



NOTICE OF PUBLIC MEETING

CITY OF ALBANY

CITY COUNCIL

Council Chambers

333 Broadalbin Street SW

Wednesday, September 14, 2011

7:15 p.m.

AGENDA

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."

Rules of Conduct for Public Meetings

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. PROCLAMATION

- a. Look Me in the Eye Month. [Page 1]

Action: _____

5. SCHEDULED BUSINESS

a. Public Hearing

- 1) Vacating a portion of public alley right-of-way east of Baker Street between Fourth and Fifth Avenues, adopting findings, and declaring an emergency. [Pages 2-12]

Action: _____ ORD. NO. _____

b. Business from the Public

c. Adoption of Ordinance

- 1) Calling for an election to submit to the electors of the city the question of renewing a levy at \$1.15 per \$1,000 assessed value for ambulance, fire, and police operations beginning in Fiscal Year 2013-2014 for five years. [Pages 13-15]

Action: _____ ORD. NO. _____

d. Adoption of Resolutions

- 1) Authorizing the City Manager or his designee to execute a release and settlement agreement with ADJ Properties and AJ Crushing, Inc. [Pages 16-19]

Action: _____ RES. NO. _____

- 2) Declaring an assessment due and payable and directing collection pursuant to ORS Section 223.270, Procedure for Collection on Default. [Pages 20-25]

Action: _____ RES. NO. _____

e. Adoption of Consent Calendar

1) Approval of Minutes

- a) July 27, 2011, City Council Regular Meeting. [Pages 26-31]
- b) August 3, 2011, Special City Council Meeting. [Pages 32-39]
- c) August 8, 2011, City Council Work Session. [Pages 40-43]

- 2) Appropriating additional Oregon Community Development Block grant funds to continue the low-income housing rehabilitation grant program. [Pages 44-45] RES. NO. _____

- 3) Accepting a right-of-way dedication deed from KCJ Properties, LLC. [Pages 46-51] RES. NO. _____

4) Approving liquor licenses for:

- a) Relf x 2 Enterprises LLC, D/B/A Riley's Billiards, Bar & Grill, 124 Broadalbin Street SW. [Page 52]
- b) Yummy House Restaurant Inc., 1644 Pacific Boulevard SE. [Page 53]

e. Adoption of Consent Calendar *continued*

- 5) Establishing an Interlocal Contract (ILC) with the Houston-Galveston Area Council (H-GAC) for the purpose of cooperative purchasing for Fiscal Year 2011-2012, with automatic annual review thereafter. [Pages 54-56]

Action: _____

f. Report

- 1) Designating Voting Delegate and Alternate for the 2011 League of Oregon Cities Conference. [Page 57]

Action: _____

6. BUSINESS FROM THE COUNCIL

7. NEXT MEETING DATE: Work Session September 26, 2011
Regular Session September 28, 2011

8. ADJOURNMENT

City of Albany Web site: www.cityofalbany.net

PROCLAMATION

LOOK ME IN THE EYE MONTH

SEPTEMBER 2011

WHEREAS, all citizens want and deserve the opportunity to meaningfully participate in all aspects of our community, and our communities can grow closer through recognizing each other's abilities, commonalities, and differences; and

WHEREAS, our communities gain value as they are more aware of the capabilities of, and provide opportunities for, individuals with developmental and intellectual disabilities to be part of their communities; and

WHEREAS, it is in the public's interest for individuals with developmental and intellectual disabilities to live and work in our communities, exercising their full rights and responsibilities as citizens.

NOW, THEREFORE, be it resolved that I, Sharon Konopa, Mayor of the City of Albany, Oregon, do hereby proclaim September 2011 to be

LOOK ME IN THE EYE MONTH

in Albany, Oregon, and encourage all citizens of our communities to participate in seeing, respecting, and including one another.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Albany to be affixed this 14th day of September 2011.

Sharon Konopa, Mayor

ORDINANCE NO. _____

AN ORDINANCE VACATING A PORTION OF PUBLIC ALLEY RIGHT-OF-WAY EAST OF BAKER STREET, BETWEEN FOURTH AND FIFTH AVENUES, IN ALBANY, OREGON; ADOPTING FINDINGS; AND DECLARING AN EMERGENCY.

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 July 28, 2011; 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 September 14, 2011.

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

Section 1: Subject Property. A portion of the public alley right-of-way east of Baker Street, between 4th and 5th Avenues (File VC-01-11) (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: Easement Retained. The City retains a public utility easement over the southernmost four feet of even width of the area being vacated. The easement will benefit the City, as well as franchise utilities, their successors, assigns, authorized agents, and/or contractors.

Section 4: Emergency Clause. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of the 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 5: The City Recorder shall, within 10 days of the effective date of this ordinance, file a certified copy of the ordinance with the Linn County Clerk, Linn County Assessor, and Linn County Surveyor (ORS 271.150). The petitioner for the vacation shall bear the recording costs.

Passed by the Council: _____

Approved by the Mayor: _____

Effective Date: _____

Mayor

ATTEST:

City Clerk

ORDINANCE EXHIBIT A

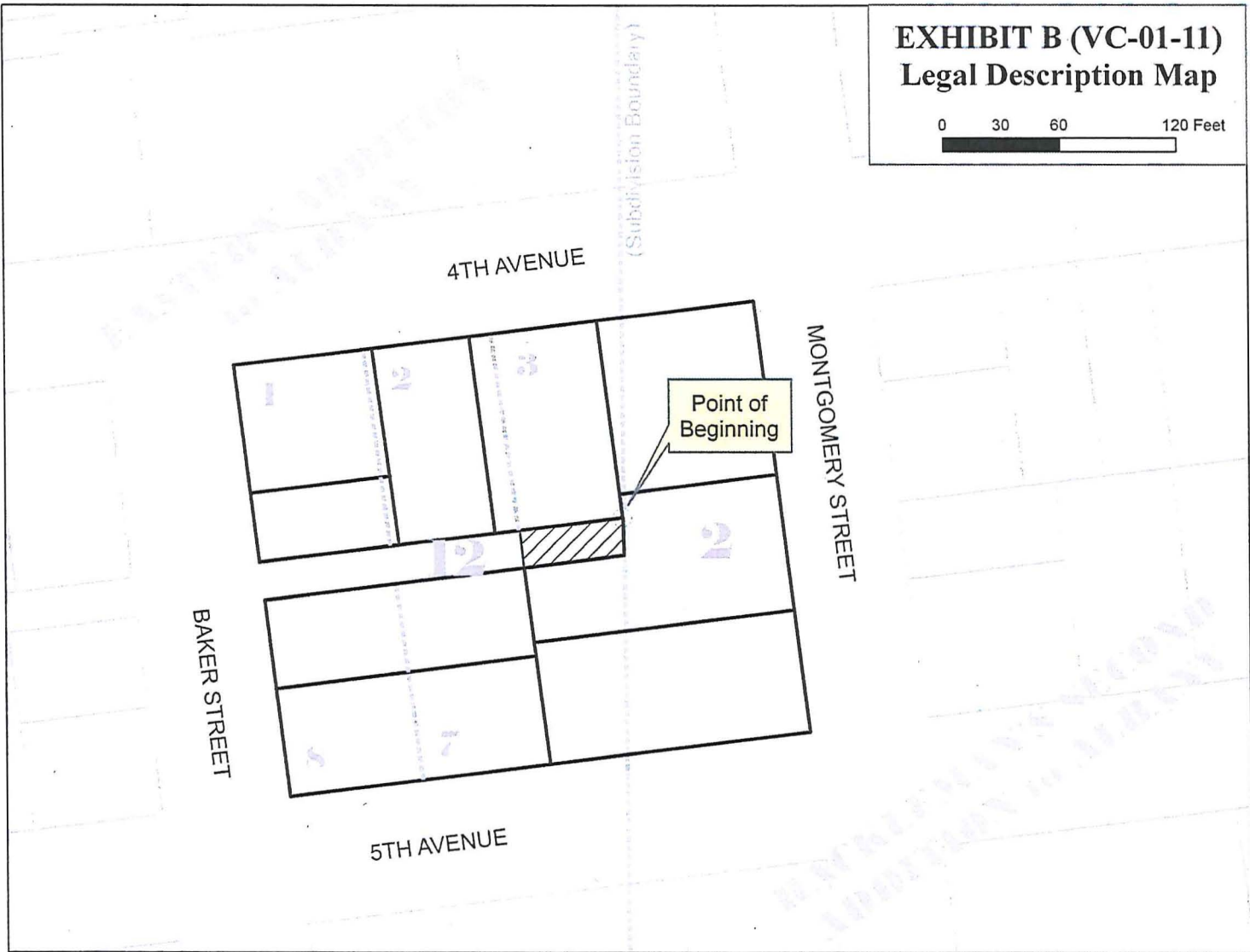
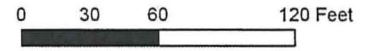
Right-of-Way Vacation VC-01-11

A tract of land located in the northeast one-quarter of the northwest one-quarter of Section 7, 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 southeast corner of Lot 3, Block 12 of the Eastern Addition to the City of Albany, said point also being the intersection of said Block 12 and the north boundary of the alley right-of-way; thence southerly along the east boundary of said Block 12 to the point of intersection of said Block 12 and the south boundary of the alley right-of-way; thence west along the south boundary of said alley right-of-way to the northeast corner of Lot 7, Block 12 of said Eastern Addition; thence north 20.0 feet to the north boundary of said alley right-of-way, said point also being the southwest corner of Lot 3, Block 12 of said Eastern Addition; thence east along the north boundary of said alley right-of-way to the Point of Beginning.

This area being vacated contains 1,040 square feet, more or less.

**EXHIBIT B (VC-01-11)
Legal Description Map**



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

STAFF REPORT

Vacation (Public Street/Alley Right-of-Way) VC-01-11

<u>HEARING BODIES</u>	CITY COUNCIL
<u>HEARING DATES</u>	Wednesday, September 14, 2011
<u>HEARING TIMES</u>	7:15 p.m.
<u>HEARING LOCATION</u>	Council Chambers Albany City Hall, 333 Broadalbin Street SW

EXECUTIVE SUMMARY

The applicants propose a Vacation application to vacate a portion of a public alley right-of-way east of Baker Street, between 4th Avenue and 5th Avenue. The alley does not extend through to Montgomery Street and the adjacent property owners wish to have the easternmost 52 feet of the alley vacated so they can incorporate the area into their parcels for their personal use. Access will not be restricted for any of the lots along the alley. A public storm drainage main runs through the alley right-of-way. The five (5) Vacation review criteria are addressed in detail in the staff report below.

HEARINGS BOARD RECOMMENDATION

The Hearings Board held a public hearing on July 28, 2011 and recommended that the City Council to approve this vacation application with one condition.

- 1.1 A public utility easement will be retained over the entire area to be vacated. This will allow access to public utilities within the vacated area.

GENERAL INFORMATION

DATE OF REPORT:	September 7, 2011
FILE:	VC-01-11
TYPE OF APPLICATION:	Vacation of a portion of the public alley right-of-way between 4th Avenue and 5th Avenue and between Montgomery Street and Baker Street.
REVIEW BODIES:	Hearings Board and City Council
APPLICANT:	Rich Catlin, 424 Montgomery Street SE; and Ken Armstrong, 222 4th Avenue SE
ADDRESS/LOCATION:	Public alley right-of-way between 4th Avenue and 5th Avenue and between Montgomery Street and Baker Street. (Attachment A)

MAPS/TAX LOT: Public alley right-of-way and adjacent properties are shown on Linn County Assessor's Map Nos. 11S-03W-07BA

TOTAL LAND AREA: Approximately 1,040 square feet

PURPOSE OF REQUEST: Vacation of public alley right-of-way to allow for personal use of the area.

EXISTING LAND USE: Unimproved public right-of-way

SURROUNDING ZONING: HM (Hackleman Monteith) (Attachment B)

SURROUNDING USES: Single-Family homes

STAFF REPORT BY: Mike Leopard, Infrastructure Analyst

NOTICE INFORMATION

A notice of public hearing was mailed to surrounding property owners on July 15, 2011. The site was posted on July 12, 2011, in accordance with Section 1.410 of the Albany Development Code. Two legal notices were published in the *Albany Democrat-Herald* on July 11 and 18, 2011, in accordance with Oregon Revised Statute (ORS) 271.110. At the time this staff report was prepared (September 7, 2011), the Albany Planning Department had received no written comments.

STAFF ANALYSIS OF THE APPLICATION

OVERVIEW

The area in question is a 52-foot-long section of alley right-of-way between 4th Avenue and 5th Avenue and between Baker Street and Montgomery Street. This portion of the alley right-of-way has historically been used for access to the lots adjoining the alley. The alley right-of-way was dedicated in its current configuration with the Eastern Addition to Albany subdivision plat in 1882.

Because the alley does not extend through the block the only lots that use this section of the alley for access are the applicants' lots.

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.

- 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 no public water facilities exist in the area proposed for vacation.
 - 1.4 Storm Drainage. Storm drainage utility maps indicate that a 10-inch public storm drainage main lies within the area proposed for vacation (Attachment C).
 - 1.5 Storm Drainage. ADC 12.370 requires the dedication of public utility easements of *at least* 15 feet in width, centered over the main, for all public storm drain lines and appurtenances. Permanent structures are not allowed to encroach on a public utility easement, or be placed over a public storm drain line.
 - 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. A public utility easement will be retained over the entire area to be vacated.
 - 1.7 Transportation. The right-of-way proposed for vacation is a dead-end section of public alley located east of Baker Street between 4th and 5th Avenues. The existing public alley right-of-way is 20 feet wide, begins at Baker Street, and extends approximately 185 feet to the east. The right-of-way does not extend all the way through the block and stops about 80 feet west of Montgomery Street. The placement of the home at 424 Montgomery Street precludes the possibility of ever extending the alley through the block.
 - 1.8 Transportation. The City's Transportation System Plan (TSP) does not identify the alley as a necessary transportation facility.

CONCLUSIONS

- 1.1 The only public utility that lies within the area to be vacated is a 10-inch diameter storm drainage main that runs along the center of the alley.
- 1.2 The proposed vacation does not conflict with Albany's TSP.
- 1.3 There are no plans for improving or extending this alley, or to connect it with any other public street.
- 1.4 A public utility easement is needed to provide access rights to the existing public storm drainage main that lies within the area to be vacated.

CONDITION

- 1.1 A public utility easement will be retained over the entire area to be vacated (See Attachment C). This will allow access to public utilities within the vacated area.

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 52-foot long section at the end of the public alley right-of-way between 4th Avenue and 5th Avenue and between Baker Street and Montgomery Street. Five (5) parcels, including the two (2) parcels that have requested the vacation, take access from the alley. All five (5) parcels would retain the ability to use the remaining portion of the alley to access Baker Street in the event that the vacation is approved. This right-of-way is not improved to City standards, and basically serves as a driveway into the back of the adjacent lots.
- 2.2 There is a public storm drainage main that exists within this right-of-way, but the City will retain public utility easement over the area to be vacated to protect access rights to the main.

CONCLUSIONS

- 2.1 The area proposed for vacation is not needed for connectivity for vehicular traffic between public rights-of-way. The alley is a dead end that terminates at the applicants' lots. The proposed vacation would not prevent any of the parcels that currently use the alley for access from continuing to do so.
- 2.2 A public utility easement will be necessary over the vacated area to assure that the City has access to the public storm drainage main that lies within the area to be vacated.

