNOLOGY**  
 221 Third Avenue SW  
 (541) 917-7500  
 FAX (541) 917-7511

**PARKS & RECREATION ADMINISTRATION**  
 (541) 917-7777  
 FAX (541) 917-7776

Urban Forestry/  
 Building Maintenance  
 (541) 917-7679  
 FAX (541) 917-7776

**PUBLIC WORKS**  
 Engineering  
 (541) 917-7676  
 FAX (541) 917-7573

Water/Sewer Billing  
 (541) 917-7547  
 FAX (541) 917-7511

Action Requested:

City Council approval of a resolution authorizing short-term loans from available cash reserves to the General Fund and Public Transit Fund.

Discussion:

A short-term loan to the General Fund is proposed to pay operating costs until property taxes are received in November 2008. Each year, the City makes the General Fund loan until tax revenues are adequate to pay costs. In addition, a short-term loan is required in the Public Transit Fund until FTA Section 5311 grant monies are received by the end of December, 2008. The General and Public Transit Funds will be charged an interest rate equal to the City's monthly rate of return on investments.

Budget Impact:

Interest will be paid by the borrowing Funds. We anticipate the interest cost when we prepare the budget each year.

JS:bl  
 Attachment

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING SHORT TERM OPERATING LOANS FROM AVAILABLE CASH RESERVES TO THE GENERAL FUND AND PUBLIC TRANSIT FUND.

WHEREAS, the City of Albany's General Fund and Public Transit Fund have incurred financial obligations during the first and second quarters of Fiscal Year 2008-2009 and have not yet received property taxes and other anticipated revenues for those periods; and

WHEREAS, the City of Albany will receive property taxes from Linn County and Benton County for Fiscal Year 2008-2009 in November 2008; and

WHEREAS, the Public Transit Fund will receive grant funds from the FTA Section 5311 Grant before December 30, 2008.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council authorizes short term operating loans from available cash reserves to the General Fund and Public Transit Fund in an aggregate amount not to exceed \$2,500,000; and

BE IT FURTHER RESOLVED that interest will be charged at the current investment earnings rate to the General Fund and Public Transit Fund; and

BE IT FURTHER RESOLVED that the short term loans are in effect only until receipt of anticipated revenues.

DATED AND EFFECTIVE THIS 22nd DAY OF OCTOBER 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

Purpose

Mary Hubler

A 10-foot wide easement along the northern property line over an existing sewer main as part of the sewer lateral replacement program.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby accept this easement; and

DATED AND EFFECTIVE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



## EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 19 day of September, 2008, by and between **Mary Hubler**, hereinafter called Grantor, and the CITY OF ALBANY, a Municipal Corporation, herein called "City."

### WITNESSETH:

That the Grantor has this day granted unto the City of Albany, easement and right-of-way, including the right to enter upon the real property hereinafter described, and to maintain and repair public utilities for the purpose of conveying public utilities services over, across, through, and under the lands hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of the said public utilities and the further right to remove trees, bushes, under-growth, and other obstructions interfering with the location and maintenance of the said public utilities.

This agreement is subject to the following terms and conditions:

1. The easement hereby granted consists of:

A 10-foot wide easement lying west of the following described line:

Beginning at a half-inch rod at the northwest corner of Lot 20, Block 6, of the Linnmont Addition to the City of Albany, and conveyed to Mary Hubler as described in Volume 1058, Page 975, Linn County Microfilm Deed Records, Linn County, Oregon; thence easterly 50-feet more or less along the northern property line of the said property to the northeast corner of the herein described property, as shown on the attached Exhibit 'A'.

2. In order that the work may be done in a timely and complete manner, we hereby agree to grant and allow a temporary right of entry for construction access to the City, its representatives and to the Contractor, for access to, upon and over our property for planning and construction of a sanitary sewer, service connection, and such appurtenances as are required to make the project complete. It is understood and agreed that this access agreement shall terminate on the date that such work has been satisfactorily completed and accepted by the City of Albany.
3. The permanent easement described herein grants to the City, and to its successors, assigns, authorized agents, or contractors, the perpetual right to enter upon said easement at any time that it may see fit, for construction, maintenance, evaluation and/or repair purposes.
4. The City agrees to replace the sanitary sewer service lateral **one time only**. The purpose of the replacement is to reduce infiltration to the public sanitary sewer system and protect the public health.
5. The Grantor does hereby covenant with the City that they are lawfully seized and possessed of the real property above described and that they have a good and lawful right to convey it or any part thereof and that they will forever warrant and defend the title thereto against the lawful claims of all persons whomsoever.
6. Upon performing any maintenance, the City shall return the site to original or better condition.
7. The Grantor and the City acknowledge that if a structure exists on the public utilities easement described herein either additional permanent structures or additions to the existing structure may not be

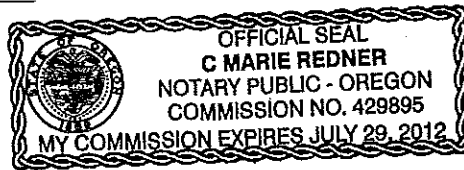
constructed on the public utilities easement. If the existing structure is removed from the public utility easement, no permanent structure may be reconstructed in its place.

