



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

AGENDA

- 4:00 p.m. **CALL TO ORDER**
- 4:00 p.m. **ROLL CALL**
- 4:00 p.m. **BUSINESS FROM THE PUBLIC**
- 4:05 p.m. **WATER SERVICE FOR PROPERTY OUTSIDE CITY LIMITS** – Gordon Steffensmeier
Action Requested: Information; discussion; direction.
- 4:05 p.m. **MAIN STREET REHABILITATION** – Ron Irish
Action Requested: Information; discussion; direction.
- 4:35 p.m. **DANGEROUS DOG ORDINANCE REVISIONS** – Mayor Sharon Konopa
Action Requested: Discussion; decision scheduled at November 9, 2011 Council meeting.
- 5:00 p.m. **WATER & SEWER FUNDS – FINANCIAL UPDATE** – Mark Shepard
Action Requested: Information; discussion; direction.
- 5:30 p.m. **FIRE STATION 12 SEISMIC UPGRADE CHANGE ORDER** – John Bradner
Action Requested: Information; discussion; decision.
- 5:45 p.m. **COUNCILOR COMMENTS**
- 5:55 p.m. **CITY MANAGER REPORT**
- 6:00 p.m. **ADJOURNMENT**

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.

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, advance notice is requested by notifying the Human Resources Department at 917-7500.



TO: Albany City Council

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

FROM: Jeff Blaine, P.E., Assistant Public Works Director/City Engineer *JB*
Gordon Steffensmeier, Civil Engineer III *G.S.*

DATE: November 2, 2011, for the November 7, 2011, Council Work Session

SUBJECT: Request for City Water Service for Property Outside City Limits -
420 Clover Ridge Road

RELATES TO STRATEGIC PLAN THEME: • An Effective Government

Action Requested:

Council direction.

Discussion:

On October 31, 2011, staff received the attached letter from Pamela Hutcheson. In the letter she requests permission to obtain City water service. Her property at 420 Clover Ridge Road NE is outside of City limits, but within the Albany Urban Growth Boundary.

The Albany Municipal Code, section 11.01.140 (1,b) states that "The utility shall not provide water service to any property outside the Albany City limits when such property is contiguous to the City limits and eligible for annexation to the City of Albany unless Council finds that it is in the public interest to do so. The property owners requesting water service must submit a signed and notarized irrevocable request to annex before receiving water service." The property is contiguous to City limits and eligible for annexation, however, the next potential election for which the property could be placed on a ballot for annexation is the May 2012 election.

If the Council approves this request for City water service, the Hutchesons would be required to submit an irrevocable request to annex and pay \$2,050 in System Development Charges and \$4,206.80 in water Connection Charges before they could receive City water service.

