



NOTICE OF PUBLIC MEETING
CITY OF ALBANY
CITY COUNCIL
 Council Chambers
 333 Broadalbin Street SW
 Wednesday, December 14, 2011
 Following ARA Meeting

OUR MISSION IS

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

OUR VISION IS

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

AGENDA

Rules of Conduct for Public 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. SPECIAL PRESENTATION

- a. Homeless Persons' Memorial Day. [Page1]

Action: _____

5. SCHEDULED BUSINESS

a. Business from the Public

b. Adoption of Resolutions

- 1) Establishing a procedure to stabilize land lease rates at the Albany Municipal Airport. [Pages 2-3]

Action: _____ RES. NO. _____

- 2) ST-09-03, Oak Street Local Improvement District, declaring a necessity that the City acquire certain real property for the purpose of creating and improving public right-of-way. [Pages 4-11]

Action: _____ RES. NO. _____

c. Adoption of Consent Calendar

1) Approval of Minutes

- a) November 7, 2011, City Council Work Session. [12-17]

- 2) Accepting an easement for water transmission main crossings of the Willamette River. [Pages 18-26]

RES. NO. _____

- 3) Authorizing the Public Works Director to enter into a purchase agreement to acquire right-of-way for Cameron Street south of Windy Avenue. [Pages 27-32]

- 4) Allowing Coast to Valley Express access to a bus stop at the Albany Station. [Page 33]

- 5) Approving a change of owner liquor license for SCH Ventures, LLC, D/B/A Rhythm and Brews Café, 229 Third Street SW. [Page 34]

Action: _____

d. Reports

- 1) Delinquent assessments. [Pages 35-36]

Action: _____

- 2) 53rd Avenue road extension and bridge improvements. [Pages 37-38]

Action: _____

- 3) W-01-04, Albany-Millersburg Water Treatment Plant, payment of CH2M Hill Engineers for settlement support. [Pages 39-42]

Action: _____

6. BUSINESS FROM THE COUNCIL
7. NEXT MEETING DATE: Work Session January 9, 2012
Regular Session January 11, 2012
8. ADJOURNMENT

City of Albany Web site: www.cityofalbany.net

The location of the meeting/hearing is accessible to the disabled. If you have a disability that requires accommodation, please notify the Human Resources Department in advance by calling (541) 917-7500.

P R O C L A M A T I O N

HOMELESS PERSONS' MEMORIAL DAY

DECEMBER 21, 2011

WHEREAS, every member of society, including individuals experiencing homelessness, deserves the dignity of safe, decent, accessible, and affordable housing; and

WHEREAS, winter poses extreme hardship for inadequately housed low-income men, women, and children in Albany; and

WHEREAS, in this season of generosity and sharing, citizens of Albany are encouraged to commit themselves to promoting compassion and concern for all people, especially those who are poor and homeless; and

WHEREAS, in remembering those who have died without homes, the cause of ending homelessness remains urgent to prevent such deaths in the future; and

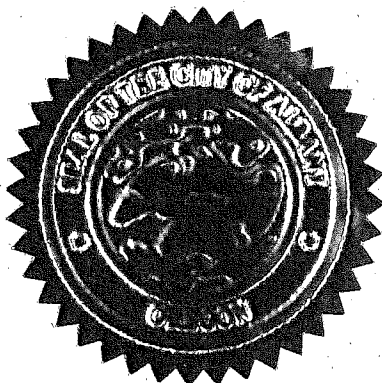
WHEREAS, December 21 has been designated National Homeless Persons' Memorial Day by the National Coalition for the Homeless and the National Health Care for the Homeless Council and is recognized by cities nationwide.

NOW, THEREFORE, I, Sharon Konopa, Mayor of the City of Albany, Oregon, do hereby proclaim December 21, 2011, as

THIRD ANNUAL HOMELESS PERSONS' MEMORIAL DAY

in Albany, Oregon, in recognition of the people who have died on our streets, in our emergency shelters, and in condemned or abandoned properties, from ailments or conditions directly related to homelessness. I hereby ask all citizens to take a moment of silence in remembering those who have died homeless and encourage our citizens to support local efforts to eliminate homelessness here.

In witness whereof, I have hereunto placed my hand and caused the seal of the City of Albany to be affixed this 16th day of December 2011.



Sharon Konopa, Mayor



TO: Albany City Council

VIA: Wes Hare, City Manager
Mark Shepard, Public Works Director *MWS*

FROM: Chris Bailey, Airport and Transit Manager

DATE: November 29, 2011, for the December 14, 2011, City Council Meeting

SUBJECT: Stabilizing Albany Municipal Airport Land Lease Rates

RELATES TO STRATEGIC PLAN THEME: ● Effective Government

Action Requested:

Staff recommends City Council approve the recommendation of the Airport Advisory Commission to stabilize land lease rates at the Albany Municipal Airport.

Discussion:

The City leases land at the Airport to private parties to construct hangars for the storage of aircraft. There are currently 17 land leases at the Airport. The annual lease amount is based on a charge per square foot and each lease includes a clause for the annual lease payment to increase with the CPI-U (Consumer Price Index-All Urban Consumers). These leases were executed at different times and were not based on a single land lease rate when they were executed. The result is that now virtually every lease is charged a different rate per square foot.

The Federal Aviation Administration requires that airport sponsors who lease land to private parties must not discriminate in fees or lease rates charged to airport tenants. While it is possible to set different land lease rates based on the amenities available in the various locations around the airport, it is against FAA policy to charge different land lease rates when there is no valid difference in the quality of the land leased.

In order to bring our lease rates into compliance with FAA regulations, and to simplify the billing process, staff and the Airport Advisory Commission are recommending that Council pass the attached resolution. This resolution will have the effect of creating one lease rate by holding those at the highest rate (\$0.254 per square foot) steady while all other rates are adjusted annually according to the lease agreements until they reach the highest rate. Assuming an annual CPI-U increase of two percent, it will take eight years for the lowest lease rate to reach \$0.254 per square foot. Additionally, any new leases would be established at the \$0.254 per square foot rate. Once all leases reach that rate, they will all be adjusted by the same amount annually according to the lease agreements.

Budget Impact:

Once all lease rates are based on \$0.254 per square foot, land lease revenue for the existing leases will increase by \$1,800 annually over Fiscal Year 2011 amounts.

CB:prj

RESOLUTION NO. _____

A RESOLUTION ESTABLISHING THE PROCEDURE TO STABILIZE LAND LEASE RATES AT THE ALBANY MUNICIPAL AIRPORT

WHEREAS, the City of Albany maintains the Albany Municipal Airport; and

WHEREAS, the Albany City Council has established the Airport Advisory Commission to advise the Council concerning the efficient management, operation, and development of the Airport; and

WHEREAS, the Airport Advisory Commission recommends establishing one rate for land leases at the Albany Municipal Airport; and

WHEREAS, the Federal Aviation Administration requires that airport rates and charges be fair, reasonable, and not unjustly discriminatory.

NOW, THEREFORE, BE IT RESOLVED that the land lease rates at the Albany Municipal Airport will be equalized using the following procedure:

- (1) The highest lease rate will remain steady at \$0.254 per square foot per year until all leases are stabilized at an equal rate.
- (2) All other lease rates will be adjusted annually in accordance with their lease agreements until such time as they reach \$0.254 per square foot per year, at which time they will remain at that rate until all leases are stabilized at that rate.
- (3) All land lease rates will be adjusted once annually using the CPI-U published in January for Portland, Oregon, and effective February 1.
- (4) When all land lease rates reach \$0.254 per square foot per year, CPI-U adjustments will be in effect for all land lease rates according to the lease agreements.
- (5) Any new land lease will be set at \$0.254 per square foot per year, or at the current land lease rate, whichever is higher.

DATED AND EFFECTIVE THIS 14TH DAY OF DECEMBER 2011.

Mayor

ATTEST:

City Clerk



TO: Albany City Council

VIA: Wes Hare, City Manager
Mark Shepard, P.E., Public Works Director *MWS*

FROM: Jeff Blaine, P.E., Assistant Public Works Director/City Engineer *JB*

DATE: December 8, 2011, for the December 14, 2011, City Council Meeting

SUBJECT: ST-09-03, Oak Street Local Improvement District (LID)
Resolution Authorizing Eminent Domain Proceedings

Action Requested:

Staff requests that the Council adopt the accompanying resolution authorizing the City to initiate eminent domain proceedings including condemnation of land and a motion for immediate possession to address the immediate needs for infrastructure improvements for the Oak Street improvement project.

Discussion:

Background

At the June 9, 2010, City Council Meeting, Council passed Resolution 5911 forming a Local Improvement District (LID) for construction of the Oak Street Improvement Project. The Oak Street Improvement Project includes street improvements between Queen Avenue and Ninth Avenue and a "punch through" of Oak Street between Ninth Avenue and Pacific Boulevard. Both the street improvements and the punch through are identified in the City's adopted Transportation System Plan as required projects.

The TSP names these required projects on Oak Street as L30 and L58, as shown in Exhibits A, B, and C. In general, the projects are required in order to allow commercial development in the area and for the street system to function adequately and safely through year 2030. Without these improvements, any significant additional development in the area would create an unsafe traffic condition where increased accidents and congestion would be expected beyond acceptable levels. As a result, in order to receive land use approval for a development proposal in the area both the City and the Oregon Department of Transportation (ODOT) would require these improvement projects, as was required of the Lowe's development. Additionally, although there are two distinct projects in the TSP, if the punch through (L30) were to be constructed independently, the northern most improvements of L58 would also need to be constructed in order for the Oak Street and Ninth Avenue intersection to function properly.

City staff initiated design of the Oak Street improvements following formation of the LID. The design has now progressed to a point where staff can clearly define the locations of required right-of-way dedications. In addition to the recently purchased property for the punch through, the project requires three right-of-way dedications, two of which have already been addressed. The one remaining right-of-way dedication is required from Ping's Garden at the southwest corner of the intersection of Ninth Avenue and Oak Street. The required dedication is approximately 2,200 square feet and is described on Exhibits D and E.

Immediate Need

In order to meet the needs of the community and the anticipated commercial development in the area, the City may need to obtain an Order of Immediate Possession for the right-of-way to facilitate timely construction. City staff anticipates completing design and putting the Oak Street LID project out to bid in spring 2012. All required rights-of-way should be in-hand prior to publicly bidding the project.

Negotiations

When the Oak Street LID was initially formed, Ping's representatives agreed to a proposed assessment methodology whereby the Ping family agreed to dedicate the necessary right-of-way for the improvements without charge and, through negotiations with the Lowe's development team that their assessment would be substantially lower than it would otherwise be for all the improvements being undertaken. The City preliminarily capped Ping's assessment upon their agreement to dedicate the land in question and because the Lowe's development team agreed to essentially pick up the remaining share of the improvement costs.

Although City staff continues to negotiate with the Ping family, we have not yet obtained the dedication as promised at the time of LID formation. City staff is optimistic that the dedication will be received as originally promised and that condemnation proceedings will not be necessary. However, at this point in the project schedule it is necessary that staff receive authorization to initiate eminent domain proceedings, including condemnation of land and a motion for immediate possession, to ensure the project schedule is not compromised by a lack of required right-of-way.