- 8. Should the City determine that maintenance, repair, or reconstruction of the utilities located under the structure requires the removal or alteration of said structure, the City may undertake such removal or alteration as may be needed. In such event, however, the City shall, upon completion of said maintenance, repair, or reconstruction, restore the structure at City expense to its original or better condition.

IN WITNESS WHEREOF, the Grantor has hereunto fixed their hand and seal the day and year written below.

GRANTORS:

Mary Hubler  
Mary Hubler



STATE OF OREGON )  
County of Linn ) ss.  
City of Albany )

The foregoing instrument was acknowledged before me this 19th day of September, 2008, by Mary Hubler as his/hers voluntary act and deed.

C. Marie Redner  
Notary Public for Oregon  
My Commission Expires: July 29, 2012

CITY OF ALBANY:

STATE OF OREGON )  
County of Linn ) ss.  
City of Albany )

I, Wes Hare, as City Manager of the City of Albany, Oregon, pursuant to Resolution Number \_\_\_\_\_, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this \_\_\_\_\_ day of \_\_\_\_\_ 2008.

\_\_\_\_\_  
City Manager

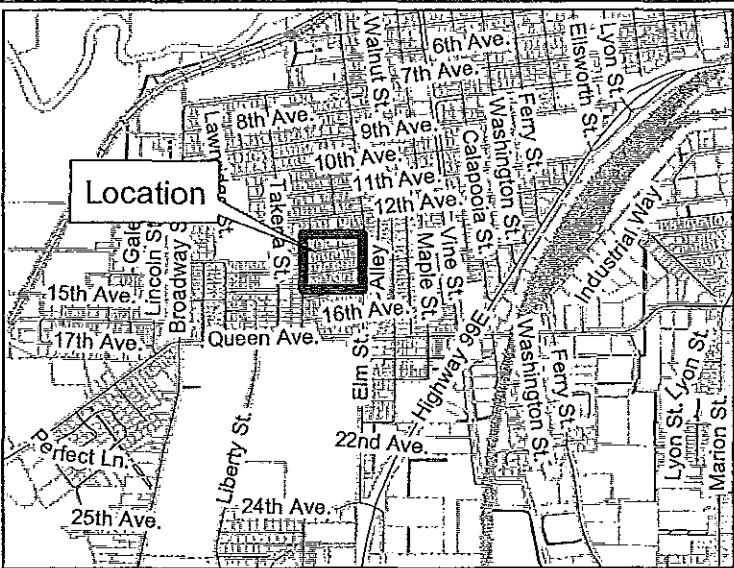
ATTEST:

\_\_\_\_\_  
City Clerk

# EXHIBIT A

11SO4W12DB08600

A 10-foot wide easement along the northern property line as part of the sewer lateral replacement program.



Geographic Information Services



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

Deena Frishkorn

Purpose

A 10-foot wide easement along southern property line over an existing sewer main as part of the sewer lateral replacement program.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby accept this easement; and

DATED AND EFFECTIVE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 2nd day of October, 2008, by and between Deena Frishkorn, hereinafter called Grantor, and the CITY OF ALBANY, a Municipal Corporation, herein called "City."

### WITNESSETH:

That the Grantor has this day granted unto the City of Albany, easement and right-of-way, including the right to enter upon the real property hereinafter described, and to maintain and repair public utilities for the purpose of conveying public utilities services over, across, through, and under the lands hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of the said public utilities and the further right to remove trees, bushes, under-growth, and other obstructions interfering with the location and maintenance of the said public utilities.

This agreement is subject to the following terms and conditions:

1. The easement hereby granted consists of:

A 10-foot wide easement lying north of the following described line:

Beginning at the southeast corner of Lot 1, Block 45, of the City of Albany, and conveyed to Deena Frishkorn as described in Volume 604, Page 243, Linn County Microfilm Deed Records, Linn County, Oregon; thence westerly 67-feet more or less along the southern property line of the said property to the southwest corner of the herein described property, as shown on the attached Exhibit 'A'.

2. In order that the work may be done in a timely and complete manner, we hereby agree to grant and allow a temporary right of entry for construction access to the City, its representatives and to the Contractor, for access to, upon and over our property for planning and construction of a sanitary sewer, service connection, and such appurtenances as are required to make the project complete. It is understood and agreed that this access agreement shall terminate on the date that such work has been satisfactorily completed and accepted by the City of Albany.
3. The permanent easement described herein grants to the City, and to its successors, assigns, authorized agents, or contractors, the perpetual right to enter upon said easement at any time that it may see fit, for construction, maintenance, evaluation and/or repair purposes.
4. The City agrees to replace the sanitary sewer service lateral **one time only**. The purpose of the replacement is to reduce infiltration to the public sanitary sewer system and protect the public health.
5. The Grantor does hereby covenant with the City that they are lawfully seized and possessed of the real property above described and that they have a good and lawful right to convey it or any part thereof and that they will forever warrant and defend the title thereto against the lawful claims of all persons whomsoever.
6. Upon performing any maintenance, the City shall return the site to original or better condition.
7. The Grantor and the City acknowledge that if a structure exists on the public utilities easement described herein either additional permanent structures or additions to the existing structure may not be constructed on the public utilities easement. If the existing structure is removed from the public utility easement, no permanent structure may be reconstructed in its place.
8. Should the City determine that maintenance, repair, or reconstruction of the utilities located under the structure requires the removal or alteration of said structure, the City may undertake such removal or alteration as may be

needed. In such event, however, the City shall, upon completion of said maintenance, repair, or reconstruction, restore the structure at City expense to its original or better condition.

