



Revised

NOTICE OF PUBLIC MEETING
CITY OF ALBANY
CITY COUNCIL
Council Chambers
333 Broadalbin Street SW
Wednesday, March 25, 2009
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

Rules of Conduct for Public Hearing

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
2. Persons shall not testify without first receiving recognition from the presiding officer and stating their full name and residence address.
3. No person shall present irrelevant, immaterial, or repetitious testimony or evidence.
4. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the hearing.

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE TO THE FLAG
3. ROLL CALL
4. SPECIAL PRESENTATION
 - a. Recognizing Assistant Finance Director John Stahl's OMFOA Lifetime Achievement Award. [verbal]
Action: _____
5. PROCLAMATION
 - a. Child Abuse Prevention and Awareness Month. [Page 1]
Action: _____
6. SCHEDULED BUSINESS
 - a. Quasi-Judicial Public Hearing
 - 1) VC-01-09, vacating a portion of Willamette Avenue NE, east of Davidson Street. [Pages 2-13]
Action: _____ ORD. NO. _____
 - b. Business from the Public
 - c. Adoption of Ordinance
 - 1) Amending Ordinance No. 5709, changing the election date for revisions to the City Charter. [Pages 14-15]
Action: _____ ORD. NO. _____
 - d. Adoption of Resolutions
 - 1) Providing for additional revenue and offsetting expenses in the Central Services Fund. [Pages 16-17]
Action: _____ RES. NO. _____
 - 2) Sale of City-owned property at 1390 Waverly Drive SE. [Pages 18-29]
 - a) Accepting the conveyance of City-owned real property to Albany Medical Solutions, LLC. [Pages 20-24]
Action: _____ RES. NO. _____
 - b) Accepting a 12-foot wide easement for underground fiber optic lines from Albany Medical Solutions, LLC. [Pages 25-29]
Action: _____ RES. NO. _____

e. Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) February 9, 2009, City Council Work Session [Pages 30-36]
 - b) March 9, 2009, City Council Work Session [Pages 37-39]
- 2) Accepting a grant from the Linn County Cultural Coalition for general operating support of the 2009 Mondays @ Monteith Concert Series. [Pages 40-41] RES. NO. _____
- 3) Authorizing the Parks & Recreation Department to apply for a Local Government Grant from the Oregon Parks & Recreation Department for the restoration and renovation of Teloh-Calapooia Park. [Pages 42-43] RES. NO. _____
- 4) Authorizing acceptance of an easement from River View Place Apartments Limited Partnership. [Pages 44-53] RES. NO. _____
- 5) Accepting the 2009-2010 Oregon State University Intergovernmental Agreement for funding the OSU/LBCC dual enrollment pass program and the OSU student, staff, and faculty pass program on the Linn-Benton Loop Transit System and on Albany Transit System, and Linn-Benton Loop operating budget. [Pages 54-57] RES. NO. _____
- 6) Accepting a storm drainage easement from Keller Development Company, Inc. [Pages 58-63] RES. NO. _____

Action: _____

f. Report

- 1) Temporary safeguards for dangerous building. [Page 64]

Action: _____

7. BUSINESS FROM THE COUNCIL

---Councilor Johnson: Discussion of Periwinkle Path at Ermine & Westwood Place. [Pages 65-72]

8. RECESS TO EXECUTIVE SESSION TO DISCUSS PENDING LITIGATION OR LITIGATION LIKELY TO BE FILED IN ACCORDANCE WITH ORS 192.660 (2)(h)

9. RECONVENE

10. NEXT MEETING DATE: Work Session April 6, 2009
Regular Session April 8, 2009

11. ADJOURNMENT

City of Albany Web site: www.cityofalbany.net

PROCLAMATION

CHILD ABUSE PREVENTION AND AWARENESS MONTH

April 2009

WHEREAS, this April marks the 26th year of the U.S. presidential proclamation of Child Abuse Prevention Month; and

WHEREAS, each April, Child Abuse Prevention Month activities are held in communities across the nation to raise awareness about child abuse and the need for the entire community to become involved; and

WHEREAS, during National Child Abuse Prevention Month, we renew our commitment to preventing child abuse and rededicate ourselves to working together to ensure that all children can have a bright and hopeful future; and

WHEREAS, child abuse and neglect not only directly harms children, but also increase the likelihood of criminal behavior, substance abuse, and health problems; and

WHEREAS, abuse and neglect are more far-reaching than you might imagine. No socioeconomic group is immune; children of all races and ethnicities are victims of child abuse. In 2007, 671 Linn County children were abused or neglected. Child abuse is a *total* community problem affecting all levels of society; and

WHEREAS, effective prevention programs succeed through partnerships of community groups which help support parents to provide a safe and nurturing environment; and

WHEREAS, approximately three million children are reported abused and neglected in this country each year, with 6,019 reports of child abuse to social service agencies in Oregon in 2007; and

WHEREAS, more than four American children die every day as a result of child abuse and neglect, with 12 such deaths in Oregon in 2007; and

WHEREAS, the effects of child abuse need to be addressed by the entire community.

NOW, THEREFORE, I, Sharon Konopa, Mayor of the City of Albany, Oregon do hereby proclaim April 2009, as

**CHILD ABUSE PREVENTION AND AWARENESS MONTH
AND APRIL 2 AS THE DAY OF HOPE**

in Albany and call upon all citizens, community agencies, religious organizations, medical facilities, and businesses to increase their participation in efforts to recognize and prevent child abuse.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Albany to be affixed this 25th day of March 2009.

Sharon Konopa, Mayor



TO: Albany City Council

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

FROM: Mike Leopard, Infrastructure Analyst

DATE: March 18, 2009, for the March 25, 2009, City Council Meeting

SUBJECT: Public Right-of-Way Vacation (VC-01-09)
Willamette Avenue NE east of Davidson Street

Action Requested:

Staff requests that the City Council conduct a public hearing regarding the proposed vacation of a portion of the Willamette Avenue right-of-way and make a decision whether to approve the requested vacation.

Discussion:

As part of the ongoing upgrades being constructed at the Albany-Millersburg Water Reclamation Facility, the City is replacing and/or adding a number of buildings on the site. The portion of Willamette Avenue right-of-way that is being considered for vacation is surrounded on three sides by the Reclamation Facility parcel. In the area adjacent to this right-of-way, the City is proposing to construct up to three buildings. If the right-of-way remains, then these buildings will have to meet the front yard setback requirements as detailed in the Development Code.

Because this portion of right-of-way serves no other purpose than as an access to the City's property, and is not expected to be extended in the future, the proposed vacation will eliminate the need for setbacks in this area and will provide more efficient utilization of the City's parcel.

Budget Impact:

None.

MAL

Attachment: Vacation Ordinance (with Staff Report)

c: Don Donovan, Planning Manager

U:\Community Development\Planning\Current\2009\09vc01 cc memo.docx

ORDINANCE NO. _____

AN ORDINANCE VACATING THAT PORTION OF WILLAMETTE AVENUE NE EAST OF DAVIDSON STREET, IN ALBANY, OREGON; AND ADOPTING FINDINGS AND DECLARING AN EMERGENCY.

WHEREAS, on December 17, 2008, the City of Albany City Council directed staff to initiate the vacation of this portion of right-of-way (File VC-01-09); and

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

WHEREAS, the Albany Hearings Board held a public hearing on March 5, 2009; and

WHEREAS, the Albany Hearings Board recommended that the City Council approve the proposed vacation; and

WHEREAS, the Albany City Council held a public hearing on March 25, 2009.

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

Section 1: Subject Property. The portion of Willamette Avenue NE right-of-way east of Davidson Street (see legal descriptions on attached Exhibit A and map labeled Exhibit B) is hereby vacated.

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

Section 3: 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 4: 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

ORDINANCE EXHIBIT A

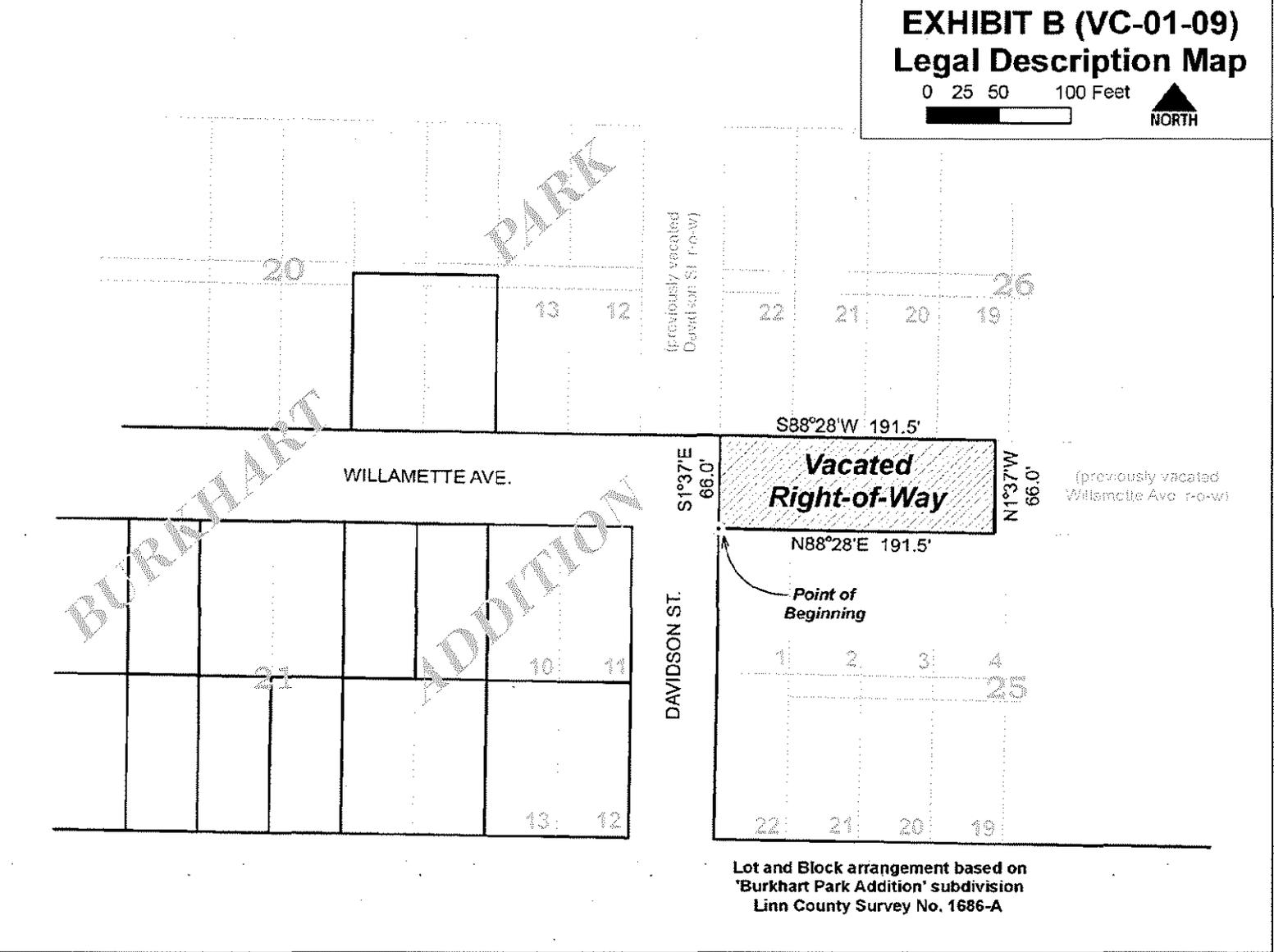
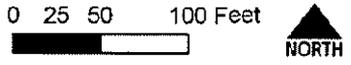
Right-of-Way Vacation VC-01-09

A tract of land located in the northwest one-quarter of the southeast one-quarter of Section 5, Township 11 South, Range 3 West, Willamette Meridian, City of Albany, Linn County, Oregon, as shown on the attached map and more particularly described as:

Beginning at the northwest corner of Lot 1, Block 25 of the Burkhart Park Addition subdivision; thence North 88° 28' East along the north boundary of said Block 25 191.5 feet to a point that lies 8.5 feet west of the northeast corner of Lot 4, Block 25 of the Burkhart Park Addition subdivision, said point lying on the west line of the previously vacated section of Willamette Avenue; thence North 1° 37' West, parallel to the east line of said Lot 4 and its northerly extension, 66.0 feet to the south boundary of Block 26 of said Burkhart Park Addition subdivision, said point being 8.5 feet west of the southeast corner of Lot 19, Block 26 of said Burkhart Park Addition subdivision, and lying on the west line of the previously vacated section of Willamette Avenue; thence South 88° 28' West along the south boundary of said Block 26 191.5 feet to the southwest corner of Lot 22, Block 26 of said Burkhart Park Addition subdivision; thence South 1° 37' East, parallel to the west boundary of said Lot 22 and its southerly extension, 66.0 feet to the Point of Beginning.

This area being vacated contains 12,639 square feet, more or less.

**EXHIBIT B (VC-01-09)
Legal Description Map**



Lot and Block arrangement based on
'Burkhart Park Addition' subdivision
Linn County Survey No. 1686-A

ORDINANCE EXHIBIT B



Community Development Department

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

Phone: (541) 917-7550 Facsimile: (541) 917-7598
www.cityofalbany.net

STAFF REPORT Vacation

<u>HEARING BODY</u>	CITY COUNCIL
<u>HEARING DATE</u>	Wednesday, March 25, 2009
<u>HEARING TIME</u>	7:15 p.m.
<u>HEARING LOCATION</u>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW

GENERAL INFORMATION

DATE OF REPORT:	March 18, 2009
FILE:	VC-01-09
TYPE OF APPLICATION:	Vacation of Public Right-of-Way (Willamette Avenue NE east of Davidson Street)
REVIEW BODY:	City Council
STAFF REPORT PREPARED BY:	Mike Leopard, Infrastructure Analyst
PROPERTY OWNER:	Public right-of-way
APPLICANT:	City of Albany – Public Works Department; 333 Broadalbin SW; Albany OR 97321
APPLICANT REP:	Chip Ullstad, Utility Engineer
ADDRESS/LOCATION:	Willamette Avenue east of Davidson Street
MAP/TAX LOT:	Linn County Assessor’s Map No. 11S-03W-05DB
ZONING	Public and semi-public
TOTAL LAND AREA:	12,639 square feet (0.29 acres)
EXISTING LAND USE:	Unimproved public right-of-way
NEIGHBORHOOD:	Willamette
SURROUNDING ZONING:	H1 (north, east, and south); RS-5 (southwest); LI (northwest)
SURROUNDING USES:	Water Reclamation Facility (north, east, and south); Single Family Residential (southwest)

NOTICE INFORMATION

A notice of public hearing was mailed to affected property owners on February 16, 2009. The site was posted on February 11, 2009, in accordance with Section 1.410 of the Albany Development Code. Two legal notices were published in the *Albany Democrat-Herald* on February 16 and 23, 2009, in accordance with Oregon Revised Statute (ORS) 271.110. At the time this staff report was completed (March 18, 2009), the Albany Planning Division had received no written comments.

STAFF RECOMMENDATION

APPROVAL of this Vacation application for Willamette Avenue NE east of Davidson Street.

HEARINGS BOARD RECOMMENDATION

At a public hearing held on March 5, 2009, the Albany Hearings Board voted unanimously to recommend APPROVAL of this Vacation application for that portion of the Willamette Avenue NE right-of-way lying east of Davidson Street (File VC-01-09).

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 the application that would result in the vacation of a portion of the Willamette Avenue NE right-of-way east of Davidson Street (File VC-01-09). 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 that portion of the Willamette Avenue NE right-of-way east of Davidson Street (File VC-01-09).

APPEALS

Within five days of final action on this application, the Community Development Director will provide written notice of the decision to the applicant and any other parties entitled to notice.

A decision of the City Council may be appealed to the Land Use Board of Appeals by filing a notice of intent to appeal not later than 21 days after the decision becomes final [Ord. 5446; Ord. 5475].

STAFF ANALYSIS - Vacation File VC-01-09

OVERVIEW

The area in question is a 191.5-foot-long section of unimproved Willamette Avenue right-of-way east of Davidson Street NE. This portion of right-of-way has historically been used for access to the Albany-Millersburg Water Reclamation Facility and what was once a group of single-family homes adjacent to the right-of-way. As part of the Albany-Millersburg Water Reclamation Facility expansion project, the City has purchased all of the lots adjacent to this section of right-of-way, and currently those lots are part of the Albany-Millersburg Water Reclamation Facility project. This section of Willamette Avenue right-of-way is 66 feet wide.

As part of the ongoing Albany-Millersburg Water Reclamation Facility project, a number of storage buildings are being replaced. Plans show some of these new buildings will be placed in the area near this public right-of-way. If the right-of-way remains, then front-yard setback requirements must be met for all new buildings. The right-of-way vacation would eliminate the setback requirement from the Willamette Avenue right-of-way, allowing more area on which to build the proposed structures.

At the December 17, 2008, City Council meeting, the Council agreed to initiate the vacation application. The affected property owners received notice of the proposed vacation and associated public hearings.

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.

Criterion (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 no public sanitary sewer facilities exist in the area proposed for vacation.

1.3 Water. Water utility maps indicate that there is a 2-inch diameter public water line within the western half of the area proposed for vacation. This water line serves only the Albany-Millersburg Water Reclamation Facility site.

1.4 Water. Because the area to be vacated would be incorporated entirely into other city-owned property (which currently contains a large amount of existing public utilities), it is not necessary to require a public utility easement over this water line.

1.5 Storm Drainage. Storm drainage utility maps indicate that no public storm drainage facilities exist within the area proposed for vacation.

1.6 Other Utilities. City staff has contacted the various franchise utility providers about the proposed right-of-way vacation. We received no response to our request for information from any franchise utility. Based on the lack of response from other franchise utilities, it is assumed that no private franchise utilities exist within the area to be vacated.

1.7 Transportation. The right-of-way proposed for vacation is a dead-end section of Willamette Avenue NE located east of Davidson Street NE. The length of this section of right-of-way is 191.5 feet. The street is classified as a local street and does not have curb, gutter, and sidewalk, and is not improved to city standards. Pavement width is about 12 feet. All property with frontage on the street is owned by the City of Albany. The street currently provides vehicle access only to the city-owned parcel(s) that contain the Albany-Millersburg Water Reclamation Facility.