Budget Impact:

Initiation of eminent domain proceedings, including condemnation of land and a motion for immediate possession to address the immediate needs for infrastructure improvements for the Oak Street LID project, will require expenditures for legal proceedings. These costs will become a cost of the project that can be fairly apportioned among all benefitted property owners within the LID boundary.

JJB:prj

Attachments (6)

Exhibit "A"

(Right-of-Way Dedication)

A portion of that Lee Tract described by deed recorded in MF Volume 791, Page 689, Linn County, Oregon Deed Records on March 11, 1996, said portion being more particularly described as follows:

Beginning at the northeast corner of said Lee Tract, said corner being at the intersection of the westerly right-of-way line of Oak Street with the southerly right-of-way line of 9th Avenue; thence South $06^{\circ}22'11''$ East, along said westerly right-of-way line of Oak Street, 295.20 feet to the southeast corner of said Lee Tract; thence South $81^{\circ}45'00''$ West, along the south line of said Lee Tract, 1.50 feet; thence North $06^{\circ}22'11''$ West, parallel with said westerly right-of-way line, 136.11 feet; thence along the arc of a 354.44 foot radius curve to the left (the long chord of which bears North $11^{\circ}51'46''$ West 74.95 feet), a distance of 75.09 feet; thence North $17^{\circ}55'55''$ West 43.95 feet; thence North $37^{\circ}01'03''$ West 25.15 feet; thence North $21^{\circ}30'58''$ West 18.48 feet to a point on said southerly right-of-way line of 9th Avenue; thence North $81^{\circ}45'00''$ East, along said southerly right-of-way line, 33.49 feet to the point of beginning.

The bearings and right-of-way determination used in this description are based upon County Survey Number 25294, as filed in the office of the Linn County Surveyor.

EXHIBIT B
RIGHT-OF-WAY DEDICATION
PORTION OF LEE TRACT
LOCATED IN
NE 1/4 SEC. 7, T. 11S., R. 3 W., W.M.
CITY OF ALBANY, LINN COUNTY, OREGON

9TH AVENUE

66' R.O.W.

POINT OF BEGINNING

DEDICATION AREA:
2,149.03 S.F.

OAK STREET

60' R.O.W.

R: 354.44'
 L: 75.09'
 CH: N11°51'46"W 74.95'
 DELTA: 12°08'19"

LEE TRACT
 MF. VOL. 791, PG. 689

1.50'
 S81°45'00"W

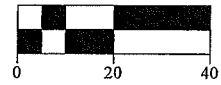
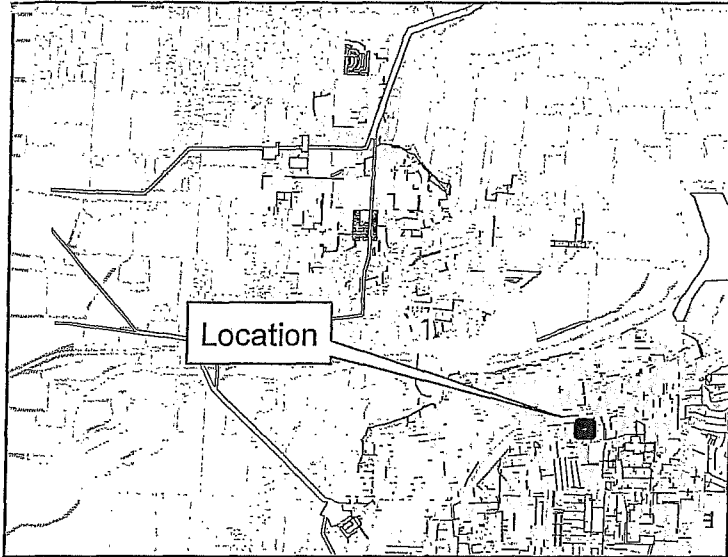


EXHIBIT C

11S03W07AD00100

Right-Of-Way Dedication
Portion of Lee Tract



Geographic Information Services

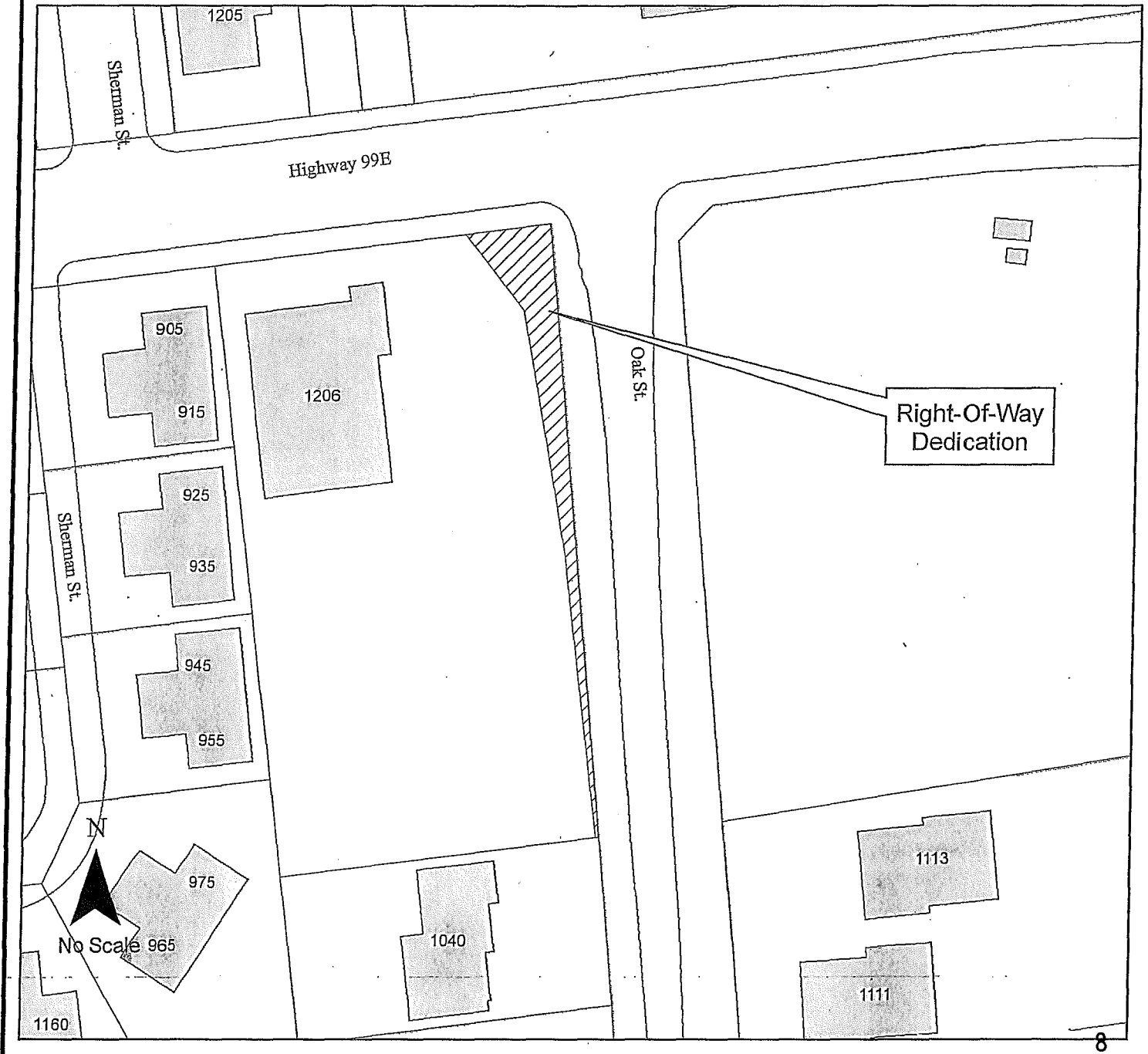


EXHIBIT D

Albany TSP
February 2010

Project #: 6497.0
Page 88


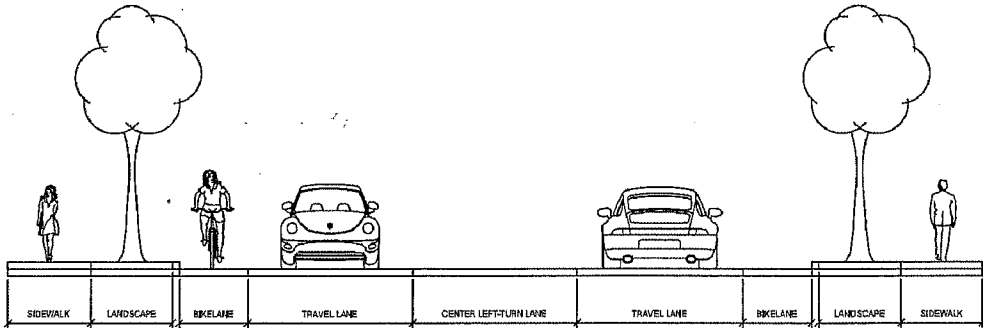
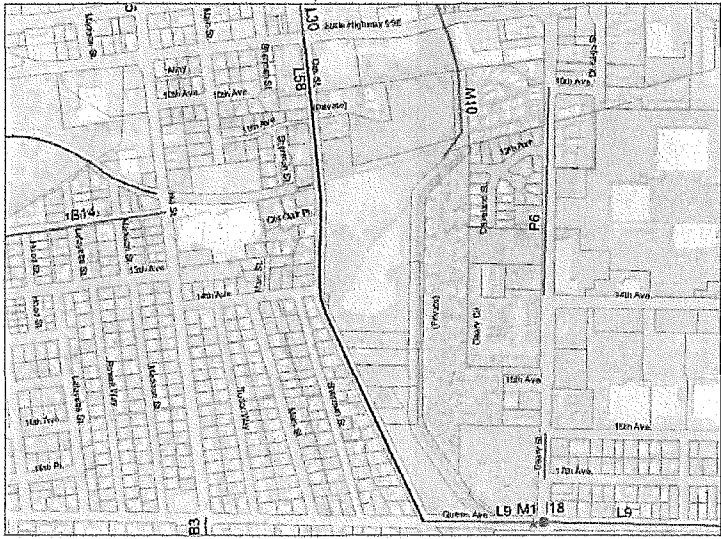
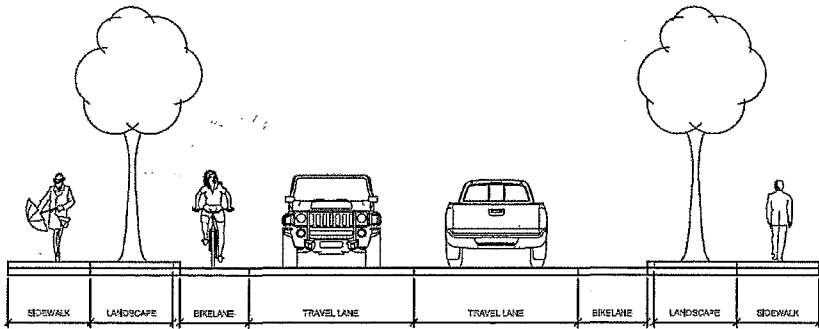
Project #: L30		Oak Street			
Description: Extend Oak Street north from 9th Street to Pacific Boulevard including sidewalk, curb, gutter, and bike lanes. Install traffic signals at 9th Street/Oak Street and Pacific Boulevard/Oak Street when warranted. Construct a 150-foot northbound right-turn lane on Oak Street at 9th Street.					
Category: New Road or Alignment		Classification: Minor Collector		Agency Coordination: ODOT	Time Frame: Short-term
Project Costs:	Const./Eng.	ROW	Other	Total Cost	<i>SDC Eligible:</i>
	\$1,005,000	\$750,000	\$75,000	\$1,830,000	100%
Project Goals Met:					
Efficiency <input checked="" type="checkbox"/>	Capacity <input checked="" type="checkbox"/>	Safety <input type="checkbox"/>	Transit <input type="checkbox"/>	Ped/Bike <input checked="" type="checkbox"/>	Livability <input checked="" type="checkbox"/>
Project Location:			Related Projects: L58		
					