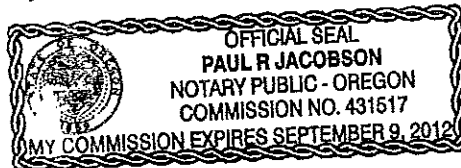
IN WITNESS WHEREOF, the Grantor has hereunto fixed their hand and seal the day and year written below.

**GRANTORS:**

Deena Frishkorn  
Deena Frishkorn

STATE OF OREGON        )  
County of Linn         ) ss.  
City of Albany         )

The foregoing instrument was acknowledged before me this 2nd day of October, 2008, by Deena Frishkorn as his/her voluntary act and deed.



Paul R. Jacobson  
Notary Public for Oregon  
My Commission Expires: 9/9/2012

**CITY OF ALBANY:**

STATE OF OREGON        )  
County of Linn         ) ss.  
City of Albany         )

I, Wes Hare, as City Manager of the City of Albany, Oregon, pursuant to Resolution Number \_\_\_\_\_, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this \_\_\_\_\_ day of \_\_\_\_\_ 2008.

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

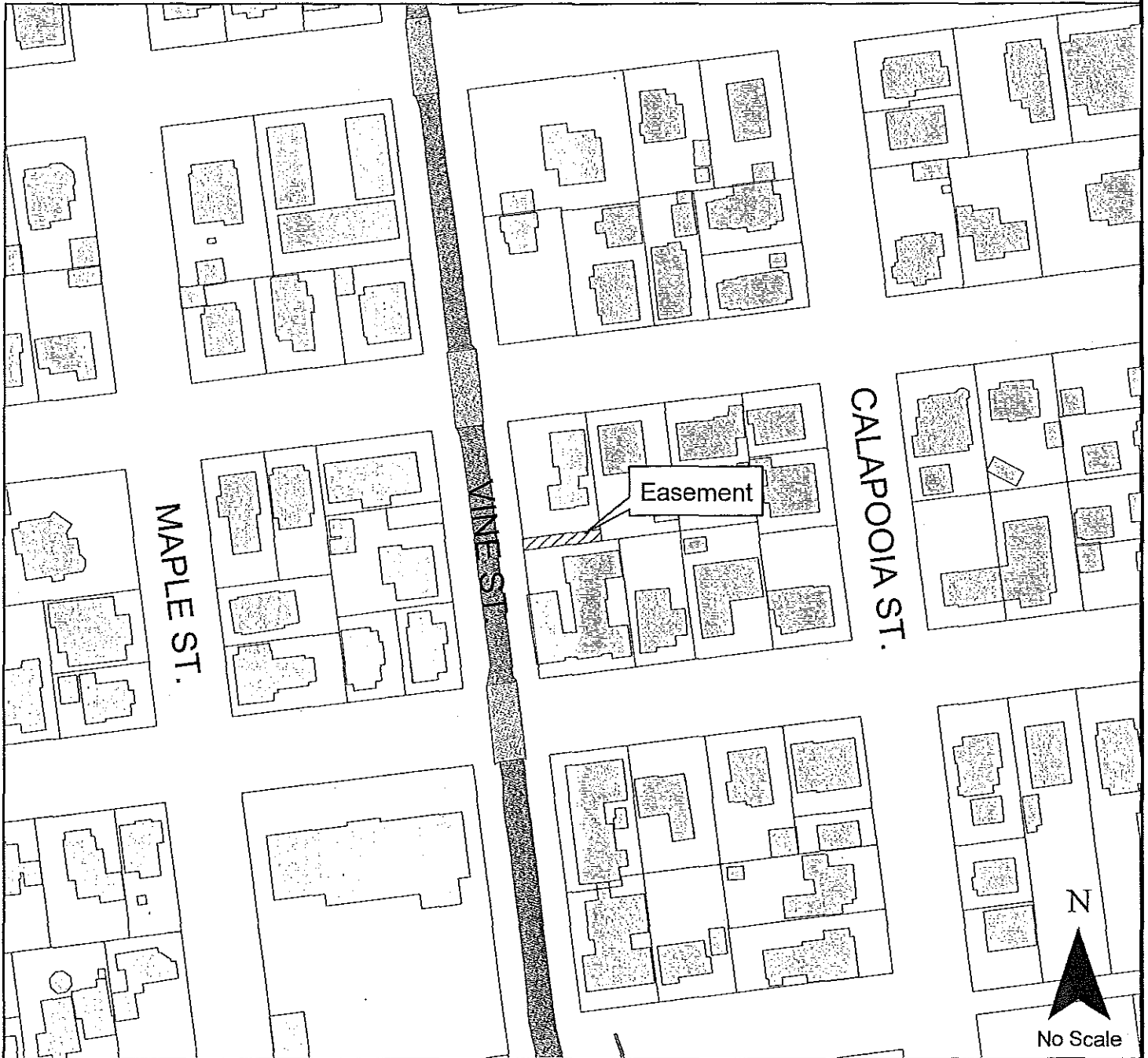
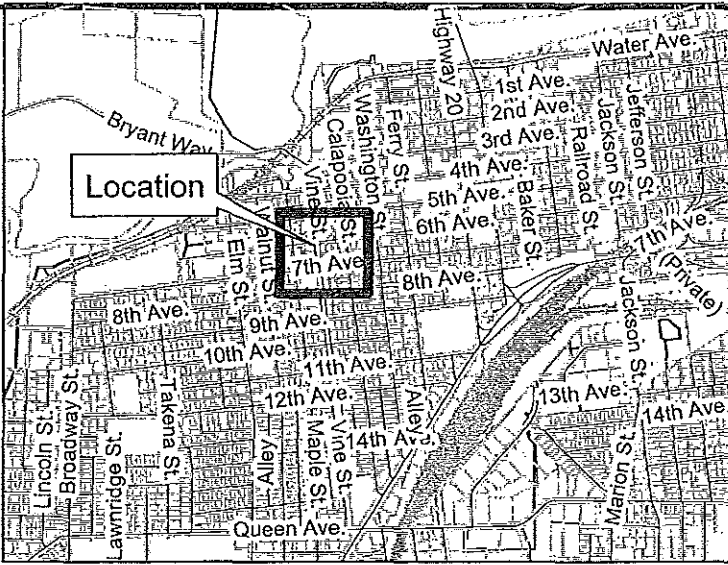
# EXHIBIT A