1.8 Transportation. Albany's Transportation System Plan (TSP) does not identify this portion of Willamette Avenue NE as being a part of the City's arterial/collector street system, nor does it anticipate linking or connecting the street with other streets.

CONCLUSIONS

1.1 The only public utility that lies within the area to be vacated is a 2-inch diameter water line that serves the existing Albany-Millersburg Water Reclamation Facility.

- 1.2 The proposed vacation does not conflict with Albany's TSP.
- 1.3 There are no plans for extending this portion of Willamette Avenue, or to connect it with any other public street.
- 1.4 No public utility easement is needed for any utility within the area to be vacated. The vacated property will be incorporated into the city-owned property containing the Albany-Millersburg Water Reclamation Facility. A vast network of public utilities already exists within this city-owned property.

Criterion (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 191.5-foot-long section of the Willamette Avenue NE right-of-way, east of Davidson Street NE. The right-of-way currently provides access only to the Albany-Millersburg Water Reclamation Facility site. This right-of-way is not improved to City standards, and is basically a driveway into the site. The portion of right-of-way proposed for vacation does not connect to any other public street or right-of-way east of Davidson Street.
- 2.2 The parcel adjacent to this section of right-of-way is zoned HI (Heavy Industrial). The area west of Davidson Street and north of Willamette Avenue (northwest of the area proposed for vacation) is part of the same city-owned parcel that makes up the Reclamation Facility property and is zoned LI (Light Industrial). The parcel west of Davidson Street and south of Willamette Street is a single-family house on a corner lot and is zoned RS-5 (Single-Family Residential). This lot has frontage on both Davidson Street and Willamette Avenue.
- 2.3 Recently a replat was recorded (County Survey No. 25005) that combined all of the separate parcels that make up the Reclamation Facility into a single parcel.
- 2.4 There is a public water main that exists within this right-of-way, but these facilities only serve the Reclamation Facility and not the public water system as a whole.

CONCLUSIONS

- 2.1 The area proposed for vacation is not needed for connectivity for vehicular traffic between public rights-of-way.
 - 2.2 A public utility easement will not be necessary over the vacated area because the property already contains multiple public utilities and is city-owned (public) property.
- (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 an unimproved street terminating in a dead end at the Albany-Millersburg Water Reclamation Facility. This street only serves as vehicular access to the City Facility.
- 3.2 Emergency services vehicles will still have legal access to the Reclamation Facility through the existing driveway off of Davidson Street and Willamette Avenue.

CONCLUSIONS

- 3.1 The requested vacation will not have a negative effect on traffic circulation as the street in question only provides access to the Reclamation Facility.

3.2 Emergency vehicle access will not be affected by the proposed vacation.

(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 city-owned Reclamation Facility property. The area to be vacated was initially dedicated as public right-of-way with the Burkhart Park Addition subdivision plat.

4.2 The area to be vacated is currently being used only as access to the City's Reclamation Facility. The vacated area will continue to be used for access to this Facility. No change in access for emergency vehicles will result from the proposed vacation.

4.3 The areas proposed for vacation would not become part of the "front yard" setback, and therefore will not require additional landscaping, etc.

CONCLUSION

4.1 No additional landscaping will be necessary if the area is vacated because the property adjacent to the vacated area will no longer be considered "front yard" for the adjacent property. The vacated area will continue to be used as an access to the Reclamation Facility.

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

FINDINGS OF FACT

5.1 The area proposed for vacation is an unimproved right-of-way. The area to be vacated is currently being used only as an access to the Reclamation Facility.

5.2 It will not be necessary to maintain a public utility easement over the vacated area because it will be incorporated into the existing city-owned/public property.

5.3 Vacation of the right-of-way will allow new buildings to be constructed on the Reclamation Facility property without the need for front yard setbacks adjacent to this area. These buildings are part of the upgrade of the City facilities at the Reclamation Facility.

CONCLUSION

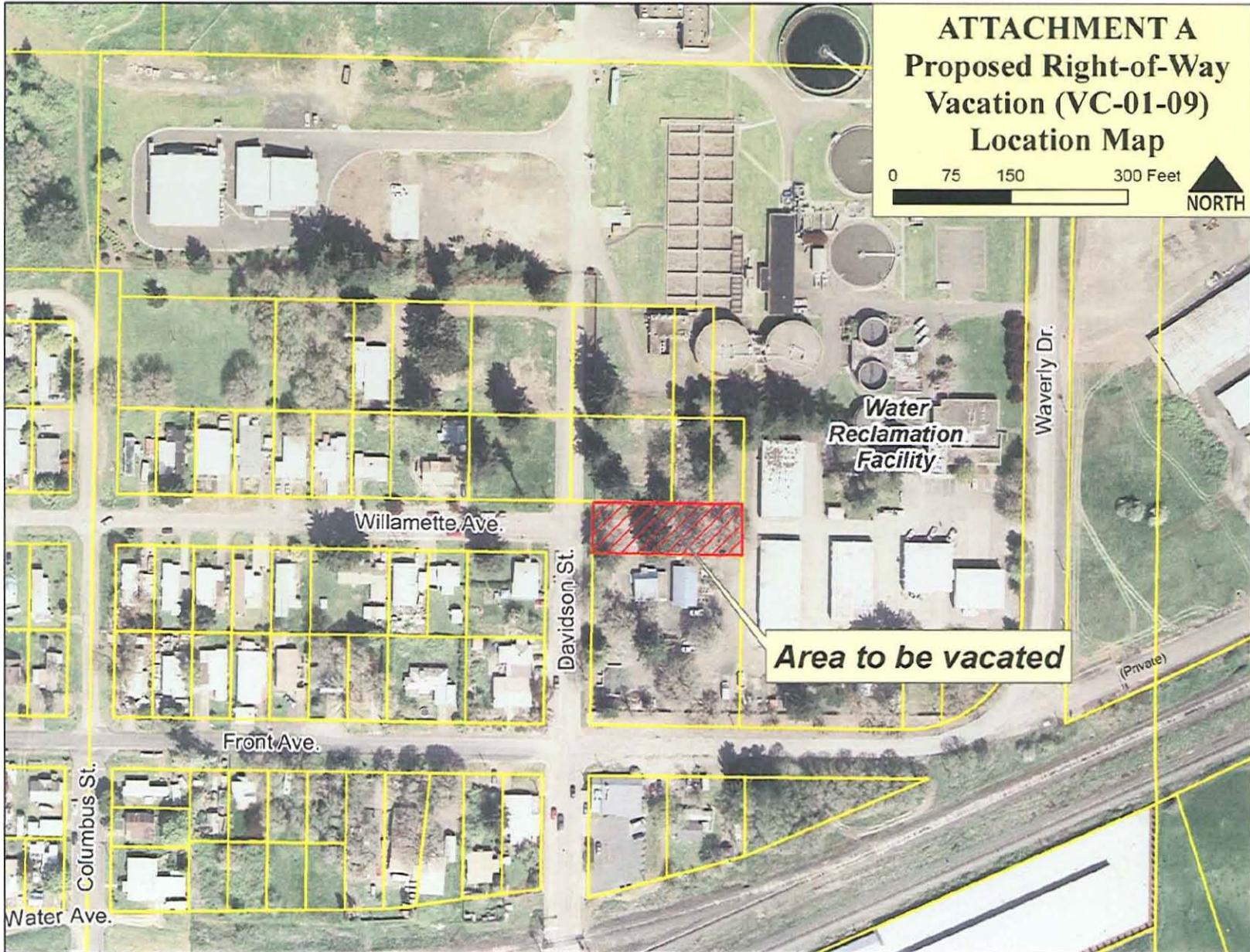
5.1 Vacating this portion of the right-of-way will not adversely impact the public interest, and will allow for further planned improvements on the Reclamation Facility.

Attachments: A - Location Map; B - Zoning Map; C - Utility Map

U:\Community Development\Planning\Current\2009\09vc01 ord and cc sr.dot

ATTACHMENT A
Proposed Right-of-Way
Vacation (VC-01-09)
Location Map

0 75 150 300 Feet



Willamette Ave.

Water
Reclamation
Facility

Waverly Dr.

Davidson St.

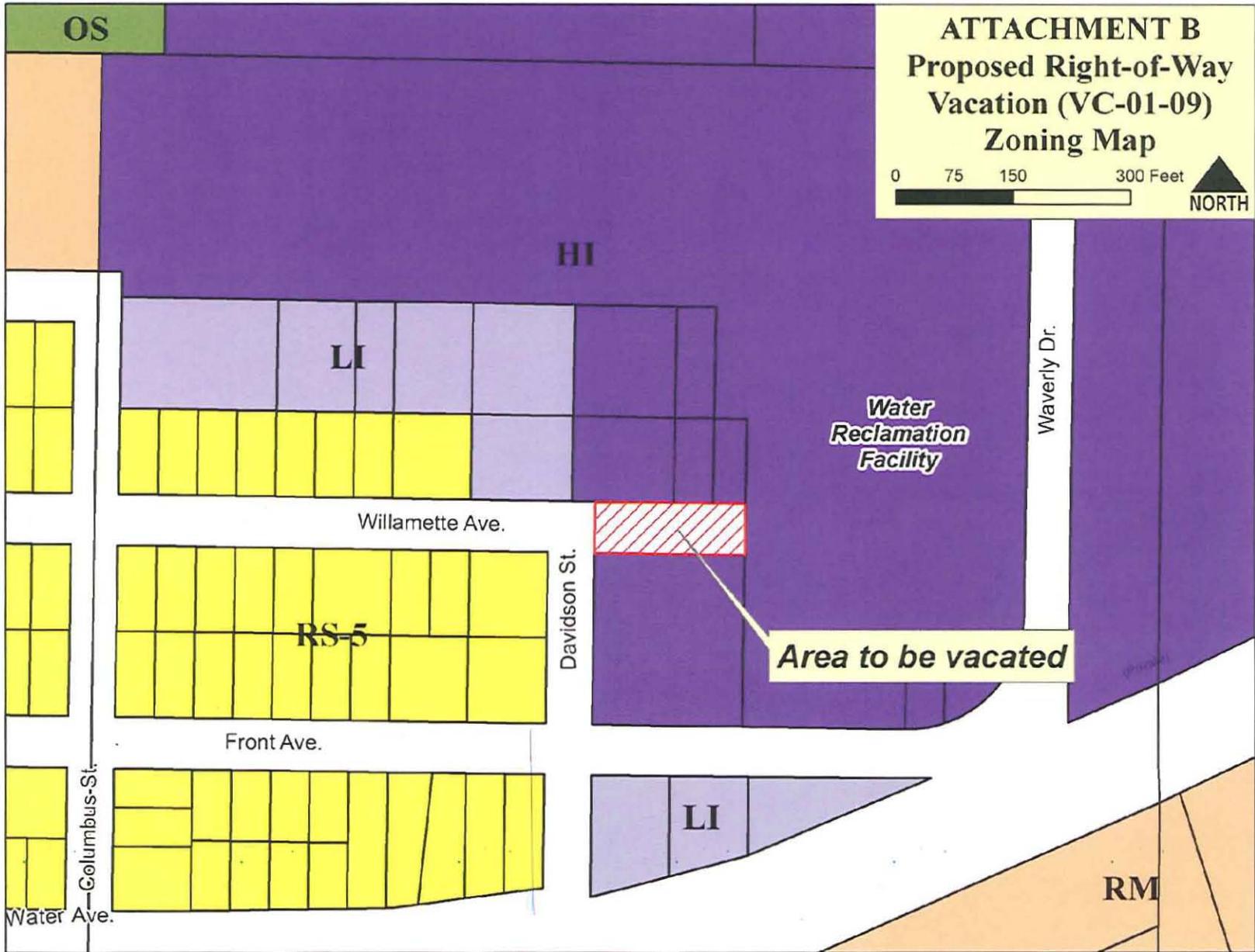
Area to be vacated

Front Ave.

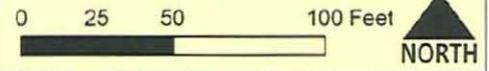
Columbus St.

Water Ave.

(Private)



**ATTACHMENT C
Proposed Right-of-Way
Vacation (VC-01-09)
Utility Map**





TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Marilyn Smith, Management Assistant/Public Information Officer
DATE: March 19, 2009, for the March 25, 2009, City Council Meeting
SUBJECT: Charter Revision Election

RELATES TO STRATEGIC PLAN THEME: ● Effective Government

Action Requested:

Adoption of an amendment to Ordinance 5709, changing the date of the election to revise and update the City Charter.

Discussion:

In 2007, City staff and the City Attorney began working on updates and revisions to the City Charter. The changes were presented to the City Council in 2008 and again earlier this year. The changes reflect current legal and procedural practices, remove sections that have been superseded by state law, and make the language gender-neutral. On February 11, 2009, Council adopted Ordinance 5709 placing the revisions on the May 19, 2009, election ballot in Linn and Benton Counties.

Linn County elections officials informed us this week that the charter revision would be the only item on the May 19 ballot and that Albany would, therefore, be required to pay the full cost of the election, estimated at about \$8,000. Prior City ballot measures have shared space with other measures on local ballots; and costs for the elections were shared as well, or the measures were submitted to a vote in even-numbered years when primary and general elections are conducted at no cost to participating agencies or candidates.

The proposed changes to the Charter are not urgent. They reflect how we currently conduct business. In a time when every penny counts, we recommend adoption of the attached ordinance, postponing the election to May 2010.

Budget Impact:

A savings of \$8,000.

MMS:de
Attachment

U:\Administrative Services\City Manager's Office\Charter Election date change mms.doc

ORDINANCE _____

AN ORDINANCE AMENDING ORDINANCE NO. 5709, WHICH CALLED FOR AN ELECTION TO SUBMIT TO THE ELECTORS OF THE CITY THE QUESTION OF REVISING THE CITY OF ALBANY CITY CHARTER, TO POSTPONE THE ELECTION DATE TO MAY 2010; AND DECLARING AN EMERGENCY

WHEREAS, the City Council of the City of Albany reviewed the City Charter and noted several revisions and changes that were needed to bring the Charter into compliance with current legal and procedural practices; and

WHEREAS, on February 11, 2009, through Ordinance No. 5709, the City Council set an election date of May 19, 2009, to submit the question of updating language and procedures and removing sections that have been superseded by state law to the legal voters residing within the Albany city limits; and

WHEREAS, the Linn County Elections Office has notified the City of Albany that the City's measure for the May 19, 2009, election is the only measure currently slated for that election; and

WHEREAS, the Linn County Elections Office has notified the City of Albany that because it is an odd-dated election year and the City's measure is the only item for the election date, the City would bear the full cost of the May 19, 2009, election.

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

Section 1. Date of Election. Ordinance No. 5709 is amended to read "An election with the question set forth in Section 2 of this ordinance shall be submitted in the manner prescribed herein to the legal voters residing within the City of Albany, on the election 19th day of in May 2009 2010."

Section 2. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the city of Albany, Oregon, an emergency is hereby declared to exist. This ordinance will be in full force and effect immediately upon passage by the Council and approval by the Mayor.

Passed by Council: _____

Approved by the Mayor: _____

Effective Date: _____

Mayor

ATTEST:

City Clerk



TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Bob Woods, Management Systems Director *BW*

DATE: March 18, 2009, for the March 25, 2009, City Council Meeting

SUBJECT: Additional Revenue and Appropriation Authority

RELATES TO STRATEGIC PLAN THEME: • An Effective Government

Action Requested:

Approve the attached resolution to increase estimated revenues and increase appropriations for offsetting expenses.

Discussion:

As part of our ongoing training in process improvement using Lean Six Sigma, the City will again be receiving funds from outside agencies sending students to attend our class.

Albany costs are already budgeted, and no action on that is required. The attached resolution provides for the receipt of additional funding from these outside agencies that was not contained in the original budget. It also provides for the offsetting expense that will occur from these attendees.

Budget Impact:

No net impact. Actual revenues and expenses will be offset.

BW:de
Attachment

U:\Administrative Services\City Manager's Office\Resolution\CC-GreenBelt_RevenuePass-Through-spring09.doc

RESOLUTION NO. _____

A RESOLUTION PROVIDING FOR ADDITIONAL REVENUE AND OFFSETTING EXPENSES
IN THE CENTRAL SERVICES FUND

WHEREAS, the City of Albany is sponsoring training and has invited other agencies to attend and share costs; and

WHEREAS, the FY 2008-2009 adopted budget provides for Albany expenses but did not include anticipated revenue and expenses resulting from outside agency participation.

NOW, THEREFORE, BE IT RESOLVED that the anticipated revenues in the Central Services Fund are increased as shown and offsetting additional appropriations are authorized in the City Manager's Office as a result of this additional participation:

REVENUE:

Central Services Resources/Revenue		
701-10-1004-47012	Miscellaneous Revenue	\$14,000

EXPENSE:

City Manager's Office		
701-11-1028-60101	Contractual Services	\$14,000

DATED AND EFFECTIVE THIS 25th DAY OF MARCH 2009.

Mayor

ATTEST:

City Clerk



TO: Albany City Council

VIA: Wes Hare, City Manager; Stewart Taylor, Finance Director; Ed Gallagher, Library Director

FROM: Diane Wood, Purchasing Coordinator DW

DATE: March 18, 2009, for the March 25, 2009, City Council Meeting

SUBJECT: Ratification of the Sale of City-Owned Property at 1390 Waverly Drive SE

RELATES TO STRATEGIC PLAN THEME: • Effective Government

Action Requested:

Staff requests that Council adopt the attached resolutions and authorize staff to ratify the attached Warranty Deed and Underground Fiber Optic Easement to finalize the sale of property located at 1390 Waverly Drive SE, formerly known as the "Main Library".

Discussion:

The City of Albany Library acquired property located at 2450 14th Avenue SE, Albany, formerly referred to as the "Unitrin Building". The new building provides a larger, modernized facility; an automated material handling system and electronic tagging to streamline checkout and returns; and provides Library staff an opportunity to expand services to the community. The property was acquired in April 2006 and Council authorized the sale of the Main Library by Resolution 5253, on May 10, 2006.

At the time, the Main Library was located at 1390 Waverly Drive SE, also referred to as Linn County Assessor's Map 11S-03W-08AC, Tax Lots 103 and 106, shown on Exhibit "A". A Request for Quotes was sent to local Realtors and the Library entered into a listing agreement with Coldwell Banker Valley Brokers in March 2008 and listed the property "as is" for \$1,830,000, the appraised value.