Illustrative Section:					
					

EXHIBIT E

Albany TSP
February 2010

Project #: 6497.0
Page 116

Project #: L58		Oak Street			
Description: Add sidewalk, curb, gutter, and bike lanes from 9th Avenue to Queen Avenue.					
Category: Urban Upgrade		Classification: Minor Collector		Agency Coordination:	Time Frame: Short-term
Project Costs:	Const./Eng.	ROW	Other	Total Cost	SDC Eligible:
	\$2,394,000	\$51,000	\$0	\$2,445,000	65%
Project Goals Met:					
Efficiency <input type="checkbox"/>	Capacity <input type="checkbox"/>	Safety <input checked="" type="checkbox"/>	Transit <input type="checkbox"/>	Ped/Bike <input checked="" type="checkbox"/>	Livability <input checked="" type="checkbox"/>
Project Location:			Related Projects: L9, L30, I32		
					
Illustrative Section:					
					

RESOLUTION NO. _____

A RESOLUTION DECLARING A NECESSITY THAT THE CITY ACQUIRE CERTAIN REAL PROPERTY LOCATED IN THE CITY OF ALBANY CITY LIMITS FOR THE PURPOSE OF CREATING AND IMPROVING PUBLIC RIGHT-OF-WAY.

WHEREAS, the components of the Oak Street Local Improvement District (LID) project have been identified in the City's adopted Transportation System Plan as necessary to support new development and meet efficiency, capacity, and safety standards; and

WHEREAS, economic development in the area requires the infrastructure improvements identified in the Oak Street LID project; and

WHEREAS, the Oak Street LID project is within Albany's Urban Growth Boundary and within the City Limits; and

WHEREAS, the proposed improvements will create transportation infrastructure necessary for development of the area in the vicinity of the Oak Street LID project as called for in the Development Code and Comprehensive Plan; and

WHEREAS, the Oak Street LID project has been coordinated with Oregon Department of Transportation (ODOT) and is being designed to meet ODOT requirements; and

WHEREAS, there is an immediate need to commence the Oak Street LID project to meet commercial development and community needs within the area.

NOW, THEREFORE, BE IT RESOLVED that, based on the recitals set forth above which are fully incorporated herein, and the memorandum of City Engineer Jeff Blaine, dated December 8, 2011, which is attached hereto and incorporated herein as Exhibit "1" and the information provided by staff at the City Council Meeting held on December 14, 2011, the City of Albany and staff be and are hereby authorized to continue to negotiate an agreement with the owners and other persons of interest in the real property described in Exhibit "2", located in the City of Albany, Linn County, Oregon; and in the event that no satisfactory agreement can be reached, then the City of Albany be and the same hereby are directed and authorized to commence and prosecute to final determination such proceedings as may be necessary to acquire said real property and interest therein, and that upon the filing of such proceeding, possession of the real property and interest therein may be taken immediately. The subject property is necessary for creation and improvement of public right-of-way in connection with the Oak Street LID project, and the proposed use is located in a manner that will be most compatible with the greatest public good and the least private injury.

DATED AND EFFECTIVE THIS 14TH DAY OF DECEMBER 2011.

Mayor

ATTEST:

City Clerk

CITY OF ALBANY
CITY COUNCIL (WORK SESSION)
Municipal Court Room
Monday, November 7, 2011
4:00 p.m.

MINUTES

CALL TO ORDER

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

ROLL CALL

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

Councilors absent: None.

BUSINESS FROM THE PUBLIC

There was no business from the public.

WATER SERVICE FOR PROPERTY OUTSIDE CITY LIMITS

Assistant Public Works Director/City Engineer Jeff Blaine said the City has a request for water service from Pamela Hutchinson based on problems with her well, as detailed in the staff report. The address is 420 Clover Ridge Road NE, which is outside the city limits but inside the urban growth boundary (UGB). The Albany Municipal Code (AMC) allows such a request to be granted with City Council approval. If the Council agrees to the request then staff will have the requestor sign an irrevocable agreement to annex and pay connection fees, and they will start receiving monthly water bills. The annexation would go to the May 2012 election.

Councilor Bessie Johnson joined the meeting at 4:01 p.m.

Blaine explained that the two fee components are System Development Charges (SDCs) and water connection charges, whereby the customer participates in their fair share of the construction of the water line across their frontage.

Community Development Director Greg Byrne said that staff is in the process of arranging for six properties that have signed irrevocable agreements to be on the ballot for the May 2012 election.

Discussion followed about the history of island annexations in Albany and recent decisions by the Council not to pursue island annexations. The six properties mentioned by Byrne are an exception because they have signed irrevocable agreements.

MOTION: Councilor Floyd Collins moved to support the request for City water service for 420 Clover Ridge Road and Councilor Ray Kopczynski seconded it.

Johnson said it might be a good idea to ask adjacent properties if they would like to annex.

VOTE: A vote was taken on the motion and it passed 6-0.

MAIN STREET REHABILITATION

Transportation Systems Analyst Ron Irish said that with the last adoption of the Capital Improvement Program (CIP) the Council asked staff for more information about the Main Street roundabout. The question for the Council today is, is this a good time to proceed, or should the project be delayed.

Irish put up an overhead titled "Main Street Project Preliminary Design." A second overhead shows the roundabout concept. Both overheads are in the agenda packet. Irish said the neighborhood prefers a roundabout to a signalized intersection. This Main Street roundabout would be smaller than the North Albany roundabout.

Irish reviewed the four questions in the staff report.

Is the street system near the Main Street/Salem Avenue intersection nearing failure?

Irish said traffic fluctuates depending on what is happening with the highway system. In the early 1990s there was a lot of congestion but then when the couplet went in, the volume on Main Street dropped. It gradually picked up overtime and dropped a second time with the interchange improvements at the train station. Since then it has gradually picked up again, along with the rate of accidents. The 1997 Transportation System Plan (TSP) analysis predated the couplet and train station, and showed Main Street as having the sixth highest crash rate. In 2010 the TSP

identified corridors and determined that this is one of four that have level of service "F." Today there is significant traffic volume and the crash rate has dropped; but is starting to pick up again and the average is now 4.

Collins asked, under both scenarios (the signalized intersection or the roundabout), does the church need to be moved? Irish said no, however the function of the church depends on how it is accessed. The building itself is not in jeopardy, though.

Given the cost of the project, is it really the most important capacity project on the street system?

Irish said, it depends on how different projects are funded. Main Street is mainly funded through SDCs. If the project isn't built it would free up SDC money, but the other projects that use the money would have to be SDC eligible. It could not be used for Jackson Street or Hill Street, for example. Staff evaluated other short term projects and determined that Main Street is the most important, and there would still be SDC money left for other projects.

Would ODOT have extra incentive to add capacity to the highway system if this project was delayed for a few years?

Irish said that if the City did a project with added capacity, it might delay work that ODOT might have otherwise done along the highway system. Yet as he looked into it he saw nothing in ODOT's plans for the next four years. ODOT knows of Albany's TSP project and since it would help solve the problem less expensively than if ODOT did it, Irish feels they would look to the City to do ours first.

Irish said that ODOT is revising their performance standards. He showed an overhead from ODOT titled "Table 6, Volume to Capacity Ratios" (see agenda file) and explained how ODOT measures intersections. Under the new rules the ratio is going up, and changing the table changes what ODOT considers as "failing". They are accepting more congestion as of January 1, 2012. Irish used Walmart as an example of how the new rules would have changed their requirements. Congestion will get worse and by definition, it will be acceptable to ODOT and will not trigger an improvement. So the answer to the question of whether doing this project would be an incentive for ODOT to add capacity to the highway system is no, because ODOT is changing Table 6.

Collins said that throughout the TSP process, Lyons Street, Ellsworth Street, and Highway 20 have remained a problem. ODOT has not identified a fix and this project can't get into ODOT's CIP until they identify it as a problem. Collins wants to keep it on ODOT's radar and have them at least acknowledge it so that it will eventually get moved into their CIP.

Collins noted that the changes to Table 6 will also impact land use. He wants Albany to put pressure on ODOT to get the corridor done, as it is a critical thoroughfare for this community. Konopa pointed out that with ODOT's higher numbers it will be even more congested before they address it.

Irish is not sure how much leverage the Main Street project will get for the corridor. It would involve Highway 20 to Corvallis so it will be a big project and might not take place until we are designated as a Metropolitan Planning Organization (MPO), which could be few years out. Our leverage increases as an MPO, but Main Street likely will not affect it much.

Shepard said that they can keep pressure on ODOT at staff level and at the Council level, but whether the City does this Main Street project or not, may not have much bearing on ODOT one way or the other.

Collins said, if we have projects we know need to be done, we should do them now because the construction market is favorable. He thinks staff should proceed and get the best bid possible, and keep pressure on ODOT for the corridor study. Also doing this project can demonstrate that Albany did all we can to alleviate highway congestion, so ODOT would next need to do the analysis. He supports the proposed timeframe and funding.

Councilor Jeff Christman asked, where will the additional funds come from? Shepard said they plan to use State Transportation Planning (STP) funds. The SDCs will pay 80%. Albany gets \$400,000 STP funds annually.

Christman said there was a neighborhood meeting in March 2008. He asked, has there been one since then? Irish said no; but if the project stays in the CIP then staff should meet with them again.

Councilor Bill Coburn asked when the latest traffic counts were done. Irish said in 2004. Coburn asked if they should get updated counts, since the paper mill has closed since then. Irish said they will likely get updated counts if they enter into the design phase, though he does not think it is likely the mill closure impacted this intersection much.

Councilor Dick Olsen is concerned that this is in the urban renewal area that the City is trying to improve. He asked, do we want to encourage more traffic when it is close to a residential area? Discussion followed.

Johnson said the downside to the roundabout is the trains. Irish said the crossing on Main Street does not have high volume. In terms of trains, a roundabout versus a signal won't make a difference.

Konopa thinks the roundabout is safer than the current route.

The Council concurred to keep this project in the CIP.

DANGEROUS DOG ORDINANCE REVISIONS

Konopa explained that the group that worked on the dog ordinance was comprised of City staff and three members of the public: Max Frederick, Larry Holverson, and Mark Azavedo.

Konopa said the group has met seven times and put many hours into this ordinance. When they first met they all identified what they wanted the outcome to be; then they went through every word in the existing ordinance. They made sure everyone's outcome was addressed and then went to the public for written comments. Several were submitted and reviewed, and they made yet another revision. Finally, Holverson took the ordinance to the Save Blue Committee for their comments.