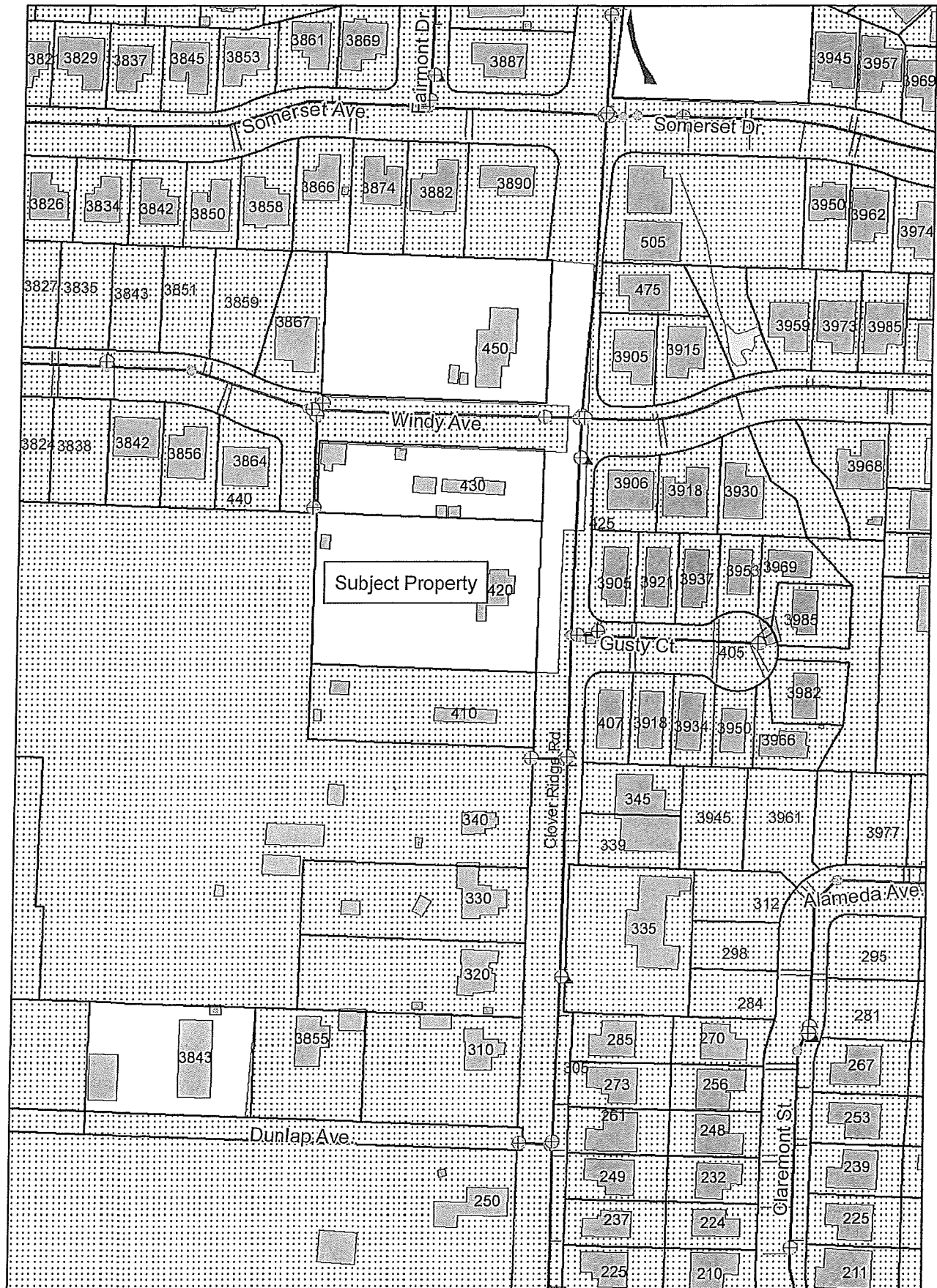
Budget Impact:

The \$6,256.80 in water System Development Charges and Connection Fees would be received into the Water Fund.

GPS:kw

Attachment – Vicinity Map, Hutcheson letter

420 Clover Ridge Road NE water service request



Shaded in City, Unshaded outside City limits

October 24, 2011

City of Albany Council
City Hall – Municipal Court Room
333 Broadalbin SW
Albany, OR 07321

Dear Council Members,


On or about September 20th, we started noticing leaks in the copper piping under our home. This was followed closely by a loss of water pressure and subsequent loss of our pump due to overwork and burning of the motor. The overworking of the pump had caused an electrolysis of sorts to make several pinhole leaks in several of the copper pipes.

During the attempt to repair both the pipes and the pump, it was discovered our well now has water table issues and has gone 'dry.' In part we feel this is a cause and effect of the rapid and large housing development in the Clover Ridge area in the last several years, and the age and depth of the well. We believe this well was dug prior to/or around the 1940's and is considered a 'shallow well.'

The property is located on the West side at 420 Clover Ridge Road NE; Albany, OR 97322. We realize we are not a part of the City Annexation which is located on the East side of the Clover Ridge Road. However, we have been told the previous owner, had installed the necessary plumbing from the home to the connections at the street, planning for the long-range necessity to hook into the City of Albany Water System.

We would like to request your permission at this time, under hardship circumstances, to hook into city water as soon as possible. Gracious neighbors have and are keeping my family in water for our daily needs, running off of their own well. We appreciate your careful and timely consideration on this matter.

Thank you,


Pamela S. Hutcheson
541-979-8582



TO: Albany City Council

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

FROM: Jeff Blaine, P.E., City Engineer/Assistant Public Works Director
Ronald G. Irish, Transportation Systems Analyst *RGI*

DATE: October 28, 2011, for the November 7, 2011, City Council Work Session

SUBJECT: Main Street Rehabilitation Discussion

RELATES TO STRATEGIC PLAN THEME: ● Great Neighborhoods

Action Requested:

Staff is requesting Council direction on the proposed construction schedule for the Main Street Rehabilitation Project.