The Library Renovation project began construction in May 2008. The contract was awarded to T. Gerding Construction Company and was completed timely by January 2009. The Library then moved to its new location in February 2009.

In October 2008 an offer was received by the City with an understanding that the library property would be vacated at the conclusion of the construction period. Council gave authority to the City Manager on October 8, 2008, to conduct negotiations for the sale of the Library and to secure a temporary lease of the Building until the new Library building was move-in ready. On February 13, 2009, a Warranty Deed was recorded transferring title to Albany Medical Solutions, LLC and the City received consideration for the property conveyance in the amount of \$1,580,000, as shown on Exhibit "B".

In addition to the sale of the library property, a 12-foot wide easement was negotiated for underground fiber optic lines located along the western, northern, and eastern (partial) property lines of the library parcels (11S-03W-08AC, Tax Lots 103 and 106). Staff is submitting a separate resolution to accept the above mentioned underground fiber optic line easement along with the library property sale ratification resolution.

Albany City Council
Page 2
March 18, 2009

Budget Impact:

The negotiated purchase price of the conveyance was \$1,580,000. The net proceeds from the sale were credited to the Capital Projects Fund – Library Renovation Program (402-45-1705-47023).

ST:DMW
Attachments (4)

H:\Data\Word\PROPERTY-city owned land\library property sale to albany medical solutions.ccmno.3252009.doc

RESOLUTION NO. _____

A RESOLUTION ACCEPTING THE CONVEYANCE OF CITY-OWNED REAL PROPERTY TO ALBANY MEDICAL SOLUTIONS, LLC.

WHEREAS, the City of Albany Library was in need of a new facility to provide growth and expanded services to the community; and

WHEREAS, the City of Albany Library received funding from a donor to purchase the property at 2450 14th Avenue SE, Albany and renovate the existing building; and

WHEREAS, T. Gerding Construction Company completed renovation of the building in January 2009 and Library staff finished moving the contents from 1390 Waverly Drive SE to 2450 14th Avenue SE, Albany in February 2009; and

WHEREAS, the building and adjacent property located at 1390 Waverly Drive SE, Albany, Oregon, also referred to as Linn County Assessor's Map 11S-03W-08AC, Tax Lots 103 and 106, shown on Exhibit "A", were listed for sale with Coldwell Banker Valley Brokers; and

WHEREAS, a sales agreement was negotiated with Albany Medical Solutions, LLC and the sale was recorded on February 13, 2009; and

WHEREAS, the City commissioned an appraisal from Steven Susmilch of Powell Valuation Inc. to obtain a fair market value of the property; and

WHEREAS, the City received consideration for the property conveyance in the amount of \$1,580,000; and

WHEREAS, in addition to the sale of the library property, a 12-foot wide easement was negotiated for underground fiber optic lines; and

WHEREAS, the funds received for the sale of the library property at 1390 Waverly Drive SE will offset the cost of the Library Renovation project at 2450 14th Avenue SE.

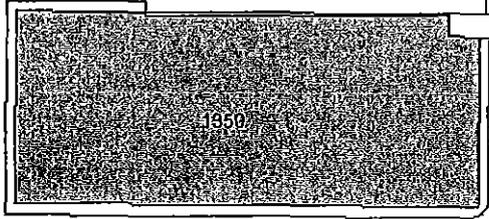
NOW, THEREFORE, BE IT RESOLVED by the City of Albany Council to hereby accept the conveyance of city-owned property to Albany Medical Solutions, LLC, and the Warranty Deed attached as Exhibit "B".

DATED AND EFFECTIVE THIS 25TH DAY OF MARCH 2009.

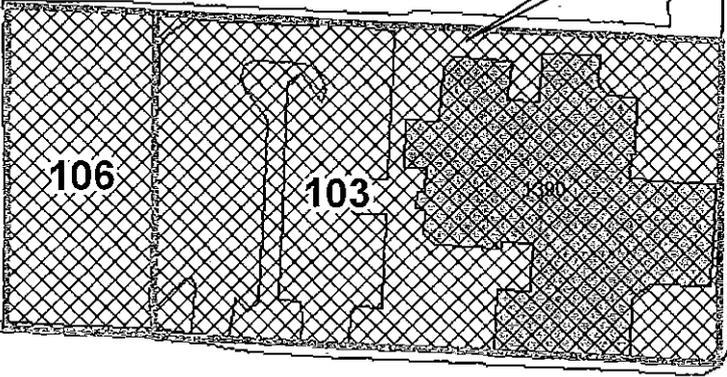
Mayor

ATTEST:

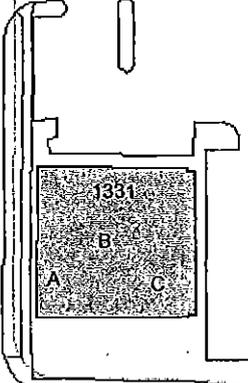
City Clerk



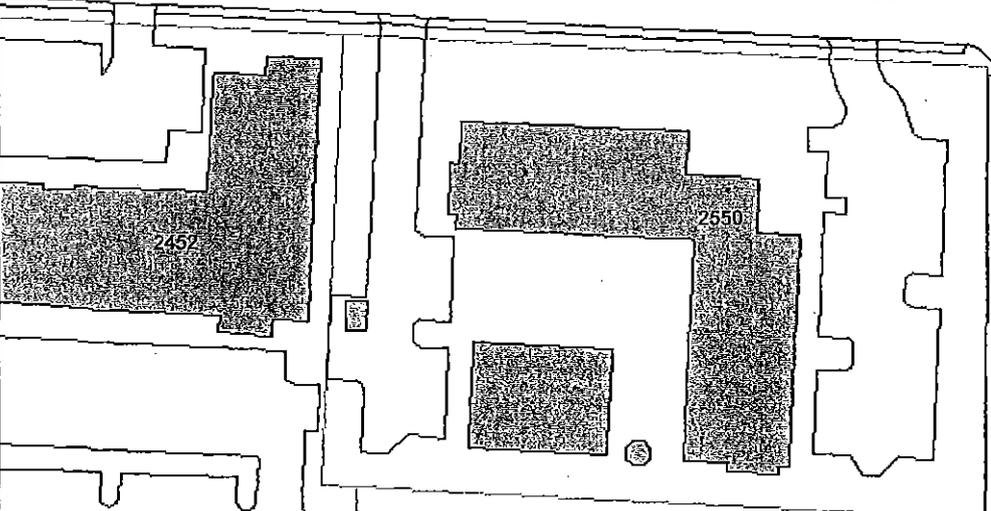
Subject Property



14th Ave.



14th Ave.



Waverly Dr.

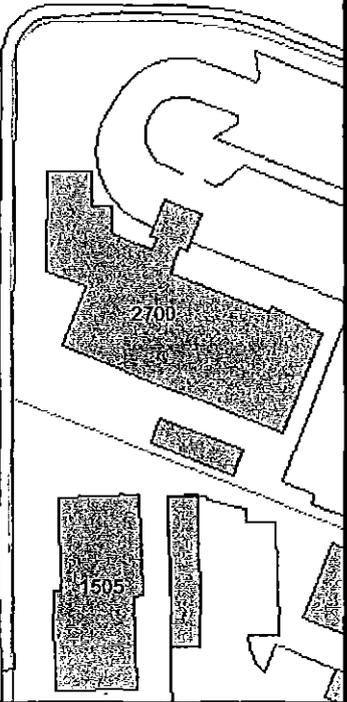


Exhibit "A"



1 inch equals 100 feet

The City of Albany's information reports, drawings, and other documents have been prepared and many obtained, using differing standards for quality control, documentation, and verification. All the information provided represents current information to the best of our knowledge. While the information provided is generally believed to be accurate, the information is not guaranteed, and there is no warranty of any kind, express or implied, for the information provided. It is specifically advised that you independently verify the information contained within our records.

Parcel ID: 11S03W08AC00106
11S03W08AC00103

Exhibit "B"



After recording return to:
✓ Albany Medical Solutions, LLC
1430 Commercial St. SE
Salem, OR 97302

Until a change is requested all tax statements
shall be sent to the following address:
Albany Medical Solutions, LLC
1430 Commercial St. SE
Salem, OR 97302

File No.: 7091-1302919 (SCC)
Date: February 12, 2009

THIS SPACE RESERVED FOR RECORDER'S USE

LINN COUNTY, OREGON **2009-02664**
 D-WD
 Cnt=1 Stn=1 COUNTER 02/13/2009 02:49:45 PM
 \$15.00 \$11.00 \$10.00 **\$36.00**



00102619200900026640030033

I, Steve Druckenmiller, County Clerk for Linn
 County, Oregon, certify that the instrument
 identified herein was recorded in the Clerk
 records.

Steve Druckenmiller - County Clerk



STATUTORY WARRANTY DEED

City of Albany, a Municipal Corporation, Grantor, conveys and warrants to **Albany Medical Solutions, LLC, an Oregon limited liability company**, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

See Legal Description attached hereto as Exhibit A and by this reference incorporated herein.

Subject to:

1. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is **\$1,580,000.00**. (Here comply with requirements of ORS 93.030).

First American Title 1302919

EXHIBIT A

LEGAL DESCRIPTION: Real property in the County of Linn, State of Oregon, described as follows:

TRACT I:

BEGINNING AT A POINT WHICH IS NORTH 1° 39' W 3462.0 FEET AND NORTH 89° 05' WEST 50.0 FEET FROM THE SOUTHEAST CORNER OF DONATION LAND CLAIM 50, TOWNSHIP 11 SOUTH, RANGE 3 WEST, WILLAMETTE MERIDIAN, LINN COUNTY, OREGON; THENCE CONTINUING NORTH 89° 05' WEST 248.0 FEET; THENCE NORTH 1° 28' 15" WEST 175.0 FEET; THENCE SOUTH 89° 05' EAST 248.0 FEET; THENCE SOUTH 1° 28' 15" EAST 175.0 FEET TO POINT OF BEGINNING.

TOGETHER WITH THAT PROPERTY CONVEYED IN DEED RECORDED VOLUME 157, PAGE 831 AND RE-RECORDED IN DEED VOLUME 258, PAGE 738, MORE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS NORTH 1° 39' WEST 3462.0 FEET AND NORTH 89° 05' WEST 50.0 FEET FROM THE SOUTHEAST CORNER OF DONATION LAND CLAIM 50, TOWNSHIP 11 SOUTH, RANGE 3 WEST, WILLAMETTE MERIDIAN, LINN COUNTY, OREGON; THENCE CONTINUING NORTH 89° 05' WEST 248.0 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 89° 05' WEST 60 FEET; THENCE NORTH 1° 28' 15" WEST 175.0 FEET; THENCE SOUTH 89° 05' EAST 60 FEET; THENCE SOUTH 1° 28' 15" EAST 175.0 FEET TO THE POINT OF BEGINNING.

TRACT II:

BEGINNING AT A POINT WHICH IS NORTH 1° 39' WEST 3462.0 FEET AND NORTH 89° 05' WEST 50.00 FEET FROM THE SOUTHEAST CORNER OF DONATION LAND CLAIM 50, TOWNSHIP 11 SOUTH, RANGE 3 WEST, WILLAMETTE MERIDIAN, LINN COUNTY, OREGON, THENCE CONTINUING NORTH 89° 05' WEST 308.0 TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 89° 05' WEST 80.00 FEET; THENCE NORTH 1° 28' 15" WEST 175.00 FEET; THENCE SOUTH 89° 05' EAST 80.00 FEET; THENCE SOUTH 1° 28' 15" EAST 175.00 FEET TO THE POINT OF BEGINNING.

NOTE: THIS LEGAL DESCRIPTION WAS CREATED PRIOR TO JANUARY 1, 2008.

RESOLUTION NO. _____

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

Albany Medical Solutions, LLC

Purpose

A 12-foot wide easement for underground fiber optic lines as part of the sale of the library property.

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

DATED AND EFFECTIVE THIS 25TH DAY OF MARCH 2009.

Mayor

ATTEST:

City Clerk

EASEMENT FOR UNDERGROUND FIBER OPTIC LINES

THIS AGREEMENT, made and entered into this 3 day of 3-3 (March), 2009, by and between the Albany Medical Solutions, LLC, hereinafter called Grantor, and the CITY OF ALBANY, a Municipal Corporation, herein called "City."

WITNESSETH:

That for and in consideration of the total compensation to be paid by the City, the grantor has this day bargained and sold and by these presents does bargain, sell, convey, and transfer unto the City of Albany, an easement and right-of-way, including the right to enter upon the real property hereinafter described, and to maintain and repair underground fiber optic utilities for the purpose of conveying utility services 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 fiber optic 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:

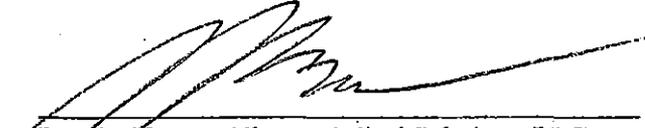
1. The right-of-way hereby granted consists of:

A 12-foot wide easement for underground fiber optic lines as part of the sale of the library property. See legal description on attached Exhibit A and map on attached Exhibit B.
2. 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.
3. The easement granted is in consideration of \$1.00, receipt of which is acknowledged by the Grantor, and in further consideration of the public improvements to be placed upon said property and the benefits grantors may obtain therefrom.
4. 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.
5. Upon performing any maintenance, the City shall return the site to original or better condition.
6. No permanent structure shall be constructed on this easement.

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

GRANTOR:

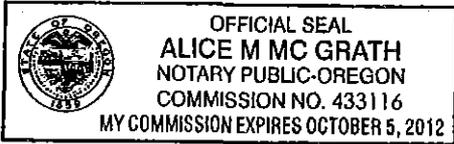
Albany Medical Solutions, LLC



R. John Young, Albany Medical Solutions, LLC

STATE OF Oregon
County of Marion ss.
City of Salem

The instrument was acknowledged before me this 3rd day
of March 2009, by R. John Young as
representative of Albany Medical Solutions, LLC.



Alice M Mc Grath
Notary Public for Oregon
My Commission Expires: October 5, 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 _____, 2009.

City Manager

ATTEST:

City Clerk

Exhibit A

Legal Description

Beginning at a point at the southwest corner of that property described in Linn County, Oregon microfilm deed records 2009-02664, said point lying on the north right-of-way line of 14th Avenue; thence north 175.0 feet along the west property line of the aforementioned property to the northwest corner of the aforementioned property; thence east 388.0 feet along the north property lines of the aforementioned property to the west right-of-way line of Waverly Drive; thence south 77.0 feet along the west right-of-way line of Waverly Drive; thence west 12.0 feet, parallel with the north property line of the aforementioned property; thence north 50.0 feet parallel with the west right-of-way line of Waverly Drive; thence northwest 21.2 feet to a point 27 feet west and 12 feet south of the northeast corner of the aforementioned property; thence west 349.0 feet on a line parallel with and 12 feet south of the north property line of the aforementioned property to a point 12 feet east of the west property line of the aforementioned property; thence south 163.0 feet to the north right-of-way line of 14th Avenue, along a line 12 feet east of and parallel to the west property line of the aforementioned property; thence west 12.0 feet, along the north right-of-way line of 14th Avenue to the point of beginning. As shown on the attached map labeled Exhibit B.

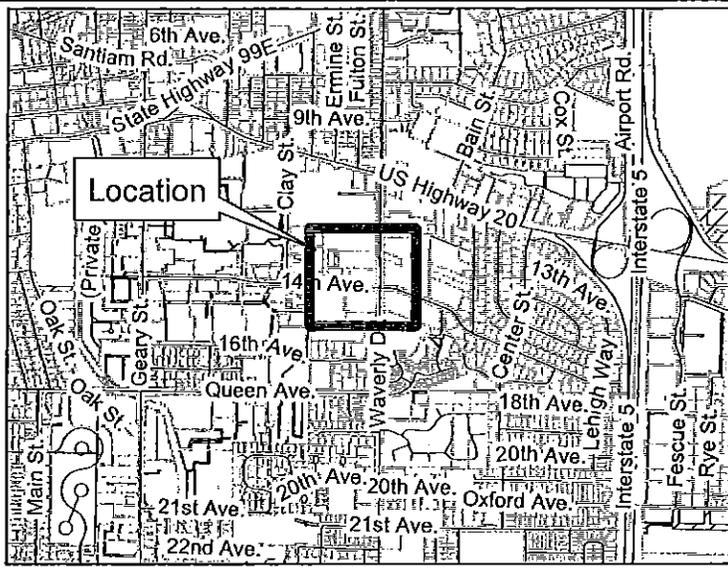


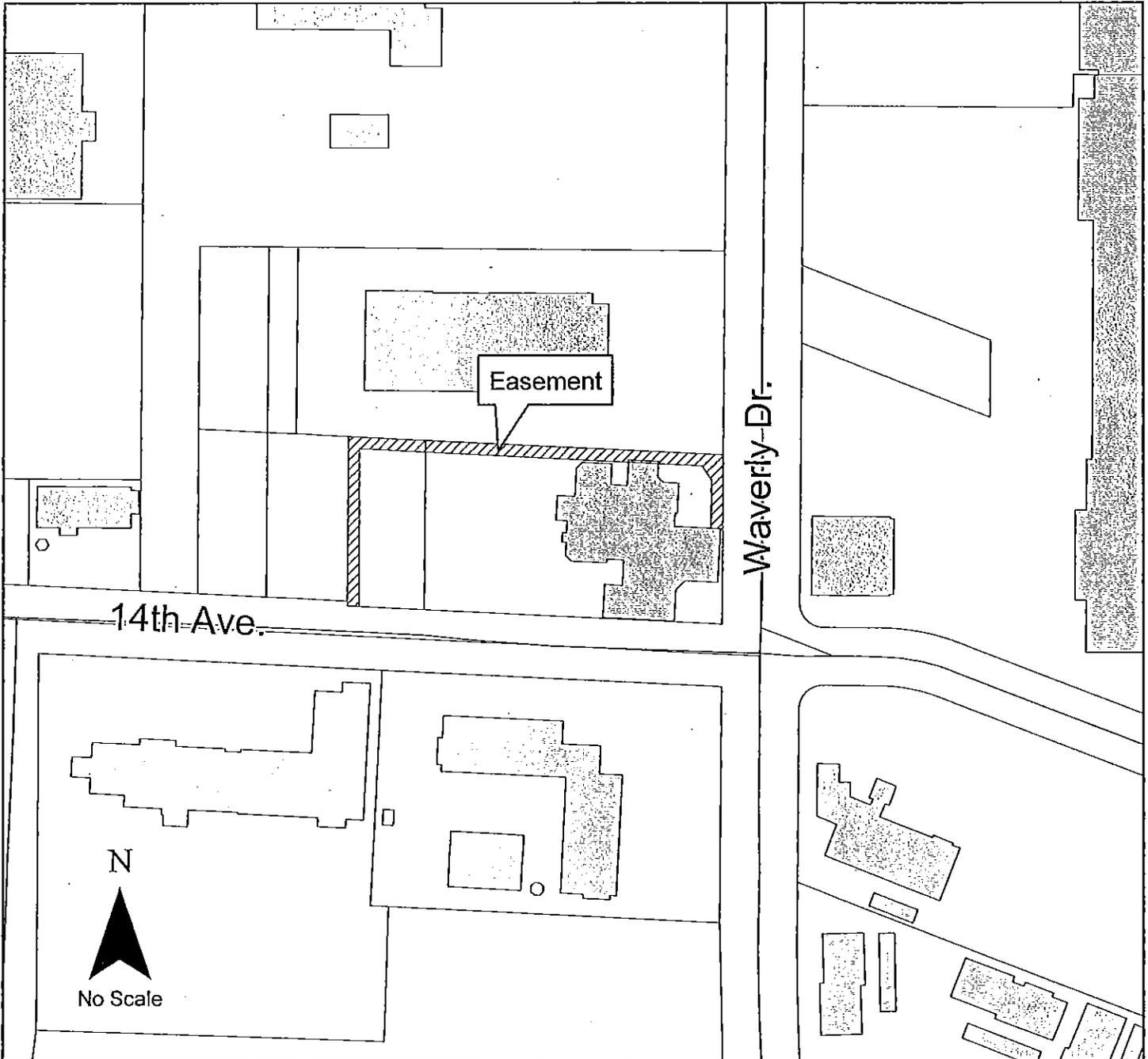
EXHIBIT B

11SO3W08AC00103 and
11SO3W08AC00106

An easement on
14th Avenue Library
site for fiber optic services.