Criterion (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 alley terminating in a dead end at the applicants' lots. This alley only serves as a driveway to the adjacent lots and can only be accessed from Baker Street to the west. All parcels that adjoin the alley would continue to have the ability to use the alley to access their parcels if the vacation is approved.
- 3.2 The portion of the alley proposed for vacation (the eastern 52 feet, approximately) is at the end of the existing right-of-way. The south half of the area is not currently open to traffic. A portion of the north half of the area is incorporated into driveway access to the rear of 224 4th Avenue.
- 3.3 The narrow right-of-way and travel aisle width of the existing alley severely limit its ability to accommodate emergency vehicles such as fire trucks. That condition would remain unchanged should the vacation be approved.

CONCLUSIONS

- 3.1 The requested vacation will not have a negative effect on traffic circulation as the alley in question only provides access to the adjacent lots and is a dead end. The area to be vacated is only used by the applicants.
- 3.2 Emergency vehicle access remains unchanged by the proposed vacation.

Criterion (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 applicants' adjacent lots. The area to be vacated was initially dedicated as public right-of-way with the Eastern Addition to Albany subdivision plat.
- 4.2 The area to be vacated is currently being used only as access to the applicants' lots. The vacated area will continue to be available for use by the applicants. 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 is not considered "front yard" for the adjacent properties.

Criterion (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 alley right-of-way. The area to be vacated is currently being used only as an access to the applicants' lots.
- 5.2 It will be necessary to maintain a public utility easement over the vacated area because it includes a public storm drainage main.
- 5.3 Vacation of the right-of-way will not impact other properties adjacent to the alley because they only can access the alley from Baker Street to the west.

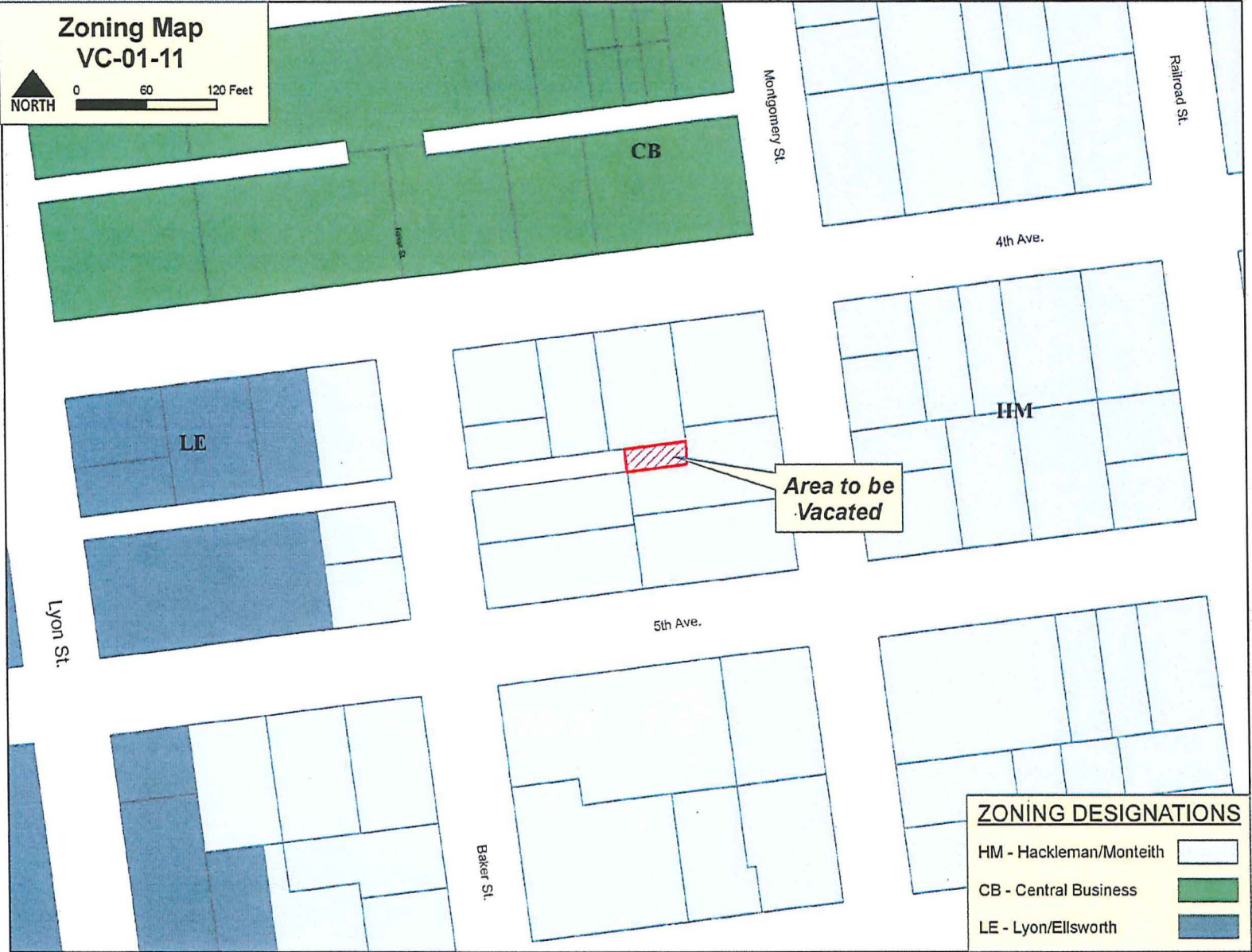
CONCLUSION

- 5.1 Vacating this portion of the right-of-way will not adversely impact the public interest.

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

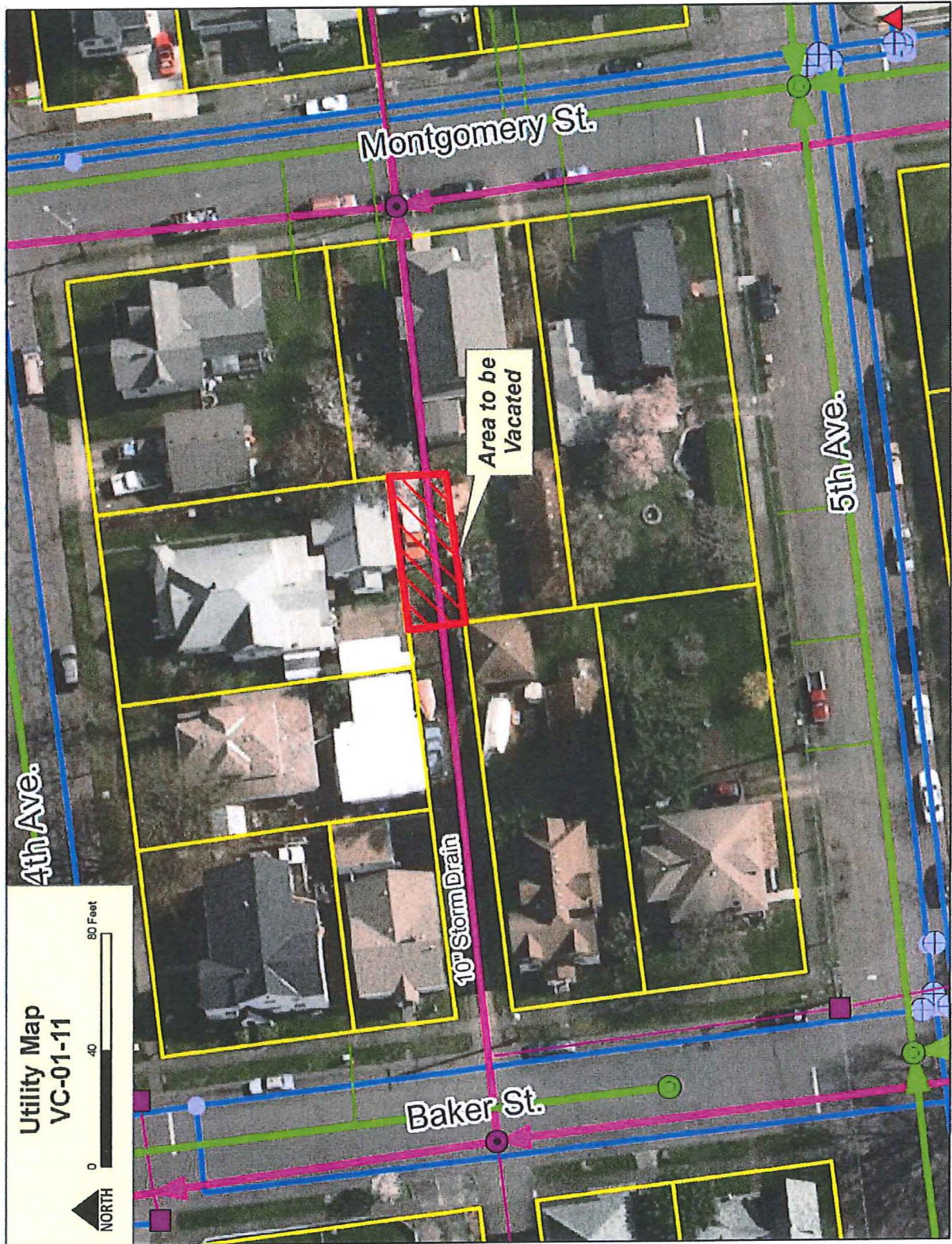


Attachment A – Location Map




Attachment B – Zoning Map

Attachment C – Utility Map





TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Stewart Taylor, Finance Director 
Betty Langwell, City Clerk
DATE: September 6, 2011, for the September 14, 2011, City Council Meeting.

SUBJECT: Local Option Tax Levy

RELATES TO STRATEGIC PLAN THEME: ● A Safe City

Action Requested:

For the Council to adopt the attached ballot measure ordinance for renewal of the Public Safety Local Option Tax.

Discussion:

At the August 15, 2011, City Council Work Session the Council directed staff to return to a Regular Council meeting in September with a proposed five-year renewal of the Operating Local Option Tax ballot title. The Election Officer has prepared the ordinance attached and it has been approved by the City Attorney.

The proposed measure would pay for current staffing levels in the Fire and Police Departments and provide for inflationary costs. The City would levy \$1.15 per \$1,000 of assessed value beginning in the 2013-2014 fiscal year to raise approximately \$3,226,379 the first year.

By adopting this ordinance the Council is authorizing the placement of a five year renewal of the Operating Local Option Tax on the May 15, 2012, primary election.

Budget Impact:

Voter approval of this levy would generate an average of \$3,296,000/year, for five years.

Attachment

ORDINANCE _____

AN ORDINANCE OF ALBANY, LINN AND BENTON COUNTIES, OREGON, CALLING FOR AN ELECTION TO SUBMIT TO THE ELECTORS OF THE CITY THE QUESTION OF RENEWING A LEVY AT \$1.15 PER \$1,000 ASSESSED VALUE FOR AMBULANCE, FIRE, AND POLICE OPERATIONS BEGINNING IN THE FISCAL YEAR 2013-2014 FOR FIVE YEARS.

WHEREAS, the Budget Committee of the City of Albany found that revenues are needed to enhance essential services provided for everyone's use and protection beginning in the Fiscal Year 2003-2004 and recommended that a five year public safety operating levy be submitted to the legal voters of the City of Albany; and

WHEREAS, the City Council of the City of Albany supports the value of continuing to provide quality services to the citizens of the city;

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

Section 1. Date of Election. A levy 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 15th day of May 2012.

Section 2. Form of Question. Shall the City of Albany impose \$1.15/\$1,000 assessed value for Ambulance, Fire, and Police operations for five more years.

Section 3. Project Description. The City plans to use tax revenue from this measure to continue funding for six Firefighter/EMTs, a Deputy Fire Marshal and a Fire Life/Safety Educator to maintain fire prevention and public education at current levels, four Police Officers, three Civilian Community Service Officers to free up certified officers to deal with emergencies, a Communications Specialist, a Crime Analyst, and for related equipment and training. Taxes will also continue to be used to pay inflationary operating costs for the Fire/Ambulance and Police Departments.

Section 4. Hours of Election. The election shall be conducted as a mail in election.

Section 5. Notice of Election. Notice of the levy election shall be given by the County Clerks and City Elections Officer, as provided in the general election laws of the State of Oregon and the Charter of the City of Albany.

Section 6. Ballot Form The City Attorney has reviewed a Notice of Levy Election and Ballot Title in substantially the form attached hereto as Exhibit A.

Passed by the Council: _____

Approved by the Mayor: _____

Effective Date: _____

ATTEST:

City Clerk

EXHIBIT "A"

CAPTION

Renewal of the Ambulance, Fire, and Police Local Option Tax

QUESTION

Shall Albany tax \$1.15/\$1,000 assessed value for Ambulance, Fire, and Police operations for five more years? This measure may cause property taxes to increase more than three percent.

SUMMARY

The City plans to use tax revenue from this measure to continue funding for six Firefighter/EMTs; a Deputy Fire Marshal and a Fire Life/Safety Educator, four Police Officers, three Civilian Community Service Officers, a Police Dispatcher, a Crime Analyst, and for related equipment and training.

The proposed rate will net approximately \$3,226,379 in 2013-2014, \$3,266,557 in 2014-2015, \$3,301,806 in 2015-2016, \$3,331,239 in 2016-2017 and \$3,353,855 in 2017-2018, for a total of \$16,479,835.

The estimated tax cost for this measure is an ESTIMATE ONLY based on the best information available from the county assessors at the time of the estimate.



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Mark W. Shepard, P.E., Public Works Director *MWS*
DATE: September 7, 2011, for the September 14, 2011, City Council Meeting
SUBJECT: Talking Water Gardens – Sullivan Settlement

RELATES TO STRATEGIC PLAN THEME: ● Effective Government

Action Requested:

Staff recommends that Council adopt the attached Resolution authorizing the City Manager to sign the attached Settlement Agreement regarding the Talking Water Gardens.

Discussion:

The property purchase agreement for Talking Water Gardens included a clause regarding the demolition of improvements on the property that needed to be removed to accommodate the wetland construction. The clause allowed for additional compensation to the seller should demolition costs end up less than estimated in the property appraisal.

The final demolition costs associated with the wetland construction was less than estimated in the property appraisal. However, the exact amount of eligible demolition costs was in dispute between the City and the seller. A settlement agreement was reached in an effort to avoid litigation between the parties. A copy of the settlement agreement is included as Attachment 2.

This settlement agreement was presented to the Albany Millersburg Joint Management Committee. On August 25, 2011, the Albany-Millersburg Joint Management Committee unanimously approved a motion requesting that the City Councils of Albany and Millersburg authorize the City Manager to execute the settlement agreement.

Attachment 1 is a Resolution for Council consideration authorizing the City Manager to execute the settlement agreement. Based on the recommendation of the City Attorneys for Albany and Millersburg, and the recommendation of the Albany-Millersburg Joint Management Committee, staff recommends that Council approve the Resolution.

Budget Impact:

The settlement payment of \$100,000 will be paid out of the Wetlands Treatment Project Budget (601-50-2508). There is adequate funding in this budget to cover this cost.

MWS:kw
Attachments

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE A RELEASE AND SETTLEMENT AGREEMENT WITH ADJ PROPERTIES AND AJ CRUSHING, INC.