11SO4W12AA11900

A 10-foot wide easement along the southern property line as part of the sewer lateral replacement program.



Geographic Information Services



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

Purpose

Earl Stutzman

A 10-foot wide easement along eastern property line over an existing sewer main as part of the sewer lateral replacement program.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby accept this easement; and

DATED AND EFFECTIVE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



## EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 25 day of August, 2008, by and between Earl Stutzman, hereinafter called Grantor, and the CITY OF ALBANY, a Municipal Corporation, herein called "City."

### WITNESSETH:

That the Grantor has this day granted unto the City of Albany, easement and right-of-way, including the right to enter upon the real property hereinafter described, and to maintain and repair public utilities for the purpose of conveying public utilities services over, across, through, and under the lands hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of the said public utilities and the further right to remove trees, bushes, under-growth, and other obstructions interfering with the location and maintenance of the said public utilities.

This agreement is subject to the following terms and conditions:

1. The easement hereby granted consists of:

A 10-foot wide easement lying west of the following described line:

Beginning at a 1/2 inch rod at the northeast corner of Lot 1, Block 2, of Rogersdale Addition to the City of Albany, as described in Linn County Survey No. 7290, and conveyed to Earl Stutzman as described in DN2007-22375, Linn County Deed Records, Linn County, Oregon; thence southerly 77-feet more or less along the east property line of the said property to a 1/2 inch rod, said point being the southeast corner of the herein described property, as shown on the attached Exhibit 'A'.

2. In order that the work may be done in a timely and complete manner, we hereby agree to grant and allow a temporary right of entry for construction access to the City, its representatives and to the Contractor, for access to, upon and over our property for planning and construction of a sanitary sewer, service connection, and such appurtenances as are required to make the project complete. It is understood and agreed that this access agreement shall terminate on the date that such work has been satisfactorily completed and accepted by the City of Albany.
3. The permanent easement described herein grants to the City, and to its successors, assigns, authorized agents, or contractors, the perpetual right to enter upon said easement at any time that it may see fit, for construction, maintenance, evaluation and/or repair purposes.
4. The City agrees to replace the sanitary sewer service lateral one time only. The purpose of the replacement is to reduce infiltration to the public sanitary sewer system and protect the public health.
5. The Grantor does hereby covenant with the City that they are lawfully seized and possessed of the real property above described and that they have a good and lawful right to convey it or any part thereof and that they will forever warrant and defend the title thereto against the lawful claims of all persons whomsoever.
6. Upon performing any maintenance, the City shall return the site to original or better condition.
7. The Grantor and the City acknowledge that if a structure exists on the public utilities easement described herein either additional permanent structures or additions to the existing structure may not be constructed

on the public utilities easement. If the existing structure is removed from the public utility easement, no permanent structure may be reconstructed in its place.

- 8. Should the City determine that maintenance, repair, or reconstruction of the utilities located under the structure requires the removal or alteration of said structure, the City may undertake such removal or alteration as may be needed. In such event, however, the City shall, upon completion of said maintenance, repair, or reconstruction, restore the structure at City expense to its original or better condition.

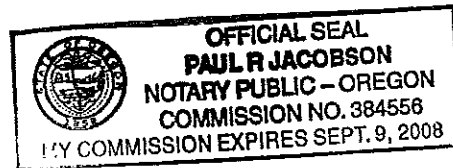
IN WITNESS WHEREOF, the Grantor has hereunto fixed their hand and seal the day and year written below.