Larry Holverson, 608 Alpine Meadows NW, a member of the Dangerous Dog Ordinance work group and the Save Blue Committee, said that no one got everything they wanted. However, the overall product provides for the safety of the community, a workable and manageable ordinance for the Police Department to implement, and options other than death or returning an animal back to its owner. All those items were addressed in the final product. Holverson thinks it will serve the community well. He said that considering the amount of time that went into it, and as polarized as the community was on this issue, they decided not to involve issues regarding the dog Blue in the discussion. But, the dog Blue did keep coming into the conversation. Still, the final product was produced with the dog Blue issue set aside.

Azavedo said he echoes Holverson's comments. This was a diverse group in terms of perspectives. They went through all the ideas and gave them critical thought in a way that allowed for folks to change their position or work toward changing the minds of others. He said, this is a good product and is better than the current ordinance.

Holverson said that one thing that became obvious is that this situation is not unique to Albany. Many cities all over the country wrestle with it. He would not be surprised if they get requests from other cities for copies of the ordinance, if the Council approves it. Holverson said that Police Lieutenant Casey Dorland was at every meeting.

Johnson appreciates the work of the Committee, but she thinks the ordinance is too detailed and thinks the current ordinance was working fine up until a year ago with the Blue incident. She said that some of the items, like assuring a dog won't bite again, are impossible. She has many concerns about the proposed ordinance.

City Attorney Jim Delapoer said that this was difficult. They tried to meet the concerns about preventing euthanasia. From law enforcement's perspective it is cleaner than the current ordinance and it improves animal safety. It removes the need for affidavits and requires that proceedings be taped, but there is also a disclaimer in the event the tape fails. It also requires that if a dog was classified somewhere else as dangerous, that it brings its status with it to Albany and requires the owner to notify the Police Department.

Delapoer said this revised ordinance cleans up the procedures and is stronger than the current ordinance. It allows for a hearings officer but it is still a judicative process. The burden is on the owner to come up with an alternative for a dangerous dog, whereas the current ordinance does not. The definition of dangerous has also been changed so that it is not based on how a doctor treats the bite, but on the size of the wound. There is also more generalized language that allows the hearings officer to have discretion to classify a dog as dangerous or not.

Delapoer said the Council should appoint people to the positions of director and hearings officer who they have confidence in. Dorland agreed with Delapoer that this revised ordinance provides corrections that from law enforcement's perspective, needed to be made.

Johnson listed several concerns with the proposed ordinance. Delapoer said, this ordinance balances human safety and dog rehabilitation. If the Council wants to change that scale then it would make sense to remove some of the flexibility. The proposed changes represent a shift in the balance; it is up to the Council to decide what they want the balance to be.

Azavedo responded to why the proposed ordinance gives discretion to the director. In many cases the City reviews, the dogs are being mishandled or mistreated yet under the current code the dog is punished or euthanized when their behavior is in response to poor training, at the hands of the owner. This proposed ordinance allows the dog owner to demonstrate that the dog and the owner are behaving in ways that are not going to be dangerous in the future.

Holverson said that all involved felt that a truly vicious dog should be euthanized; but they still wanted for the small portion of dogs that are victims of circumstance, like the dog Blue, to have other options available.

Christman asked if staff had looked into the ramifications of getting out of the dangerous dog business altogether by repealing the ordinance. Delapoer said he did investigate that scenario and found that state law does not do prospective classifications as dangerous or potentially dangerous. It is illegal to have a dangerous dog but it doesn't become dangerous until it commits an injury. It really only applies in more rural areas where counties do not adopt their own regulations. In Linn County it would become the default in the absence of City regulations, and Delapoer predicts that the process would become even more political than it is now, yet it would be the City's Police

Department that would still have to deal with it. The City would be giving up control over the outcome and still doing all the work, without the confidence of the public of an independent and objective review process. Thus, adopting state law does not appear to be a viable alternative. The City could adopt the states laws as our own, but it is actually broader than the City's: for example, under state law a dog can be considered dangerous for chasing a cat.

Christman said that given the length of the ordinance, he thinks it will be difficult to enforce. Delapoer said it is enforceable, but he does agree with Christman that there is more process involved: more Police involvement, more staff time, and more time for hearings. On the other hand, if the community thinks something is unfair then they take it to public forums. Christman thinks this new ordinance will take more staff time than we can afford. Delapoer pointed out that staff time gets spent either way, with a new ordinance or with the backlash against the old ordinance.

Johnson said that the lengthiness of the dog Blue saga wasn't because of the City's current ordinance; rather it was due to the appeals by the owner. It is not because of something the Council did. She wants the public to understand that.

Delapoer pointed out that the fairer a person feels their hearing was at the local level, the less likely they are to appeal. The City actually has many hearings every year yet has had very few appeals, because overall folks feel they get a fair hearing in Municipal Court.

Holverson said he appreciates Christman's concerns about staff time but it is important to note that the number of dog cases over the last several years was just a few. It will not happen so often that it will be eating up a lot of staff time.

This item will come back to the November 9, 2011, Regular Session.

Konopa left the Work Session at 5:36 p.m. and turned it over to Council Chair Collins.

WATER & SEWER FUNDS – FINANCIAL UPDATE

Hare said staff is providing an update to the Council so they are aware of some critical decisions to be made in the future regarding water and sewer funds.

Shepard said the water rate policy adopted in 2004 envisioned that the rates would be increased by the Engineering News Record (ENR) rate plus 1%, with a base of 2.5% and a max of 6%. The goal was to have predictable, systematic rate increases and avoid surprise rate increases, while still being able to address capital needs (such as replacing steel water lines, etc.) and maintain a perpetual life replacement program. The goal was to avoid having a system that was so broken that it would require a massive rate increase to catch up.

Shepard said that because of difficult economic times the Council chose to forego the rate increases for three years in a row. Rate increases customarily take place in January, so staff will be seeking Council direction on what to do for the scheduled January increase.

Shepard said that sewer increases are not scheduled until July, but staff wanted to present the Council with both at the same time so they are aware. The sewer rate increase is driven by the City's requirement to pay for the loans (coverage requirements) on the Water Reclamation Facility and Talking Water Gardens. There are some other issues too that staff will bring to the Council's attention in the spring.

Shepard said that for sewer, if nothing changes with Operations & Maintenance increases and current collections, the increase would need to be 9%. That amount could be reduced if they can find savings in Operations & Maintenance. Staff is already working on a plan to transition the department and Shepard anticipates finding opportunity for savings. The other issue is revenue; it needs to be enough to meet coverage requirements. The 9% increase is Shepard's best conservative estimate.

Shepard said that for water, the Council has not raised rates due to the poor economy and the perception of how high Albany utility bills are. If the Council chooses to follow the rate schedule policy, there would be a 5.1% increase this year. If they choose to raise rates just to meet the bare minimum on coverage, it limits the amount available for perpetual replacement and proactive repairs.

Shepard reviewed the options as outlined in the staff report.

Johnson said the City cannot forego anymore rate increases. They have to replace the pipes as the infrastructure is deteriorating.

Shepard said that for three years the Council chose to forego the water increase and last year, instead of a sewer rate increase of 6%, the Council used PepsiCo Settlement funds to backfill the Sewer fund by 6%; so they still need an 6% to make up for last year in addition to 3% for this year, for a total of 9% increase to sewer.

Coburn said he thinks they made a mistake last year. The Council was reluctant to increase fees and raise rates due to the economy so they transferred the Settlements funds. It was a token effort. They have lost a 6% increase year after

year. He recalled the Council had decided not to use the Settlement for salaries but buying down rates was similar in that it was not sustainable. Now, they have to jump to a 9% increase instead of what would have been a 6% increase.

Olsen asked how many constituents thanked the Council for not raising rates last year. The Council agreed that most customers didn't realize the rates did not increase last year.

Collins said that raising water rates in January, sewer rates in July, proposing a Fire and Police levy in the spring, and looking to make up for \$1 million in tax revenue shortfalls, is compounding. He thinks staff has done what they need to do by raising the flag for the Council about these issues. He thinks water and sewer programs need to be reviewed in detail like the General Fund has been reviewed. Since water and sewer programs are Enterprise Funds they may not have received the same detailed review for savings that might offset a rate increase. He thinks the review needs to be done before the Council can make a decision. This may impact the General Fund too, since there are some transfers made between them.

Shepard said he is already working with management staff to identify opportunities to save money. He is optimistic.

Christman agrees with Collins. The Council needs to bring both rates into the same discussion as the General Fund shortfall. He noted that the 2004 Water Financial Plan was completed in a different economy and a lot has changed since then. It may be wise to schedule another financial plan. So much has changed that to continue to reference a document from 2004 is not responsible. Hare pointed out that they have not been following the 2004 plan.

Coburn asked, were there some increased operations costs due to the problem with the Siemens filter? Shepard said that may account for a small amount but he thinks that possible future savings are related more to how things are structured and how they do things administratively. The wild card is the Sewer Treatment Plant and sludge hauling, and when it will be under control. They don't have an answer for that yet.

Johnson said the rate increases are necessary for infrastructure improvements. She asked how much water is being lost through leaking lines. Staff said about 19%.

Collins said, the question for the Council is if they want staff to bring a water increase forward before they have done the critical thinking portion.

Hare pointed out that staff has already been thinking critically and he doesn't want to leave the impression that they have not. Collins agreed and said the emphasis they have added, is that the General Fund shortfall is driving the need to question whether they need to discuss the water increase before that much larger discussion takes place.

Shepard explained that the debt service requirements are a fixed cost whereas the capital and operations are more flexible. It is complex.

Hare pointed out that 19% is not good for water loss. Collins pointed out that they used to have 35% water loss.

Further discussion will continue in January 2012.

FIRE STATION 12 SEISMIC UPGRADE CHANGE ORDER

Fire Chief John Bradner said staff is seeking approval of an increase to the construction contract for Fire Station 12 seismic upgrades.

Bradner said there have been change orders to the project. The two major items driving the increase are electrical requirements relating to a meter relocation, and water damage and dry rot to the structure due to vinyl siding that is failing.

Bradner said this project was paid for partially with grant funds. The original split was 74% paid by the state and 26% paid by the City. These change orders will change the ratio to 70% state and 30% City funding. Details of the changes are outlined in the staff memo in the agenda packet.

Coburn asked, did we have an architect involved? Bradner said Group Mackenzie was the project engineer. Coburn said it seems that an engineer should have caught the electrical requirements and it should not have been a surprise. Bradner said they thought they would have to move the meter just two feet out, but Pacific Power required more space. This is the second project Pacific Power has required this change on. When the design work was done it was not a requirement, but now it is. The guidelines changed midstream.

Kopczyński said he toured the facility and that all this work needs to be done.

MOTION: Kopczyński moved to authorize the change order for the expenses at Station 12. Coburn second the motion and it passed 6-0.

COUNCILOR COMMENTS

There were no Councilor comments.

CITY MANAGER

There were no comments from the City Manager.

ADJOURNMENT

There being no further business, the Work Session adjourned at 6:23 p.m.

Respectfully submitted,

Reviewed by,

Mary A. Dibble, MMC
Deputy City Clerk

Stewart Taylor
Finance Director

RESOLUTION NO. _____

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT FOR WATER TRANSMISSION MAIN CROSSINGS OF THE WILLAMETTE RIVER:

Grantor

Purpose

STATE OF OREGON

A 25 foot wide easement for water transmission main crossings of the Willamette River.