WHEREAS, the Cities of Albany and Millersburg entered into a Purchase and Sale Agreement with ADJ Properties and AJ Crushing, Inc., on or about December 7, 2009, concerning property necessary for the completion of the Talking Waters Garden Wetland Project; and

WHEREAS, Section 4 of the above-referenced Purchase and Sale Agreement contained terms under which the cities might be obligated to reimburse the sellers of the land for some of the demolition costs discussed in the Purchase and Sale Agreement; and

WHEREAS, a dispute has arisen between the sellers and the cities concerning the cities' obligation to reimburse sellers for a portion of the demolition costs discussed in the agreement; and

WHEREAS, an agreement has been reached to resolve the pending dispute.

NOW, THEREFORE, BE IT RESOLVED that the City Manager of the City of Albany of his designee is authorized to execute the Release and Settlement Agreement, a copy of which is attached as Exhibit "A" and make the cities' share of the settlement payment set forth therein.

DATED AND EFFECTIVE THIS 14TH DAY OF SEPTEMBER 2011.

ATTEST:

Mayor

City Clerk

Release and Settlement Agreement

This Agreement is made and entered into this ____ day of _____ 2011 by and between ADJ Properties, an Oregon General Partnership, and A.J. Crushing, Inc., an Oregon Corporation, hereinafter referred to collectively as "Sellers" and the City of Albany, Oregon, and the City of Millersburg, Oregon, hereinafter referred to collectively as "Buyers."

WHEREAS, Sellers and Buyers entered into a Purchase and Sale Agreement on or about December 7, 2009, whereby Buyers purchased certain real property from Sellers; and

WHEREAS, Sellers claim that Buyers are indebted and obligated to Sellers for reimbursement of a portion of demolition costs pursuant to Section 4 of the aforesaid Agreement; and

WHEREAS, Buyers dispute Sellers claim; and

WHEREAS, the parties, by this Agreement, desire to compromise and settle the aforesaid dispute.

NOW, THEREFORE, in consideration of the mutual promises contained herein, it is agreed as follows:

PAYMENT BY BUYERS TO SELLERS

Contemporaneously with the execution of this Agreement, Buyers have paid to Sellers the sum of \$100,000 in settlement and discharge of all of Sellers' claims. Sellers acknowledge receipt of said sum.

BUYERS AGREEMENT TO FOREBEAR PREPAYMENT

As a further consideration for this Release and Settlement Agreement, Buyers agree to forbear prepayment of any portion of the unpaid purchase price pursuant to the above-referenced Purchase and Sale Agreement until December 2, 2011, at which time this forbearance obligation shall end and Buyers shall remain free to prepay all or part of the sums due from Buyers to Sellers pursuant to the above-referenced Purchase and Sale Agreement.

RELEASE

This Release and Settlement Agreement discharges and satisfies all of Buyers' obligations pursuant to Section 4 of the Purchase and Sale Agreement dated December 7, 2009.

SELLERS AUTHORITY

Sellers have not assigned or otherwise conveyed any of their rights pursuant to the above-referenced Purchase and Sale Agreement and have full authority to compromise and discharge Buyers from any remaining obligations pursuant to Section 4 of the aforesaid Purchase and Sale Agreement. Sellers shall indemnify and hold Buyers harmless from the claims of third parties whose rights are conferred by any transfer or assignment from Sellers.

SELLERS:

ADJ Properties

By: _____

Printed Name: _____

Its: _____

Date Executed: _____

A.J. Crushing, Inc.

By: _____

Printed Name: _____

Its: _____

Date Executed: _____

BUYERS:

City of Albany

By: _____

Printed Name: _____

Its: _____

Date Executed: _____

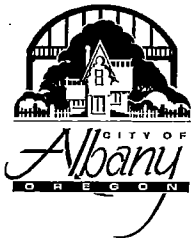
City of Millersburg


By: _____

Printed Name: _____

Its: _____

Date Executed: _____



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Stewart Taylor, Finance Director 
DATE: August 25, 2011, for the September 14, 2011 City Council Meeting
SUBJECT: Collection on Default Assessments

RELATES TO STRATEGIC PLAN THEME: • Effective Government

Action Requested:

By resolution, declare the whole sum of the Randall L. Glaser and Barbara A. Glaser assessment (ss900703-0388-000), both principal and interest, due and payable at once and direct collection pursuant to ORS Section 223.270 Procedure for Collection on Default.

Discussion:

On April 14, 1993, the City Council adopted Ordinance Number 5041 which established the North Albany Sanitary Sewer District and imposed assessments on 683 properties. Many of the property owners agreed to pay their assessments through semi-annual installment payments for up to twenty years. All but thirty of the assessments were paid in full within a few years of the initial scheduled payments. Of the remaining thirty, only the assessment on property owned by Randall L. Glaser and Barbara A. Glaser has not had regular installment payments.

In addition to the sanitary sewer district assessment, a systems development charge was imposed on the Glaser property on October 9, 1996. The Glaser's agreed to make installment payments on both assessments. Details of the two payment arrangements are as follows:

- Assessment number ss900703-0388-000 was financed on July 9, 1993. The terms of the assessment are semi-annual payments for 20 years. The amount financed was \$24,325.00, with semi-annual payments of \$1,056.61. The current principal balance is \$20,488.95. The total payoff as of August 31, 2011 is \$34,613.10. No payment has been received since 2001.
- Assessment number ssd52600-0003-000 was financed on October 9, 1996. The terms of the assessment were semi-annual payments for 5 years. The amount financed was \$1,120.00, with semi-annual payments of \$141.54. No payment had been received since 2001 until the assessment was paid in full on August 23, 2011.

The City sent invoices on a regular basis and letters from time to time requesting that the property owners contact the City about the delinquent payments and plans to become current. A final notice prior to this report coming to the City Council was sent by both regular mail and certified mail on June 23, 2011.

Mr. Glaser met with staff on August 2, 2011 in response to the final notice. Mr. Glaser said he was aware of the contents of the final notice but stated that he had not received it. Mr. Glaser was provided a copy of the letter as well as other documentation regarding the original assessments and payment history. Mr. Glaser said his intent was to pay the smaller assessment in full and request a modification of the payment schedule for the larger assessment. Mr. Glaser was told

Collection on Default Assessments

Page 2

August 25, 2011

that any modification of the terms of an installment payment could only be made by the City Council. He was also told that this staff report and a resolution consistent with ORS Section 223.270 would be brought to the City Council in September, 2011.

On August 23, 2011, Mr. Glaser sent a check in the amount of \$1,466.54 to pay assessment number ssd52600-0003-000 in full. He also included the attached letter requesting a modified payment arrangement for assessment number ss900703-0388-000. Also attached is a letter from staff reminding Mr. Glaser that authority to modify terms of a payment arrangement is reserved, by statute, for the City Council. The staff letter further stated that the issue would be considered by the Council on September 14, 2011, and that Mr. Glaser would be welcome to present his request at the meeting.

ORS Section 223.270 outlines a procedure for collection on default under the Bancroft Bonding Act. The procedure becomes available when an owner neglects or refuses to pay installment payments for a period of one year. The City Council may pass a resolution declaring the whole sum, both principal and interest, due and payable at once, and direct collection in the same manner in which delinquent property taxes are collected under applicable law.

The City currently has approximately 380 active assessment accounts. For the most part, property owners that agreed to installment payments are diligent and current in making the payments. However, there are thirty-five assessments held by twelve different property owners that have not had a payment in over a year. The Glaser assessment accounts for almost half of the total outstanding balance for the thirty-five assessments. Staff intends to address the additional delinquent assessments on an ongoing basis.

Budget Impact:

Adoption of the resolution would expedite collection of almost half of the value of the City's delinquent assessments.

ST

Attachment: resolution; Glaser letter; staff letter

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF ALBANY, OREGON, DECLARING AN ASSESSMENT DUE AND PAYABLE AND DIRECTING COLLECTION PURSUANT TO ORS SECTION 223.270 PROCEDURE FOR COLLECTION ON DEFAULT

WHEREAS, on April 14, 1993, the City Council adopted Ordinance Number 5041 which established the North Albany Sanitary Sewer District and imposed assessments on 683 properties; and

WHEREAS, many of the property owners agreed to pay their assessments through semi-annual installment payments for up to twenty years and all but thirty of the assessments were paid in full within a few years of the initial scheduled payments; and

WHEREAS, the terms of the installment payments were the same for all properties; and

WHEREAS, the property owned by Randall L. Glaser and Barbara A. Glaser is the only assessment that has not had regular installment payments made; and

WHEREAS, a systems development charge (SDC) was imposed on the Glaser property on October 9, 1996; and

WHEREAS, no payments had been made on either assessment since 2001 until August 23, 2011 when the SDC assessment was paid in full; and

WHEREAS, the City has sent invoices on a regular basis and letters from time to time requesting that the property owners contact the City about the delinquent payments and plans to become current; and

WHEREAS, a final notice prior to this resolution coming to the City Council was sent by both regular mail and certified mail on June 23, 2011; and

WHEREAS, Mr. Glaser met with staff on August 2, 2011, and expressed his intent to pay the smaller assessment in full and ask the City Council to modify the payment schedule for the larger assessment; and

WHEREAS, on August 23, 2011, Mr. Glaser paid the smaller assessment in full and requested modification of the payment schedule for assessment number ss900703-0388-000; and

WHEREAS, in order to be consistent with the payment terms made available for all other assessed properties, the City Council chooses not to modify the terms of the installment payment as requested by Mr. Glaser; and

WHEREAS, ORS Section 223.270 outlines a procedure for collection on default under the Bancroft Bonding Act.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALBANY, OREGON, as follows:

1. The City Council hereby imposes provisions of ORS Section 223.270 and declares the whole sum, both principal and interest, due and payable at once for assessment number ss900703-0388-000.
2. The City Council further directs collection in the same manner in which delinquent property taxes are collected under applicable law.

This Resolution shall take effect immediately upon its adoption by the City Council and execution by the Mayor.

DATED AND EFFECTIVE THIS 14TH DAY OF SEPTEMBER, 2011.

Mayor

ATTEST:

City Clerk

City of Albany
Attn: Stewart Taylor
Finance Director
PO Box 490
Albany, Oregon 97321


RE: Loan #SS900703-0388-000, pay-off date 4/30/2013
Loan #SSd52600-0003-000, enclosed payment in full
Loan #SSCCN51321, paid in full, 4/22/96

Dear Mr. Taylor:

Thanks for meeting with me regarding my sewer assessments status/balances. As per our conversation, please note the enclosed check #1603 for \$1,466.54 to pay loan #SSd52600-003-000 in full. This means I will have paid two of my three assessments (loans) in full.

Also, as per our conversation, I plan to pay \$5,000.00 by 9/10/11 towards loan #SS9007603-0388-000. I will pay at least \$1,000.00/month, beginning 10/10/11 towards the remaining balance due. I fully intend to be paid in full by 4/30/2013 as per my original agreement with the City of Albany. I hope these terms are acceptable to you and I look forward to your acknowledgement in return.

Respectfully,


RANDALL L. GLASER
2544 Dover Lane NW
Albany, Oregon 97321

enclosure



August 23, 2011

CITY HALL
333 Broadalbin Street SW
P.O. Box 490
Albany, OR 97321-0144
www.cityofalbany.net

541-917-7500

**CITY MANAGER/
ECONOMIC DEVELOPMENT/
URBAN RENEWAL**
541-917-7500
FAX 541-917-7511

FINANCE
Finance/Recorder
541-917-7500
FAX 541-917-7511

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

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

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

FIRE ADMINISTRATION
541-917-7700
FAX 541-917-7716

HUMAN RESOURCES
541-917-7500
FAX 541-704-2324

INFORMATION TECHNOLOGY
221 Third Avenue SW
541-917-7500
FAX 541-791-0075

PUBLIC WORKS
Engineering
541-917-7676
FAX 541-917-7573

Water/Sewer Billing
541-917-7547
FAX 541-917-7794

Call-A-Ride
541-917-7770
FAX 541-812-2571
TDD 541-917-7762

Transit
541-917-7667
FAX 541-812-2571

Randall L. Glaser
2544 Dover Lane NW
Albany, OR 97321

Dear Mr. Glaser:

ASSESSMENT PAYMENTS

The purpose of this letter is to acknowledge receipt of payment in full for assessment number ssd52600-0003-000 and to notify you that I will forward your request for modification of terms of payment for assessment number ss900703-0388-000 to the City Council on September 14, 2011.

As I mentioned in our meeting on August 2, 2011, the state statute providing for installment payments, ORS 223 commonly referred to as the Bancroft Bonding Act, does not give me authority to modify payment terms. That particular authority is reserved for the City Council. The Council meeting begins at 7:15pm in the City Council chambers at City Hall. You are very welcome to attend the meeting and present your request.

Also as we discussed, the staff report accompanying your request will include a resolution consistent with ORS Section 223.270 Procedure for Collection on Default. The City Council will have discretion to consider your request or to follow the provision of state statute. The statute allows the City Council to declare the principal and interest of the remaining assessment immediately due and payable and to direct collection in the same manner in which delinquent property taxes are collected.

Please feel free to contact me if you have questions regarding the staff report or upcoming City Council meeting.

Sincerely,

Stewart Taylor

ST

c: Jim Delapoer, City Attorney
Linda Lamer, Accounting Specialist

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, July 27, 2011
7:15 p.m.

MINUTES

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE TO THE FLAG

Konopa led the pledge allegiance to the flag.

ROLL CALL

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

Councilors absent: None.

SCHEDULED BUSINESS

Continued Consolidated Legislative Public Hearing: CP-02-10/DC-05-10, Goal 5

Konopa said this Continued Legislative Public Hearing is regarding amendments to the Albany Comprehensive Plan Chapters 1, 2, 7, 8, and 9; and Plates 3, 4, and 6; and amendments to the Development Code Articles 1, 2, 3, 4, 6, 9, 11, and 22 to implement Statewide Planning Goal 5.

Konopa said a new City Councilor will be appointed soon to fill the vacant position. To enable the new Councilor to participate in the Goal 5 adoption process, the hearing will be continued to August 24, 2011.

Konopa called to order the legislative public hearing at 7:16 p.m.

Konopa said the legislative public hearing is hereby continued to August 24, 2011.

Konopa closed the public hearing at 7:16 p.m.

Public Hearing: Demolition of 337 Sixth Avenue SE

Konopa opened the public hearing at 7:17 p.m.

Community Development Director Greg Byrne said that staff recently brought to the City Council in a work session a review of an administrative decision to demolish a building at 337 Sixth Avenue SE. Council asked that the staff presentation on this issue be brought forward in a public hearing.

Building Official Melanie Adams gave a PowerPoint presentation (see agenda file). She presented three questions and answers as follows:

- 1) Is this a dangerous building? Albany Municipal Code says a dangerous building is a structure that endangers the life, health, property, or safety of the building's occupants or the public. A property can be dangerous for a variety of reasons. In 2006, the City Council adopted Municipal Code language that says unsafe buildings "are public nuisances and shall be abated by repair, rehabilitation, demolition, or removal." Staff has spent three years pursuing options for repair or rehabilitation of the subject building. The building is dangerous for several reasons, one of which is that it is a fire hazard. She showed photos and described conditions in the house including a basement apartment with no egress; narrow, steep stairs with no lighting; overcrowding in a building not designed for multifamily use; no smoke detectors or carbon monoxide detectors; and holes in the floors, ceiling, and walls.