Geographic Information Services



CITY OF ALBANY
CITY COUNCIL (WORK SESSION)
Council Chambers
Monday, February 9, 2009
4:00 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 4:00 p.m.

ROLL CALL

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

Councilors absent: None.

BUSINESS FROM THE PUBLIC

Jim Asleson, Executive Director of the Mid-Willamette Family YMCA, asked if he should speak now or under the YMCA agenda item. Konopa asked him to wait for that agenda item.

RAIL CROSSING CLOSURE REQUEST

Transportation Systems Analyst Ron Irish said this project will enable the railroad to better utilize the rail yard. ODOT Rail and Portland and Western Railroad (PWRR) have asked the City to consider closing one or more at-grade rail crossings in Albany. Connect Oregon granted PWRR \$6,000,000 and PWRR will put in \$2,000,000 matching funds to fund rail improvements. This would improve the efficiency of the rail yard in Millersburg for the railroad, and also benefit the City with reduced blockages at Queen Avenue and North Albany Road. The Connect Oregon grant did not include enough money to improve all the crossing along the corridor, and as a result the project may be in jeopardy if additional funding cannot be secured. ODOT Rail can apply for other federal funds, but they are only available if other closings can be closed. ODOT Rail suggests Madison Street or the Main Street crossing be closed to meet this goal.

Irish introduced Charles Ketterring of ODOT Rail and Dale Hansen of PWRR.

Ketterring said, ODOT Rail supports what PWRR and the City are doing with Connect Oregon. They see it as a worthwhile project because 90 percent of the switching at Queen Avenue would be moved to Millersburg. Also, it would alleviate the train from the Toledo line which typically blocks North Albany Road and Springhill Road while waiting for permission to get to the main line. A third crossing that would be diverted to Millersburg by this project is the track by Garland Nursery. The downside is that Madison Street and Main Street closures could cost \$600,000 each. Ketterring explained that one grant generally equals one rail crossing closure.

Councilor Ralph Reid said, ODOT Rail got two free crossings already, at Chicago Street and Burkhart Street. When they applied for the Oregon Connect grant they knew we would need to close these crossings and so were derelict in not including them.

Councilor Floyd Collins asked, is it a policy or a federal regulation to give one grant for one closure? Ketterring said it is an ODOT Rail policy that the federal agency has gone along with. The federal agency has not yet objected to it when we come with a closure and we pay for upgrades. Collins asked, if we are closing crossings and diverting traffic for rails that are sporadically used, how does that support our transportation system? Ketterring said, ODOT's job is to protect the motoring public and crossings are much safer with automatic gates and lights. From ODOT Rail's position, this is a proper use of federal grade protection money. Collins asked, if the City does not agree to close the crossings, does that put the Left Turn project in jeopardy? Ketterring said yes; ODOT Rail will not let it go through Main Street without proper gate protection.

Councilor Dick Olsen objects to closing either of the crossings. He asked, how many railroad/auto accidents have there been in Albany? Ketterring said there have been very few, because of the money used to close crossings and make the remaining crossings safer. Olsen thinks what ODOT Rail wants closed is unreasonable.

Ketterring said, ODOT Rail would not object if the City wanted to reopen Hill Street and close the other two instead. Collins asked, could we pick another at-grade crossing? Ketterring said no. Collins stated, in order to secure the Left Turn project, the Council is looking at a \$1 million decision in order to comply with an ODOT policy. Ketterring said yes; if the City wants to use this grant money, they will need to make a closure.

Konopa asked Irish, have we counted traffic on Main Street or Madison Street? Irish said Main Street has a higher traffic volume. Staff has not considered the impact of opening Hill Street, as Ketterring suggested.

Olsen said, keep in mind that ODOT also wants to change striping to eliminate traffic from Cleveland Street, Pine Street, Sherman Street, and several streets going on to Pacific Boulevard as well. Irish said those are part of the

Albany City Council Work Session
Tuesday, February 9, 2009

ODOT Safety Project which will make Sherman Street a pork chop, fully close Main Street on the north side of Pacific Boulevard, and close the gull wing at the off ramp.

Johnson does not support closing Main Street. She wants to utilize the grant funds but this warrants more discussion. Collins agrees: we need to evaluate how the striping changes will impact this as well. We need to have a public hearing and get a total picture of the proposals.

Dale Hansen, 200 Hawthorne, Suite 220, Salem, the Vice President of PWRR, said the grant would be signed in about one month. However, he assumes they would not sign until this issue is resolved.

Councilor Jeff Christman wants to see a map with all the proposed projects to evaluate the impact to neighborhoods.

City Manager Wes Hare thinks it is a good idea to have a public meeting, but not necessarily a public hearing. Olsen however prefers to have public hearing so that there is a record.

CONSENSUS: The consensus of the Council was to hold a public hearing.

MUNICIPAL COURT ANNUAL REPORT AND JUDGE'S SALARY REVIEW

Judge Robert Scott said Municipal Court cases have continued to slow down. The January filings were the lowest in the last three years. Staff has made some changes in scheduling to eliminate clients standing and waiting in line. Revenues continue to rise and the City's share increased \$244,000 over 2007 and \$390,000 over the last two years. Municipal Court has spent 46 percent of their budget in the first six months.

Scott said the Municipal Court staff is great to work with. He thanked the Council for approving the remodel, as it will increase staff safety.

Scott also stated that Finance Director Stewart Taylor provides much appreciated support to the Municipal Court staff.

Taylor clarified that on page 3 of the Judge's contract, under Compensation, the last sentence will be deleted and changed to "consistent with other non represented employees" in the final draft scheduled to be signed at the February 11, 2009, Regular Session.

Reid asked, why are "contempt of court" filings down? Scott said, defendants are not making payments. We file contempt of court primarily to get people to pay. Another reason to file is if a defendant fails to go to mandated treatment following the second offense for a Minor In Possession charge.

Hare explained that the main goal of Municipal Court is to promote traffic safety in the community. The good news is that with the increased activity in traffic tickets and Municipal Court cases, there has been a corresponding decline in injury accidents.

YMCA UPDATE

Konopa said she asked for this item to be on the agenda because she talked to City staff and YMCA leadership regarding the location of the YMCA at Timber Linn Park. There are also new Councilors who were not part of previous discussions. She thinks this is a good time for an update.

Konopa's concern is that she believes the scope has changed since this project first came to the Council. The decisions stemmed from whether or not the National Park Service (NPS) would allow the City to sell off property by Timber Linn Lake. She agreed to the YMCA and City working on a joint project for a gym. She recalls, however, that the Council was told the location of the YMCA was not "set in stone." She did not think the project would move forward because she thought the YMCA had to sell its existing building first, yet she noticed that building permits for the project are being processed. She knows folks who are in opposition to the sale of this property. She is in support of the YMCA, but is concerned about the location. It is, and always has been, open space around the lake.

Konopa said that last summer she was on stage at the Timber Carnival and realized that if the YMCA builds there, it would change the view. She likens the YMCA building to a big box. The YMCA's indoor uses, a gym and a pool, do not need to be next to the lake; they can be located on the other end of Timber Linn Park. She asked, is it in the best interest of future generations to give up this lakeside property? Is it fair to the citizens of Albany? She would like the Council to reconsider the location. It has not been approved by the NPS yet. Council did not have a public hearing regarding the location. Also, in the Parks Master Plan (PMP), this property is identified as a community center, but she heard from folks at the (neighborhood?) meeting that they didn't want it there. She thinks the citizens have not been fully communicated with.

Collins asked Parks & Recreation Director Ed Hodney, in addition to the Memorandum of Understanding (MOU), was there a resolution adopted? Hodney passed out a document titled "Chronology- Actions of City Council and others related to YMCA at Timber Linn Park" (see agenda file). Hodney reviewed the timeline.

Hodney recalled the conversation about the location of the YMCA and explained that the decision was to have the building on the north end of the park because the other areas of the park were needed for other activities. Hodney

said they were also very careful to refer to the building as a "community center" during the public meetings, without specifically identifying the YMCA, because there was no partnership with them at that time. The Power Point presentation given at the August 21, 2006, work session included several steps necessary to bring this to fruition. On April 27, 2007, the Council unanimously passed Resolution No. 5414 confirming the location of the building on the north side of the park, which was a critical juncture because the City and YMCA did not want to start spending money on this project without the Council's go-ahead. Every Capital Improvement Program (CIP) and Budget document from that day forward includes this project. The YMCA held a meeting on February 22, 2007, for the public in advance of their building application submittal. The Planning Commission reviewed it on June 18 and again on June 25, 2007. They voted 6 in favor, 1 opposed, and 1 abstaining, for the project design to move forward for a conditional use permit. The conditions were imposed and were incorporated into the design, which was ultimately submitted in January 2009. Hodney has submitted the proposal to the state, and following their review their opinion will be forwarded to NPS. Neither the state nor NPS have named their choices yet. Hodney said the rest of document outlines what the next steps are.

Collins asked, in this process did we discuss the location with the Linn County Expo Center? Hodney said yes, it was discussed with Randy Porter, the Director, to make sure that what we proposed would address their need for continued use of the park space for overflow parking. Porter said what we designed would support the number of RVs they would typically expect to be parked on the grass, in the event the parking lot was full. Hodney referred to a letter on dais from Judy Keppler (see agenda file). The letter suggests parking issues for RVs, but Hodney wants to remind the Council that Porter affirmed the sufficiency of the design for the Expo's overflow parking needs.

Konopa said, Resolution No. 5414 said that NPS had the final say. Hodney confirmed that NPS does have veto power.

Konopa asked, who was notified about the February 22, 2007, YMCA meeting at the site? Hodney said, about 600 homes, which is an area larger than what would be required for a Planning Commission. Konopa said, but this is a regional park. Hodney said, we did press releases and newspaper articles as well, because we were very interested in the public's opinions. Konopa said, the Planning Commission meeting was to review the site plan, not the decision to sell this property. Hodney agreed that the focus of that meeting was the facility. Konopa said, the site plan did not come to the Council. Hodney said that is correct; typically a site plan would not come to the Council unless the Council requested it.

Christman said he also talked to Porter. While Porter did express some concerns, he does feel they can be worked out by using other creative ways to park RVs and shuttles. Christman said Porter was satisfied with the design.

Christman asked why item 10, under "Next Steps" on the handout out, says that the timeline is unknown. Hodney said the state parks and NPS review of the conversion request can take six months, although they will not commit to a timeframe. It could take less time, but they won't tell us when the decision will be made.

Olsen said he has not seen the site plan but at the three events he has attended, the Timber Carnival, the Linn County Fair, and a swap meet, the overflow parking was full. Hodney said Porter provided a maximum number of RVs that could require overflow parking and the site plan was engineered to accommodate them. Hodney can provide that information to the Council if they would like.

Councilor Bessie Johnson pointed out that there was full consensus from the Council on each vote listed on Hodney's timeline. She also recalls that at the neighborhood meetings, as more information was shared the neighbors became more supportive of the project. As far as the full citizenry being aware of the project, the *Albany-Democrat Herald* has run articles about the developments in this project. Johnson thinks the public is aware of this project and said she has not been approached with any negative comments in regards to the facility being located near the fairgrounds.

Collins asked, how much money has the City and the YMCA spent? Hodney said the City spent \$65,000 to \$75,000 on wetland mitigation and site delineation over four years, not including staff time.

Reid said he recalls seeing a site plan for this. Hodney located a memo from retired Community Development Director Helen Burns Sharp which had been forwarded to the City Council. The memo contained the Planning Commission decision, site plan, and minutes. Reid said his recollection is that the neighborhood was aware and actually requested some changes such as moving driveways. He believes making those changes was one of the reasons why the Council moved ahead with the project. Hodney said there has been some opposition, but we have also had a lot of support expressed for this project.

Konopa thinks we should have a public hearing regarding the sale of the property.

Jim Asleson, 3311 Pacific Boulevard, is speaking on behalf of the YMCA leadership. He introduced YMCA Board President Jerry McIntosh.

Asleson said, there are many people here concerned about the Mayor's desire to change the previously approved City decision to locate the YMCA at the north end of Timber Linn Park, a location recommended to the YMCA by City staff. YMCA leadership and supporters are profoundly concerned and deeply troubled with the implications of such a change at this late stage of the YMCA/City partnership. It is particularly troubling in that the Council has voted in unanimous support of the project every step of the way, including the votes of then-Councilor Konopa. As outlined in Hodney's chronological timeline, this includes six different occasions of unanimous Council support.

Asleson said, the YMCA was two years into its capital development plan when the City first approached the YMCA in 2004 regarding consideration of a partnership to build a new YMCA/City gymnasium. The concept was presented as an exciting addition to the new 15 year master plan for Timber Linn Park and a means for the City to secure additional much-needed gym space for its programs. The Timber Linn park location was identified in early YMCA research as the optimal site to provide maximum services to the highest number of Albany residents. A partnership with the City seemed an ideal strategy at the time. The Timber Linn PMP, including a community recreation center located at the north end of the park, was subsequently approved by the City Council. To change the location of the facility now would be a violation of the existing PMP.

The YMCA and City also approved a MOU to establish a collaborative partnership to build a new YMCA/City gymnasium facility to be located at the north end of the park as approved in the PMP. The partnership has been widely publicized in the press to the community on numerous occasions over the last nearly five years. In addition, the partnership and the site have been promoted to potential donors, service clubs, and community organizations, including the Albany Area Chamber of Commerce in a "Building Albany Together" video presentation. The YMCA has promoted the partnership as the most cost effective way to provide improved recreational and family services to not only the Albany community, but to surrounding communities as well, including the city of Millersburg, which made a significant investment in the campaign so that YMCA/City programs and services would be more accessible to their community.

Asleson said, the YMCA has secured more than \$6 million in cash and pledges to the capital campaign, not including the proceeds expected from the sale of its current property and the expected \$1.3 million contribution from the City for the second gymnasium: for a total of \$10.5 million in campaign assets. Most of these contributions were made in the good faith expectation that the YMCA would be constructed at its current location at Timber Linn Park. In addition to the funds already pledged, the YMCA has been advised that it will be eligible for at least \$1 million in additional foundation grants once the existing YMCA site is sold and final operating agreements are struck with the City. If the project does not accomplish these outcomes, the YMCA will not be eligible for these grants.

The YMCA has done its due diligence as a collaborative partner every step of the way in keeping with the City's project approval process, including the approval for the MOU, the inclusion of the YMCA as a Community Recreation Center in the Timber Linn PMP, the City Council resolution authorizing expenditure of park funds toward the project, and the conditional use permit granted by the Planning Commission. The YMCA's commitment to the partnership may be best illustrated by the fact that when the City informed the YMCA that a long term lease of the Timber Linn site was not possible, as originally proposed by the City, it made a commitment to secure a parcel of land to be traded for the YMCA site at the park.

Asleson said, we understand that state and federal parks agencies must approve the trade parcel before final partnership agreements can be approved by the Council. It was our understanding that this process was likely to take as much as six months once the YMCA secured the property for trade, and also required an approved site plan for the new YMCA. Since the parcel for trade was secured in May of 2008, it has now been nearly nine months; and we are still waiting for approvals. In the meantime, construction costs have escalated by more than 30 percent.

It is our clear intention, Alseson said, to continue with and complete the project as planned at Timber Linn Park. To do otherwise is unacceptable. The YMCA has well over \$1 million invested in the project at the approved site at the north end of the park. We have filed for a building permit, plans are under review, and we fully intend to break ground this summer. It is also our clear expectation that the City of Albany, including the Council and the Mayor, also remain committed to the partnership at the approved location and enthusiastically support and expedite the completion of the land swap and all remaining partnership agreements in support of project groundbreaking this summer. Should this not be the will of the Council, we would expect that all YMCA project costs associated specifically with the approved location at Timber Linn Park be reimbursed to the YMCA.

Asleson asked, beyond the YMCA, what does it say for any future potential collaborative efforts with the City of Albany as a reliable business partner should the City mandate a change in location for the YMCA as we approach groundbreaking?