This year's Capital Improvement Program (CIP) document included a project to reconstruct Main Street from First Avenue to Fourth Avenue (CIP project #1994, page 56) in fiscal year 2012-13. Council directed a discussion of the project be scheduled in advance of the next CIP review process to determine whether the project should remain scheduled for fiscal year 2012-13.

History:

The 1997 Transportation System Plan (TSP) included a project (Project #6) to reconstruct Main Street between First and Fourth Avenues (see TSP Figure 4.2.1-1, attached). It was identified as a short-term priority project and had a cost estimate in 1997 dollars of \$2,355,000. The project would have widened Main Street, installed a traffic signal at the Main/Salem intersection, removed on-street parking along the corridor, and required acquisition of commercial and residential buildings and properties. Despite those impacts the project received near unanimous support at a Community Open House held in 1996 when compared against the other identified options which included creation of a Second/Third Avenue couplet and rerouting traffic to Sherman Street. The project identified in the 1997 TSP was never constructed. An overlay was placed on Main Street in 1999 as an interim improvement during the reconstruction of Santiam Road. The existing pavement on Main Street was severely alligatored and no remedial work was done in advance of the overlay. Despite the lack of preparation preceding the overlay, the pavement condition today appears to be in remarkably good shape.

During development of the 2010 TSP update, construction of a roundabout was evaluated for the Main/Salem intersection as an alternative to a traffic signal. At a neighborhood meeting held on March 13, 2008, residents of the area were nearly unanimous in their support of the roundabout concept over a traffic signal. Reasons included higher capacity, less delay, greater safety, a much reduced need for building and right-of-way acquisition, and the ability to retain on-street parking throughout much of the Main Street corridor. The 2010 TSP includes two short-term projects (I1 and I2) that represent the Main Street Rehabilitation project in the 2012-2016 CIP (project #1994, page 56). The cost estimate for the project in the CIP is \$1,584,000, with 83 percent of the project funded through Transportation System Development Charges (TSDC).

Discussion:

Requested discussion points regarding the Main Street Rehabilitation project are listed below.

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

The existing condition evaluation done for Albany's 1997 TSP identified the Main Street/Salem Avenue intersection as having the following problems:

- One of six unsignalized intersections within the City having a poor level of service.
- The sixth highest intersection crash rate in Albany.

The Main Street corridor was re-evaluated with development of the 2010 TSP. Memorandum #3 documented existing transportation conditions and deficiencies and provided a Level of Service (LOS) ranking for corridor segments including the Main Street corridor. LOS values ranged from "A," the best, to "F," the worst. The Main Street corridor between First and Fourth Avenues was identified as having the following problems:

- The corridor had a crash rate that exceeded the critical crash rate for collector streets in Albany.
- The corridor was one of four corridors in the City with a peak-hour level of service (LOS) of "F." The others were: Highway 20 between North Albany and Springhill Roads; Queen Avenue between Liberty and Elm Streets; and Geary Street between Ninth and Queen Avenues.

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

In the case of the Main Street project, TSDC funds make up the majority of the funding (83 percent) identified in the CIP for the project. TSDC funds can only be used on growth related projects identified in the TSP. There are some advantages to programming use of the funds in the TSDC account in the near future regardless of whether Main Street or another project is identified as the top priority. Construction costs are currently low and as a result the funds go farther, and the local economy receives a boost from the expenditure. Because of the way it is funded, the question of Main Street's priority relative to other potential street projects is best considered regarding how it compares to other TSDC eligible projects. In addition to the Main Street projects (I1 & I2), the other "short-term" intersection and roadway link projects identified in the TSP are listed below. Some are of a relatively small dollar amount and would not necessarily impact the schedule of Main Street and others are already approved in this year's budget or otherwise funded as is the case with the Oak Street project.