Adams said the building is also dangerous because it is a public nuisance. It has a substantial record of police calls and a history of drug activity. It is dangerous because of unsafe electrical. She showed photos and described tattered electrical connections within inches of leaking plumbing; a jury-rigged light coming in contact with moisture and in close proximity to an unpermitted gas heater in the basement with limited escape options; a receptacle installed in the basement closet unit; no working lights in the top floor apartment; a fixture that smelled strongly of fish which is a clear indication of an electrical problem; and electrical installations throughout the house that were patched together by someone who is not a licensed electrician. The building is also dangerous due to lack of basic cooking facilities, lack of heat, and lack of sanitation.

The house contained 49 violations, most of which have not been corrected. Cosmetic improvements have been made, but that does not change the poorly installed plumbing, the myriad of pipes that were installed incorrectly, the lack of maintenance of mechanical systems throughout the house, and that heaters were installed in an

unsafe manner without permits and in places where a fire or explosion would be disastrous. It is the responsibility of the Building Division to see beyond cosmetic improvements. The tenants of the building called the City to request an inspection. The neighborhood sent a petition signed by over 100 people to ask if the City could do anything about this troubled building in their neighborhood. Certified inspectors have determined the building is not safe for people to live in. The building has had a lot of work (electrical, plumbing, gas heaters, partition walls, etc.) without permits; this is especially of concern because the property owner has said that he does not understand the Albany Building Code. The case record has been reviewed by the Community Development Director, the City Manager, the City Attorney, and a Linn County Circuit Court judge. The conclusion has been in every instance, that this building is a hazard to the community and the City has the authority to repair or remove the hazard.

- 2) Is there anyone who will take responsibility for the property? Two parties have an ownership interest in the property – the Drapers and Fannie Mae. Staff has spent nearly three years working with the Drapers, having walked the property with Mr. Draper on numerous occasions. On those occasions staff explained each deficiency and how to fix it, tried to help him hire a contractor, and suggested he put the property on the market. The Council has been provided a chronology that illustrates the many conversations the City has had with Mr. Draper in an effort to get the property back in good condition.

The Municipal Code gives the property owner the choice to repair or demolish a dangerous property, but what happens when an owner chooses to do neither? In this case, the City Attorney filed a lawsuit in Circuit Court. Draper was given notice and an opportunity to present his case. He did not do so, and the judge granted the City the right to correct or remove the hazard. Fannie Mae's representatives told the City in February that they were foreclosing on the property, that they would secure the property, and that they intended to demolish the building. Since that time, the City has been unable to get further information from Fannie Mae. Reports continue to come in that people are breaking into the house, and the demolition has not happened. A lawyer for Fannie Mae was notified of the pending demolition. The property is now up for sale. It would be great if someone bought it, but that person would need to have the money in hand to bring the house up to code in a timely fashion. No serious proposals have been brought forward so far.

- 3) Are there any other options besides demolition? It is not staff's desire to tear down a building with some potential for rehabilitation; that is the option of last resort. Other options are:
- a) Board the place up and let it sit. There are concerns about arson and the potential of fire damage to adjacent houses. Even though the property is posted with a "do not enter" sign, there have been many people in the building including nighttime occupants and transients. The concern is that someone will use candles or propane and start a fire. This happened several years ago at the Woodland Square property.
 - b) Gut and remodel the property using City funds. This property is only half of the case against the Drapers. The house across the street must be dealt with and the plan is to try to save that house even if it means using City money to do so. There are also still arson properties that will likely require City funds.
 - c) Leave it alone and hope someone buys it and complies with the City's order. Anyone who buys the property must understand it will require a complete overhaul and that time is of the essence. No serious buyer has come forward. In the meantime, the property is a magnet for transient and criminal activity.
 - d) Demolish the property and remove the hazard. Given the City's lack of funds to do a complete remodel and staff's belief that leaving the vacant property is a danger to the community, staff opted to demolish the building. This is not the first choice but is necessary because no one will take responsibility.

Public Testimony

Fredric J. Burger, 525 Railroad Street SE, lives across from the subject property. He knows how hard it is for someone who is low income to find housing in this economy. He is on Social Security Disability and was fortunate to find a landlord willing to take him at a price he could afford. When he moved into the neighborhood in 2008, he noticed suspicious activity at the subject property and he has learned of its history by talking with his neighbors. He feels that the house is a danger to the immediate community if left in irresponsible hands. He applauded City staff for their work and asked that the property owner not be given the chance to take back the work done to negate problems at the site.

Danielle Bryant, 428 5th Avenue SE, said she was born and raised in Albany and is passionate about the well being of the community. She has served as the Hackleman Neighborhood Watch co-captain for the last seven years. She said, Mr. Draper, his supporters, and the Democrat-Herald would like the Council to believe that City staff is inaccurate and that the conditions are not as bad as they are made out to be. She asked that the Council trust the opinion of its competent staff. She drew attention to the letter and petition, and the report from the Albany Police Department detailing police visits to this address, distributed in Councilors' packets. She asked the Council to support the findings and the years of work of the Building Division. At her request, several audience members raised their hands to indicate they are members of the Hackleman Neighborhood Watch.

Rob Wilson, 540 Railroad Street SE, has lived adjacent to the subject property for 35 years. He said the house has been a continual criminal focal point with drug activity and theft. The corner of 6th Avenue and Railroad Street is known as the "any drug any time corner". Drug dealers moved from the house with the closure notice and the building has never looked as nice as it does now. He has been in the house and has seen many of the deficiencies cited by City staff; he has seen very little cooperation from Draper in addressing these issues. Much has been made of the age of house, but many modifications, including doors and windows, have taken place without historic review or approval. At the core of neighborhood support for demolition is perhaps the Drapers' refusal to be responsible property owners. He cited poor living conditions, including a renter who used a bucket as a toilet then dumped it over the fence into his yard. Unless there is an immediate sale to a new owner, he would support demolition.

Robin Hobbensiefken, 340 5th Avenue SE, said he has lived at this location since 2002. He has two children, now ages 10 and 12, who have grown up around the fighting and noise at the subject property. Since the house has been vacant, the neighborhood is much quieter. It would be great if someone would buy the house and fix it up, but there are better houses in the neighborhood that have been for sale for a long time. He is in favor of demolition and he has spoke with two other neighbors, both of which agreed they would like to see the house demolished.

Chris Bryant, 428 5th Avenue SE, read a letter into the record from his neighbors, Howard and Becky Jenks, 440 5th Avenue SE (distributed in Councilors' packets).

Mary Hartley, 2910 Santiam Highway SE, said she was called about one month ago to look at the subject property. She agrees that it needs to be made safe for residents and neighbors. The house is in the Hackleman Historic District, and she believes there may be state funds available to help save it. The property has been listed for the amount of the liens against it (\$89,000), and the listing specifies that the buyer would have to bring the house up to City Code as a single-family residence. She said that there are a number of homes in the City that are not in good condition, that some of them are in worse condition than this one, and that a lot of historic homes do not have updated electrical systems and plumbing. She wonders how it is to be decided which homes will be demolished. She has shown the property and thinks there is a possibility it will sell.

Councilor Bessie Johnson asked about discussions with the bank. Hartley said the bank has said it would not stand against the house being demolished, but that they would be happy if she can get it sold.

Councilor Jeff Christman asked if the house has been foreclosed on. Hartley said it is in foreclosure proceedings; it has not yet been foreclosed on.

Christman asked what it would take to bring the house back to its historical nature. Hartley said it would take about \$150,000 to \$175,000 to bring the house back to single-family conditions under City Code. This does not include the purchase price. Konopa noted that the house has been modified a lot from its original historical condition.

City Attorney Jim Delapoe said that, regardless of what is in the listing, a sale would not assure that any defects would be corrected. Hartley said a lender would probably require a rehabilitation loan.

Richard Draper, 338 6th Avenue SE, asked if City staff has been in the house since he put up the fire-proof sheetrock. He reviewed recent work he has done to the house. In response to an inquiry from Konopa, Draper said he did not get permits for the work because staff would not give them to him. Staff wanted him to hire an architect but he didn't have the money to do that. The house is listed and he would like to sell it.

Councilor Floyd Collins asked if work to the house was done by a licensed contractor. Draper said no, his license expired in 1999. Collins noted that work on multi-family residences must be done by a licensed contractor. Draper said he had a licensed electrician do some work; he doesn't know if a permit was secured.

Councilor Bill Coburn asked if the homes that Draper built in the past had the proper permits and inspections. Draper said yes. Coburn said that he assumes Draper had the experience and knowledge to know the procedures. Draper said the photos shown by staff were taken several years ago; that is not what is there now. If this house is torn down, he said, the material to be taken out is good, solid, old-growth lumber.

Donna Schneider, 4924 NW Palestine Avenue, owns a house near the subject property. In January, she told Adams that Draper wanted to sell to someone who would fix the house up and Adams said he no longer had that option; now Adams is saying that is an option. She understands that two former tenants died within a month of moving; she thinks the move may have caused death earlier than necessary. The tenants were from Aging and Disability Services; she thinks that agency would not have allowed them to live there if it was not safe. The house did not cause people to be addicts; why tear down a perfectly good house to get rid of druggies and poor people? She said Adams was quoted in the newspaper as saying there was probably a meth lab at this location; this is an unfair characterization. The police should monitor drug and illegal activities, not an older landlord.

Gordon Miller, 1545 NW Patrick Court, said he has known Draper for over 20 years and he is here to vouch for his character and integrity. Draper does not have the means to bring this house up to Code because he is so good-hearted; he has lost a lot of money by renting to people who haven't been able to pay, and he has contributed much to the community. People in this age bracket were raised in a different era when there were not so many rules and laws. He asked who would pay for the house to be demolished. City Manager Wes Hare said the house would be demolished at the City's expense and a lien would be placed on the property.

Camron Settlemeier, 230 7th Avenue SW, said the house is listed as "Historic Contributing" in the Hackleman Historic District. He questioned why the City would demolish a vacant house. If every vacant house that is a public nuisance were torn down, that would be a lot of demolition work. He noted that the Montieth House sat vacant for some time. He expressed concern about the precedent that would be set by tearing down a historic home, the message it would send to someone who wants to buy a historic home with older wiring, and the impact it might have on the ability to get grants in the future. He asked if this has been before the Landmarks Advisory Commission (LAC), if tearing it down would have any impact on the General Fund, and if the City would have any liability for the empty lot on which it holds a lien.

Dick Owen, 810 Cox Street SE, gave his history as a professional engineer. He said state law says private property can only be taken for public domain. In this case, the City is taking a person's property and destroying it. What does this have to do with public domain? The house is strong; the problem is the people who lived in it.

Darin Dyson, 314 6th Avenue SE, has lived across from the subject property for five years. He is a licensed electrician. He has never seen Draper hire anyone with a license to work on the house. He has seen many things that are disturbing. He has two children, ages 7 and 10, and wants to help make this a better community. He does not believe that can happen with this house. There is no way the house will be put back to historical conditions; it would cost too much. The best thing is to tear the house down and put up something to be proud of.

Fredrick J. Burger said his understanding is that Aging and Disability Services does not look at living conditions unless there is a specific complaint.

Konopa closed the public hearing at 8:57 p.m.

Discussion and Decision

Konopa invited staff response to the public testimony.

In response to testimony regarding the legal issue, Delapoer said that this case was presented to a Linn County Circuit Judge who signed an Order which included Findings of Fact. The judge determined that the house is in violation of Albany Municipal Code and that, if the defendants failed to comply, the City is authorized to proceed with demolition. The legal issue of whether the City can demolish the house is settled; the policy issue is before the Council.

In response to testimony regarding concerns about historical homes, Adams commented that the City is not interested in going after older homes; but it will go after dangerous homes. The house is listed as "Historic Contributing" with poor condition. Public safety trumps historic preservation in the Code. This was not reviewed by the LAC, and that was not required.

Coburn recalled that this item was first brought up in a work session for information. He was in no hurry to have the house demolished, and the general feeling of the Council was that a public hearing would be appropriate to hear from the neighbors and the property owners. Having heard all of the information, he doesn't see any reason to disagree with the neighbors, City staff, or the court.

Johnson asked about demolition costs. Adams said the cost will be about \$25,000, most of which is for dumpsters.

Councilor Dick Olsen said the property was a lumber yard until about 1890, after which he would guess the house was built or moved in. It is one of Albany's older structures, and it would be a shame to destroy it if someone is interested in giving it new life as a single-family residence. He has seen many houses in similar shape brought back to be respectable residences; there are people with the strength and enthusiasm to do that.

Collins said he walked through the house with Hartley and observed some of the gas, electrical, and water line issues. He is convinced the house should not be inhabited. The dilemma is whether it is reasonable to have this on the market and have the risk to the neighborhood continue. Although Draper has been a contributing member of the community for decades and did not understand the implications of the Code, that does not relieve him of his responsibility to tenants and neighbors. He would only support Olsen's suggestion if it was for a short period of time.

Delapoer said the Council could indicate its desire that the demolition not be done for some period of time to see if the house sells. He would suggest that a buyer be required to present a detailed plan. Selling the house does not in and of itself solve any of the deficiencies.

Byrne said a series of building permits would be required on this property to get it back into a viable single family home. It would require someone with substantial means and the City would look for that work to begin almost immediately.

Olsen spoke about a house on Broadalbin Street that was a nuisance to the neighborhood and that has gradually become a respectable single-family home. He said restoring a home is time consuming and expensive; he doesn't think it can be expected to happen in a short amount of time.

Christman noted that this process has been going on for over three years. He does not think it is a very good assumption that someone will come in now, to buy and restore this house. He noted that the Neighborhood Watch group has taken an interest and is pushing to make this a better area.

Johnson said she thinks that the cost to purchase this house and restore it is unrealistic in this market. It is to everyone's best interest to go ahead with the demolition. The Neighborhood Watch has done its due diligence and given its input. Unfortunately, the historic aspects of this house have been destroyed. She thinks we need to follow the City ordinance and the court order.

Coburn noted that one concern is arson. He is concerned about what might happen if the Council delays demolition and there is a fire that results in loss of property or life. Delapoer clarified that the courts have not ordered the City to demolish the house but have given the City the authority to demolish the house.

In response to an inquiry from Collins, Delapoer said that Draper was personally served by a professional process server. Collins said he wishes that Draper would have taken action years ago to comply with the direction of the Building Official. He has no faith that extending the time period would result in any action. He is concerned about exposure between now and the time the house would sell, if ever.

MOTION: Collins moved that the City Council endorse and support the judgment issued by the court. Johnson seconded the motion.

Olsen asked if someone could still purchase the house if they came forward tomorrow. Byrne said staff would want some serious and firm assurances that the buyer had the capacity and will to do what needs to be done. He noted that staff is prepared to move forward and that demolition would begin within a few days. Brief discussion followed.

VOTE: The motion was voted on and it passed 4-1, with Olsen voting no.

RECESS

The Council recessed at 9:38 p.m.

RECONVENE

The meeting reconvened at 9:44 p.m.

Business from the Public

Ray Hilts, 3012 Tadena Street SW, said he is here to talk about an item that was considered during multiple Council meetings several years ago: a complex and soccer fields at Timber Linn Park. He said Medford has a nice complex and it makes more money than it expends. The community also makes money from teams that come for tournaments. He encouraged the Council to ask the Parks & Recreation Director for information on the complex that was designed several years ago, and to consider using some of the Economic Development monies for that project.