In summary, Asleson said, we cannot break faith with our donors and our community and change the location of the project at this late date. To do so would not only cripple the YMCA's ability to secure additional capital support, it would severely damage our capacity to secure contributed support for any purpose, capital or otherwise, in the future. The subsequent damage to our reputation and ability to serve this community would be irreparable.

Collins asked, the YMCA's cost so far is over \$1 million, correct? Asleson said yes. Collins asked, so if the state and federal agencies deny the request, is that investment at risk? Asleson said yes; if the state does not approve this land, we would look at other options so we can successfully meet the criteria.

Collins said, the City is functioning in other partnerships with agencies such as Wah Chang, National Frozen Foods, and Albany Boys & Girls Club. The City cannot provide all community services alone; we need partnerships. In reviewing the decision process in this chronological order, what is the basis for potential partnership agencies to trust the City? This is beyond agencies and individuals. Collins asked, when does the community as a whole, know that what we say is what we do? These are the same folks who the City will be asking for support for bonds, etc. Collins said, based upon this chronology we have a tacit agreement that we are in support of the project. To do otherwise now, would be a disservice to our entire community.

Johnson agreed. She thinks it is wrong to even bring this up at this late date, because we have an agreement in place with the YMCA and they have raised millions of dollars. It tarnishes the integrity of the City. We need to continue with this plan as it is. There are many businesses represented, and the donors are the same ones who support City events such as Northwest Art & Air Festival and River Rhythms. Johnson doesn't think this should be a point of discussion and feels we should proceed with no changes whatsoever.

Councilor Bill Coburn said, while he is a new Councilor, he is very well aware of the project and is in full support of the project as is.

Christman suggested the Council reaffirm their support by motion.

MOTION: Christman moved to reaffirm support of the joint City of Albany and YMCA project located at the northeast end of Timber Linn Park. Johnson seconded the motion and it passed 6-0.

Konopa called for a short recess.

RECESS

The Council recessed at 5:35 p.m.

RECONVENE

The Council reconvened at 5:41 p.m.

BUILDING DIVISION FUNDING PACKAGE

Building Official Melanie Adams identified three ways to carry the Building Department through to the end of the fiscal year:

1. Building permit fee increase. There is a 40-50 percent disparity in the current fee structure and the cost of doing business, in part because Albany has not raised fees in a long time. Albany's fees are the lowest, on average, in the region. Per Council's request, Adams has submitted the required notification of a 20 percent fee increase to the state, although the Council is not committed to that rate.
2. System Development Charges (SDCs) transaction fees. Building staff has collected SDC fees on behalf of Public Works and Parks for many years but has not received compensation for this service. Addition of an SDC transaction fee would be compensation for performing a service that has value for both customers and the City as an organization.
3. Waive Central Service charges. There is currently a beginning balance being carried in the Central Services fund, which could be used to waive one year of Building's Central Services charges. However, if the reserve is used towards the Building Department's fees then there would be no buffer for next year and as a result, all Departments would experience fee increases in Fiscal Year (FY) 2009-2010. Waiving the one-year charge would save Building over \$100,000.

Konopa doesn't think waiving the Central Service charges altogether is fair to the other departments. She prefers to take funds from contingency to help the Building Division. It's a fairness issue. Johnson agreed. Finance Director Stewart Taylor said he does not recommend it because then the General Fund contingency would bear the full brunt of the economical crisis.

Hare said, staff is asking the Council for discretion to use these tools as needed to assist the Building Department in the short term. They recognize these are not long-term solutions.

Collins questioned the timeframe and cost associated with processing the SDC fees as identified in the staff report. In past years, all transactions were processed by Utility Billing employee cashiers and the cashiering function used to be paid out of Central Services. When the permit processing function moved to the Building Department, he is not sure those fees were decreased. He asked, what is the most efficient way to process the fees? If the City's intent is to move to a one-stop shop, then Building's recommendation is valuable but the transaction fees as listed on the staff report do not represent the weighted cost.

Coburn said he is surprised at the proposed \$150 fee for collecting SDCs. Adams agreed it is a high number, but Council's direction to staff was to look at actual costs, including overhead, which she did. Staff cannot separate the SDC process from their current procedures because the SDC collection process has been consolidated with other processes for maximum efficiency. Processing involves phone inquiries, files, data entry, helping counter customers, etc. The payment process with the customer may only take 5-15 minutes, but overall the maintenance of the SDC payment program takes much longer. Adams said, this amount is a reflection of our actual costs for a valuable service.

Coburn asked, how much revenue would you generate from an SDC transaction fee? Adams said the estimate for FY 2008-09 may be just \$6,000 -- \$10,000, though it is very difficult to predict since it is based on building activity. She does anticipate it will increase during summer months.

Adams said other jurisdictions charge an administrative fee which compensates the building division for the extra things they do for other departments. The fees are not necessarily reflective of true overhead costs, but the compensation does provide some relief.

Chrisman asked, how much additional revenue would a 20 percent permit fee increase produce? Adams said, about \$40,000 conservatively, from March to the end of the FY, including a minimal spike in the spring.

Konopa suggested considering permits on a regional basis. The City, Linn County, and Benton County could combine inspectors since all are struggling with the same issues.

Olsen asked, could we reduce the work week? Hare said yes, although the City would still be required to pay benefits which are more costly than wages, so it doesn't save much overall.

Hare said staff is asking for flexibility to work to maintain certified people now, and if in the future there is not enough work to justify a full staff, to make adjustments with reduction in hours or layoffs.

The regional concept could be considered, but Hare said it boils down to what level of service our citizens want. In his experience, regional services can be frustrating for the citizens.

Adams said that if the Council wishes to proceed with the fee increase proposal, a public hearing should be scheduled for March 11 to meet the permit fee increase noticing requirement. This does not lock the Council into a specific rate.

Coburn would like to move ahead with the public hearing. He is not satisfied with the overall proposal yet and feels it needs some fine tuning, but he thinks input from others will help.

Collins wants to know the net cost to the General Fund Contingency, without waiving Central Service Charges and charging administrative fees. He would also like the Homebuilders Association to discuss what kind of service they want from the Building Department and are willing to pay for, because that will dictate what kind of service we should provide

Community Director Greg Byrne said that in the past several days Adams and other Building staff have dealt with three serious fire and life safety events, important work which has no associated revenue stream. Work done without permits jeopardized a building's safety in one case, and in another case construction took place over a sewer easement. The Albany community needs these professionals available on short notice, but this is an area where we are not going to get feedback even though it is valuable. Collins agrees these are necessary services, and said that these two fire/life safety examples Byrne provided further supports his suggestion to use General Funds for these activities.

Hare confirmed that Building Inspectors have spent a lot of time working with the Code Squad on code enforcement issues, so it is a long standing practice. The types of complaints are various.

Collins wants staff to consider what department should be processing permits for other departments, or if the permits should be processed by the originating department.

CONSENSUS: Council consensus was to hold a public hearing for the proposed building permit fee increase on March 11, 2009.

Byrne expressed gratitude to the other Directors for their willingness to allow Building's Central Service charge to be waived, should the Council move in that direction.

CITY CHARTER REVISION ELECTION

Public Information Officer/ Management Assistant Marilyn Smith asked the Councilor's to notify her of any changes they would like to the Charter revision prior to the Wednesday Regular Session.

"VISITING COUNCILOR" DISCUSSION

This item was postponed until the Wednesday, February 11, 2009, Regular Session.

COUNCILOR COMMENTS

Coburn would like the taxi license issue to be put on a future agenda. He has some ideas to share.

Konopa received a letter from the Linn County Board of Commissioners requesting a joint meeting with the Council (see agenda file).

CITY MANAGER REPORT

There was nothing to report.

Albany City Council Work Session
Tuesday, February 9, 2009

ADJOURNMENT

There being no other business, the Work Session adjourned at 6:36 p.m.

Respectfully submitted,

Mary A. Dibble, MMC
Deputy City Clerk

G:\Mary\CCWorkSession\ccwrks 02-09-09.MTS.doc

Reviewed by,

Stewart Taylor
Finance Director

CITY OF ALBANY
CITY COUNCIL (WORK SESSION)
Willamette Room
Monday, March 9, 2009
4:00 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 4:00 p.m.

ROLL CALL

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

Councilors absent: None.

BUSINESS FROM THE PUBLIC

There was no business from the public.

BIKE PARK TASK FORCE REPORT

Recreation Programs Manager Rob Romancier said the Bike Park Task Force grew out of Councilor Bessie Johnson's request to the Parks & Recreation Commission to create something for the youth. The Task Force has met for eleven months and includes parents, skaters, bikers, Police Officers, and other participants.

Romancier said the Task Force has evaluated their vision, bike park concept, and funding options. They have a petition with 250 signatures.

Task Force member Ryan Powell said their vision is simple: to have a safe place where bike riders of all ages and skill levels can practice their chosen sport. The Albany Skate Park by Eleanor Hackelman Park is closed to bikes, and most other riding areas are private property. Bike lanes are next to traffic and unsafe. They want a place to ride where they won't be asked to leave. Bike riders often get overlooked. A bike park doesn't just appeal to the riders, it also allows spectators to be active, walk, and watch the riders. Creating a park would add value to the Albany community and the surrounding area.

Task Force member Josh Thomas said the bike park would be designed to include something for everyone, young and old, beginner and advanced.

Councilor Jeff Christman arrived at 4:04 p.m.

Task Force member John Van Buskirk said there are two locations they have considered: next to the Albany Skate Park and next to the proposed YMCA facility at Timber Linn Park. The benefit of using the Timber Linn site is that the City owns the property and it is close to I-5, so it would make promotions and events easier. The downside is that the bowl would require digging and the park has a high water table. It would also be more difficult for in-town riders to get across the freeway to the park.

Van Buskirk said, the benefits to the Skate Park location is that a bowl can be dug out more easily, it is closer for kids to get to, and it is easier for the Albany Police Department (APD) to enforce. The downside to the Skate Park location is the presence of drugs, the poor reputation of the area, and past conflict between bikers and skaters.

Task Force member Chris Kropf explained that the Task Force will be raising the money themselves. They know the City has financial hardships. They have created a list of community members that could help with concrete and civil engineering, saving \$200,000-300,000.

Administrative Assistant Tari Hayes is a Parks & Recreation employee and a mother of a biker. She said, the Task Force feels strongly about this project and asked if the Council agrees this project is beneficial to the community. She asked, should the Task Force continue pursuing it?

Romancier said, this is a great group to work with and he has learned a lot. The kids are very open and care about this park. They are motivated to make it happen. They know times are tough economically and are not expecting a handout. They would like to use City property if possible. Before proceeding they would like to get the Council's support.

Johnson said her first impression of bikers and skaters was incorrect. A minor percentage of bikers and skaters that cause trouble give all bikers and skaters a bad name. Dealing with these young folks, boys and girls, has been a pleasure. She said it is also a great opportunity for them to experience the democratic process. They have stuck with the Task Force, are dedicated, and understand the concept that they will need to work for this bike park. She asked for the Council's support on their behalf.

Councilor Bill Coburn said he is supportive, but is concerned about the drugs prevalent at the Skate Park. Romancier said the drug use is not specifically attributed to the skaters or bikers, but more so to the transient population at the park. Hopefully with more lights and with folks using the park, drug activity would eventually subside. APD would like to install cameras which feed directly to APD, which the kids support. Also, there seems to be less conflict between the bikers and skaters.

Task Force member Evan Abernathy described the difference between a bike park and a skate park and how obstacles are worked into the design.

Hayes said the reason the Corvallis Bike Park is so successful is because the flow is good. The bowl is wider and open between the elements, whereas Albany's is tighter and so is not as safe or enjoyable. Romancier said that 60 x 200 feet would be a nice size park.

Councilor Ralph Reid recalled when the skaters worked towards getting a Skate Park. Then, when the bikers complained, he told them to pursue their own park. He is proud to see their progress so far.

Konopa supports the idea. She feels the Skate Park location is better since most kids would be riding from their homes. Also, it would help to build cohesion between bikers and skaters.

Romancier said the next step is to continue to work on the design, with the biker's input. They will also be speaking at community and neighborhood meetings.

Hayes said, the Task Force will create a budget, a sponsorship plan, identify seed money for fundraising events, and pursue promotional items like t-shirts, hats, and stickers. Many of these items have already been designed by the kids. A design/build skate park company wants to come to Albany's Skate Park on March 22. This would serve as a great kick-off event for the Bike Park, with local vendors and distributors, and would provide an opportunity to begin fundraising.

Romancier said amenities would include curbs and benches and other popular features, and they may be able to secure a food vendor. They hope to carve out a smaller area for young riders too.

Councilor Floyd Collins agreed that Eleanor Hackelman Park is the more appropriate site. He thinks this is a great civics project for these kids.

Councilor Dick Olsen is fully supportive.

Hayes noted that while riders prefer concrete for bike parks, dirt trails do serve a portion of the biking community so they might incorporate some dirt jaunts around the perimeter. There are a lot of grants available for trails and it would help to make the park as inclusive as possible.

Konopa asked if there would be landscaping. Hodney said it would be included in the full design. There are tentative sponsors for landscaping, and the kids are willing to do the labor.

Collins supports the bike park but made it clear to the Task Force that they need to do fundraising themselves, because the City is not in a position to take on any additional costs right now.

CONSENSUS: The consensus of the Council was to encourage the Bike Park Task Force to continue their efforts towards a new bike park; and that the location should be by the skate park at Eleanor Hackelman Park.

RISK MANAGEMENT REPORT

Senior Accountant Mike Murzynsky said the Risk Management policy, attached to the staff report, will come to the next Regular Session for approval.

Murzynsky introduced Steve Uerlings, President of Barker & Uerlings Insurance.

Uerlings handed out a Risk Management Update report (see agenda file). City/County Insurance Services (CIS) provides coverage for almost all Oregon cities. Uerlings said all of Albany's coverage is with CIS except for earthquake, Senior trips, and the Airport, which are provided by separate vendors.

Uerlings said the two public official bonds, for the City Manager and the Finance Director, are statutorily required by the Secretary of State.

Overall, statistically Albany fares better than other cities in Oregon. In categories where the loss ratio is high, it is usually because the claims are infrequent but expensive.

City Manager Wes Hare said that directors regularly discuss safety issues. Still, even with attentiveness to detail, there will be unavoidable accidents to skew the averages.

COUNCILOR COMMENTS

Christman asked when the sign ordinance will come back to the Council. Hare will give the Council an update at the next Regular Session. Hare said it is difficult to discourage the overuse of signs while still keeping good relationships with local businesses. He believes that perhaps staff is doing an appropriate job because the Council is not being deluged with such calls. In his experience Hare has seen every city struggle with sign regulation and has yet to see one city regulate it successfully.

Coburn will be out of town on Tuesday and Wednesday. He will miss the Oak Street LID meeting but reiterated its importance to him. He should be back in time for Wednesday's Council meeting.

CITY MANAGER REPORT

Hare said the Library donor is extremely pleased with the new Library. The donor will not be available for the Grand Opening on March 29. A new shade of green for the striping on the building has been suggested by the Donor's consultant and will cost about \$5,000.

Hare will be gone Tuesday and most of Wednesday. He should be back in time for Wednesday's Council meeting.

ADJOURNMENT

There being no other business, the Work Session adjourned at 5:09 p.m.

Respectfully submitted,

Mary A. Dibble, MMC
Deputy City Clerk

Reviewed by,

Stewart Taylor
Finance Director

G:\Mary\CC\WorkSession\2009\ccwks 03-09-09.MTS.doc



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Ed Hodney, Director of Parks and Recreation *EH*
DATE: March 18, 2009, for the March 25, 2009 City Council Meeting

SUBJECT: Linn County Cultural Coalition Grant Acceptance for 2009 Mondays @ Monteith Concert Series

RELATES TO STRATEGIC PLAN THEME: • Effective Government
• Great Neighborhoods

Action Requested:

Staff recommends that the City Council accept the Linn County Cultural Coalition (LCCC) grant for general operating support of the 2009 Mondays @ Monteith Concert Series by adopting the attached Resolution and authorizing the Parks and Recreation Director to sign the acceptance letter on behalf of the City.

Discussion:

The Albany City Council adopted resolution No. 5738, which authorized the City to apply for a \$1,000 grant from the Linn County Cultural Coalition (LCCC) in support of the 2009 Mondays @ Monteith Concert Series.

Budget Impact:

Both resources and expenditures will be increased in the FY 2008-09 budget for Fund 203 (Grants Fund) by \$1,000.

Attachments: Resolution

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A GRANT FROM THE LINN COUNTY CULTURAL COALITION (LCCC) FOR GENERAL OPERATING SUPPORT OF THE 2009 MONDAYS @ MONTEITH CONCERT SERIES AND AUTHORIZING THE PARKS & RECREATION DIRECTOR TO SIGN THE ACCEPTANCE LETTER.

WHEREAS, the City of Albany Parks & Recreation Commission, City Council, and staff have identified the Mondays @ Monteith Concert Series as a recreational program that improves the quality of life for the citizens of Albany and surrounding communities; and

WHEREAS, the Parks and Recreation Department submitted a grant application in the amount of \$1,000 for general operating support of the 2009 Mondays @ Monteith Concert Series; and

WHEREAS, the City of Albany Parks and Recreation Department has been awarded this grant in the requested amount; and

WHEREAS, the acceptance of this grant award will pay for contractual performers; 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, LET IT BE RESOLVED that the City of Albany accepts this Linn County Cultural Coalition Grant in the amount of \$1,000; and the following appropriations are made for the Fiscal Year 2008-2009.

		<u>Resources</u>	<u>Requirements</u>
203-35-5071-42823	Grant- LCCC	\$1,000	
203-35-5071-60105	Contractual Performers		\$1,000

DATED AND EFFECTIVE THIS 25th DAY OF MARCH, 2009.

Mayor

ATTEST:

Deputy City Clerk



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Ed Hodney, Director of Parks and Recreation
DATE: March 18, 2009, for the March 25, 2009 City Council Meeting

SUBJECT: Local Government Grant Program Application for Teloh-Calapooia Park Project

RELATES TO STRATEGIC PLAN THEME: ● An Effective Government

● Great Neighborhoods

RELATES TO:

● Master plans

Action Requested:

Approve a Resolution authorizing an application to the Oregon Parks and Recreation Department for funding from the Local Government Grant Program to rehabilitate Teloh-Calapooia Park and authorizing the Parks and Recreation Director to sign the application.