Intersection:

- Projects I3 – I5: Conversion of three traffic signals near Heritage Mall to protected/permissive left-turn phasing. The work is part of CIP project #1991 and is scheduled for construction in 2012. TSDC funding totals \$92,000.
- Project I8: Modification of the traffic signal at US 20/North Albany Road to add capacity to the intersection. The project will involve coordination with Oregon Department of Transportation (ODOT) and there is a strong possibility a future development application in North Albany will need to implement the modification as a condition of development. TSDC funding is \$5,200 of the total project cost of \$40,000.
- Project I9: Modification of the traffic signal at US 20/Springhill Drive. The project would create dual southbound left turn lanes from Springhill Drive onto Highway 20.

The project cost estimate is only \$14,000, but there is a strong possibility that ODOT will require modification of the super-elevation on Highway 20 for the project to be constructed. TSDC funding is \$3,220 of the total project cost.

- Project I10: Installation of a temporary traffic signal at the Knox Butte Road/Century Drive intersection. ODOT has indicated additional analysis will be needed to gain their concurrence that a traffic signal is the best form of intersection control at this location. Any intersection treatment would be removed when the interchange is ultimately reconstructed. TSDC funding totals \$345,000.

Roadway Link:

- Project L3: Elimination of a through lane and the addition of diagonal parking on First Avenue, Second Avenue, and Calapooia Street next to the post office. The need for the improvement will occur with development of the Carousel project to accommodate an increased demand for parking in the downtown area. TSDC funding is \$42,000 of the total project cost of \$100,000.
- Project L30 and L58: The improvement of Oak Street from Queen Avenue north to Ninth Avenue. An LID has been formed to construct the project and design is underway. Construction is scheduled for 2012.

Of the four short-term intersection projects contained in the 2010 TSP, one is scheduled for construction and the other three involve traffic signal modification or construction on the highway system. None would benefit the overall transportation system as much as the Main Street project, and sufficient TSDC funds would remain after construction of the Main Street project to construct them if Council chose to add them to a future CIP.

Of the two short-term roadway link projects in the TSP, one is scheduled for construction and the other involves a relatively minor amount of TSDC funding and its timing is driven by development.

In addition to the short-term projects in the TSP, Council has also previously identified the improvement of North Albany Road (the railroad tracks to Quarry Street) as a priority street project. The project is included in the CIP (project 1989 on page 59) and is scheduled for construction in fiscal year 2015-16. Total project cost is \$3,123,000. The TSDC fund contributes the maximum eligible amount of \$1,178,000 to the project. The remainder of the project is funded with Surface Transportation Program (STP) funds together with \$11,000 of North Albany Street Improvement funds. The reason the project is scheduled for fiscal year 2015-16 is because of the need to accumulate sufficient STP funds to pay for the non-TSDC eligible project costs. As a result, delaying the Main Street project would not accelerate the schedule for the North Albany Road project.

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

Planned changes to the statewide highway performance standards contained in the Oregon Highway Plan (OHP) will have the effect of delaying the construction of capacity improvements along the highway system in Albany. The changes will increase the level of congestion allowed to occur on the highway system before performance standards are exceeded and thereby delay the any requirement to construct capacity improvements.

The Santiam Highway/Waverly Drive intersection is the only intersection on the highway system in Albany whose operation currently exceeds ODOT performance standards. The current standard is for a volume to capacity (v/c) ratio of 0.85, and the intersection is operating with a v/c of 0.87. The 2010 TSP identified two other intersections that did not meet ODOT's performance standard, but a change in the posted speed limit (Highway 99E at Queen Avenue) and designation of a Special Transportation Area (STA) along Lyon and Ellsworth has brought those intersections into compliance.

ODOT is currently in the process of modifying the highway performance standards contained in the OHP. The new standards are scheduled to become effective on January 1, 2012. The current and proposed performance standards for US 20 and Highway 99E in Albany are:

- Highways with a posted speed of 45 mph or more: current v/c = 0.75, proposed = 0.85
- Highways with a posted speed of 35 mph or less: current v/c = 0.85, proposed = 0.90
- Highways with a Special Transportation Area (STA) designation: current v/c = 0.95, proposed = 1.0

The standard for highways, regardless of posted speed, will increase to 0.95 when Albany is designated as a Metropolitan Planning Area (MPO). That designation is anticipated to occur in 2013.