Larry Holverson, 608 Alpine Avenue NW, said he is representing the Citizens Committee to Save Blue. The Committee has been active in the community for a number of months, and there is no question about the passion of the people involved and their commitment. The Committee's main objective is to save the dog Blue Raymond from being euthanized. Its second objective is to work with the City Council on modifications to the Dangerous Dogs ordinance that has been in effect for 20 years. He submitted an *Address to the Albany City Council, Ordinance 6.18 Revisions, July 27, 2011* (see agenda file) with suggested revisions to the ordinance. He said, if the City Council chooses to have a meeting process on this issue, the Committee would like to be included.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) June 6, 2011, City Council Work Session.
 - b) June 13, 2011, City Council Work Session.
- 2) Approving liquor licenses for:
 - a) Annual liquor license renewals.
 - b) Cappie's Brewhouse, 211 First Avenue NW.
 - c) San Jose Mexican Store, 1322 Geary Street SE.

MOTION: Coburn moved to adopt the Consent Calendar as presented. Christman seconded the motion, and it passed 5-0.

BUSINESS FROM THE COUNCIL

Collins said the Council previously discussed potential revisions to Ordinance 6.18, during which concerns were expressed that an ordinance review may create confusion with the current legal case. He proposed that the Council

request that the City Manager bring back a process for a work group to move forward on this issue. Possible participants in the work group could include representatives from the City Council, the animal activist group, law enforcement, the medical community, and the community at large. The work group would propose potential draft language for Council consideration. This process would need to run a parallel track to the current legal case which must run its own course.

Olsen suggested that the work group also include a representative from the veterinary community. Collins said he had suggested the inclusion of a representative from the medical community because of discussions about the definition of *serious injury*; he feels that injury is not only physical but also emotional or psychological.

Christman said he can support this process with the understanding that it is separate from the legal case.

Olsen said he objects to the Council washing its hands of the Blue case. Coburn said he is not washing his hands of the Blue case but he will support this proposal as a separate issue.

Konopa shared a letter she received from an 8-year-old citizen requesting more flower shops to make the paths prettier, and more dog parks. She will respond that the City is working on the issue of dog parks.

Hare said there will be a farewell event for Public Works Director Diane Taniguchi-Dennis at the Talking Water Gardens this Friday from 4:00 p.m. to 6:00 p.m. He will miss her terribly; she has been wonderful to work with, has left her department in great shape, and will go on to great success.

Johnson said she won't be able to attend Friday. She said, it has been a pleasure knowing Taniguchi-Dennis who is so knowledgeable and can make sewers, pipes, and water treatment exciting.

Collins said he had the opportunity to work with Taniguchi-Dennis for 30 years and it has been a joy; the work she has done has contributed to the community and the state and has gone on to influence national policy.

NEXT MEETING DATE

Special Session – August 3, 2011
Work Session – August 8, 2011
Regular Session – August 10, 2011

ADJOURNMENT

There being no other business, the meeting was adjourned at 10:08 p.m.

Respectfully submitted,

Reviewed by,

Teresa Nix
Administrative Assistant

Stewart Taylor
Finance Director



CITY OF ALBANY
SPECIAL CITY COUNCIL MEETING
Municipal Court Room
Wednesday, August 3, 2011
5:45 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 5:45 p.m.

ROLL CALL

Councilors present: Councilors Bill Coburn, Floyd Collins, Bessie Johnson, Dick Olsen, Jeff Christman

Councilors absent: none

DRAPER HOUSE

City Manager Wes Hare said that at the last meeting the Council voted to support the order to proceed with demolition of the property located at 337 Sixth Avenue SE. He said that his understanding was that if we received an offer to rehabilitate the home from someone it would be considered. He said that an offer was received [see agenda file] from Scott Lepman. Hare said that this offer would require financial support from the City, and the short sale would have to be successful and would take an indefinite amount of time. Hare said that demolition is scheduled for tomorrow; and if the Council doesn't want demolition to proceed, he would recommend a motion to that effect and then have the issue discussed at Wednesday night's meeting.

Councilor Dick Olsen said that he has talked to Scott Lepman about the proposal. He said that he is interested in a single-family home. He said that Mr. Lepman has an interest in this neighborhood because he has reconditioned the apartments on the other side of the block, and it was a successful project.

MOTION: Olsen made a motion to consider Scott Lepman's proposal at Wednesday night's meeting. Councilor Floyd Collins seconded the motion. Discussion followed.

Konopa clarified that the motion would need to be approved tonight to stop demolition.

Collins said that he would like to consider Mr. Lepman's proposal. He said that if the demolition goes forward, it will cost the City \$25,000. He said that we will end up with a vacant lot and we won't see the \$25,000. He said that this property may meet some of the CARA requirements. Collin would like to understand the proposal before saying no.

Councilor Bessie Johnson said that there would be a loan involved and a mortgage lender involved; this process could end up taking a very long time. She said that she is still for demolition because she thinks it will take too long. Discussion followed.

Councilor Bill Coburn said that he looked at the building today and said it is a dangerous, ugly building, it attracts transients, and is a fire danger. He said that he agrees with Wes's e-mail and the neighbors living in that area. He said that the short sale process could take a very long time. Johnson said that she doesn't think that any CARA money should be used for this property.

VOTE ON MOTION: A vote was taken on the motion and it failed 2-3 with Johnson, Christman, and Coburn voting no.

WARD II-A VACANT CITY COUNCILOR SEAT

Preinterview Discussion

Konopa said that each applicant will be brought in one at a time. She said that when the applicant comes in, we will do a brief introduction, quickly discuss the ethics rules, and the time requirements of this position. Councilor Jeff Christman said that it is hard to adhere to this process because he has different questions for each applicant. Konopa said that if Council needs more time to make a decision, the applicants can be narrowed down and invited back for a second interview. Collins said that we can ask unscripted questions if we get through the questions before time is up.

Applicant Interviews

TERRY CROOK

1. (Olsen) Do you find Albany an enjoyable place to live? If so, what makes it that way and what will you do to keep it that way?

Mr. Terry Crook said that he has lived in Albany for 41 years. When he was serving in the military abroad, Albany was always the place he thought of coming back to. He said that Albany is geared toward senior citizens, young people, and families. He said Albany is diverse.

2. **(Coburn)** Why do you want to be on the City Council? What experience and expertise do you bring the Council?

Crook said that he would like to be a part of the City Council because he has a need for challenges and would like to improve Albany for the future. He remembers when he was growing up that there weren't many activities for younger people in Albany and that has improved. He said that he would bring his life experiences to the Council.

3. **(Christman)** What do you consider to be the three top issues facing the City of Albany and how would you solve them?

Crook said that the first issue is employment and getting more businesses in Albany. He said that the homeless issue is another big issue. He said that he is working to get homeless veterans off the streets. He said that there is a lot of growth going on in this town and we should do more to get more growth.

4. **(Konopa)** As decision makers, we should all have a vision for Albany and the mid-Willamette Valley's population and how the landscape will look for the next century. In order to achieve a vision of great neighborhoods, quality water, and a healthy environment, it takes regulations to achieve that vision. What is your opinion of government regulations? Can you support standing up to special interest groups to require regulations to meet that vision?

Crook said that he believes government intervention can only go so far. He said that there has been a lot of building in Albany and taking away natural habitat. He said that we need to preserve the natural habitat for future generations.

5. **(Johnson)** Do you feel it would be beneficial for the Council to have yearly combined meetings with the Chamber of Commerce, the Albany Downtown Association, AMEDC, the Albany Visitors Association, and any other applicable organizations to get their views and ideas regarding what's happening in Albany?

Crook said that every organization works together so that there isn't a duplication of efforts. He said that once a year probably isn't enough. He suggested meeting biannual meetings.

6. **(Collins)** What is your opinion of and experience in dealing with Oregon's land use laws?

Crook said that he doesn't have any experience with land-use laws.

7. **(Olsen)** Should our CARA urban renewal plan be used to entice new development or to enhance what's already here?

Crook said that it is a two-fold effort. He said that he has watched the efforts in the last ten years and businesses have been drawn back downtown and he believes CARA is doing a great job.

8. **(Christman)** The economy and economic development are issues in Albany; what are your thoughts about improving Albany's economy and encouraging economic growth?

Crook said that the budget must be tight in this type of economy. He said that it is necessary to invest in the economy to get more businesses in here.

9. **(Konopa)** Supporting the need to expand public infrastructure is a huge cost to cities—expanding streets, water and wastewater systems, and parks. The demand to expand systems is due to new development/growth. Do you think all residents of Albany should carry the burden of higher taxes or fees to support new development, or do you think new development should pay for the costs to expand public systems?

Crook said that he thinks the taxpayers should be somewhat accountable for upgrades to existing systems and that any new development should be responsible for paying their portion of costs.

10. **(Johnson)** What are your feelings regarding public and private sectors working together on projects?

Crook said that working together is a great thing to do.

11. **(Collins)** What differences are there between private sector and public sector budgeting and financial planning?

Crook did not submit an answer.

12. **(Coburn)** As a city councilor, you are representing all of the citizens in your ward. How would you propose to do that?

Crook said that he would go door-to-door to talk to people and see what issues there are in his Ward. He said it is best to find out what the issues are and go from there to solve them.

13. **(Konopa)** Do you have any questions or comments for us?

Crook had no questions.

WOLF DYNER

1. **(Olsen)** Do you find Albany an enjoyable place to live? If so, what makes it that way and what will you do to keep it that way?

Mr. Wolf Dyner said that he has lived in Albany for twenty years. He said that he likes Albany because it is safe, it has great schools, it is a great community, there is a great social network, and it is in a great location. He said that he would continue to work for maintaining the type of livability that we have. He said that there is work here and there are plenty of small businesses in town.

2. **(Coburn)** Why do you want to be on the City Council? What experience and expertise do you bring the Council?

Dyner said that the reason he wants to be on City Council is because he recently retired and has time to participate and work on the issues facing Albany. He said that he is a thorough person and that he can listen to both sides of an issue to make a decision.

3. **(Christman)** What do you consider to be the three top issues facing the City of Albany and how would you solve them?

Dyner said that the first issue would be to determine what should be done with the Pepsi money. He said that he thinks that the money should be used now to either purchase something or invest it in something. He said that services right now are reasonably priced and it is better to spend it now while the money is worth more or to invest it to keep the money growing.

Dyner said that the second issue is the "Blue" dog case. He said that it is unfortunate that it is dragging out so long and he understands that it may not be possible for the Council to make a decision regarding this issue. He said that he doesn't know all of the details.

Dyner said that the police station and fire station are the third issue. He said that he believes there is a need to have functioning facilities. He said that the police station is needed, but he would want it to be built to encompass future growth.

4. **(Konopa)** As decision makers, we should all have a vision for Albany and the mid-Willamette Valley's population and how the landscape will look for the next century. In order to achieve a vision of great neighborhoods, quality water, and a healthy environment, it takes regulations to achieve that vision. What is your opinion of government regulations? Can you support standing up to special interest groups to require regulations to meet that vision?

Dyner said that property is something people cherish in the United States. He said that government regulation in the big scheme of things is important. He said that, generally, people should be allowed to do what they wish with their property. He said that it would be their job to step back and really look at laws made. He said that he respects people's privacy and property and he would hope that there would be a sense of community.

5. **(Johnson)** Do you feel it would be beneficial for the Council to have yearly combined meetings with the Chamber of Commerce, the Albany Downtown Association, AMEDC, the Albany Visitors Association, and any other applicable organizations to get their views and ideas regarding what's happening in Albany?

Dyner said absolutely. He said that it is key to reaching a common goal. He said that all of the organizations have the goal to make this a great community and in the end, it all benefits us.

6. **(Collins)** What is your opinion of and experience in dealing with Oregon's land use laws?

Dyner said that he has none. He said that the closest he has come is receiving a letter from the City that said that he is in a 100-year flood zone.

7. **(Olsen)** Should our CARA urban renewal plan be used to entice new development or to enhance what's already here?

Dyner said that he would hope it would do both. He said that he is not fond of urban renewal areas and that is because they are usually developed without a vote from the people and that they are also a gamble. He said that this particular one in Albany is a great thing, though, and has seen much improvement in the downtown area. He said that he is comfortable with our urban renewal area.

8. **(Christman)** The economy and economic development are issues in Albany; what are your thoughts about improving Albany's economy and encouraging economic growth?

Dyner said that there isn't a climate right now for great economic development. He said that Albany does have great water and sewage treatment plants. He said that when he looks at AMEDC, most referrals come from the state of Oregon. Dyner suggested considering international businesses. He thinks that we need to combine the economic development groups that already exist and see if there are other countries who are interested in investing in us.

9. **(Konopa)** Supporting the need to expand public infrastructure is a huge cost to cities—expanding streets, water and wastewater systems, and parks. The demand to expand systems is due to new development/growth. Do you think all residents of Albany should carry the burden of higher taxes or fees to support new development, or do you think new development should pay for the costs to expand public systems?

Dyner said that new development should have to pay for the new infrastructure.

10. **(Johnson)** What are your feelings regarding public and private sectors working together on projects?

Dyner said that the public and private sectors need to work together. He said it has to be a hand-in-hand relationship.

11. **(Collins)** What differences are there between private sector and public sector budgeting and financial planning?

Dyner said that he would guess that the private sector would need to have a balanced budget just like the public sector.

12. **(Coburn)** As a city councilor, you are representing all of the citizens in your ward. How would you propose to do that?

Dyner said that he would go to the local businesses and would make contact with the folks living in the ward. He said that he would go door-to-door and make himself available to people.

13. **(Konopa)** Do you have any questions or comments for us?

He said that he is retired now and has the time to devote to the projects and activities that the Council needs to handle.

DR. LARRY MARTIN

1. **(Olsen)** Do you find Albany an enjoyable place to live? If so, what makes it that way and what will you do to keep it that way?

Dr. Larry Martin said that he grew up in Corvallis. He said that he knows the area very well and he moved his family back here six years ago. He said that Albany is a community where families are important and where the community supports the schools and area.

2. **(Coburn)** Why do you want to be on the City Council? What experience and expertise do you bring the Council?

Martin said that he has always had a love for politics and he has always been a service-oriented person. He said that he is a family guy and wanted to make sure he had time to devote to that. He said that his kids are out of the house now and this is a good opportunity to provide service.

3. **(Christman)** What do you consider to be the three top issues facing the City of Albany and how would you solve them?

He said that the lack of jobs is probably the top issue. He said that he is impressed with how the city is operated. He said that the budget is right up there, too. He said that education is also very important.

4. **(Konopa)** As decision makers, we should all have a vision for Albany and the mid-Willamette Valley's population and how the landscape will look for the next century. In order to achieve a vision of great neighborhoods, quality water, and a healthy environment, it takes regulations to achieve that vision. What is

your opinion of government regulations? Can you support standing up to special interest groups to require regulations to meet that vision?

Martin said that regulations are necessary and he likes regulations that take care of all people. He said that the decisions should be made that affect the largest amount of people being benefited.

5. **(Johnson)** Do you feel it would be beneficial for the Council to have yearly combined meetings with the Chamber of Commerce, the Albany Downtown Association, AMEDC, the Albany Visitors Association, and any other applicable organizations to get their views and ideas regarding what's happening in Albany?

Martin said that as a Council, the more input you have the better off you will be. He said that it would add to a better acceptance of what the Council is doing.