Discussion:

The 2006-2010 Albany Parks and Recreation Master Plan cites a need for a renovation and restoration of the playground and other park features in Teloh-Calapooia Park, located in southwest Albany at 5950 Looney Lane. The Teloh-Calapooia Park project has been identified as a high priority need for the city and has been included in the Capital Improvements Program and the annual budget.

Staff would like to seek funding in the amount of \$50,000 from the Local Government Grant Program, which is administered by the Oregon Parks and Recreation Department. The intent of the Local Government Grant Program was created in 1998 to support public outdoor parks recreation facilities. The grant program requires a 1:1 match from the City. Our local match would include funds from the Parks & Recreation budget and gifts and donations from local individuals and businesses for this project.

The application deadline is April 3, 2009. If awarded, grant funding would be available after August 1, 2009.

Budget Impact:

The proposed FY 2009-10 Parks & Recreation budget includes \$30,000 for the City's share of the project. The remaining \$20,000 of the local match will be covered by gifts and donations from the private sector. Since this is an existing park, we anticipate no increase in the cost of maintenance resulting from this proposed project.

Attachments: Resolution & Map

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY OF ALBANY PARKS AND RECREATION DEPARTMENT TO APPLY FOR A LOCAL GOVERNMENT GRANT FROM THE OREGON PARKS AND RECREATION DEPARTMENT FOR THE RESTORATION AND RENOVATION OF TELOH-CALAPOOIA PARK AND AUTHORIZING THE PARKS & RECREATION DIRECTOR TO SIGN THE APPLICATION.

WHEREAS, the Oregon Parks and Recreation Department is accepting applications for the Local Government Grant Program; and

WHEREAS, the City of Albany Parks and Recreation Department desires to participate in this grant program to the greatest extent possible as a means of providing needed park and recreation acquisitions, improvements and enhancements; and

WHEREAS, the City of Albany Parks & Recreation Commission, City Council, and staff have identified improvements at Teloh-Calapooia Park as a high priority need in the City of Albany; and

WHEREAS, the project will include the renovation of the playground, a waterway, vegetation enhancement, water quality enhancement, construction of a multi-use wood chip path. This path will connect Teloh-Calapooia Park with an existing city path system, and which would also serve as a trailhead to the Oak Creek Trail. Additionally, there will be boardwalks or bridges that will cross the waterway and that will provide additional access points to the park; and

WHEREAS, the applicant hereby certifies that the matching share for this application is readily available at this time in the Parks and Recreation Fund.

NOW, THEREFORE IT BE RESOLVED that the City of Albany Parks and Recreation Department be authorized to apply for a Local Government Grant from the Oregon Parks and Recreation Department for the Teloh-Calapooia Park & multi-use wood chip path system as specified above.

DATED AND EFFECTIVE THIS 25th DAY OF MARCH, 2009.

Mayor

ATTEST:

City Clerk

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING ACCEPTANCE OF AN EASEMENT FROM RIVER VIEW PLACE APARTMENTS LIMITED PARTNERSHIP

WHEREAS, the City of Albany and River View Place Apartments Limited Partnership recognize that a public bicycle and pedestrian path along the Calapooia River may create value for the public, the City of Albany, and the River View Apartments Limited Partnership; and

WHEREAS, an easement and right-of-way is necessary for the location, construction, maintenance, and public use of a bicycle and pedestrian path through property owned by River View Place Apartments Limited Partnership; and

WHEREAS, River View Place Apartments Limited Partnership desires to convey to the City Albany an easement for public bicycle and pedestrian path along the Calapooia River as shown on Exhibit "A" and Exhibit "B"; and

WHEREAS, the City of Albany desires to accept the easement.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby accept the easement referred to in the recitals above; and

BE IT FURTHER RESOLVED that the City Manager is authorized to accept conveyance of the above-referenced easement.

DATED AND EFFECTIVE THIS 25TH DAY OF MARCH 2009.

ATTEST:

Mayor

City Clerk

EASEMENT FOR PUBLIC BICYCLE AND PEDESTRIAN PATH

THIS AGREEMENT, made and entered into this 4th day of March, 2009, by and between River View Place Apartments Limited Partnership, hereinafter called "Grantor," and the CITY OF ALBANY, a Municipal Corporation, herein called "City."

WITNESSETH:

WHEREAS, the City and Grantor recognize that a public bicycle and pedestrian path may create value for the public and Grantor; and

WHEREAS, City seeks an easement and right of way for the location, construction, maintenance, and public use of a bicycle and pedestrian path through property owned by Grantor; and

WHEREAS, this easement agreement is entered between the parties hereto for consideration of \$1.00, receipt of which is acknowledged by Grantor, and in further consideration of public improvements to be placed upon Grantor's property.

NOW, THEREFORE, IT IS MUTUALLY AGREED between the parties hereto as follows:

1. **RECITALS.** The above recitals are incorporated herein by reference.

2. **EASEMENT.** Effective as of the Construction Commencement Date (as hereinafter defined), Grantor hereby grants to City and its successors a non-exclusive easement and right-of-way to enter upon the real property hereinafter described ("the Public Path") to locate, install, maintain and repair a ten-foot wide public bicycle and pedestrian path, together with the right and obligation of the City to excavate and refill ditches and/or trenches within the Public Path (or adjacent thereto along the Calapooia River) as necessary to stop erosion along the Public Path, and to protect users of the Public Path from injury and the further right and obligation of the City to remove trees, bushes, under-growth, and other obstructions within the Public Path which interfere with the location and maintenance of the said Public Path, all of the above at the sole cost and expense of the City. Grantor and its partners, managers, tenants, agents, guests, licensees and contractors have the right to use, maintain, improve and repair the Public Path for all purposes until such time as the City commences to construct the public bicycle and pedestrian path within the Public Path, and thereafter for such purposes which are not inconsistent with the use as a public path. Further, Grantor retains the right to cross the Public Path and/or to temporarily block same, to the extent necessary to address erosion and/or trenching along the Calapooia River on Grantor's property west of the Public Path. The City will give the Grantor not less than 90 days prior written notice prior to commencing to construct the bicycle and pedestrian path within the Public Path, setting forth the date of commencement of construction of the bicycle and pedestrian path (the "Construction Commencement Date"). Notwithstanding anything to the contrary herein, the City has no rights under this Easement until the Construction Commencement Date, and the public has no rights to use or enter onto the Public Path, or any other rights hereunder, until such time following the Construction Commencement Date as the City has fully completed the bicycle and pedestrian path and such path is in good condition and repair for use by pedestrians and bicycle riders. The City agrees to construct, maintain and repair the Public Path in good condition and repair, free from liens and free from trash and refuse. Further use of the Public Path will be subject to such uniform rules and regulations imposed by the Grantor and the City, from time to time, as shall be reasonably required to assure the safety and security of the residents of Grantor's adjacent multi-family housing project and of the public users of the Public Path, all at the City's cost and expense, including without limitation, restricting use to non-motorized bicycles and pedestrian foot travel only, lighting of the path in such a manner so as not to reflect into Grantor's apartments units, fencing to restrict access to any ditches and trenches adjoining the Public Path, security measures and hours of use.

3. **DURATION OF EASEMENT.** Unless and until terminated, as set forth below, the Easement granted herein shall be perpetual. If upon construction, the City shall fail to maintain the Public Path, and adjacent trenches and ditches lien free and in good condition, order and repair, free from refuse, abandons the Public Path, fails to provide necessary fencing, lighting or security, fails to enforce use restrictions within the Public Path, or fails to provide and maintain in force the insurance required hereunder, in each case not cured within 30 days after delivery by Grantor of written notice to the City, then and in that event Grantor shall have the right to terminate this easement by recording a termination of easement in the land records of Linn County, Oregon, whereupon this easement shall be of no further force or effect and any improvements thereon shall thereupon become the sole property of the Grantor.

4. **INDEMNIFICATION.** City hereby agrees to indemnify and hold harmless, Grantor, its partners, agents, contractors, guests, tenants, invitees and assigns, from any and all liability, losses, liens, claims, damages, or demands, of any kind or nature which may result from the construction, maintenance, lack of maintenance, or use of this easement by the City, its agents, employees, contractors, guests invitees and the general public, including, without limitation reasonable attorneys fees and expenses. Further from and after the date on which the City commences to construct and install the path through the Public Path, the City shall provide Grantor with evidence of comprehensive general liability insurance, issued by an insurance company licensed to do business in Oregon and reasonably acceptable to Grantor, which will insure Grantor and its partners as an additional insureds and a certificate holders, entitled to 30 days prior written notice of termination or cancellation, with limits of at least \$1,000,000 per occurrence and \$3,000,000 in the aggregate; providing this insurance is a condition precedent to use of the Public Path.

5. **REPRESENTATIONS OF TITLE.** Grantor does hereby covenant with the City that it is lawfully seized and possessed of the Public Path, subject to encumbrances and other matters of record and that it has a good and lawful right to convey this easement, subject to consent of the holders of financing encumbrances on the Public Path.

6. **ATTORNEY FEES.** Should any party hereto seek judicial enforcement of any of the obligations contained herein, the prevailing party shall be entitled to an award of its reasonable attorneys fees and costs.

7. **EASEMENT DESCRIPTION.** The Public Path is more particularly described in Exhibit "A" attached hereto and on the map attached as Exhibit B, and by this reference incorporated herein.

8. **COVENANT RUNNING WITH THE LAND.** The covenants and obligations over the Public Path shall be covenants running with the land.

9. **BINDING EFFECT.** The terms of this easement shall be binding on and inure to the benefit of the successors, and assigns, of the respective parties hereto; provided that the City shall not have the right to assign this easement without the prior written consent of the Grantor.

10. **RECORDING OF EASEMENT.** This Easement shall be recorded in the deed records of Linn County, Oregon.

11. **CONTRACT CONSTRUCTION.** Because attorneys for both parties have participated in the drafting of this instrument, the customary rule of contractual construction which resolves ambiguities against the drafter shall not apply. This Agreement may be signed in counterpart. This Agreement will be governed by Oregon law.

12. **NOTICE.** All notices required or permitted to be delivered hereunder shall be in writing and shall be given by registered or certified mailed, postage prepaid, return receipt requested or delivered personally with signed receipt to the parties at the following addresses, or such alternate address as a party notifies the other party in accordance with this provision:

If to City: City of Albany
 City Manager's Office
 333 Broadalbin SW
 P.O. Box 490
 Albany, Oregon 97321
 Attn: Wes Hare

If to Grantor: River View Place Apartments Limited Partnership
 c/o Cascade Housing Group, L.L.C.
 3300 N.W. 185th Street #222
 Portland, OR 97229
 Attn: A. Paul Johnson

With a copy to: U.S. Bancorp Community Development Corporation
 1307 Washington Avenue, Suite 300
 St. Louis, MO 63103
 Attn: Director of Asset Management

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the Grantor has hereunto fixed its hand as of the date first above written.

GRANTOR:

River View Place Apartments Limited Partnership

BY: River View Development Partners Limited Partnership
ITS: General Partner

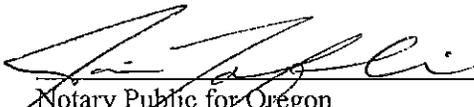
BY: Cascade Housing Group, L.L.C.
ITS: General Partner

BY: 
A. Paul Johnson, Member

BY: 
Phillip D. Hedrick, Member

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

The foregoing instrument was acknowledged before me this 4th day of March, 2009, by A. Paul Johnson and Phillip D. Hedrick, all of the members of Cascade Housing Group L.L.C., an Oregon limited liability company, as general partner of River View Development Partners Limited Partnership, an Oregon limited partnership, as general partner of River View Place Apartments Limited Partnership, an Oregon limited partnership, as the voluntary act and deed of said limited liability company and limited partnerships.



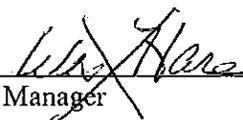
Notary Public for Oregon
My Commission Expires: Nov. 29th, 2011



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 March, 2009.



City Manager

ATTEST:

City Clerk

Consent

The undersigned, holder of that certain \$5,600,000 Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing (the "Deed of Trust") which encumbers the Public Path, hereby consents to the above Easement For Public Bicycle and Pedestrian Path (the "Easement"), agrees that said easement shall be a permitted exception under said Deed of Trust.

IN WITNESS WHEREOF, the undersigned has executed this Consent as of this 4th day of March, 2009.

U.S. Bank National Association

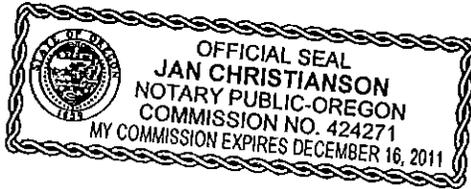
By: [Signature]
Name: Loren M. Clark
Title: Assistant Vice President

STATE OF OREGON)
)ss.
COUNTY OF Multnomah)

The foregoing instrument was acknowledged before me this 4th day of March, 2009 by Loren M. Clark, a AVP of U.S. Bank National Association on behalf of said Bank.

[Signature]
Notary Public for Oregon

My Commission expires: 12/16/2011



Consent

The undersigned, holder of that certain \$135,000 Trust Deed (the "Deed of Trust") which encumbers the Public Path, hereby consents to the above Easement For Public Bicycle and Pedestrian Path (the "Easement"), agrees that said easement shall be a permitted exception under said Deed of Trust.

IN WITNESS WHEREOF, the undersigned has executed this Consent as of this 4th day of March, 2009.

Linn-Benton Housing Authority

By: [Signature]
Name: James Hackett
Title: Executive Director

STATE OF OREGON)
)ss.
COUNTY OF Linn)

The foregoing instrument was acknowledged before me this 4th day of March, 2009 by James Hackett a Ex. Director of Linn-Benton Housing Authority behalf of said Authority.

[Signature: Judy A. Stutzman]
Notary Public for Oregon

My Commission expires: March 25, 2009



EXHIBIT A

Public Path

A 10 foot wide public bicycle and pedestrian path easement across that property conveyed to River View Place Apartments Limited Partnership as described in Linn County Clerk Records Document 2007-27095, being located in Section 12 of Township 11 South, Range 4 West of the Willamette Meridian, Linn County, Oregon, said easement being more particularly described as follows and as shown on the attached map labeled "EXHIBIT B":

Beginning at a 5/8 inch iron rod on the south line of Block 13, City of Albany, also being the northerly right-of-way line of 3rd Avenue SW, said 5/8 inch iron rod being located South 81°51'44" West 250.54 feet from a 5/8 inch iron rod at the southeast corner of Block 13, said southeast corner of Block 13 also being the intersection of said northerly right-of-way line with the westerly right-of-way line of Calapooia Street SW; thence leaving said northerly right-of-way line North 7°14'33" East 116.56 feet to a 5/8 inch iron rod on the northerly line of the aforementioned River View Place Apartments Limited Partnership property, said 5/8 inch iron rod being located South 81°51'44" West 38.00 feet from a 5/8 inch iron rod at the northeast corner of said River View Place Apartments Limited Partnership property; thence along said northerly property line North 81°51'44" East 10.37 feet; thence leaving said northerly property line South 7°14'33" West 116.56 feet to the aforementioned northerly right-of-way line of 3rd Avenue SW; thence South 81°51'44" West 10.37 feet to the point of beginning.

EXHIBIT B
EASEMENT SKETCH

OVER PROPERTY COMPRISED OF
LOTS 5, 6, 7, AND 8 AND A PORTION OF
VACATED ALLEY IN BLOCK 13, CITY OF ALBANY,
LOCATED IN THE NORTHEAST 1/4
OF SECTION 12, TOWNSHIP 11 SOUTH,
RANGE 4 WEST OF THE WILLAMETTE MERIDIAN,
CITY OF ALBANY, LINN COUNTY, OREGON

FOR: RIVER VIEW PLACE APARTMENTS LIMITED
PARTNERSHIP, AN OREGON LIMITED PARTNERSHIP

DATE: FEBRUARY 17, 2009

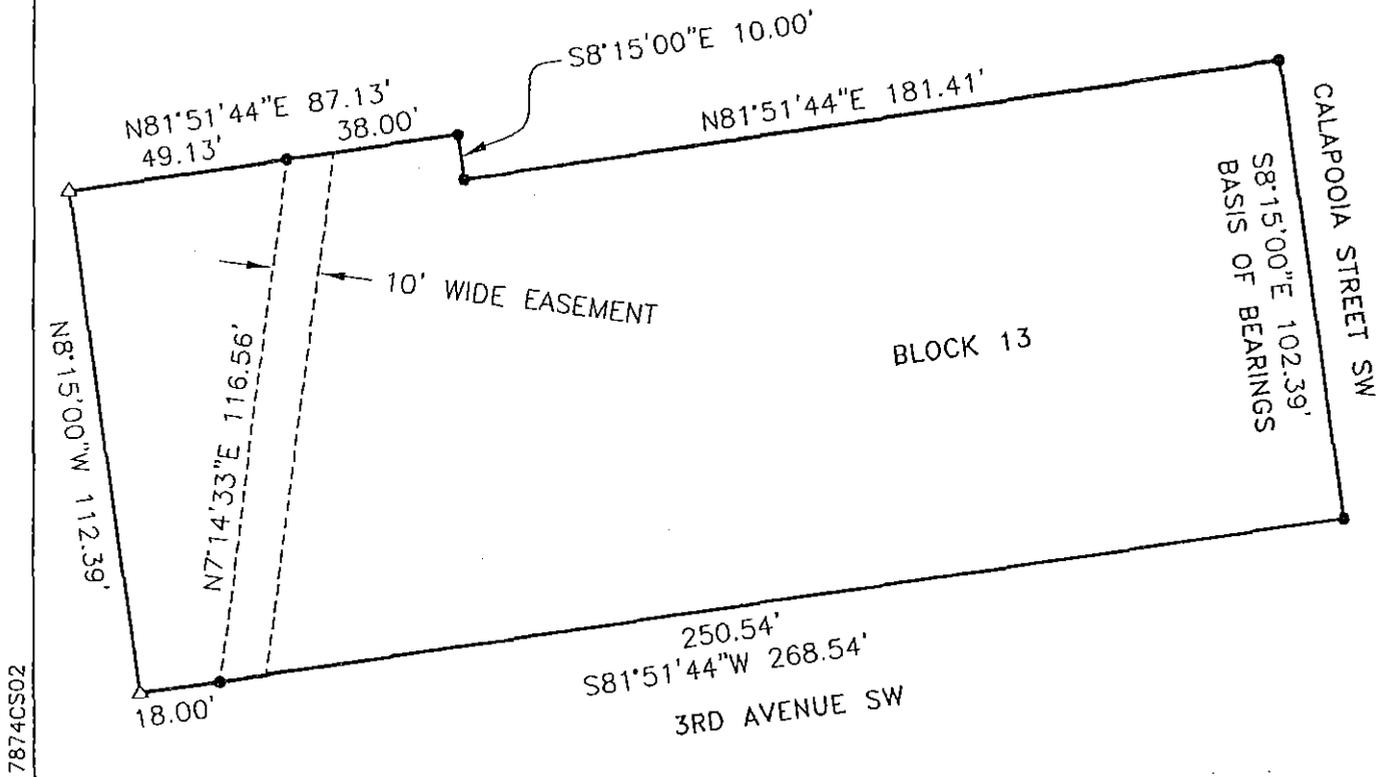
DAVID L. MALONE, P.L.S.
COLE SURVEYING, LLC
6765 S.W. PHILOMATH BLVD.
CORVALLIS, OREGON 97333
(541) 929-5500



SCALE: 1" = 40'

LEGEND

● FOUND SURVEY MONUMENT





TO: Albany City Council

VIA: Wes Hare, City Manager
Diane Taniguchi-Dennis, Public Works Director

FROM: Guy Mayes, Airport and Transit Manager 
Ted Frazier, Transit Programs Supervisor 

DATE: March 16, 2009, for the March 25, 2009 City Council Meeting

SUBJECT: Acceptance of 2009-2010 Oregon State University Intergovernmental Agreement for Albany Transit System and the Linn-Benton Loop Transit System Pass Programs and, and the Linn-Benton Loop Partnership Fee

RELATES TO STATEGIC PLAN THEME: ● Great Neighborhoods
● An Effective Government

Action Requested:

Staff recommends the City Council accept the 2009-2010 Oregon State University (OSU) intergovernmental agreement for Albany Transit System (ATS) and the Linn-Benton Loop Transit System (Loop) Pass Programs and the Linn-Benton Loop Partnership Fee by adopting the attached resolution and authorizing the Public Works Director to sign the agreement on behalf of the City.