**GRANTORS:**

Earl Stutzman  
Earl Stutzman

STATE OF OREGON        )  
County of Linn         ) ss.  
City of Albany         )

The foregoing instrument was acknowledged before me this 25 day of August, 2008, by Earl Stutzman as his/her voluntary act and deed.



Paul R Jacobson  
Notary Public for Oregon  
My Commission Expires: 9/9/2008

**CITY OF ALBANY:**

STATE OF OREGON        )  
County of Linn         ) ss.  
City of Albany         )

I, Wes Hare, as City Manager of the City of Albany, Oregon, pursuant to Resolution Number \_\_\_\_\_, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this \_\_\_\_\_ day of \_\_\_\_\_ 2008.

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

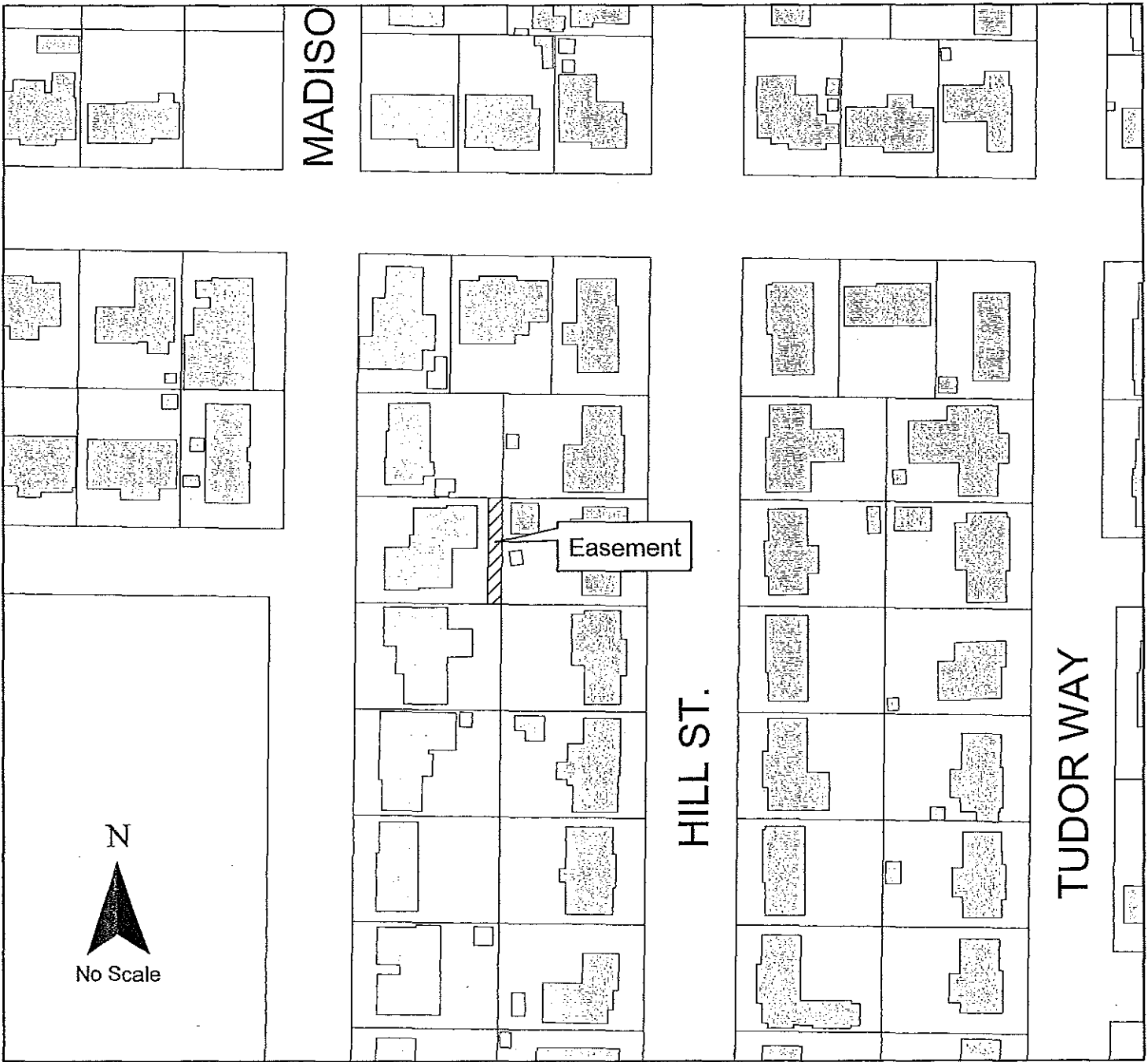
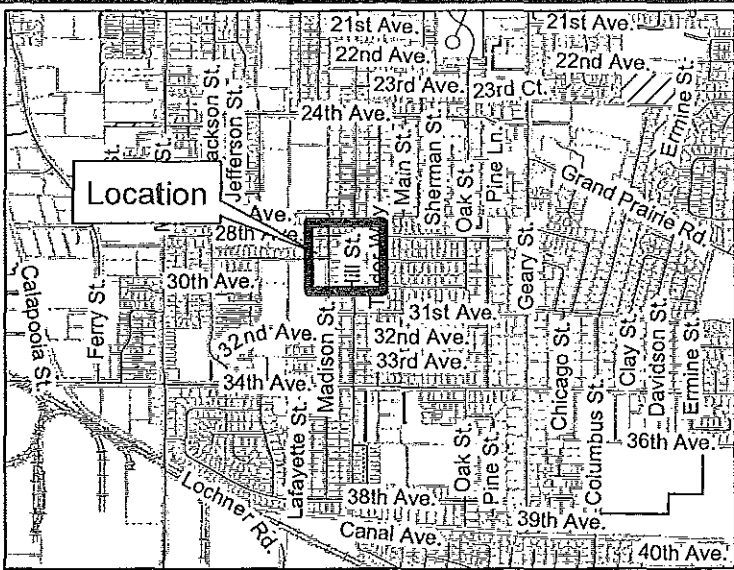
# EXHIBIT A