6. **(Collins)** What is your opinion of and experience in dealing with Oregon's land use laws?

Martin said that his experience is limited.

7. **(Olsen)** Should our CARA urban renewal plan be used to entice new development or to enhance what's already here?

Martin said that his understanding is that it is more of an upgrading and development of the downtown area. He said that he likes what CARA has done. He said that he would favor anything that brings new business to Albany.

8. **(Christman)** The economy and economic development are issues in Albany; what are your thoughts about improving Albany's economy and encouraging economic growth?

Martin said that he believes it will have to come down from the top first. He said that we need to continue to focus on what is good in Albany to help improve Albany. He said that once the overall economy improves he believes it will improve here.

9. **(Konopa)** Supporting the need to expand public infrastructure is a huge cost to cities—expanding streets, water and wastewater systems, and parks. The demand to expand systems is due to new development/growth. Do you think all residents of Albany should carry the burden of higher taxes or fees to support new development, or do you think new development should pay for the costs to expand public systems?

Martin said that it depends on what benefit the development is giving to the taxpayers. He said that the taxpayers have to pay to have things done, but we also have to be considerate of spending other people's money.

10. **(Johnson)** What are your feelings regarding public and private sectors working together on projects?

Martin said that he would like to see more of it. He said that we have developed ourselves into an us-versus-them attitude when it comes to government and private sector.

11. **(Collins)** What differences are there between private sector and public sector budgeting and financial planning?

Martin said that there is a big difference. He said that he is in a profession that is really being hit hard because the primary population that he cares for are elderly. He said that the elderly population starts locking up their pocketbook as the economy gets bad. He said that the private sector tends to make budget adjustments quicker than the public sector.

12. **(Coburn)** As a city councilor, you are representing all of the citizens in your ward. How would you propose to do that?

Martin said that he really feels responsibility when it comes to making decisions for other people. He said that being cautious of taxpayers' money that they are entrusting to us.

13. **(Konopa)** Do you have any questions or comments for us?

Martin said that he has looked at the reports that the City has prepared and is impressed with what the City has done. He said that he doesn't have any agenda to serve. He said that he will be passionate about issues.

LARRY TOMLIN

1. **(Olsen)** Do you find Albany an enjoyable place to live? If so, what makes it that way and what will you do to keep it that way?

Mr. Larry Tomlin said that he was born and raised in Oregon and has never found a better place to live. He said that he would like to help regain our employment status. He said that we have lost far too many family-wage jobs.

2. **(Coburn)** Why do you want to be on the City Council? What experience and expertise do you bring the Council?

Tomlin said that he has been on the Planning Commission for a couple of years and the decisions that are made can be reversed. He said that he likes being a decision maker. He said that he has something he can offer to the community. He said that he looks at Lebanon and they are doing an awesome job and we could be doing the same thing.

3. **(Christman)** What do you consider to be the three top issues facing the City of Albany and how would you solve them?

Tomlin said that we have to put people in the empty buildings to make them worth something since we have a declining tax base. He said that we need more jobs for families. He said that Albany is going in the right direction as far as livability. He said that his ward doesn't have any grocery stores in his area. He said that he knows Winco is looking at Albany.

4. **(Konopa)** As decision makers, we should all have a vision for Albany and the mid-Willamette Valley's population and how the landscape will look for the next century. In order to achieve a vision of great neighborhoods, quality water, and a healthy environment, it takes regulations to achieve that vision. What is your opinion of government regulations? Can you support standing up to special interest groups to require regulations to meet that vision?

Tomlin said that a society without rules is anarchy. He said that people who don't work together can't get anything done. He said that he considers himself to be moderately conservative. He thinks that considering all aspects of an issue is extremely important.

5. **(Johnson)** Do you feel it would be beneficial for the Council to have yearly combined meetings with the Chamber of Commerce, the Albany Downtown Association, AMEDC, the Albany Visitors Association, and any other applicable organizations to get their views and ideas regarding what's happening in Albany?

Tomlin said that as long as the meetings are targeted, then yes. He said that he would want a specific agenda to cover specific topics. He said meetings like these are important but should be focused.

6. **(Collins)** What is your opinion of and experience in dealing with Oregon's land use laws?

Tomlin said that they are very confusing. He said that the various agencies of the state government have different rules that are tiered differently and they are difficult to understand.

7. **(Olsen)** Should our CARA urban renewal plan be used to entice new development or to enhance what's already here?

Tomlin said that he thinks the intent of what CARA is to take care of what is here. He said that it can restimulate existing buildings. He worries about CARA's scope getting too big.

8. **(Christman)** The economy and economic development are issues in Albany; what are your thoughts about improving Albany's economy and encouraging economic growth?

Tomlin said that it needs to be improved and these are some of the toughest times we have had. He said that building is down and it hasn't bounced back. He said that we have lost a lot of jobs in the valley and this has impacted the economy.

9. **(Konopa)** Supporting the need to expand public infrastructure is a huge cost to cities—expanding streets, water and wastewater systems, and parks. The demand to expand systems is due to new development/growth. Do you think all residents of Albany should carry the burden of higher taxes or fees to support new development, or do you think new development should pay for the costs to expand public systems?

Tomlin said that it is a double-edged sword. He said if a new business has to carry all of the burden, then they may choose not to come to Albany. He said that it is a shared responsibility and that housing should carry its own costs. He said that the fees assessed have to be justifiable.

10. **(Johnson)** What are your feelings regarding public and private sectors working together on projects?

Tomlin said that he sees no reason why partnerships can't be done. He said that as long as an advantage isn't being provided to a specific private company and as long as it meets the City's goals.

11. **(Collins)** What differences are there between private sector and public sector budgeting and financial planning?

Tomlin said that there are a lot of political issues that the private sectors don't have to deal with. He said that he often questions the layering of positions within government.

12. **(Coburn)** As a city councilor, you are representing all of the citizens in your ward. How would you propose to do that?

Tomlin said that he meets a lot of the folks everyday at his business. He said that many people talk to him about issues. He said that it depends on how much input is given from the people in your ward.

13. **(Konopa)** Do you have any questions or comments for us?

Tomlin said that he has been in the community for a long time and he has attended meetings with all of the City Council members.

RAY KOPCZYNSKI

1. **(Olsen)** Do you find Albany an enjoyable place to live? If so, what makes it that way and what will you do to keep it that way?

Mr. Ray Kopczynski said that he has been in Albany since 1995. He said that he loves the community. He said that there are a number of people who want to get involved with Albany to make it a more livable community. He said that he values the opportunity to give input and participate in the process.

2. **(Coburn)** Why do you want to be on the City Council? What experience and expertise do you bring the Council?

Kopczynski said that he has taken part in the Leadership Albany Program and that he was intrigued with the government portion of the program. He said that he became a member of the CARA Advisory Board and he has enjoyed his time. He said that he believes he can bring experience from his background and by using common sense.

3. **(Christman)** What do you consider to be the three top issues facing the City of Albany and how would you solve them?

Kopczynski said that getting the jobs process going again and working together to get more jobs in Albany. He said another issue is maintaining the infrastructure we have in place. He said that Albany has some phenomenal assets here in Albany; this is a very livable community. He said that the third issue would be more collaboration with Linn County for shovel-ready sites in Albany.

4. **(Konopa)** As decision makers, we should all have a vision for Albany and the mid-Willamette Valley's population and how the landscape will look for the next century. In order to achieve a vision of great neighborhoods, quality water, and a healthy environment, it takes regulations to achieve that vision. What is your opinion of government regulations? Can you support standing up to special interest groups to require regulations to meet that vision?

Kopczynski said absolutely and he has stood up to special interest groups in the past. He said having his name out there in the public doesn't bother him. He said that regulations are required and to what degree will depend on costs.

5. **(Johnson)** Do you feel it would be beneficial for the Council to have yearly combined meetings with the Chamber of Commerce, the Albany Downtown Association, AMEDC, the Albany Visitors Association, and any other applicable organizations to get their views and ideas regarding what's happening in Albany?

Kopczynski said that it would be beneficial because it is valuable to get that type of input. He said his question is where to draw the line. He said that as long as it is set up on a regular basis then it could be valuable.

6. **(Collins)** What is your opinion of and experience in dealing with Oregon's land use laws?

Kopczynski said that a lot of it is hinged on federal regulations and is a long-term process.

7. **(Olsen)** Should our CARA urban renewal plan be used to entice new development or to enhance what's already here?

Wednesday, August 3, 2011

Kopczynski said that if we can use it to attract a new business which is considering moving into the defined boundaries, this would be a great deal. He said that he values that we have nearly an eight to one private to public dollar ratio. He said that he would definitely use it to encourage new business.

8. **(Christman)** The economy and economic development are issues in Albany; what are your thoughts about improving Albany's economy and encouraging economic growth?

Kopczynski said that whatever we can do to help new businesses come into town we should help with that. He said that we need to get information to potential businesses to get them to come to Albany.

9. **(Konopa)** Supporting the need to expand public infrastructure is a huge cost to cities—expanding streets, water and wastewater systems, and parks. The demand to expand systems is due to new development/growth. Do you think all residents of Albany should carry the burden of higher taxes or fees to support new development, or do you think new development should pay for the costs to expand public systems?

Kopczynski said that he has never seen a company indicate that they lost a project simply because of an SDC fee. He said that the fees should mainly be borne by those developers.

10. **(Johnson)** What are your feelings regarding public and private sectors working together on projects?

Kopczynski said that he is in favor of it. He said that his only concern is to tighten up some of the rules. He said that what he has seen happen in the CARA district in the last ten years has been amazing. He said that the community does benefit from it.

11. **(Collins)** What differences are there between private sector and public sector budgeting and financial planning?

Kopczynski said that the things that we want to have and see in a community aren't going to necessarily be seen in the bottom line right away, but it benefits the livability. He said that it is hard to compare the two.

12. **(Coburn)** As a city councilor, you are representing all of the citizens in your ward. How would you propose to do that?

Kopczynski said that he would reach out to the folks in his ward. He said that he values the opportunity to go out and talk to everybody. He said that his primary responsibility is to represent the folks in Ward II and, secondly, to represent the citizens in Albany.

13. **(Konopa)** Do you have any questions or comments for us?

Kopczynski said that he appreciates having the opportunity to participate in the application process.

Discussion/Deliberation

Konopa asked the Council if they would like to have second interviews or if they would like to make a decision tonight. It was decided that they would make a decision tonight and that they would first narrow it down to two candidates.

First Vote: Ray Kopczynski received six votes, Wolf Dyner received four votes, Terry Crook received one vote, and Larry Tomlin received one vote.

Discussion followed and they decided to take a second vote between Kopczynski and Dyner.

Second Vote: Ray Kopczynski received five votes and Wolf Dyner received one vote.

MOTION: Collins made a motion to ratify the final 5-1 vote to appoint Ray Kopczynski to the Ward II-a City Council position; Coburn seconded the motion and it passed 6-0.

ADJOURNMENT

There being no further business, the Special Session adjourned at 8:45 p.m.

Respectfully submitted,

Diana Eilers
Administrative Assistant I

CITY OF ALBANY
CITY COUNCIL (WORK SESSION)
Municipal Court Room
Monday, August 8, 2011
4:00 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 4:02 p.m.

ROLL CALL

Councilors present: Councilors Dick Olsen, Jeff Christman, Bill Coburn, and Floyd Collins.

Councilors absent: Councilor Bessie Johnson arrived at 4:46 p.m.

Councilor-elect Ray Kopczynski was in the audience.

NORTH ALBANY FLOODPLAIN STUDY REPORT

Assistant Public Works Director/City Engineer Jeff Blaine said that Community Development and Public Works staff continue to work together on floodplain issues and that Planning Manager Heather Hansen is also in attendance to answer questions.

There are two policy questions to consider. The first is: What data should staff use for evaluation of floodplain development proposals in North Albany while the Federal Emergency Management Agency (FEMA) reviews the North Albany Floodplain Study (NAFS)? The second is: Does Council want our floodplain development regulations to consider flood impacts to neighboring property owners (referred to as "No Adverse Impact")?

The Council considered the questions one at a time.

Policy Question 1: What data should staff use for evaluating floodplain development proposals in North Albany while FEMA reviews the NAFS?

Blaine said that in January there was a Work Session for the draft NAFS. The draft study showed a previously unmapped floodway and differences in flood depths ranging from five feet less to as much as two feet more than FEMA maps predict. Following that work session Council directed staff to finalize the study initiate public outreach, and submit the study to FEMA for review and potential map amendments. The public outreach event will be an Open House in North Albany in the next few months.

Blaine mentioned that between the public outreach activities and the FEMA review process, it could be up to two years before the City has a determination from FEMA. In the interim, what should staff use to regulate development; the FEMA data or the NAFS data? There have been several recent development inquiries about North Albany that are driving the timing of this question. The staff memo in the Council packet has two options:

- Option 1 is to continue staff's current practice of using the study as an advisory tool, except for the previously unmapped floodway which is regulated as such per current Albany Development Code (ADC) language.
- Option 2 is to use both studies and regulate to the worst case scenario of the two.

Blaine said that FEMA recommends Option 2 because it is the most conservative approach.

Blaine introduced two maps: "Consultant's 100-year Floodplain Boundary" (see agenda file) and "FEMA vs. Consultant 100-year Flood Plain" (see agenda file).

Councilor Floyd Collins said that under Option 2, regulating to the worst case, where the study shows higher flood levels than FEMA, someone building a house may have to build it up higher than currently required. Under Option 1, we would advise them of the two different flood levels and they would choose which to follow.

Blaine was asked, if the maps were advisory only, and showed higher flood levels than the FEMA map, and the builder didn't take our advice, what is the risk to owner? Blaine said the worst scenario is that FEMA later agrees with our study, or specifies an even higher elevation, then the structure is at risk of flood damage and flood insurance may be required of them. Conversely, if the City were to regulate to the study's higher elevation and then FEMA disagrees and dictates a lesser flood elevation, than the house would have been built up higher than was necessary.

Blaine explained that on the maps, the pink and the red areas are those that are in conflict. Discussion followed.

Collins pointed out that if the City were to choose to follow FEMA's recommended approach the risk of requiring someone to build too high is probably low since the higher flood levels are generally east of Springhill Drive where there is a relatively low development opportunity.

Councilor Bill Coburn asked, what is the obligation of the City? Can we just show the two plans and tell them we won't know for a few years which will be adopted, or are we supposed to make the decision for the homeowner/developer? The City is not obligated to make that decision; Council could choose to follow Option 1 which is to use the study as an advisory tool in the interim. Hansen said she is more concerned about a subdivision where the lots get sold off and the first or second buyer has no idea that stricter standards may come into play later; and then they are surprised when their insurance suddenly goes up.

City Attorney Jim Delapoer said if that were to happen, and there were a flooding event, anyone who doesn't have flood insurance who has no one else to sue, may try to sue the City, even if the City isn't liable. This is what happened on 13th Street in North Albany some years ago. In North Albany much development took place before the area was annexed into the City and/or under older floodplain data and regulations. Now there is scientific data that says building at a certain level may cause damage by high water. Then the City has a greater responsibility. Delapoer said, our duty is higher to protect from that which we do know. It's not the developer we need to be concerned with; it's the purchaser that comes later that assumed the City wouldn't allow it to be built, if it was not safe. Albany hasn't been held to those standards yet, but Keizer has experienced it.