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

DATED AND EFFECTIVE THIS 14TH DAY OF DECEMBER 2011.

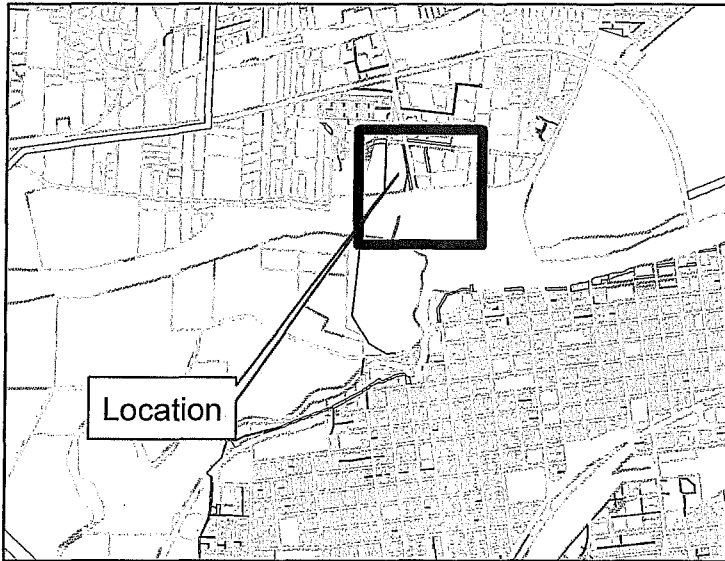
Mayor

ATTEST:

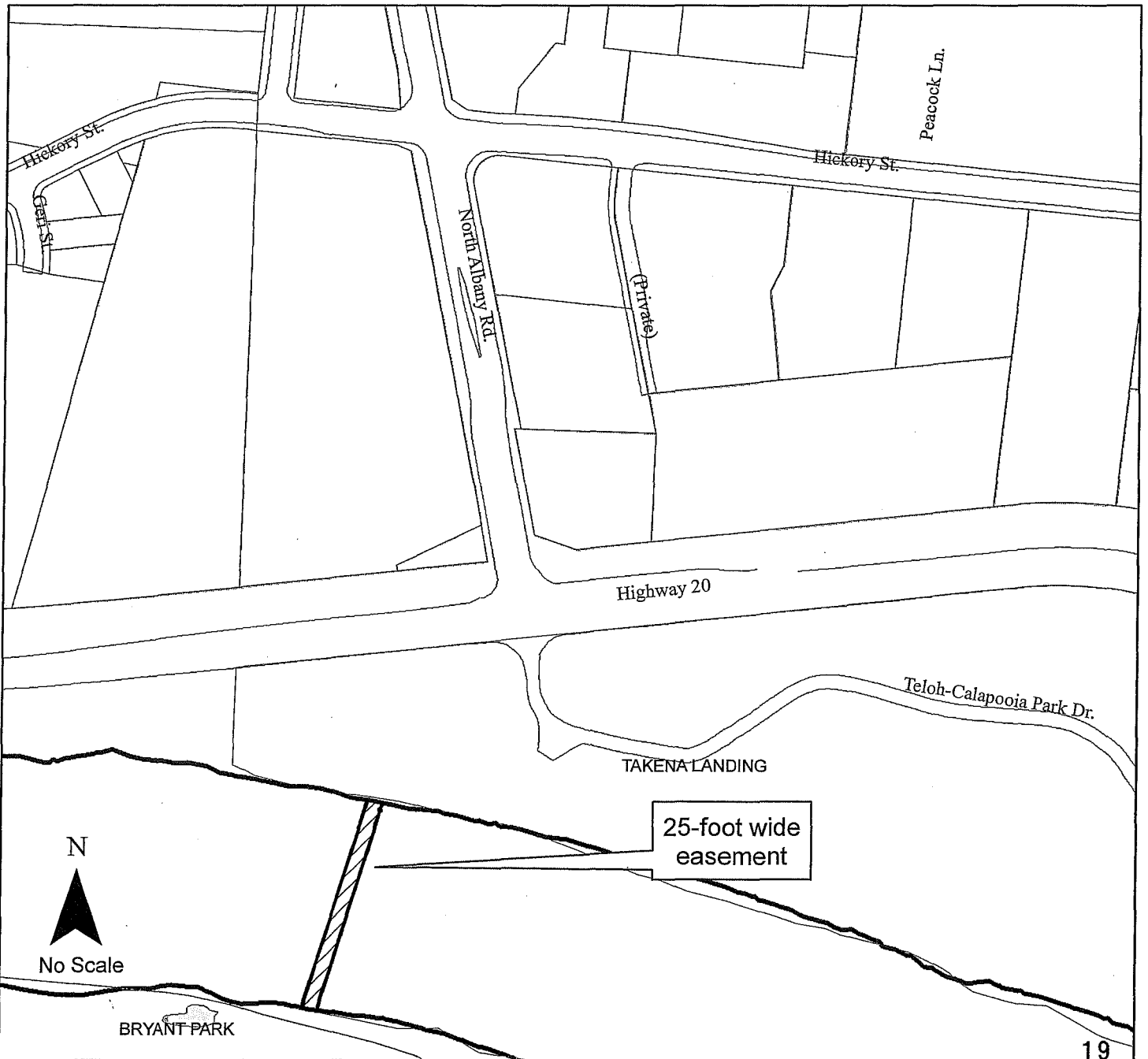
City Clerk

Vicinity Map

A 25 foot wide easement for water transmission main crossing of the Willamette River



Geographic Information Services



DRAFT

STATE OF OREGON Department of State Lands

EASEMENT NO. 47698-EA Utility – Water Main

The STATE OF OREGON, by and through its Department of State Lands, GRANTOR, for and in consideration of \$ (dollar amount), hereby grants to GRANTEE,

NAME of GRANTEE:
City of Albany

ADDRESS:
PO Box 522
Albany, OR 97321

an easement and right to construct, maintain, operate and replace 3 water transmission mains over, upon, and across the following particularly described property situated in Linn and Benton County, Oregon, more particularly described as follows:

A 25.00 foot wide strip of land for easement purposes located in the Southeast 1/4 of Section 1, Township 11 South, Range 4 West, Willamette Meridian, Linn and Benton Counties, Oregon. The centerline of said 25.00 foot wide strip being more particularly described as follows:

Commencing at City of Albany GPS Point Number 93626, a 5/8 inch iron rod with a 2 inch aluminum cap set at the intersection of North Albany Road with NW Hickory Street,

Thence South 03 39'23" West 1111.10 feet to the True Point of Beginning,

Said point being at the intersection of the Ordinary Low Water Line of the north bank of the Willamette River with the City of Albany Broadway Transmission Water Line,

Thence South 10 23'56" West, on said Water Line, a distance of 365 feet, more or less, to a point at the Ordinary Low Water Line of the south bank of the Willamette River, said point being the terminus of said centerline.

The beginning and ending of the above described strip are the Ordinary Low Water Line of the north and south banks of the Willamette River.

The Basis of Bearing of the above described strip was established between City of Albany GPS Points 93626 and 93627, South 86 00'44" Ease, as shown on the Exhibit Map, attached hereto and made a part of Exhibit "A".

TO HAVE AND TO HOLD the same unto GRANTEE in perpetuity, subject to the following conditions:

1. GRANTOR has the right to grant additional easements within the area authorized by this easement subject to the provisions of the administrative rules governing the granting of easements.
2. GRANTEE shall obtain prior written approval from GRANTOR prior to:
 - a) Changing the type of use authorized by this easement;
 - b) Expanding the number of authorized developments or uses;
 - c) Changing the authorized area; and/or
 - d) Permitting other persons to utilize the easement for uses and developments requiring separate written authorization by GRANTOR pursuant to the administrative rules governing the granting of easements or other GRANTOR requirements.
3. The easement area shall remain open to the public for recreational and other non-proprietary uses unless restricted or closed to public entry by the State Land Board or GRANTOR.
4. GRANTOR and/or its authorized representative(s) shall have the right to enter into and upon the easement area at any time for the purposes of inspection or management.
5. Except as expressly authorized in writing by the Department, GRANTEE shall not:
 - a) Cut, destroy or remove, or permit to be cut, destroyed or removed any vegetation, or
 - b) Remove any sand and gravel, or other mineral resources for commercial use or sale, that occur in the easement area except as expressly authorized in writing by GRANTOR.

Routine right-of-way maintenance including vegetation trimming shall be allowed.

6. GRANTEE shall compensate GRANTOR for the fair market value of any commercially valuable timber or sand and gravel resources in the easement area that must be removed during or after placement of the authorized use, or which cannot be developed because of the authorized use.
7. GRANTEE shall conduct all operations within the easement area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to soil erosion, or the introduction or spread of noxious weeds or pests. Upon completion of construction, GRANTEE shall reclaim disturbed lands to a condition satisfactory to GRANTOR.

8. GRANTEE shall obtain a surety bond in the amount of \$N/A to ensure compliance with the terms and conditions of this easement.
9. The right to use this easement shall automatically terminate if it, or the development authorized by GRANTOR, is not used within five (5) consecutive years of the date this easement was granted, pursuant to the provisions of the administrative rules governing the granting of easements.
10. Unless otherwise approved in writing by GRANTOR, GRANTEE shall remove all cables, pipes, conduits, roads, and other developments placed by GRANTEE on the easement, and shall restore the surface of the easement area to a condition satisfactory to GRANTOR within one (1) year following termination of use or expiration of this easement.
11. GRANTEE shall inspect the condition of the area authorized by this easement and the developments authorized by this easement on a frequency of: annually.
12. GRANTOR shall have the right to stop operation of the use authorized by this easement for noncompliance with the conditions of this easement, the provisions of the administrative rules governing the granting of easements, and/or any lawful requirement by a regulatory agency of this STATE.
13. If this easement authorizes the use of state-owned submerged and/or submersible land:
 - a) Construction in navigable waters shall conform to the standards and specifications set by the U.S. Army Corps of Engineers and the U.S. Coast Guard for the use authorized by this easement.
 - b) Any blasting which may be necessary, or in-water placement, maintenance, or repair of the authorized use shall be performed according to the laws of this STATE, including strict adherence to Oregon Department of Fish & Wildlife in-water work windows.
14. GRANTEE shall pay to GRANTOR the current market value, as determined by GRANTOR, for any unnecessary and non-approved damages to state-owned lands caused by construction or maintenance of the easement.
15. GRANTEE shall pay all assessments that may be legally charged on public lands which are levied against the property subject to this easement, whether or not such assessments have been levied against the easement area or STATE by the assessing agency.
16. GRANTEE shall use the authorized easement area only in a manner or for such purposes that assure fair and non-discriminatory treatment of all persons without respect to race, creed, color, religion, handicap, disability, age, gender or national origin.

17. This easement is freely transferable. However, no transfer may increase the burden on the easement area or detract from the value of the underlying state-owned land.

This easement does not convey an estate in fee simple of the lands used for a right-of-way. This grant is for an easement only, and title remains in the State of Oregon.

WITNESS the seal of the Department of State Lands affixed this ____ day of December, 2011.