Discussion:

ATS and the Loop provide rides for OSU students, staff, and faculty at no additional cost to the individuals upon display of their OSU identification card. In exchange, OSU agrees to provide bus fare match for ATS and the Loop. Because of the large number of dual enrollment students, Linn-Benton Community College has agreed to participate in funding the Loop portion of the established pass program.

Budget Impact:

The total OSU bus contributions for 2009-2010 is \$44,100. Of this amount, \$2,000 is allocated to ATS (213-50-1106) and \$24,100 is allocated to the Loop (231-50-1107) for the annual pass programs fee plus \$18,000 for the Linn-Benton Partnership Fee. The percentage split is based on ridership statistics.

TF:rr
Attachments 2

RESOLUTION NO. _____

A RESOLUTION ACCEPTING THE 2009-2010 OREGON STATE UNIVERSITY INTER-GOVERNMENTAL AGREEMENT FOR FUNDING THE OSU/LBCC DUAL ENROLLMENT PASS PROGRAM AND THE OSU STUDENT, STAFF, AND FACULTY PASS PROGRAM ON THE LINN-BENTON LOOP TRANSIT SYSTEM AND ON ALBANY TRANSIT SYSTEM, AND LINN-BENTON LOOP OPERATING SUPPORT

WHEREAS, Oregon State University has submitted the 2009-2010 Intergovernmental Agreement (IGA) to support the pass programs for the Linn-Benton Loop Transit System and Albany Transit System; and

WHEREAS, the IGA includes operational support for the Linn-Benton Loop; and

WHEREAS, the City of Albany is the designated operator for the Linn-Benton Loop Transit System and Albany Transit System; 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 City of Albany accepts the Oregon State University funding support for a total of \$44,100 for fiscal year 2009-2010 of which \$2,000 is allocated to ATS and \$24,100 is allocated to the Loop for the annual pass programs fees plus \$18,000 for the Linn-Benton Partnership Fee; and

BE IT FURTHER RESOLVED that the Albany City Council accepts these funds and authorizes the Public Works Director to execute the agreement and conditions for their acceptance.

DATED AND EFFECTIVE THIS 25TH DAY OF MARCH, 2009.

Mayor

ATTEST:

City Clerk

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____ 2009, by and between the CITY OF ALBANY, hereinafter referred to as "City," and OREGON STATE UNIVERSITY, hereinafter referred to as "OSU," the promises of each being given in consideration of the promises of the other.

WHEREAS, the City is the operator of the Linn-Benton Loop Transit System (Loop), which provides economical, effective, and responsive public transportation between Albany, Corvallis, OSU, and Linn-Benton Community College (LBCC); and

WHEREAS, the City is the operator of the Albany Transit System (ATS), which provides economical, effective, and responsible public transportation within Albany City limits; and

WHEREAS, OSU desires to provide a public transit option for OSU students, staff, and faculty; and

WHEREAS, the City agrees to provide regular bus route transportation on the Loop and ATS to OSU students, staff, and faculty at no fare upon the display of a valid OSU identification card.

NOW, THEREFORE, the parties agree as follows:

1. Compensation. Oregon State University will compensate the City of Albany a total amount of \$44,100, for use as follows:
 - a) Albany Transit System Group Pass Program: OSU shall pay \$2,000 to the City to provide transit service on Albany Transit System for OSU students, staff, and faculty.
 - b) Linn-Benton Loop Group Pass Program: OSU shall pay \$24,100 to the City to provide transit service on the Linn-Benton Loop for OSU students, staff, and faculty.
 - c) Linn-Benton Loop Partnership Program: OSU shall pay \$18,000 to the City to enhance transit service for OSU students, staff, and faculty in addition to the above Linn-Benton Loop Group Pass Program.
2. Scope of Service. The transit service provided shall be on regular Loop and ATS bus routes.
3. Purpose. The City shall use these funds to offset the operating expenses of the Loop and ATS bus systems.
4. Term. The period of this Agreement is from July 1, 2009, through June 30, 2010.
5. Review. The City will record and review the affected ridership figures monthly and adjust the requested Compensation accordingly on an annual basis.
6. Each party shall indemnify and hold harmless the other from any suits or damages caused by the negligent actions or omission of its employees or agents. Nothing in the hold harmless

RESOLUTION NO. _____

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

Purpose

KELLER DEVELOPMENT COMPANY, INC.

A 15-foot wide storm drainage easement as part of the Clairwood Subdivision project.

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

DATED AND EFFECTIVE THIS 25TH DAY OF MARCH 2009.

Mayor.

ATTEST:

City Clerk

EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 6 day of March, 2009, by and between Keller Development Company, Inc., hereinafter called Grantor, and the CITY OF ALBANY, a Municipal Corporation, herein called "City."

WITNESSETH:

That for and in consideration of the total compensation to be paid by the City, the grantor has this day bargained and sold and by these presents does bargain, sell, convey, and transfer unto the City of Albany, an 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 right-of-way hereby granted consists of:

A 15-foot wide storm drainage easement as part of the Clairwood Subdivision project. See legal description on attached Exhibit A and maps on attached Exhibits B and C.
2. 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.
3. The easement granted is in consideration of \$1.00, receipt of which is acknowledged by the Grantor, and in further consideration of the public improvements to be placed upon said property and the benefits grantors may obtain therefrom.
4. 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.
5. Upon performing any maintenance, the City shall return the site to original or better condition.
6. No permanent structure shall be constructed on this easement.

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

GRANTOR:

Keller Development Company, Inc.

Rodney J. Keller
Rodney J. Keller
Rodney J. Keller
President., Keller Development, Inc.

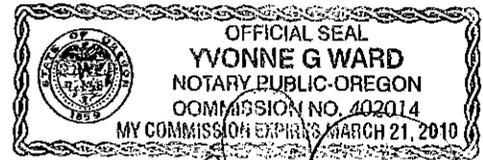
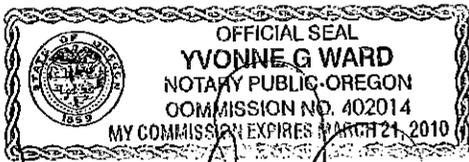
Barbara S. Keller
Barbara S. Keller
Barbara S. Keller
Secretary, Keller Development, Inc.

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

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

The instrument was acknowledged before me this 6th day of March, 2009, by Rodney J. Keller, President of Keller Development Company, Inc., on behalf of Keller Development Company, Inc.

The instrument was acknowledged before me this 6th day of March, 2009, by Barbara S. Keller, Secretary of Keller Development Company, Inc., on behalf of Keller Development Company, Inc.

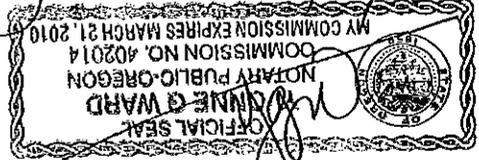


Yvonne G Ward
Notary Public for OR
My Commission Expires: 3/21/10

Yvonne G Ward
Notary Public for OR
My Commission Expires: 3/21/10

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 _____, 2009.

City Manager

ATTEST:

City Clerk

Exhibit A
March 2, 2009

Exhibit A South
Revised

An easement over a 15 foot strip of land for storm drain purposes, the south line of which is described as follows: Beginning at the intersection of the East right of way line of Northwest Scenic Drive and a point on the south line of that parcel conveyed to Jeffrey S. Garner and Claire Friedrich, husband and wife, by deed recorded in Benton County Deed Records 2004-367900, which point is 1008.95 feet South 0°21' East, and 30 feet North 89°32' East of the North Quarter Section Corner of Section 35, Township 10 South, Range 4 West, Willamette Base and Meridian, Benton County, Oregon; thence North 89°32' East along the south line of said, Garner and Friedrich parcel 344.50 feet, and there terminating.

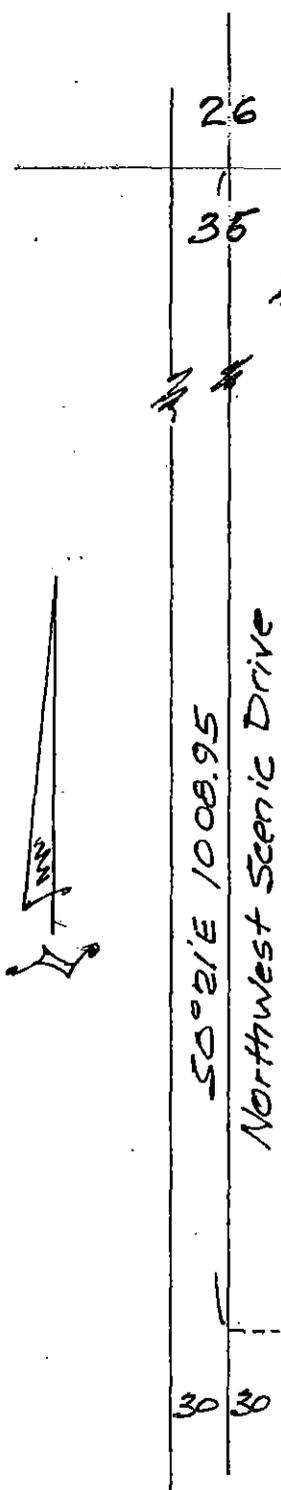


Exhibit B

Location of Storm Drain Easement
For Keller Development Co.
In the
Northwest Quarter of Section 35
Township 10 South, Range 4 West
of the Willamette Base and Meridian
Benton County, Oregon
Scale: 1"=100' March 2, 2000

15 Ft. Storm Drain Easement

South line of
Jeffrey S. Garner and
Claire Friedrich h/w
2004-367900

N89°32'E 344.50

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Verle C. Moore

OREGON
MAY 15, 1991
VERLE C. MOORE

Expires 12/31/2010

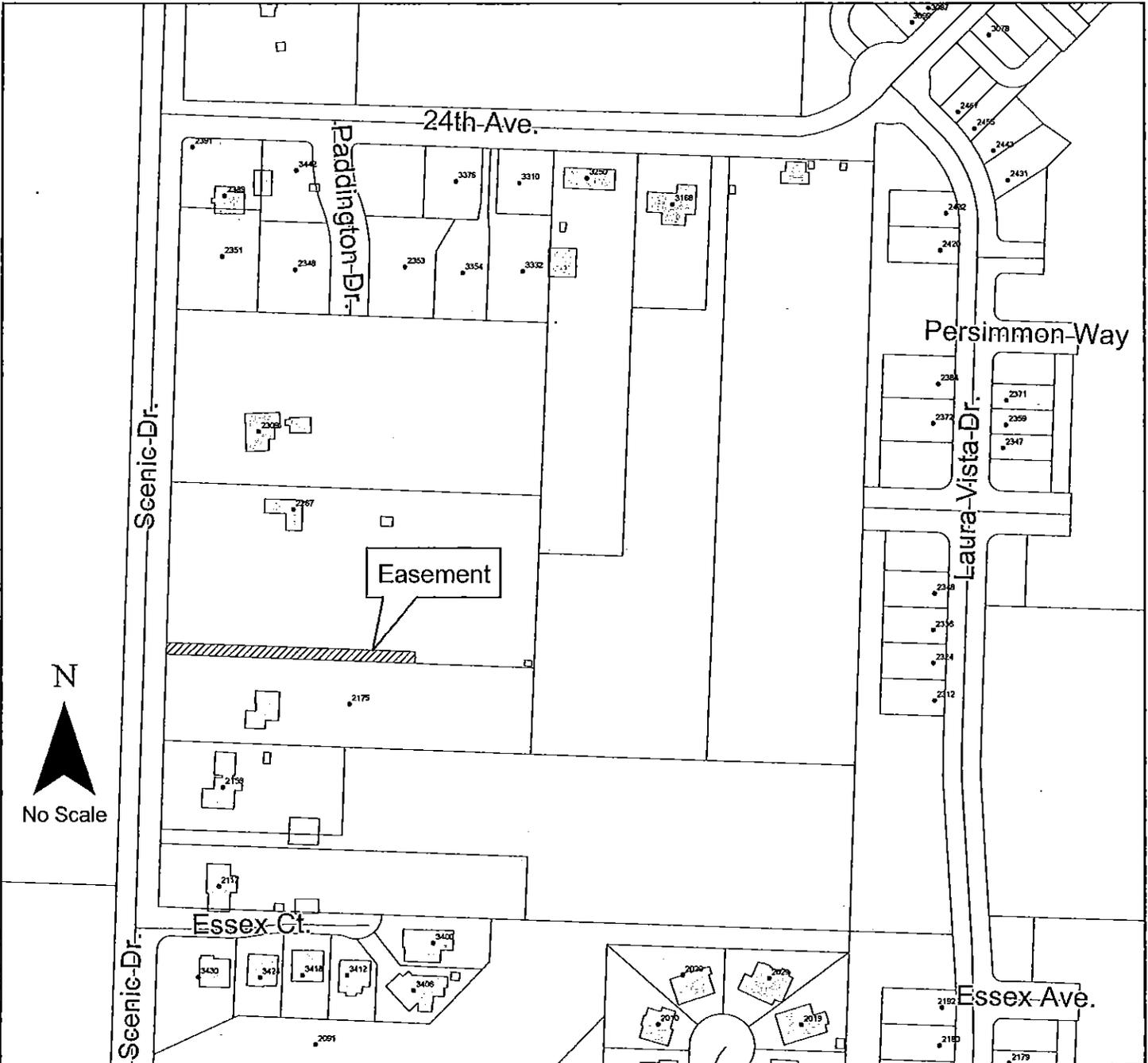
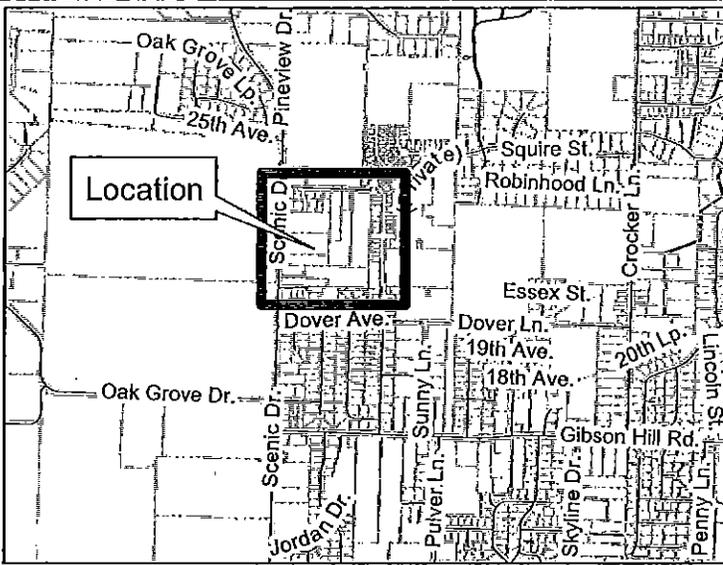
EXHIBIT C

10SO4W35AB00600

A 15-foot wide storm drainage easement as part of the Clairwood Subdivision project.



Geographic Information Services





TO: Albany City Council
VIA: Wes Hare, City Manager
Greg Byrne, Community Development Director
FROM: Melanie Adams, Building Official MMA
DATE: March 19, 2009, for the March 25, 2009, City Council Meeting
SUBJECT: Temporary safeguards for dangerous building

RELATES TO STRATEGIC PLAN THEME: • A Safe City

Action Requested:

Discussion only.

Discussion:

In late January, Building staff was advised of possible structural damage to the building at 223 2nd Ave SE in historic downtown, currently occupied by an antiques mall. Upon inspection by Building staff and a structural engineer, it was determined that the building's basement walls were showing signs of failure and that the public and the occupants of the building were at risk. Further excavation and analysis suggested that the buildings on either side of this structure were also at risk for structural failure.

On January 30th, Building issued a Notice and Order to the property owner declaring the building dangerous and requiring immediate action to remedy the hazardous conditions. The property owner has been slow to respond to Building's order, and his deadlines for beginning repair work have passed. In addition, the owner is faced with a similar problem in a neighboring city, where he recently received an order to vacate and repair a dangerous multi-family building. Since it does not appear that we will obtain voluntary compliance from the owner, the City Attorney has initiated legal proceedings to obtain a court order to repair the building. However, this may be a lengthy legal process and we believe the affected structures are now at risk of imminent failure.