Community Development Director Greg Byrne said the NAFS map had more analysis go into it than FEMA's, and when compared to the aerial photos for the 1964 flood, it compares favorably. Its reliability seems to be high.

Collins asked, why are we considering taking a position if we haven't completed our public outreach yet and heard from the public? He suggested waiting to get input from the public before taking a position.

Delapoer suggested that if the Council is leaning towards one of the options, that they have staff draft code language and send that to the public hearing so it is tested. He pointed out that "worst case" really means "most protected case."

Councilor Jeff Christman asked, what applications are driving the need for this decision? Blaine said Blossom Crossing subdivision, the Scott Lepman property north of the access road to North Albany Middle School, the Riverside Baptist Church, and Hayden Homes.

Collins said he is leaning towards Option 2, to regulate to the worst case, in order to protect current and future homeowners.

Councilor-elect Ray Kopczynski asked, if the City stayed with Option 1 and then FEMA changes, can we indemnify the City? Delapoer said, not practically. The potential claimants are not going to be the same as the indemnifiers. The City can say there is a risk but if it is not in the ADC, we can't prohibit it anyway.

Christman said he leans towards using Option 1 until we have conducted the public outreach, and then have the public hearings to consider ADC changes to move to Option 2.

Staff explained that their original intent was to have neighborhood meetings to share the different maps. The policy issue was previously on a separate tract. Blaine suggested that at the Open House, staff can explain to the public that the Council has been asked the question and there will be public hearings.

ACTION: For Policy Question #1: The Council directed staff to use Option 1, to utilize the NAFS as advisory only; and to conduct public outreach about the study results.

Following the public outreach Council would like to consider Option 2 by holding public hearings for ADC code amendments.

Policy Question 2: Does Council want the City's floodplain development regulations to consider flood impacts to neighboring property owners (referred to as "No Adverse Impact")?

Blaine said that last September the City adopted National Flood Insurance Program's (NFIP) minimum standards for regulating development in the floodplain. Adoption was required at that time in order for the City to remain in the flood insurance program. Those minimum standards are based on protection of floodway and flood proofing new structures, but does not prevent a development activity, such as fill, from negatively impacting neighboring properties during a flood event. The two options for Council to consider are:

- Option 1: Do not implement a No Adverse Impact Approach (status quo)
- Option 2: Implement a No Adverse Impact Approach, which requires amendments to the ADC

Blaine referred to the "Example of Fill Impacts on Neighboring Properties" map (see agenda file). Blaine used the map to give an example of a scenario where fill in the flood fringe, such as that necessary to support a subdivision, could have significant negative flood impacts on properties nearby.

Councilor Bessie Johnson arrived at 4:46 p.m.

Blaine said staff looked at policies in Corvallis, Benton County, Linn County, Salem, and some in Portland. All give consideration to the no-impact approach, though their methods and standards for gauging the impact are all different. There is a wide range of methods to protect existing properties from development.

Konopa recalled that following the 1996 flood there were folks that were very upset about how neighboring properties impacted their own. She thinks we do need to protect properties by considering the impacts. Otherwise, we are setting ourselves up for more irate citizens in the event of a flood.

Collins said, Oregon drainage law says that you can't do something that causes damage to a neighbor; yet FEMA says you can put fill on your property without considering the impacts. They are not consistent. He asked, which would prevail, Oregon drainage law or FEMA? Delapoe said the law sets up regulatory standards for people's behavior, which is not the same as a guarantee that if a standard were followed that it wouldn't hurt someone. Generally the regulatory standard is not intended to substitute for civil standards for the drainage. Regulatory is different than civil standard. But, the City could potentially be sued if there was evidence the City knew a development occurred in an area where we know the flood waters rise. Delapoe said he would argue that we are not in a legal obligation to solve that problem and that those in that zone should be proactive and raise their houses. If the Council simply adheres to FEMA we won't be civilly liable; but we are more likely to be sued anyway, or at least criticized. For example, politically, with the flooding issue at 13th Street the City ended up spending money to pump the water even though we were not responsible.

In summary, Delapoe said making regulations stricter will increase the cost of development; but less strict will increase the number of complaints the Council may get by neighbors that are impacted. Either choice can have negative consequences.

Kopcynski asked, will this impact the City's Insurance Services Office (ISO) rating? Hansen said, we would get more points for adopting no adverse impact regulations.

Coburn supports Option 2, to implement a "no adverse impact" approach.

Collins said North Albany has unique characteristics. A balanced cut and fill approach probably won't work in that area. What might be good in one part of town won't necessarily work in others.

ACTION: Policy Question #2: The Council directed staff to come back with proposed language for Option 2, to consider a No Adverse Impact Approach which includes measurable, allowable impacts.

Hansen described the FEMA Pre-Disaster Mitigation grant funds that provide up to 75% of the cost to move or raise buildings above the 100-year flood level. Property owners provide the 25% match. If the Council is interested in having Albany participate in this grant program, then staff would work to identify eligible properties and collect data on elevations, etc. The Council said they are interested.

Councilor Dick Olsen asked, can we require that if they do not fill, they must build higher? Discussion followed about parking and storage underneath, and living quarters on the second floor.

Johnson asked if property owners are required to participate. Hansen said it is entirely voluntary.

INSURANCE SERVICES OFFICE FLOOD RATING

Hansen explained that the National Flood Insurance Program (NFIP) has an incentive program called Community Rating System (CRS). The CRS gives extra credit for going above the minimum requirements. Albany joined the program in 1991. Our ISO rating improved from a level 7 to 6, and citizens saw a 5% discount increase to a 20% discount as a result.

Hansen said, we didn't get to level 5 because we had not yet implemented Goal 5. We will ask for review in a year and are confident the City will have enough points to go to a level 5. The no-adverse impact policy, for example, would give us additional points.

Christman said, getting better ratings helps a segment of the community to get lower insurance premiums; but there may come a time when the cost to the whole community outweighs the benefit to one segment of the community. Hansen agreed it is a balance.

INSURANCE SERVICES OFFICE FIRE RATING UPDATE

Fire Chief John Bradner said the Fire Department appealed the ISO rating of 4 and successfully got it raised to a 3. This is good news. The staff report shows the areas where the department was able to get extra points.

Collins asked, did you ask what the impact on premiums would be to a \$250,000 house? Bradner said the higher rating would result in a 1-5% decrease in premiums. There was one case where an individual was informed by their insurance company that their rates were going up \$300 annually as a direct result of the ISO rating. What they found out was that some insurance companies use the ISO rating as an excuse for raising the rates.

Collins said it would be good to identify the savings because if the City goes out for a bond, it would be valuable information. For example, citizens pay for public safety in taxes or in premiums.

Olsen asked, for fire station distribution, he thought we were better than most cities but we only got half the rating for that measure. Brander said that they said we should have five stations, not four. Also, they don't look at response time or call volume, rather they look at hydrant population and determine how many stations a city should have based on that.

COUNCILOR COMMENTS

Collins asked staff to include an article in City Bridges about the conflicts between bikeways and garbage cans. We should advise Allied Waste (AW) to not put cans down in the bike path. Staff said a Police Officer received a complaint and when investigating counted 50 trashcans on sidewalks along Marion Street. Discussion followed.

CITY MANAGER REPORT

Hare said that next Monday is the City Manager evaluation. Finance Director Stewart Taylor will also do a presentation to discuss the public safety levy renewal and funding emergency services facilities.

ADJOURNMENT

There being no further business, the Work Session adjourned at 5:38 p.m.

Respectfully submitted,

Reviewed by,

Mary A. Dibble, MMC
Deputy City Clerk

Stewart Taylor
Finance Director



TO: Albany City Council

VIA: Wes Hare, City Manager
Greg Byrne, Community Development Director *[Signature]*

FROM: Anne Catlin, Community Development Planner *alc*

DATE: September 7, 2011, for the September 14, 2011, Albany City Council Meeting

SUBJECT: Appropriating Additional Community Development Block Grant Funds

Action Requested:

Accept and appropriate additional Community Development Block Grant (CDBG) funding.

Discussion:

The City of Albany applied for \$400,000 in CDBG funding in 2010. The City was awarded \$297,647. The state has \$100,000 in additional CDBG funds to allocate to the Linn Benton Regional Revolving Loan Fund, the area's Regional Housing Rehabilitation Program, to supplement the 2010 grant award.

Background Information

CDBG funds come from the U.S. Department of Housing and Urban Development. The City can access these funds through a competitive application process to the Business Oregon Infrastructure Finance Authority.

The Community Housing Services division of the Community Services Consortium (CSC) serves as Albany's "regional housing center" and has been administering the Linn Benton Regional Revolving Loan Fund Program since its inception. The program makes housing rehabilitation loans to improve owner-occupied, low- and moderate-income, housing in Albany's city limits, in Benton County outside Corvallis' city limits, the City of Lyons, and the Mill City area. When the rehabilitation loans are repaid, they go into the Regional Revolving Loan Fund to be redistributed within the region.

Budget Impact

FY 2011-12 revenues and expenditures each will increase by \$100,000 in the CDGB grants fund (203-40-5082). There will be nominal planning staff time.

Attachment: Resolution

AC

RESOLUTION NO. _____

A RESOLUTION APPROPRIATING ADDITIONAL COMMUNITY DEVELOPMENT BLOCK GRANT MONEY FROM THE STATE OF OREGON TO CONTINUE THE LOW-INCOME HOUSING REHABILITATION GRANT PROGRAM

WHEREAS, the City of Albany applied for \$400,000 in CDBG funding for the Regional Housing Rehabilitation Program in 2010 and received \$297,647; and

WHEREAS, the Oregon Community Development Block Grant program has additional funds and the state wants to allocate an additional \$100,000 to the City of Albany for the 2010 grant; and

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

WHEREAS, the Community Services Consortium operates a non-profit, Community Housing Services (CHS), that is the regional coordinator operating the Linn Benton Regional Revolving Fund, a housing rehabilitation program funded by CDBG and repaid loans; and

WHEREAS, receipt of CDBG funding would allow continuation of the Regional Housing Rehabilitation Program that would benefit low- and moderate-income persons in Albany, Benton County outside Corvallis, city of Lyons, and Mill City.

NOW THEREFORE, BE IT RESOLVED that the CDBG grant in the amount of \$100,000 is accepted and hereby appropriated as follows:

<u>Grant Fund</u>		<u>Debit</u>	<u>Credit</u>
203-40-5082-42016	CDBG Grant		\$100,000
203-40-5082-60101	Contractual Services	\$80,000	
203-40-5082-67005	CDBG Housing Rehab. Loans	\$20,000	

DATED AND EFFECTIVE THIS 14th DAY OF SEPTEMBER 2011.

Mayor

ATTEST:

City Clerk

RESOLUTION NO. _____

A RESOLUTION ACCEPTING THE FOLLOWING RIGHT OF WAY DEDICATION DEED:

Grantor

KCJ Properties, LLC

Purpose

A variable width right-of-way dedication along Davidson Street for public sidewalk installation as part of the new Albany Eyecare Center development.

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

DATED AND EFFECTIVE THIS 14TH DAY OF SEPTEMBER 2011.

Mayor

ATTEST:

City Clerk

DEDICATION DEED

KNOW ALL MEN BY THESE PRESENTS, that, **KCJ Properties, LLC, an Oregon Limited Liability Corporation**, hereinafter referred to as the Grantor, does dedicate to the City of Albany for street and utility right-of-way purposes, all that real property situated in Benton County, State of Oregon, described as follows:

See legal description on attached Exhibit A, and maps on attached Exhibits B and C. Exhibits A, B, and C are attached herewith and made a part hereof this agreement.

and covenants that the Grantor is the owner of the above described property free of all encumbrances save and except reservations in patents and easements of record, and will warrant and defend the same against all persons who may lawfully claim the same.

The deed granted herein 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. Nothing herein shall reduce or limit grantors obligation to pay any costs or assessments which may result from the improvements.

IN WITNESS WHEREOF, the Grantor has hereunto affixed their signature this 19 day of August, 2011.

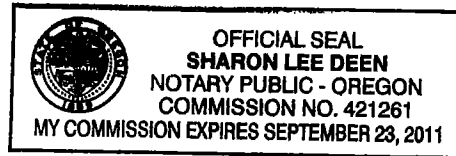
GRANTOR: KCJ Properties, LLC, an Oregon Limited Liability Corporation

Kevin Blair
Kevin Blair, Member

STATE OF OREGON)
County of LINN) ss.

Personally appeared the above named **Kevin Blair**, member, KCJ Properties, LLC, an Oregon Limited Liability Corporation, and acknowledged the foregoing instrument to be his voluntary act and deed, before me this 19 day of August, 2011.

Sharon Lee Deen
Notary Public for Oregon
My Commission Expires: 9-23-2011

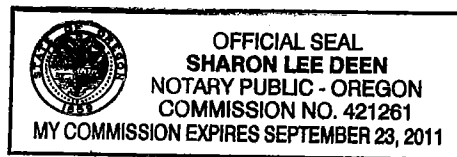


Christopher Berry
Christopher Berry, Member

STATE OF OREGON)
County of LINN) ss.

Personally appeared the above named **Christopher Berry**, member, KCJ Properties, LLC, an Oregon Limited Liability Corporation, and acknowledged the foregoing instrument to be his voluntary act and deed, before me this 19 day of August, 2011.

Sharon Lee Deen
Notary Public for Oregon
My Commission Expires: 9-23-2011

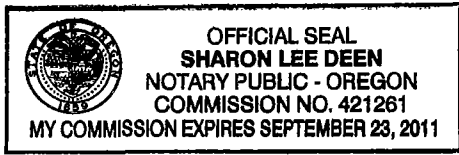


Jonathan Berry
Jonathan Berry, Member

STATE OF OREGON)
County of Linn) ss.

Personally appeared the above named **Jonathan Berry**, member, KCJ Properties, LLC, an Oregon Limited Liability Corporation, and acknowledged the foregoing instrument to be his voluntary act and deed, before me this 19 day of August, 2011.

Sharon Lee Deen
Notary Public for Oregon
My Commission Expires: 9-23-2011



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 _____ 2011.

City Manager

ATTEST:

City Clerk

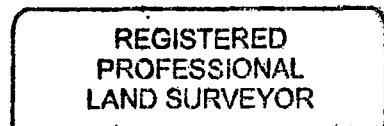
Exhibit A

RIGHT-OF-WAY DEDICATION LEGAL DESCRIPTION

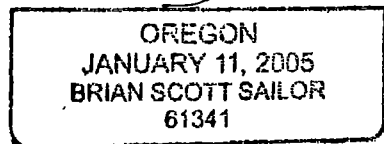
A variable width right-of-way dedication located in the Southeast Quarter of Section 8 of Township 11 South, Range 3 West of the Willamette Meridian, City of Albany, Linn County, and being more particularly described as follows:

Beginning at the northeast corner of Parcel 2 of Partition Plat 2006-91, a Partition Plat of record in Linn County, Oregon, said point also being on the westerly right-of-way line of SE Davidson Street; thence along said westerly right-of-way South 01°47'53" East 88.26 feet; thence continuing along said westerly right-of-way South 01°02'50" West 71.37 feet; thence continuing along said westerly right-of-way along a 375.00 foot radius curve to the right 28.05 feet (the long chord of which bears South 03°29'11" West 28.04 feet to the southeast corner of the aforementioned Parcel 2 of Partition Plat 2006-91; thence along the south line of said Parcel 2 South 88°13'24" West 2.77 feet; thence along a 404.59 foot radius curve to the left 44.14 feet (the long chord of which bears North 01°26'35" East 44.11 feet); thence North 00°04'12" West 46.71 feet; thence North 21°46'35" West 10.82 feet; thence North 00°04'12" West 25.19 feet; thence North 21°49'28" East 10.73 feet; thence North 00°04'12" West 51.67 to the north line of said Parcel 2; thence along the north line of said Parcel 2 South 89°24'33" East 1.69 feet to the point of beginning.