STATE OF OREGON, acting by and through its Department of State Lands

Nancy N. Pustis

STATE OF OREGON)
)ss
County of Marion)

This foregoing instrument was acknowledged before me this ____ day of December, 2011, by Nancy N. Pustis, the Western Region Manager of the Department of State Lands.

Signature
My commission Expires _____, 20__.

CERTIFICATE OF APPROVAL OF CONVEYANCE
(ORS 93.808)

City of Albany, Grantee, hereby approves and accepts, pursuant to ORS 93.808, the grant of an interest in real property from State of Oregon, Grantor, as described in the instrument to which this Certificate is attached.

A copy of this Certificate may be affixed to, and recorded with, the instrument described above.

DATED this ____ day of _____, 20__.

City of Albany,
Grantee

By: _____

Name: Wes Hare

Title: City Manager

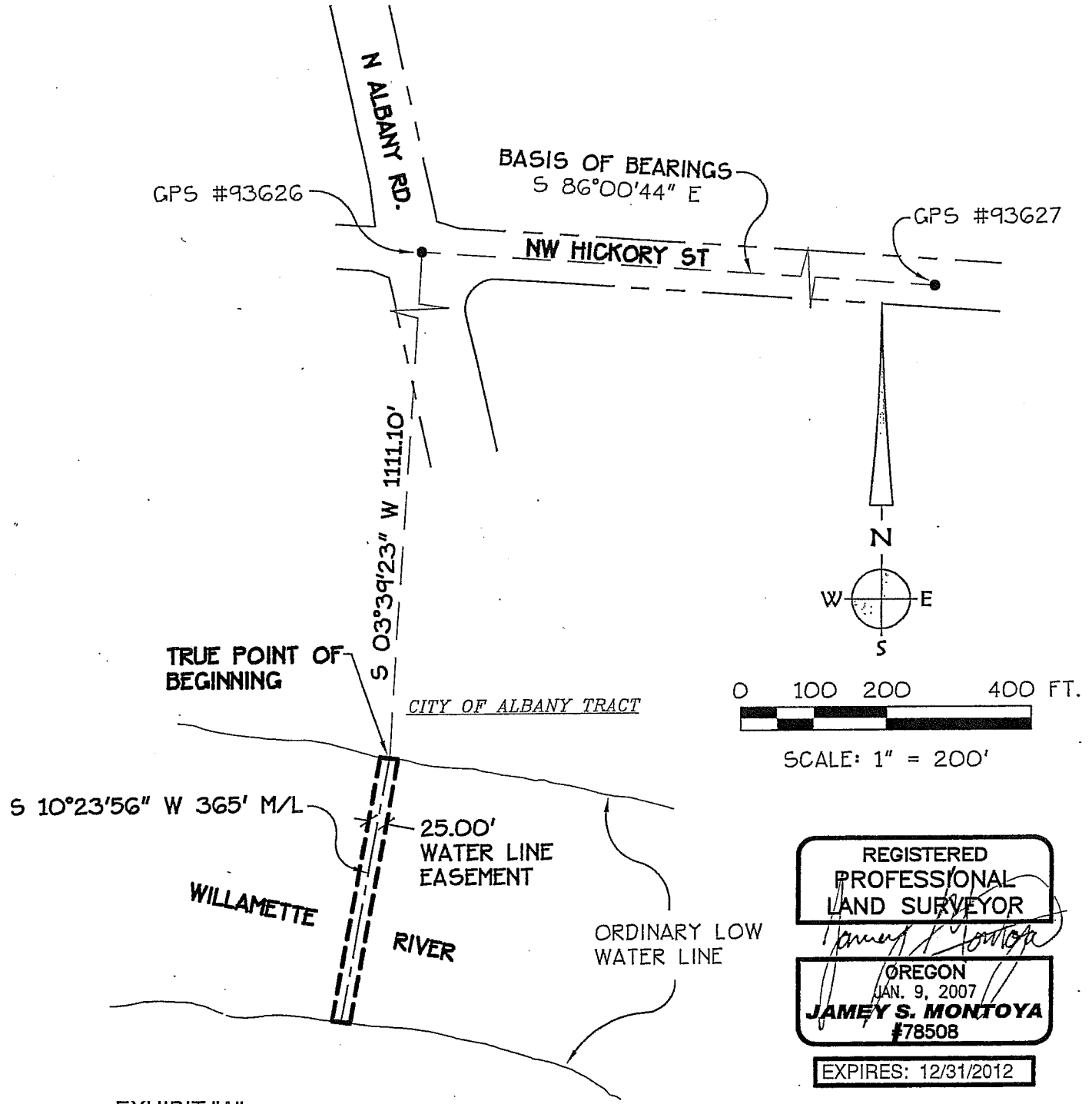
STATE OF OREGON)
) ss.
County of _____)

On this _____ day of _____, 20__, before me personally appeared Wes Hare, who being duly sworn stated that he/she is the City Manager of the City of Albany, Grantee, and acknowledged the foregoing instrument to be the voluntary act of said Grantee and that he/she executed the foregoing instrument under authority granted by said Grantee.

NOTARY PUBLIC FOR OREGON
My commission Expires: _____

CITY OF ALBANY EASEMENT

LOCATED IN
 SE 1/4 SEC. 1, T. 11 S., R. 4 W., W.M.
 LINN AND BENTON COUNTIES, OREGON
 MAY 16, 2011



REGISTERED
 PROFESSIONAL
 LAND SURVEYOR
Jamey S. Montoya
 OREGON
 JAN. 9, 2007
JAMEY S. MONTOYA
 #78508
 EXPIRES: 12/31/2012

EXHIBIT "A"

47698-EA
 CITY OF ALBANY



K & D ENGINEERING, Inc.
 276 N.W. Hickory Street P.O. Box 725
 Albany, Oregon 97321
 (541) 928-2583



TO: Albany City Council

VIA: Wes Hare, City Manager
Mark Shepard, P.E., Public Works Director *MWS*

FROM: Jeff Blaine, P.E., City Engineer *JB*
Ron Irish, Transportation Systems Analyst *R.I.*

DATE: December 5, 2011, for the December 14, 2011, City Council Meeting

SUBJECT: Cameron Street Right-Of-Way Acquisition

Action Requested:

Staff recommends Council authorize the Public Works Director to enter into a purchase agreement to acquire right-of-way for Cameron Street south of Windy Avenue.

Discussion:

The "Avalon Place" Subdivision is located on the west side of Clover Ridge Road south of Somerset Avenue as shown on the attached vicinity map. The subdivision was approved by the Planning Commission on April 3, 2006 and was recorded in March of 2007. Since platting, the subdivision has been further developed through construction of single family residential homes.

Consistent with Albany's standard development requirements, the Avalon Place Subdivision had public improvements and right-of-way dedications required throughout the proposed street network. Although all of the required public improvements were constructed, there was one small segment of Cameron Street that was not dedicated as right-of-way. This dedication could not have been included on the plat, since it was part of an adjoining property under separate ownership, but should have been received through a separate document prior to City staff signing the plat. The dedication was implied but not specifically identified in the text of the Conditions of Approval for the development. This resulted in the plat being signed prior to obtaining the necessary dedication.

Consequently, the City has street and utility improvements on private property and the owners of Lot 24 of the Avalon Place Subdivision have street frontage on one side of their lot they cannot legally use, including the sidewalk they were required to construct along their frontage. This is obviously not the desired arrangement for the City, the owners of Lot 24, or the owner of property on which the improvements are constructed.

Over the last two months staff has been working with the involved parties to secure the required right-of-way. The land owners are willing to dedicate the right-of-way as shown on the attached dedication documents but will require fair compensation. Staff believes that fair compensation for the dedication is a reasonable request given that the land owner (The Newman's) had no known affiliation with the Avalon Place development project. The Newman's have agreed to sell the right-of-way in question for a purchase price of \$7,000. That price equates to a cost of \$2.25 per square foot and is comparable to the price paid by the City for other residentially zoned land.

If Council authorizes the right-of-way purchase staff will make an effort to seek reimbursement from the original Avalon Place developer, BBF Development LLC. However, there is no mechanism to force the developer to reimburse the City.

City Council

Page 2

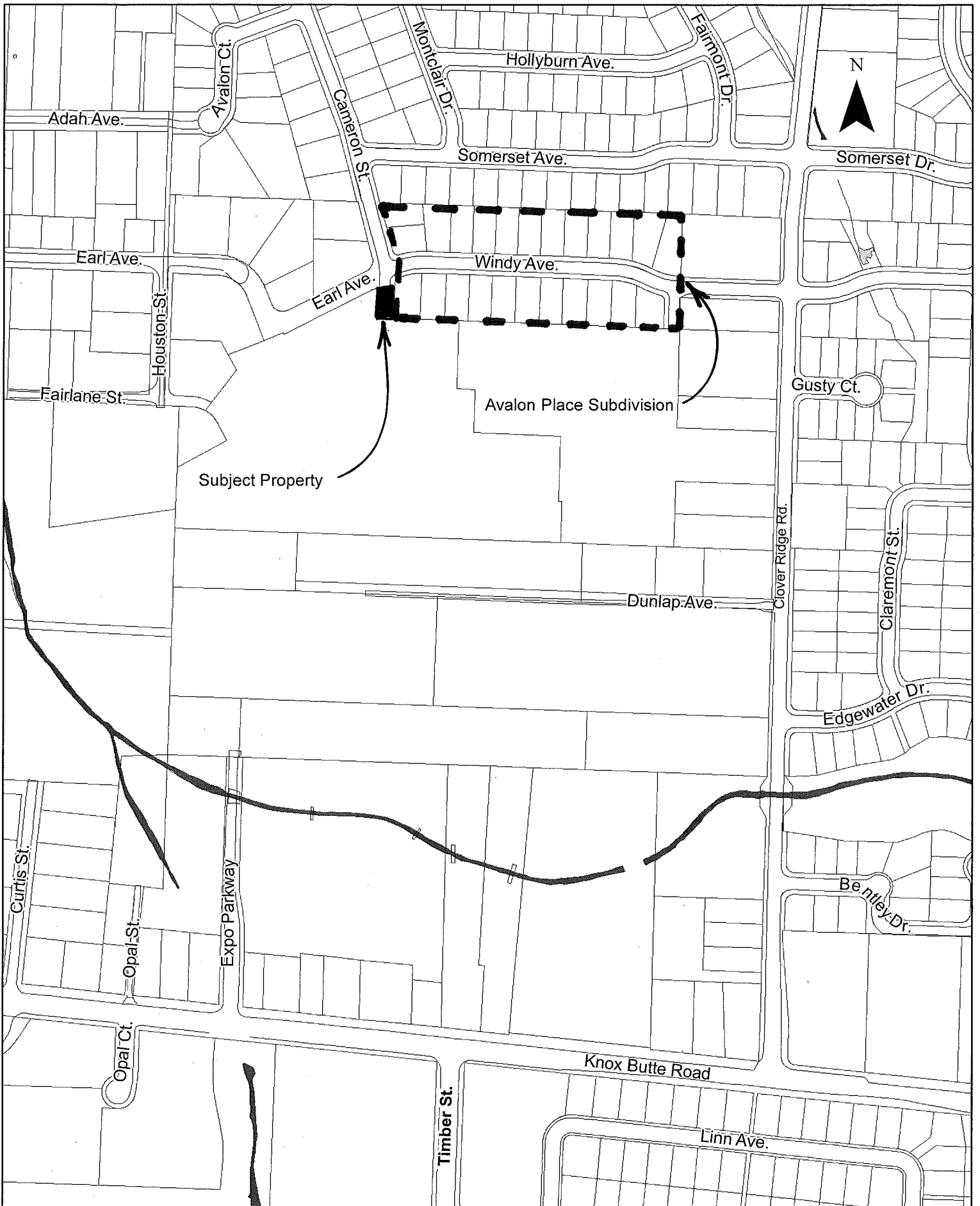
December 5, 2011, for the December 14, 2011, City Council Meeting

Budget Impact:

If Council authorizes the purchase, the impact to the budget will be \$7,000 plus the cost of title insurance from Street Capital (250-50-2700).