11SO3W18DA00201

A 10-foot wide easement along the eastern property line as part of the sewer lateral replacement program.



Geographic Information Services





TO: Albany City Council

VIA: Wes Hare, City Manager  
Greg Byrne, Community Development Director

FROM: Heather Hansen, Planner *HAH*

DATE: October 17, 2008, for the October 22, 2008, City Council Meeting

SUBJECT: Acceptance and Appropriation of DLCD Grant to Complete Mandatory Periodic Review Goal 5 tasks

RELATES TO STRATEGIC PLAN THEME: ● Great Neighborhoods  
● Safe City

#### Action Requested

Approve a Resolution accepting and appropriating a \$25,000 Department of Land Conservation and Development (DLCD) Periodic Review Grant for the purpose of supporting the completion of the Goal 5 tasks in the City's periodic review work program.

#### Background

Oregon's statewide land use planning program addresses 19 Statewide Planning Goals. State law requires each city to adopt a comprehensive plan and implementing codes that are consistent with the Statewide Planning Goals.

"Periodic review" is a process for local governments to examine, and as necessary, update their comprehensive land use plans and implementing codes. The City is currently under periodic review, which began in 1998. The City has an approved periodic review work program that includes all the mandatory tasks required to complete periodic review. The City's existing periodic review work program includes outstanding mandatory Goal 5 tasks (related to Natural Resources, Scenic and Historic Areas, and Open Spaces).

In September 2001, the City Council appointed a Natural Resource Advisory Committee (NRAC) to assist with Goal 5 tasks. They met regularly for two years and made a formal recommendation to the City Council in November 2003. Immediately prior to the NRAC recommendation, the 2003 State Legislature enacted SB 920-Periodic Review. At the onset, the bill was interpreted to mean that the Goal 5 tasks in the City's work program were no longer mandatory. The former Community Development Director submitted a request to DLCD to remove the Goal 5 tasks from our mandatory work program tasks. There was no official ruling on removal of the Goal 5 tasks, but it was assumed they would not be mandatory.

Rather than implement the NRAC recommendations, whether they were required or not, the City Council decided to shelve the NRAC recommendations out of concern for pending property rights legislation and takings claims in court at the time.

#### Discussion

Last Spring we received verbal clarification from DLCD that the Goal 5 tasks ARE indeed mandatory and were never removed from our work program. Our new DLCD regional representative recommended that we apply for a Periodic Review Grant to assist with completion of the Goal 5 tasks in a timely manner. The intent is to build upon the 2003 NRAC recommendations, not to start the process all over again.

On May 14, 2008, the City Council approved a resolution in support of a DLCD Periodic Review grant application for \$25,000 and City match of \$10,000. On October 10, 2008, we received a grant offer of \$25,000 with \$10,000 city match, which goes into effect when signed by the Mayor and DLCD grant program manager.

We will now begin the process to select a professional service consultant. The selected consultant will do the majority of the “Work to Complete Task” related to wetlands, riparian corridors, and wildlife habitat, and City staff will assist. The roles will switch for “Products,” with staff taking the lead and the consultant assisting as needed.

<b>Goal 5 Tasks in Work Program</b>	<b>Work Previously Done</b>	<b>Work to Complete Task</b>
<u>Wetlands</u> : Complete wetland inventories; develop an ordinance to protect significant wetlands	Local wetland inventories were completed in 1997-1999	Review and update inventories as needed, especially related to significant wetlands
<u>Riparian Corridors</u> : Apply safe harbor approach to identify the location of fish-bearing lakes and streams; develop an ordinance to protect fish-bearing lakes and streams	Riparian Corridor Inventories were completed in 1999-2001	Review and update inventories as needed, especially related to significance. Limited field work.
<u>Wildlife Habitat</u> : Compile inventories; develop ordinance to protect wildlife habitat.	Wildlife habitat was addressed in the abovementioned inventories, but was not inventoried more broadly. Significant habitat was not identified.	Inventory and assess significant wildlife habitat. Includes field work.
<u>Products</u> : Amended Comprehensive Plan and Zoning Ordinances to include new/updated Goal 5 inventories, text, policies and standards.	None	Adopt inventories, amend Comp Plan policies and Development Code to implement Goal 5 protection measures

The total DLCD grant project cost is estimated at \$35,000 (\$25,000 grant and \$10,000 match). An additional \$10,000 is identified in the City budget to allow flexibility for follow-up work and products, yet to be identified, that are outside the scope of the grant.