The current ODOT Statewide Transportation Improvement Program (STIP) does not include the construction of any capacity improvements in Albany on the highway system. The revenue forecast for the foreseeable future looks bleak when it comes to highway funding, and ODOT is targeting very little money at capacity or "modernization" projects. As a result of highway funding constraints and the performance standard changes described above, in Staff's judgment delay of the Main Street project would not increase the likelihood of ODOT-funded highway capacity improvements occurring in Albany.

What impacts would construction of the project have on businesses in the area?

Construction of the project would necessitate acquisition of one parcel. The commercial property and building located on the northwest corner of the Main/Third intersection would need to be obtained to construct a roundabout (see attached roundabout concept sketch). No other acquisition of commercial or residential sites are anticipated for the project. The intersection design contained in the 1997 TSP would have required acquisition of the same property together with:

- The Whitaker Paint and Wallpaper building
- A portion of 7-11 convenience store parking lot
- Valley Fire Control's Second Avenue parking lot
- Multiple residential buildings and parcels on the south side of Salem Avenue between Main Street and Oak Street

If the Main Street project goes forward, road construction is expected to last between 90 and 120 days. The contractor would be required to maintain business access during that period, but past experience has shown that business activity would be impacted by construction activity. The use of an early completion bonus could be used to help minimize the duration of the impact.

Staff Recommendation:

Staff recommends that the Main Street Project remain scheduled for fiscal year 2012-13. The project provides the greatest benefit of those projects identified as short-term projects in the 2010 TSP. The improvements will target a section of City streets that exceeds critical crash rates and has a current level of service of "F." Scheduling the project in fiscal year 2012-13 will not likely have any impact on when ODOT funds improvements on the state system. Delaying the project is not likely to speed up ODOT projects and will only exacerbate the issues with the intersections at the expense of Albany citizens. The roundabout project adopted in the 2010 TSP results in fewer impacts to the surrounding properties than the original signalized intersection design identified in the 1997 TSP. The roundabout project was identified as the preferred alternative for intersection improvements at a neighborhood meeting held during development of the 2010 TSP.

Budget Impact:

The Main Street Rehabilitation project in the CIP has a cost estimate of \$1,584,000. TSDC fees fund \$1,315,000, and STP funds the remaining \$269,000.

RGI:prj

Attachments (2)

Figure 4.2.1-1

MAIN STREET PROJECT PRELIMINARY DESIGN



100 0 100 200 300 Feet

Created: 5/15/97
Last Update: 5/15/97
Filename: t:\miscdata\projects\tranplan\pc_files\main_des.apr

ONE-WAY
NORTHBOUND

2ND AVE.

SALEM AVE.

3RD AVE.

4TH AVE.

NO
LEFT
TURN






SHERMAN ST.

OAK ST.

PINE ST.

SANTIAM HWY.