RGI:prj

Attachments (4)



Vicinity Map

EXHIBIT "A"

RIGHT-OF-WAY DEDICATION
LEGAL DESCRIPTION

A portion of Parcel I of that Newman Tract described by deed recorded in MF Volume 695, Page 157 in the Linn County, Oregon Deed Records on May 5, 1994, which portion being more particularly described as follows:

Beginning at a 5/8 inch rod at the southwest corner of Lot 24 of "AVALON PLACE", a subdivision recorded in Linn County, Oregon; thence North 89°37'17" West 40.00 feet to a 5/8 inch rod; thence North 00°23'09" East 73.76 feet to a 5/8 inch rod on the south right-of-way line of Earl Street NW; thence along said right-of-way line on the arc of a 100 foot radius curve to the left, (long chord of which bears North 81°17'32" East 28.78 feet) a distance of 28.88 feet to a 5/8 inch rod; thence South 89°36'11" East, on said south right-of-way line, 11.58 feet to a 5/8 inch rod on the west line of said Lot 24; thence South 00°23'09" West 78.30 feet to the Point of Beginning.

November 23, 2011
RIGHT-OF-WAY DEDICATION
LEGAL DESCRIPTION
(11-160) JJC:ls

File Ref: titan/projects/2011/11-160/surveying/documents/r-o-w legal desc.doc

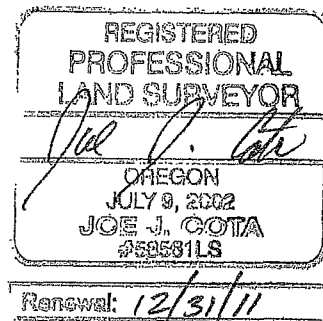


EXHIBIT "B"

RIGHT-OF-WAY DEDICATION

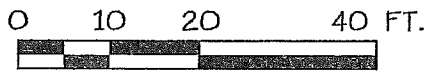
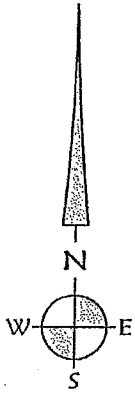
FOR THE
CITY OF ALBANY

LOCATED IN

NE 1/4 SEC. 4, T. 11 S., R. 3 W., W.M.

CITY OF ALBANY, LINN COUNTY, OREGON

A PORTION OF THAT NEWMAN TRACT DESCRIBED
BY DEED RECORDED IN MF VOL. 695, PG. 157



SCALE: 1" = 20'

NOVEMBER 4, 2011

WINDY AVENUE

EARL AVENUE

R: 100.00'
L: 28.88'
CH: N81°17'32"E 28.78
DELTA: 16°32'53"

58°36'11"E
11.58'

"AVALON PLACE" SUBDIVISION
LOT 24

LEGEND:

- FOUND 5/8" I.R. W/YPC MARKED:
"MULTI TECH ENG." PER C.S. 24495
- ⊙ FOUND 1-1/2" ALUM. CAP MARKED:
"MULTI TECH ENG." PER C.S. 24495
- FOUND 3/4" I.R. PER C.S. 3038
- SET 5/8"x30" I.R. W/YPC MARKED:
"K+D ENGR LS 58561"

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 9, 2002
JOE J. COTA
#58561LS

Renewal: 12/31/11

N00°23'09"E 73.76'

PROPOSED R.O.W.
DEDICATION

500°23'09"W 78.30'

N89°37'17"W 40.00'

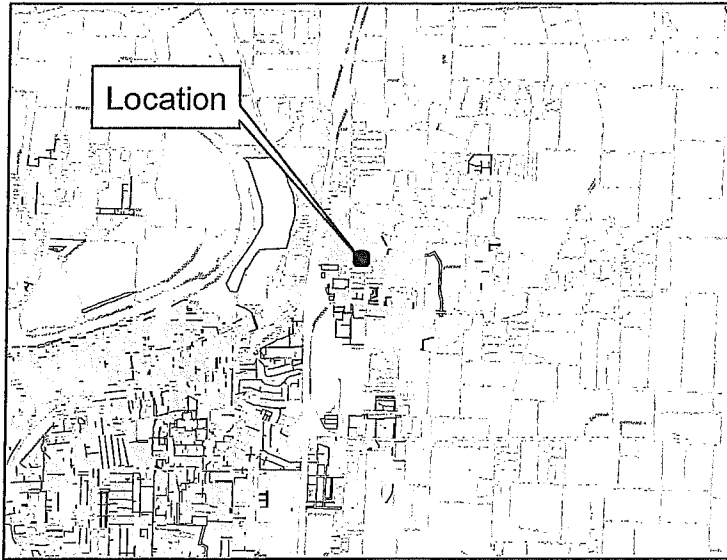
P.O.B.

NEWMAN TRACT
MF VOL. 695, PG. 157

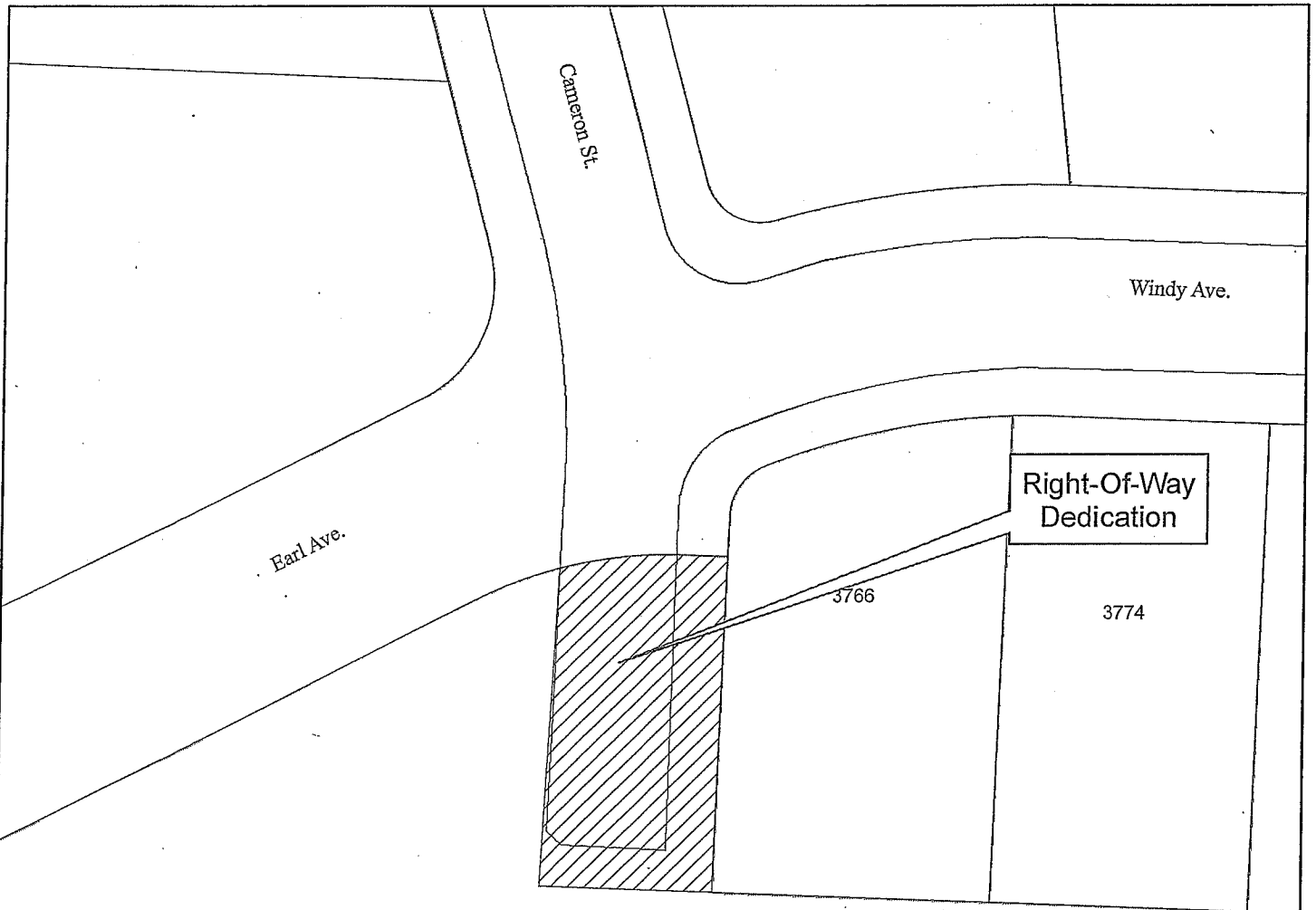
EXHIBIT C

11S03W04AB00501

A 40 foot wide street and utility
Right of Way Dedication
west of lot 24 of the
Avalon Place Subdivision



Geographic Information Services





TO: Albany City Council
VIA: Wes Hare, City Manager
Mark Shepard, P.E., Public Works Director *MWS*
FROM: Chris Bailey, Airport and Transit Manager *cb*
DATE: November 30, 2011, for the December 14, 2011, City Council Meeting
SUBJECT: Coast to Valley Express Bus Stop at Albany Station

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

Action Requested:

Staff recommends City Council allow the Coast to Valley Express access to a bus stop at the Albany Station.

Discussion:

Benton County and Lincoln County currently operate the Coast to Valley Express which provides public transit rides between Newport and Corvallis. The counties have received grant funds to expand their service and would like to extend their route to Albany with a stop at the Albany Station. County staff has requested the use of an existing bus shelter at Albany Station as their designated bus stop in Albany. They would install their own sign and informational kiosk at their expense, and in keeping with the design and style of existing structures at the Station. They anticipate a service start date of mid January with four stops per day, five days per week initially, increasing to seven days per week in the summer of 2012.

In addition to use by Albany Transit System and the Linn-Benton Loop, the City currently allows both the Linn Shuttle and the Valley Retriever to use shelters at the Station. Staff will coordinate with representatives from each service to ensure that access to the bus stops at the Station is available to all providers. Currently, there is not a capacity limitation that would prevent this new service from using the Station as a stop.

Providing access to the Station for the Coast to Valley Express accomplishes several things. First, it provides another means for visitors to access Albany, generating positive economic impact. Secondly, it provides a new transportation option for Albany residents who may wish to travel to Corvallis, Philomath, or Newport. Third, it strengthens the Albany Station's status as a multi-modal center. For these reasons, staff recommends allowing the Coast to Valley Express to have access to one of the existing bus shelters at the Albany Station.

Budget Impact:

None.