When Building issued the Notice and Order, structural engineers advised us that we had a couple of months to get the repairs done without subjecting the building's occupants and the public to increased risk. However, after many conversations with the building owner, it has become apparent that the structure will not be repaired in the near future unless those repairs are initiated by the City. With approval from the City Manager and support from the City Attorney, Building has elected to use the authority granted to the Building Official under the Municipal Code to construct temporary safeguards in the building's basement. We have already contracted with a structural engineer to design the temporary fix, and hope to begin constructing the safeguards within the next couple of weeks. Once these safeguards are in place, the affected buildings should be safe to occupy while the City continues to seek a more permanent solution through the legal process.

Budget Impact:

We do not yet have a cost estimate for this work. However, informal estimates have ranged between \$40,000 and \$75,000 for permanent repairs to this building. Since the proposed work will be temporary in nature, we are hopeful that the actual cost will be on the lower end of this range.

Residents complain about loitering teens from S. Albany High

By CATHY MARRON
Albany Democrat-Herald

Some property owners near South Albany High School are asking school, police and city officials to do something about a contingent of students loitering near their homes.

Thirty-three homeowners living across from the school on Westwood Place and Ermine Street between 34th and 36th avenues signed a petition complaining about the juveniles who congregate there before, during and after school.

Petitioners say the students "have little respect for people or property."

To discourage loitering, the petition requests that a walkway used by the kids be closed between Westwood and Ermine to 36th.

Meanwhile, neighbors are forming a Neighborhood Watch group. The next meeting is at 7 p.m. Wednesday at the school.

Assistant Principal Jerry Bennett said he attended the first Neighborhood Watch meeting, telling neighbors to call him when students gather in their neighborhood.

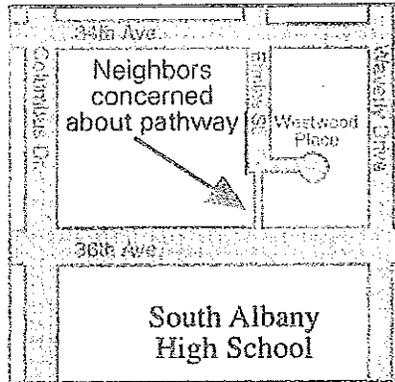
"We've responded three to four times since the meeting and brought students back to school and after school asked students not to loiter and sent them on their way," he said.

The petitioners contend that the area is used by juvenile truants to congregate and participate in illegal activities, such as smoking, drinking alcohol, and dealing in illegal drugs.

"Students who encounter this group on their way to school have been verbally molested and threatened," according to the petition. "Residences and vehicles have been broken into and vandalized."

One petitioner said some of the students have climbed neighbors' trees to smoke. The kids always leave behind a mess, particularly wrappings from their fast-food lunches.

"Maybe if we closed the walkway, it



Democrat-Herald/John Baur

would eliminate a place of choice to congregate," she said.

A neighbor who did not want to use her name said the young people were loitering and also breaking into cars.

Capt. Don O'Malley of the Albany Police Department said he has received four calls in the past three months from neighbors complaining about teenagers gathering in the area.

Neighbors also said they were concerned about careless drivers in the school zone.

Extra patrols have been assigned to the area, but there has been no evidence of anyone breaking the law, he said.

No drug deals have been spotted, but that does not mean that they have not happened or will happen in the future, O'Malley said.

The neighbors' concerns have been forwarded to VALIANT, a special drug investigation team made up of most of the police agencies in Linn and Benton counties.

Last week, the city council referred the problem to its public safety committee. Council members requested that the police department tally the number and type of complaints received concerning the students and give the information to the committee.

Meanwhile, city public works staff will cut down a heap of berry vines near the walkway to see if that will discourage students from congregating there.

Things that we have to put up with on the corner of Westwood Pl. and Ermine:

Littering: sandwich bags, milk cartons, pop cans, glass juice bottles (broken on the sidewalk and street) cigarette butts, empty cigarette packages, school papers.

Loitering: Before, during and after school hours. Not a problem on weekends and summer vacation. Wasn't a problem when South was a closed campus.

Blatant defiance: while standing in the road way and making it difficult to drive around them without hitting them with your vehicle.

Harassment : innocent students are being harassed as they walk by. Police were call a few weeks ago because of a fist fight on the corner.

Minors smoking: It's against the law for anyone under the age of 18 to smoke tobacco products. These kids are not of age.

Thief:

Last year I brought a alcohol bottle to the high school that the kids had passed around in the morning and then thrown in the bushes when they were done, this along with a sack of litter I picked up on the corner just from a few days of accumulation. I explained to the staff that this is going on. Their comment was: "Not our jurisdiction." When John Deboie was principle, he took care of the problem and ran them off. Tishner, Honey and other staff members from South didn't have a problem with jurisdiction when it came to taking care of this problem.

The elderly widow lady who lives next to the path has her flowers trampled and garbage thrown in her yard. She is afraid to say anything for fear of retaliation.

The Albany police department is doing what they can by stepping up patrols which has helped some but they can't baby sit this corner all day, every day.

Bottom line is, close the fence up and the problem is taken care of. **Period.** The police can go back catching bigger fish and our neighborhood can live in peace.

Dear City Councilpersons:

We of the Ermine/Westwood Place Neighborhood Watch organization are coming to the city council with concerns regarding the walkway connecting Ermine/Westwood Place to 36th Avenue.

We have the following concerns:

1. Students, or friends of students who are no longer in the educational system, congregating in the neighborhood before, during and after school, and trespassing on personal property.
2. During football games the parking in the neighborhood is taken over by fans leaving the property owners to fend for themselves.
- 3.. During the football games the students are gathering in the cal-de-sac where they are violating private property rights, fighting, littering, etc.
4. It has been observed by property owners the use of the vacant lot on Ermine as a "restroom"
5. Apparent drug dealings and use have been observed, all within 1000 feet of a school.
6. Students were observed dragging bark dust from one of the properties and attempting to start a fire in the street.
7. Vehicles have been broken into during the day, the last instance being in the last week
8. Littering is rampant, even though there is a trash can at the end of the walkway near the school.
9. The appearance of an apparent new "gang".
10. The students are failing to move out of the way of incoming or outgoing traffic and are belligerent in their actions.
11. Some students are being harassed on their way to or from school by the loitering groups..
12. Underage students are smoking, in violation of the law.
13. The neighborhood is used for a pickup and drop off spot by parents and friends of students before and after school.

In contacting South Albany High School regarding these problems we have been told "I WILL TRY TO SEND SOMEONE OVER BUT WE ARE SHORT STAFFED" or "SCHOOL IS OUT CALL THE POLICE". In one instance the staff of the high school hung up on a property owner and when he called back they admitted to hanging up on him

The city of Albany Police Dept has been notified and responded to requests from the neighborhood. Unfortunately the Police Dept is also short staffed and is not able to be here at crucial times of the day.

This situation has gone on for a number of years and is escalating in scope. With no resolution in sight we request the walkway be closed and vacated.

cc: South Albany High School, Albany Democrat Herald, Albany Police Dept., GAPS

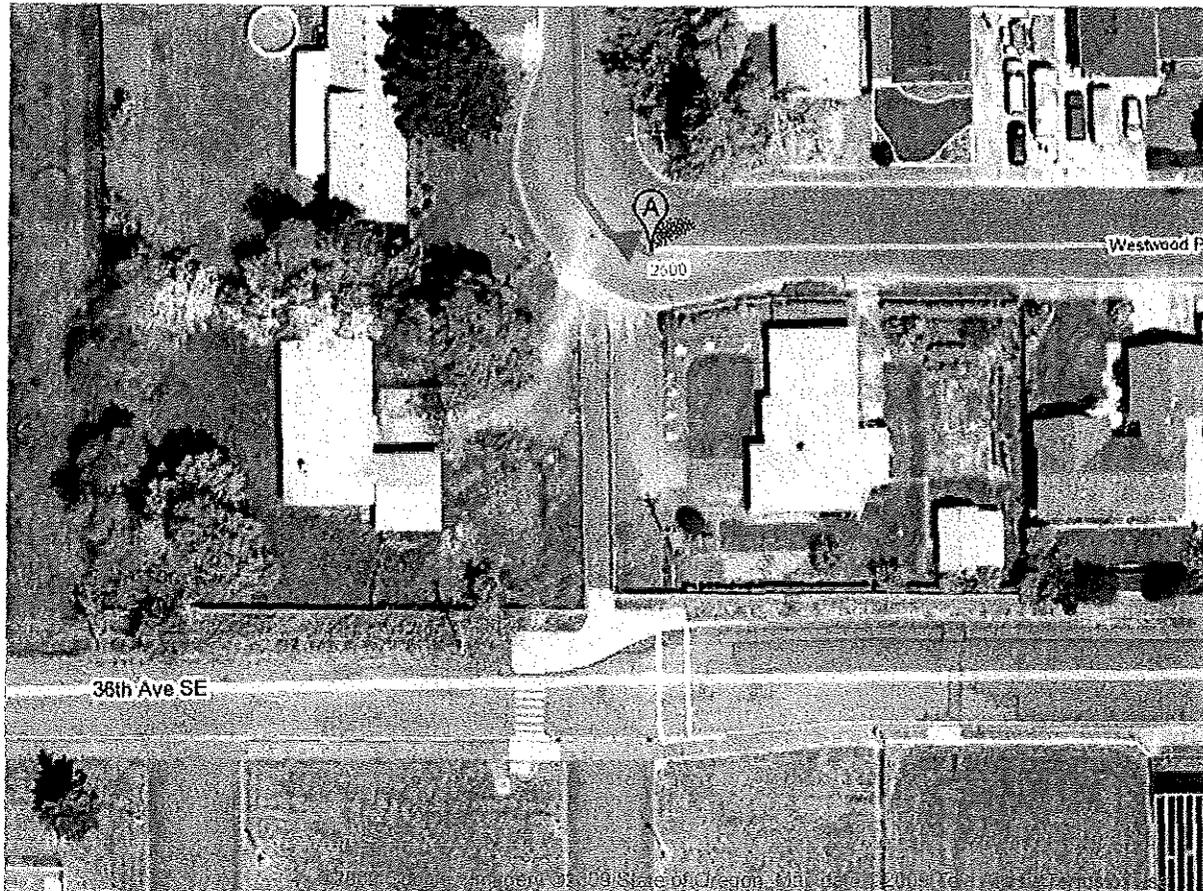


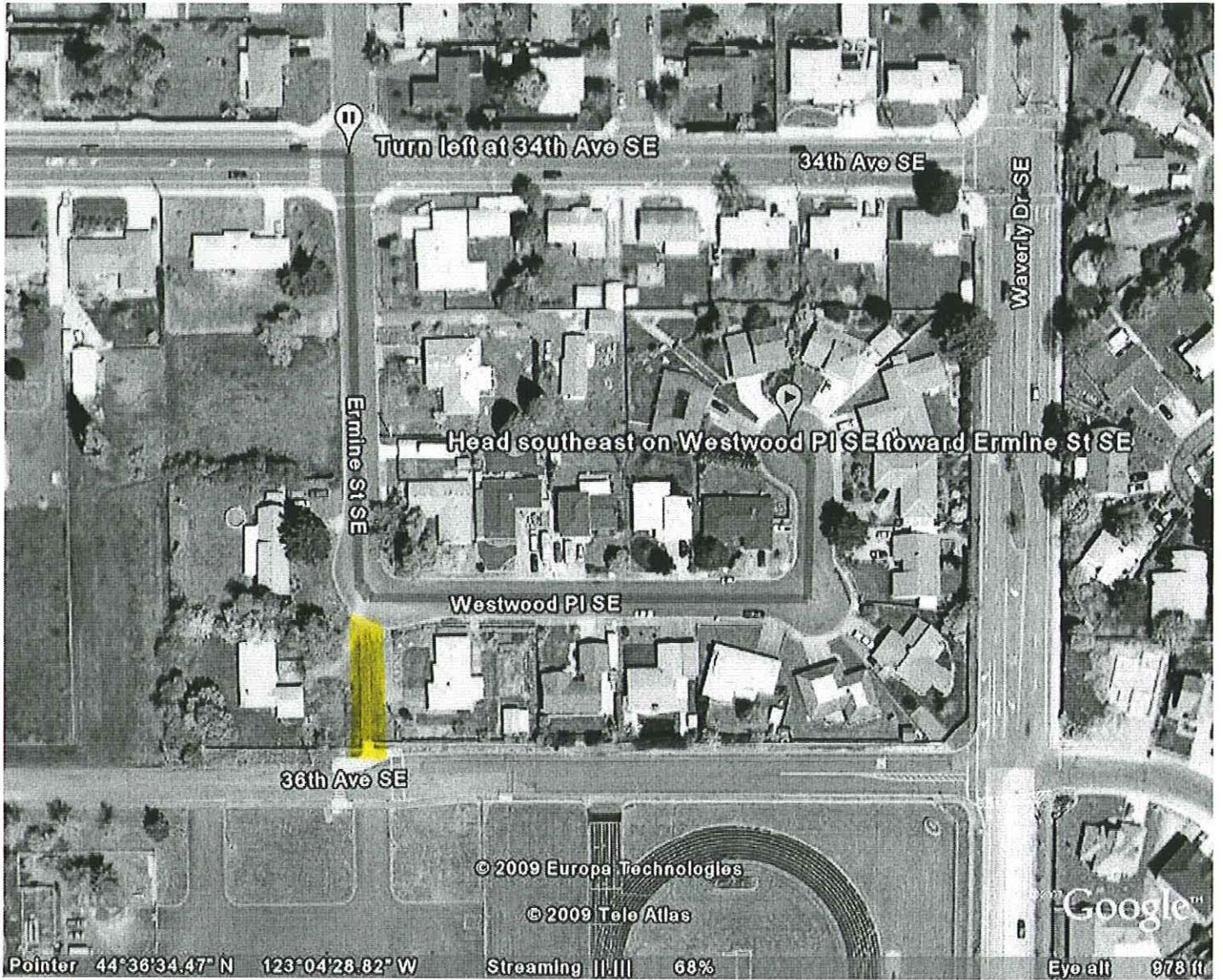
**Directions to 3500 Ermine St SE,
Albany, OR 97322**
223 ft – about 49 secs

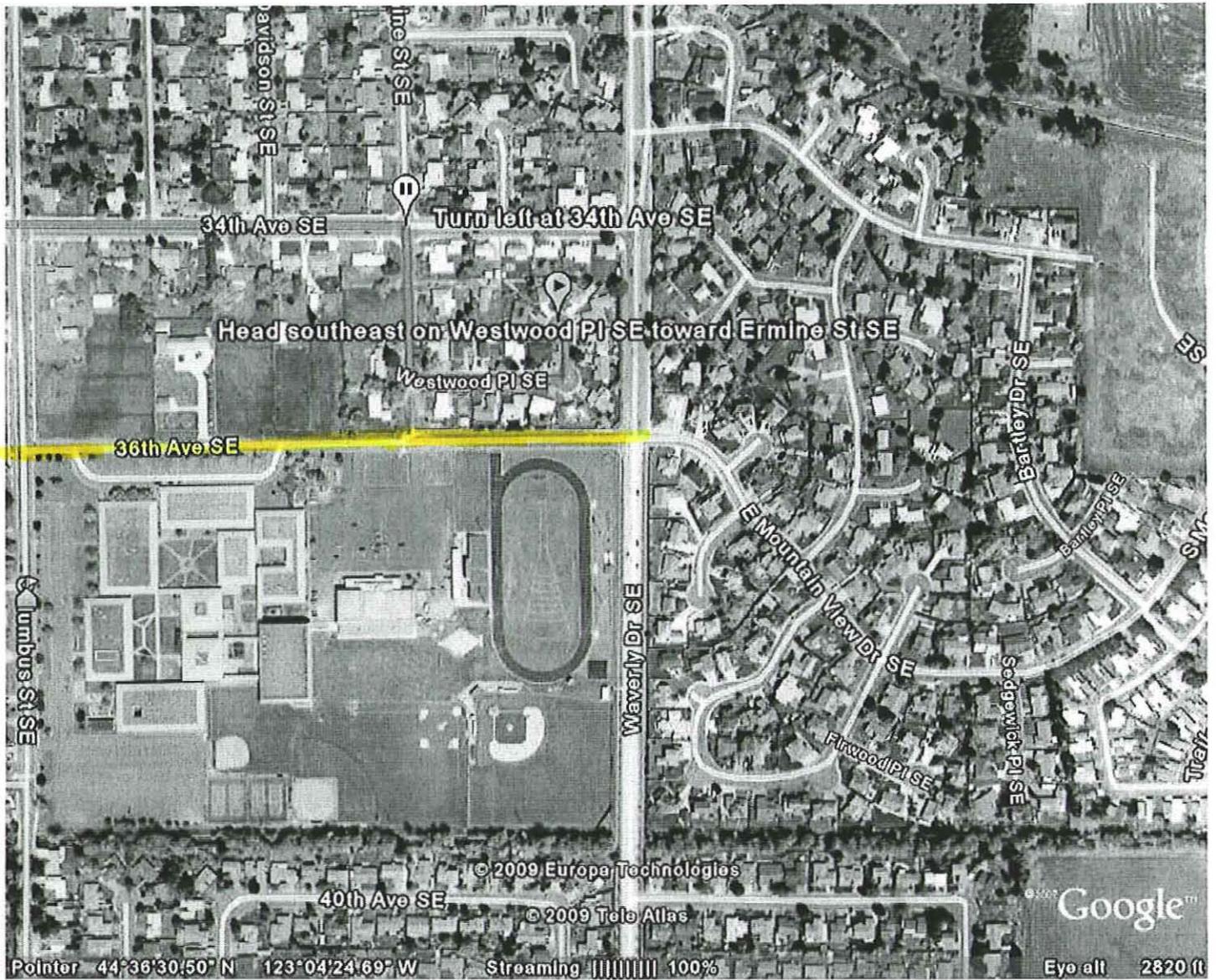
Save trees. Go green!
Download Google Maps on your
phone at google.com/gmm



 2503 Westwood Pl SE, Albany, OR 97322









3-15-2009 Ermine & Westwood



3-15-09 Ermine & Westwood



3-15-2009 Ermine & Westwood

art



3-15-2009 Ermine & Westwood