<b>GRANT PROJECT SCOPE</b>	
DLCD grant	\$25,000
Cash match	\$10,000
<b>GRANT TOTAL</b>	<b>\$35,000</b>
Additional work outside of grant scope	\$10,000
<b>PROJECT TOTAL</b>	<b>\$45,000</b>

Budget Impact (2008-09)

None – already budgeted.

hah  
Attachment

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION ACCEPTING AND APPROPRIATING A SPECIAL PURPOSE GRANT FROM THE OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT (DLCD) TO ASSIST WITH COMPLETION OF THE GOAL 5 TASKS IN THE CITY'S PERIODIC REVIEW WORK PROGRAM.

WHEREAS, on May 14, 2008, the City Council adopted a Resolution No. 5594 approving and endorsing the submittal of an application to DLCD for a Periodic Review Grant of \$25,000 to assist in the completion of mandatory tasks in the City's periodic review work program; and

WHEREAS, on May 14, 2008, the City Council resolution also agreed to provide up to \$10,000 in grant match from the Community Development Department budget; and

WHEREAS, the State of Oregon is offering the City a \$25,000 Periodic Review Grant for Fiscal Year 2008-2009, which will not be in effect until the grant agreements are signed by the Mayor and the DLCD grant program manager; and

WHEREAS, there is \$10,000 in the Community Development Department budget earmarked for the Periodic Review grant match; and

WHEREAS, Oregon Local Budget Law provides that expenditures in the year of receipt of grants, gifts, bequests or devices transferred to the local government in trust for a specific purpose may be made after enactment of a resolution or ordinance authorizing the expenditure (ORS 294.326(3)).

NOW THEREFORE, BE IT RESOLVED, that the Department of Land Conservation and Development Periodic Review Grant (PR-U-09-204) in the amount of \$25,000, is hereby appropriated as follows:

	<u>Resources</u>	<u>Requirements</u>
Grant Fund		
Goal 5 Periodic Review Grant		
203-40-5065-42403	\$25,000	
203-40-5065-60101		\$25,000

DATED AND EFFECTIVE THIS 22nd DAY OF OCTOBER 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



TO: Albany City Council  
 VIA: Wes Hare, City Manager  
 FROM: Edward Boyd, Chief of Police  
 DATE: *Edward Boyd* October 13, 2008, for the October 22, 2008, City Council Meeting  
 SUBJECT: Award Bid for Commercial Fuel for Police Vehicles

RELATES TO STRATEGIC PLAN THEME: • An Effective Government

Action Requested:

Staff requests that the City Council award this contract in the annual amount of \$147,868.80 to the only bidder, PetroCard Systems, Inc. The effective date for this fiscal year will be November 1, 2008, through June 30, 2009. The City has the option to extend the contract for three additional one-year periods.

Discussion:

On September 30, 2008, at 2:00 p.m. bids were opened for Commercial Fuel for Police Vehicles.

There was one bid submitted by PetroCard Systems, Inc. for this project.

Bid Summary	Estimated Cost
<b>I. Costs</b>	
a. 87 Octane Fuel \$3.316 ( <i>wholesale price, plus freight and state tax. The City is exempt from federal tax. State tax included is \$.183 per gallon</i> ) plus \$.06 base charge per U.S. gallon. Estimated annual police fleet use: 43,800 gallons.	\$147,868.80
b. Vehicle & Individual Fuel Cards	No Charge
<i>Total Estimated Annual Project Cost</i>	\$147,868.80

Pacific Pride cardlock fueling sites are located at 2525 E. Pacific Boulevard, 1130 Old Salem Road, and I-5 at Highway 34. The sites are open 24 hours a day, seven days a week. The City realizes the wholesale prices and taxes may fluctuate; however, the \$ .06 base charge per U.S. gallon will be locked in for the life of the contract. The date utilized for the Schedule of Prices is September 8, 2008.

Budget Impact:

This project will be funded from the Police General Fund 100-30-1301-61049 and Police Public Safety Levy 100-30-1302-61049.

G:\Norma\_Meaza\City Council - Resolution, ordinances, memos\MCC Fuel Police Vehicles Award of Bid 10 22 08.docx



TO: Albany City Council  
FROM: Ralph Reid, Jr., City Councilor *Ralph (rd)*  
DATE: October 16, 2008, for October 22, 2008, City Council Meeting  
SUBJECT: Appointment to Human Relations Commission  
RELATES TO STRATEGIC PLAN THEME: • An Effective Government

Action Requested:

Council approval of the following appointment to the Human Relations Commission:

***Human Relations Commission***

John Hartman

[appointment to fill vacant position due to Delia Guillen's resignation; expires December 31, 2008]

Discussion:

None.

Budget Impact:

None.