CGB:prj



TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Edward Boyd, Chief of Police

DATE: December 7, 2011, for December 14, 2011, City Council Meeting

SUBJECT: Limited On-Premises Sales, Change Ownership, Liquor License Application for SCH Ventures, LLC, D/B/A Rhythm and Brews Cafe, 229 SW Third Street.

Action Requested:

I recommend the Limited On-Premises Sales, Change Ownership, Liquor License Application for SCH Ventures, LLC, D/B/A Rhythm and Brews Cafe, be approved.

Discussion:

Carl and Sonja Heath on behalf of SCH Ventures, LLC, D/B/A Rhythm and Brews Cafe, has applied for a Limited On-Premises Sales, 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: Stewart Taylor, Finance Director *ST*
DATE: December 8, 2011, for the December 14, 2011, City Council Regular Session
SUBJECT: Delinquent Assessments
RELATES TO STRATEGIC PLAN THEME: • Effective Government

Action Requested:

The Finance Director recommends that the City Council follow the procedure outlined in the Bancroft Bonding Act for collection on default assessments.

Discussion:

On June 8, 2011, the City Council adopted Res. No. 6010 establishing procedures for the billing of special assessments and providing for the notification and collection on delinquent accounts. The Council also accepted a request for a modified payment arrangement for an account that was in default. The Council further directed that the topic be scheduled for a future work session to discuss criteria for delinquent assessments.

The City has approximately 380 active assessment accounts. Most originated through applications from property owners to make installment payments for public improvements which directly benefit their property. The City Council levied the assessments under authority of ORS Sections 223.205-223.950, Financing Local Improvements, also known as the Bancroft Bonding Act.

For the most part, property owners who agreed to make installment payments are diligent and current in making payments. However, there are 35 assessments held by 22 different property owners that have not made a payment in over a year. Most of the outstanding balances range from under \$1,000 to over \$12,000. However, two balances are much larger. One is over \$29,000 and the other is over \$215,000.

The Bancroft Bonding Act outlines a procedure for collection on default. 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 only criterion under the Bancroft Bonding Act for bringing a collection resolution to the City Council is neglect or refusal to pay installment payments for a period of one year. It is likely that intermediate steps such as notice of scheduling a collection resolution on a City Council agenda may prompt a delinquent owner to make payments or to request a modification to the existing payment schedule. In anticipation of such requests, the City Council may choose to add criteria to the Bancroft Bonding procedure. Considerations could include the following:

- a minimum outstanding amount that would justify the cost of pursuing the collection

Delinquent Assessments

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December 8, 2011

- an invitation to the property owner to meet with staff to discuss an alternative payment arrangement
- authorization for staff to modify payment arrangements
- notice to the property owner that a collection resolution is scheduled to be considered by the City Council
- ability to consider multiple defaults on one collection resolution

Any direction in addition to the provisions of the Bancroft Bonding Act will be brought back to the City Council to be adopted by resolution.

Budget Impact:

Direction from the Council should expedite collection of delinquent assessments.

ST

Attachment

c: Jim Delapoer, City Attorney



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Mark W. Shepard, P.E., Public Works Director *MWS*
DATE: December 6, 2011, for the December 14, 2011, City Council Meeting
SUBJECT: 53rd Avenue Road Extension and Bridge Improvements

RELATES TO STRATEGIC PLAN THEME: • Effective Government

Action Requested:

Staff recommends that Council, by motion, decline to enter into an Intergovernmental Agreement with the Oregon Department of Transportation for \$292,150 in federal Surface Transportation Project Program funds earmarked for 53rd Avenue.

Discussion:

The City expended more than \$1 million toward completing the design and obtaining the required permits for the construction of the new extension of 53rd Avenue east of Highway 99E. The new roadway was planned to extend over the Union Pacific Railroad tracks connecting to Ellingson Road at Lochner Road. The commitment to design and build the extension of 53rd Avenue was part of a larger Development Agreement with PepsiCo for the proposed new manufacturing plant that was planned south of Ellingson Road.

Ultimately, PepsiCo defaulted on the Development Agreement. With the PepsiCo project not moving forward, staff investigated other options for funding the construction of the project in an effort to not lose the value of all the design and permitting work that had been completed. In 2009, the City submitted a federal funding request to complete the 53rd Avenue Street and Bridge Improvements. The funding request was for approximately \$18 million to pay for the estimated total costs to complete the project.

In response to the \$18 million request, the City received a funding commitment of \$292,150 in federal funds. Although significantly less than needed to build the original project, staff evaluated how these funds might be put to use on the project. The relocation of two traffic signal poles on the east side of the 53rd Avenue/Highway 99E intersection was identified as a possible project. Staff worked with ODOT to develop an Intergovernmental Agreement (IGA) for this small scope project. As part of the IGA development, a cost estimate for the traffic signal pole relocation was generated. The cost estimate, including ODOT costs to administer the project, exceeds the available funds by approximately \$65,000. Therefore, the City could be responsible to pay for a portion of the project costs if the project moves forward.

While there is value in moving the traffic signal poles to accommodate the future extension of 53rd Avenue, staff does not believe that the benefit justifies the potential cost to the City at this time. The timing of the extension of 53rd Avenue is uncertain and use of the limited City street resources for this purpose is not recommended. While declining the project funding will mean the money will not be used in Albany, these federal funds can probably be better utilized on a project that will provide a more immediate benefit to the public.

Albany City Council

Page 2

December 6, 2011, for the December 14, 2011, City Council Meeting

Budget Impact:

If Council chooses to not enter into the IGA with ODOT, the \$292,150 in federal funds earmarked for the 53rd Avenue project will no longer be available to the City of Albany. In addition, the City will not be required to spend limited street fund resources on the proposed project.

MWS:kw



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Mark W. Shepard, P.E., Public Works Director *MWS*
DATE: December 6, 2011, for the December 14, 2011, City Council Meeting
SUBJECT: W-01-04, Albany – Millersburg Water Treatment Plant,
Payment of CH2M Hill Engineers for Settlement Support

RELATES TO STRATEGIC PLAN THEME: ● Safe City
● Effective Government

Action Requested:

Staff recommends that Council authorize a payment of \$52,000 to CH2M Hill Engineers for the support they provided in reaching a settlement with Siemens regarding the Albany-Millersburg Water Treatment Plant.

Discussion:

On September 28, 2011, Council unanimously approved a settlement agreement with Siemens regarding the Albany-Millersburg Water Treatment Plant. This settlement concluded what had been a six year process to address equipment that was not meeting anticipated performance standards. The settlement provided the City with replacement of half of the filter membrane modules at no cost and reduced pricing for additional module replacements through the year 2015. This settlement provided over \$500,000 in savings for replacement filter membrane modules.

During this extended settlement process, CH2M Hill, who was the City's consultant that designed the water treatment plant, provided technical and negotiations support. CH2M Hill did not charge the City for any of the time that their staff spent assisting the City. It is likely that the City would not have been able to reach the favorable settlement without the assistance of CH2M Hill's technical and corporate support.

CH2M Hill has requested that the City consider compensating them for the time their staff spent in support of the settlement negotiations. However, CH2M Hill, as the project designer, realizes they have an obligation to support the successful completion of the project. Therefore, they submitted two invoices. The first invoice (Attachment 1) identifies what the cost would have been if CH2M Hill had charged the City at their normal billing rates for their support. The second invoice (Attachment 2) is an invoice for the same work but the billing rates were adjusted to only cover the direct costs incurred by CH2M Hill.

Staff evaluated CH2M Hill's request and recommends payment of fifty percent of the actual costs incurred by CH2M Hill. This is approximately \$52,000. This payment acknowledges the value that CH2M Hill provided in the settlement process and the favorable outcome for the City while also identifying CH2M Hill's responsibility as the design engineer to assure that the City receives what was paid for in the Water Treatment Plant construction.

Budget Impact:

The payment of \$52,000 to CH2M Hill was not included in the current budget. However, there are adequate funds in this fiscal year to cover this cost. CH2M Hill's work for the City in the settlement process benefited the water budget by assisting in obtaining both no-cost and reduced-cost replacement membrane modules.

The savings that the City will realize from the successful settlement with Siemens will be reflected in reduced operating expenses in the future.

MWS:kw

Attachments (2)

Remit To: CH2M Hill, Inc
M/S 64, PO Box 4000
Portland, OR 97208

City of Albany
Attn: Mark Shepard
333 Broadalbin Street
Albany, OR 97321

Date: Nov 16, 2011
Project No.: 351144
Invoice No.: draft.E1
Period Ending: Sep 2, 2011
Purchase Order: 0050998

INVOICE

Engineering Services through September 2, 2011 in connection with City of Albany W-08-03 - Consultant of Record: O&M Manuals/Troubleshooting/Process Improvements - Miscellaneous Operations Assistance.

Professional Services

<u>Labor Category</u>	<u>Hours</u>	<u>Amount At Billing Terms</u>
Principal Consultant	60.0	\$12,165.00
Senior Consultant	1,026.7	\$185,298.60
Senior Scientist, Planner, Engineer, Geotech, or Hydrologist	10.0	\$1,720.00
Project Scientist, Planner, Engineer, Geotech, or Hydrologist	1.7	\$251.60
Project Scientist, Planner, Engineer, Geotech, or Hydrologist	6.8	\$930.80
Scientist, Planner, Engineer, Geotech, or Hydrologist	3.0	\$318.00
Senior Technician/Graphics/CAD	4.8	\$427.20
Office/Clerical	15.6	\$1,017.60
	<u>1,128.6</u>	<u>\$202,128.80</u>

Expenses

Applied Sciences Laboratory	\$9,364.20
Auto Mileage-Miles	\$277.34
Auto Rentals	\$96.08
Equipment Consumables	\$21.20
Meals Business	\$25.90
Outside Services - Iron Mountain	\$55.39
Postage, Freight & Delivery	\$8.40
	<u>\$9,848.51</u>

Total Due This Invoice \$211,977.31

Remit To: CH2M Hill, Inc
M/S 64, PO Box 4000
Portland, OR 97208

City of Albany
Attn: Mark Shepard
333 Broadalbin Street
Albany, OR 97321

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Professional Services

<u>Labor Category</u>	<u>Hours</u>	<u>Amount At Direct Costs</u>
Principal Consultant	60.0	\$6,911.99
Senior Consultant	1,026.7	\$85,331.84
Senior Scientist, Planner, Engineer, Geotech, or Hydrologist	10.0	\$784.55
Project Scientist, Planner, Engineer, Geotech, or Hydrologist	1.7	\$110.11
Project Scientist, Planner, Engineer, Geotech, or Hydrologist	6.8	\$339.08
Scientist, Planner, Engineer, Geotech, or Hydrologist	3.0	\$116.47
Senior Technician/Graphics/CAD	4.8	\$203.03
Office/Clerical	15.6	\$546.09
	<u>1,128.6</u>	<u>\$94,343.16</u>

Expenses

Applied Sciences Laboratory	\$9,364.20
Auto Mileage-Miles	\$277.34
Auto Rentals	\$96.08
Equipment Consumables	\$21.20
Meals Business	\$25.90
Outside Services - Iron Mountain	\$55.39
Postage, Freight & Delivery	\$8.40
	<u>\$9,848.51</u>

Total Due This Invoice

\$104,191.67