The above described property contains 747 square feet of land, more or less. The basis of bearings for the above description is from Partition Plat 2006-91, recorded as Linn County Survey No. 24419.

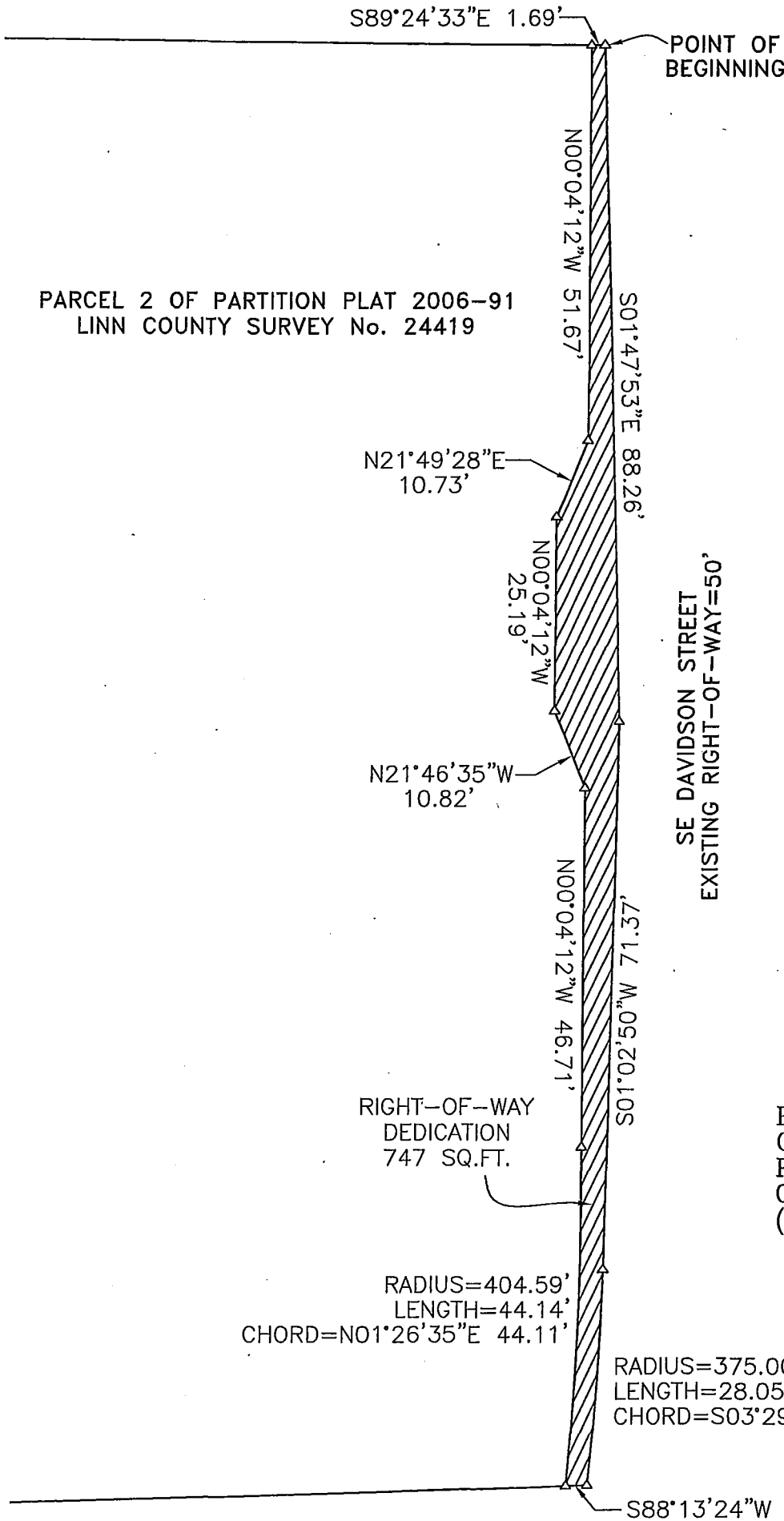


Brian Scott Sailor

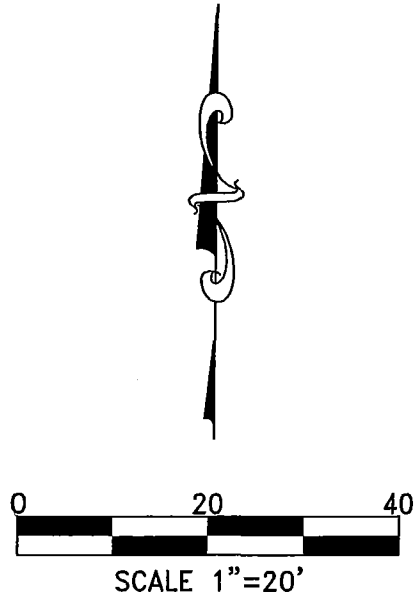


SKETCH OF VARIABLE WIDTH RIGHT-OF-WAY DEDICATION

LOCATED IN THE SE 1/4 OF SECTION 8, TOWNSHIP 11 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN, CITY OF ALBANY, LINN COUNTY, OREGON



PARCEL 2 OF PARTITION PLAT 2006-91
LINN COUNTY SURVEY No. 24419



SE DAVIDSON STREET
EXISTING RIGHT-OF-WAY=50'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Brian Scott Sailor

OREGON
JANUARY 11, 2005
BRIAN SCOTT SAILOR
61341

EXPIRES 6/30/12

PREPARED BY
COLE SURVEYING, LLC
P.O. BOX 1211
CORVALLIS, OREGON 97339
(541) 929-5500

RADIUS=404.59'
LENGTH=44.14'
CHORD=NO1°26'35"E 44.11'

RADIUS=375.00'
LENGTH=28.05'
CHORD=S03°29'11"W 28.04'

Exhibit B



TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: *Edward Boyd*
Edward Boyd, Chief of Police

DATE: August 31, 2011, for September 14, 2011, City Council Meeting

SUBJECT: Full On-Premises Sales, Commercial Establishment, Change Ownership, Liquor License Application for Relf x 2 Enterprises LLC, D/B/A Riley's Billiards, Bar & Grill, 124 Broadalbin Street SW.

Action Requested:

I recommend the Full On-Premises Sales, Commercial Establishment, Change Ownership, Liquor License Application for Relf x 2 Enterprises LLC, D/B/A Riley's Billiards, Bar & Grill, be approved.

Discussion:

Walter and Janet Relf on behalf of Relf x 2 Enterprises LLC, D/B/A Riley's Billiards, Bar & Grill, has applied for a Full On-Premises Sales, Commercial Establishment, Change Ownership liquor license. Based on a background and criminal history investigation through Albany Police Department records, the applicant has no criminal record.

Budget Impact:

None.

MR



TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: *Edward Boyd*
Edward Boyd, Chief of Police

DATE: August 31, 2011, for September 14, 2011, City Council Meeting

SUBJECT: Limited On-Premises Sales, New Outlet Liquor License Application for Yummy House Restaurant, Inc., D/B/A Yummy House, 1644 Pacific Boulevard SE.

Action Requested:

I recommend the Limited On-Premises Sales, New Outlet Liquor License Application for Yummy House Restaurant, Inc., D/B/A Yummy House, be approved.

Discussion:

Yan Mai and Huo Li, on behalf of Yummy House Restaurant, Inc., D/B/A Yummy House, have applied for a Limited On-Premises Sales, New Outlet liquor license. Based on a background and criminal history investigation through Albany Police Department records, the applicant has no criminal record.

Budget Impact:

None.

MR



TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Stewart Taylor, Finance Director
Diane Wood, Purchasing Coordinator *STW DW*

DATE: September 7, 2011, for the September 14, 2011, City Council Meeting

SUBJECT: Interlocal Contract for Cooperative Purchasing through HGACBuy

RELATES TO STRATEGIC PLAN THEME: • An Effective Government

Action Requested:

City Council approval to establish an Interlocal Contract (ILC) with the Houston-Galveston Area Council (H-GAC) for the purpose of cooperative purchasing for fiscal year 2011-2012, with automatic annual review thereafter.

Discussion:

The City of Albany utilizes cooperative procurements for both time and budget savings. ORS 279A.205-225 provides state and local government authority to use cooperative procurements as a method to purchase goods and services.

The Texas Interlocal Cooperation Act and the Houston-Galveston Area Council (H-GAC) established the HGAC Cooperative Purchasing Program, HGACBuy, www.hgacbuy.org. The Program gives non-profits and local government access to competitively bid contracts for: general purpose and emergency vehicles, communications equipment and services, grounds facilities and parks equipment, public works equipment, consulting services, emergency preparedness and disaster recovery, and energy and fleet fuel. HGACBuy provides Interstate Cooperative procurements and the contracts established by HGACBuy meet the requirements outlined in ORS 279A.220 for City of Albany use.

Currently, Albany Fire Department is researching options to purchase fire apparatus. HGACBuy has several vendor contracts that supply emergency vehicles and fire service apparatus. An Interlocal contract with HGACBuy offers the Fire Department, as well as other City departments, additional purchasing options and potential cost savings.

Budget Impact:

No additional budget impact.

DW
Attachment



INTERLOCAL CONTRACT
FOR COOPERATIVE PURCHASING

ILC
No.: _____
Permanent Number assigned by H-GAC

THIS INTERLOCAL CONTRACT (Contract), made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 91, Texas Government Code (the Act), by and between the Houston- Galveston Area Council, hereinafter referred to as "H-GAC," having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027, and * _____, a local government, a state agency, or a non-profit corporation created and operated to provide one or more governmental functions and services, hereinafter referred to as End User, having its principal place of business at * _____

WITNESSETH

WHEREAS , H-GAC is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

WHEREAS , pursuant to the Act, H-GAC is authorized to contract with eligible entities to perform governmental functions and services, including the purchase of goods and services; and

WHEREAS , in reliance on such authority, H-GAC has instituted a cooperative purchasing program under which it contracts with eligible entities under the Act; and

WHEREAS, End User has represented that it is an eligible entity under the Act, that its governing body has authorized this Contract on * _____ (Date), and that it desires to contract with H-GAC on the terms set forth below;

NOW, THEREFORE , H-GAC and the End User do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY

The End User represents and warrants to H-GAC that (1) it is eligible to contract with H-GAC under the Act because it is one of the following: a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas or any other state), or a combination of two or more of those entities, a state agency (an agency of the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and (2) it possesses adequate legal authority to enter into this Contract.

ARTICLE 2: APPLICABLE LAWS

H-GAC and the End User agree to conduct all activities under this Contract in accordance with all applicable rules, regulations, and ordinances and laws in effect or promulgated during the term of this Contract.

ARTICLE 3: WHOLE AGREEMENT

This Contract and any attachments, as provided herein, constitute the complete contract between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

ARTICLE 4: PERFORMANCE PERIOD

The period of this Contract shall be for the balance of the fiscal year of the End User, which began * _____ and ends * _____. This Contract shall thereafter automatically be renewed annually for each succeeding fiscal year, provided that such renewal shall not have the effect of extending the period in which the End User may make any payment due an H-GAC contractor beyond the fiscal year in which such obligation was incurred under this Contract.

ARTICLE 5: SCOPE OF SERVICES

The End User appoints H-GAC its true and lawful purchasing agent for the purchase of certain products and services through the H GAC Cooperative Purchasing Program. End User will access the Program through HGACBuy.com and by submission of any duly executed purchase order, in the form prescribed by H-GAC to a contractor having a valid contract with H-GAC. All purchases hereunder shall be in accordance with specifications and contract terms and pricing established by H-GAC. Ownership (title) to products purchased through H-GAC shall transfer directly from the contractor to the End User.

(over)

ARTICLE 6: PAYMENTS

H-GAC will confirm each order and issue notice to contractor to proceed. Upon delivery of goods or services purchased, and presentation of a properly documented invoice, the End User shall promptly, and in any case within thirty (30) days, pay H-GACs contractor the full amount of the invoice. All payments for goods or services will be made from current revenues available to the paying party. In no event shall H-GAC have any financial liability to the End User for any goods or services End User procures from an H-GAC contractor.

ARTICLE 7: CHANGES AND AMENDMENTS

This Contract may be amended only by a written amendment executed by both parties, except that any alterations, additions, or deletions to the terms of this Contract which are required by changes in Federal and State law or regulations are automatically incorporated into this Contract without written amendment hereto and shall become effective on the date designated by such law or regulation.

H-GAC reserves the right to make changes in the scope of products and services offered through the H-GAC Cooperative Purchasing Program to be performed hereunder.

ARTICLE 8: TERMINATION PROCEDURES

H-GAC or the End User may cancel this Contract at any time upon thirty (30) days written notice by certified mail to the other party to this Contract. The obligations of the End User, including its obligation to pay H-GACs contractor for all costs incurred under this Contract prior to such notice shall survive such cancellation, as well as any other obligation incurred under this Contract, until performed or discharged by the End User.

ARTICLE 9: SEVERABILITY

All parties agree that should any provision of this Contract be determined to be invalid or unenforceable, such determination shall not affect any other term of this Contract, which shall continue in full force and effect.

ARTICLE 10: FORCE MAJEURE

To the extent that either party to this Contract shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed; provided, however, force majeure shall not excuse an obligation solely to pay funds. Determination of force majeure shall rest solely with H-GAC.

ARTICLE 11: VENUE

Disputes between procuring party and Vendor are to be resolved in accord with the law and venue rules of the State of purchase.

THIS INSTRUMENT HAS BEEN EXECUTED IN TWO ORIGINALS BY THE PARTIES HERETO AS FOLLOWS:

*

Name of End User (local government, agency, or non-profit corporation)

*

Mailing Address

*

City State ZIP Code

*By: _____
Signature of chief elected or appointed official

*

Typed Name & Title of Signatory Date

Houston -Galveston Area Council
3555 Timmons Lane, Suite 120, Houston, TX 77027

By: _____
Executive Director

Attest: _____
Manager

Date: _____

*Denotes required fields

rev. 03/11



TO: Albany City Council
VIA: Wes Hare, City Manager *WH*
FROM: Laura Hyde, Executive Assistant to the City Manager
DATE: September 6, 2011, for the September 14, 2011, City Council Meeting
SUBJECT: League of Oregon Cities Conference: Designation of Voting Delegate and Alternate
RELATES TO STRATEGIC PLAN THEME: • An Effective Government

Action Requested:

Designation of a Council member to serve as the Voting Delegate and one as the Alternate for the annual LOC membership meeting on Saturday morning, October 1.

Discussion:

The City just received its notice about designation of a voting delegate, and the League wants the information returned no later than September 16.

Each city is entitled to cast one vote at the LOC business meeting. To do so, a Council member who is registered to attend the LOC Conference must be officially designated to be the City's Voting Delegate and one as an Alternate. Councilors Christman and Johnson are registered to attend.

Budget Impact:

None.