Attachment

RR:ldh

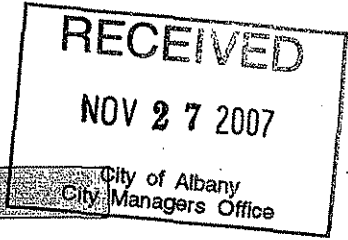
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BOARD, COMMISSION, AND COMMITTEE APPLICATION/NOMINATION

(Please print legibly or type)



CITY HALL 333 Broadalbin SW P.O. Box 490 Albany, OR 97321-0144 www.cityofalbany.net (541) 917-7500

Board, Commission, and/or Committee Preference: ARTS Commission, HUMAN RELATIONS Commission (List all that apply)

Name: HARTMAN, JOHN A. Preferred First Name: JOHN

Residential Information: Home Address: ALBANY, OR 97322 Phone: Cellular: (Optional) E-mail: hartman-john@hotmail.com Fax: (Optional)

Employment Information: Employer's Name: Work Address: ALBANY, OR 97321 Phone: Cellular: (Optional) E-mail: Fax: (Optional)

Please provide information as requested below to describe your (or your nominee's) qualifications to serve on this City of Albany Board, Commission, or Committee. Feel free to provide additional information that you may wish to share with the City.

- List current or most recent occupation, business, trade, or profession: My current trade is as a school bus driver. The work is self-explanatory.

For City use only: Ward: I II III (Circle One)

- List community/civic activities. Indicate activities in which you (or your nominee) are or have been active: Volunteer DRIVER + Substitute Volunteer DRIVER "MEALS ON WHEELS" reporting to LINDA DAHRENS, ALBANY SENIOR MEALS MANAGER. 541-967-7647

- Indicate why you (or your nominee) are interested in serving on this board or commission and what other qualifications apply to this position. I AM INTERESTED IN VOLUNTEERING MY TIME AND EXPERTISE IN HELPING TO ADVANCE AND ENHANCE THOSE ASPECTS OF ALBANY THEREBY HOPING IN SOME SMALL WAY TO MAKE A CONTRIBUTION TO THE QUALITY OF LIFE FOR ALL OF ALBANY'S CITIZENS

- What contributions do you hope to make? I hope that my life experience is such that I CAN call upon those experiences as needed in order to assist in the CREATION of effective policies that advance the commission's mission.

John Harte  
Signature of Applicant or Nominator

11/24/07  
Date



# SUPPLEMENTAL FORM

for

## BOARD/COMMISSION/COMMITTEE MEMBERS

Member's Name John A. HARTMAN

Board/Commission/Committee Name ARTS, HUMAN RELATIONS

Sometimes, the City receives requests for contact information for members serving on City boards, commissions, and committees. Under Oregon law, as a public body volunteer serving the City, your addresses and telephone numbers are generally exempt from public disclosure.

To help City staff members, could you please check "yes," "no," or "not applicable" below as to whether or not you authorize this information being available to the public:

- |                                |   |  |   |
|--------------------------------|---|--|---|
| Home Address                   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Home Telephone Number          | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Home Fax Number                | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Personal Cellular/Pager Number | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Home E-mail Address            | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            | <input type="checkbox"/> Not Applicable |
|                                |   |  |   |
| Work Address                   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Work Telephone Number          | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Work Fax Number                | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Work Cellular/Pager Number     | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Not Applicable |
| Work E-mail Address            | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Not Applicable |

Generally, only information for which you have checked "yes" will be released. If you have chosen "no" to all and a citizen wants to communicate with you, the City will suggest that s/he either:

- send a letter to you c/o the liaison City department, P.O. Box 490, Albany, OR 97321; then that department will forward it to you; or
- leave a phone message or E-mail message with the applicable staff liaison who will then give the message to you.

Signature John Hartman

Date 11/24/07



TO: Albany City Council

VIA: Wes Hare, City Manager  
Greg Byrne, Community Development Director

FROM: Don Donovan, Planning Manager

DATE: October 15, 2008, for the October 22, 2008, City Council Meeting

SUBJECT: File SD-07-07, Fabian Estates  
LUBA Remand Public Hearing

Action Requested:

That the City Council affirm that we should have a public hearing on the Fabian Estates LUBA remand.

Discussion:

On December 12, 2007, the City Council approved the Tentative Plat for the Fabian Estates subdivision. The City Council's decision was appealed to the state Land Use Board of Appeals (LUBA).

The City has 90 days to respond to the LUBA remand after a request from the applicant to proceed.

You will recall that, with the Thornton Lake Estates LUBA remand, staff recommended that we mail out a notice that explained the City had received the remand, and that we would accept written testimony on the remand issues. The issue(s) in the Thornton Lake Estates case are very narrow: staff introduced a memo after the public hearing was closed and people were not given an opportunity to comment on the memo or staff testimony related to the memo. LUBA found that we should have given people an opportunity to comment. We mailed a copy of the memo with the notice that invites written testimony. Staff will summarize the written testimony and bring a recommendation to the City Council for a decision on the new information.

With the Fabian Estates remand, LUBA found that we need to address three separate issues. The scope of the remand is wider than the scope of the Thornton Lake Estates remand. It is not as clear what will be the exact topics that we need to address. For this reason, staff recommends we have a public hearing, rather than just open the record for written testimony as we did for the Thornton Lake Estates remand.

Incidentally, the public hearing process will give us a little more time than the written testimony process to fully address the issues raised by LUBA in the remand.

We ask that the City Council affirm that we should have a public hearing on the Fabian Estates remand. We expect the hearing will be scheduled for the November 12, 2008, City Council meeting.

Budget Impact:

None.