LEGEND

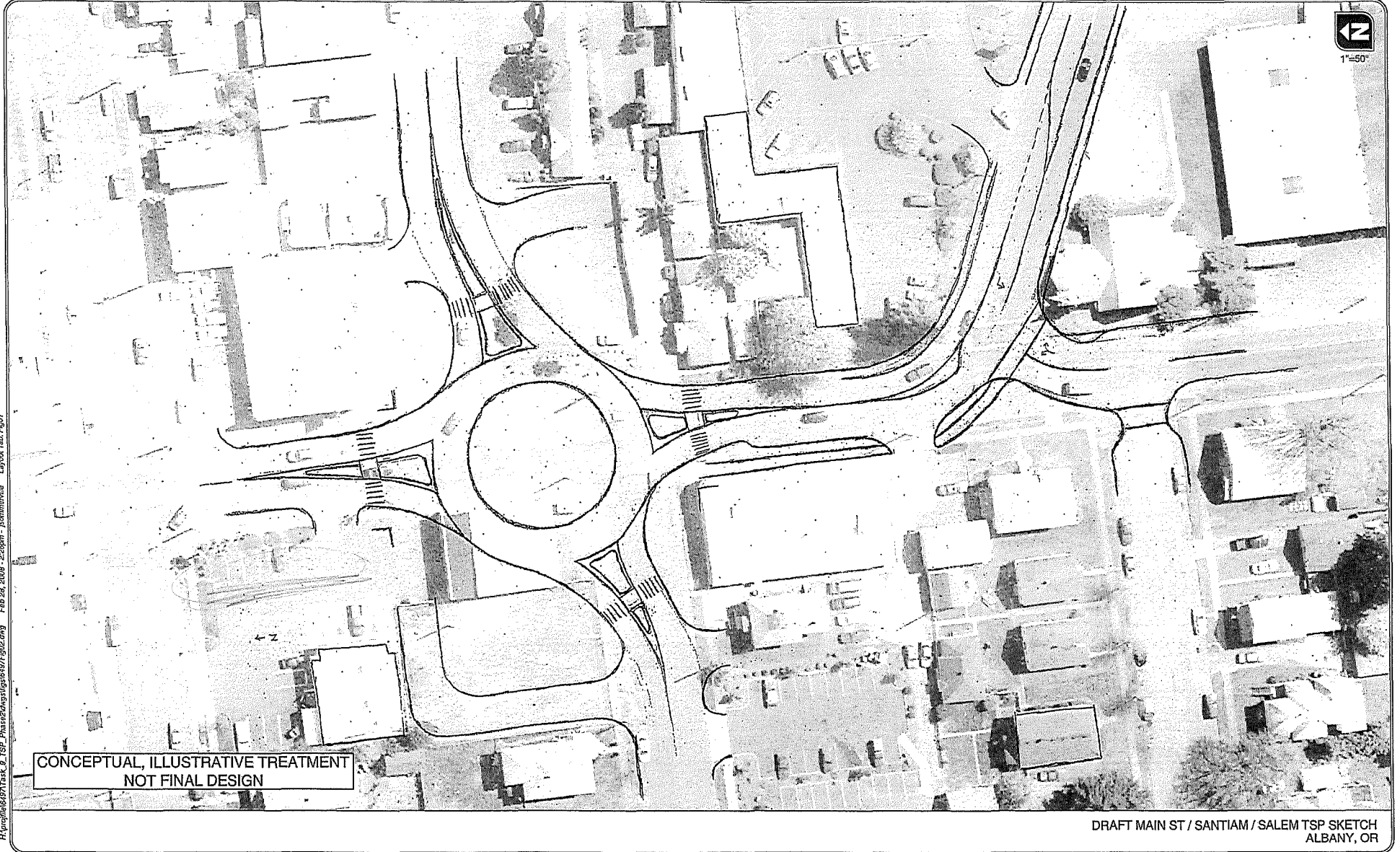
-  Proposed Alignment
-  Existing Streets
-  Parcels
-  Existing Buildings
-  Buildings to be Removed

Project #6 - 1997 TSP

Roundabout Concept - 2010 TSP Update

Albany TSP

February 2008



H:\proj\061697\Task 6_TSP_Phase2\061697\061697_02.dwg Feb 28, 2008 - 2:26pm - jmmmmv20 Layout Tab: Fig01



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Marilyn Smith, Management Assistant/Public Information Officer MMS
DATE: November 2, 2011, for the November 7, 2011 City Council Work Session
SUBJECT: Revisions to AMC 6.18, Dangerous Dogs

RELATES TO STRATEGIC PLAN THEME: ● A Safe City
● Effective Government
● Great Neighborhoods

Action Requested:

Discussion of draft ordinance revisions; adoption is scheduled at the November 9, 2011, regular Council meeting.

Discussion:

In August 2011, Mayor Konopa appointed a work group to review the City's dangerous-dog ordinance, Albany Municipal Code 6.18, for possible revision. The work group consisted of Councilors Floyd Collins and Dick Olsen; citizen representatives Mark Azevedo; Max Frederick, former board member at SafeHaven Humane Society; and Larry Holverson, advocate for Blue; and the Mayor. City Attorney Jim Delapoer, Police Lieutenant Casey Dorland, and I provided staff support.

The work group met four times before submitting a revised ordinance to the public for comment. The group received comments from 19 individuals; 11 of those submitted another version of the ordinance with additional revisions for the group's consideration.

The work group also considered an October 5, 2011, editorial in the *Albany Democrat-Herald*, suggesting that the City follow state law in lieu of its own ordinance. The work group reviewed all public comments and the editorial suggestion in two subsequent meetings before completing the draft ordinance now before you.

Council has discussed the dangerous-dog ordinance many times this year since you were asked in January to review Municipal Judge Robert Scott's affirmation of Police Chief Ed Boyd's determination that the dog Blue was dangerous and should be euthanized. (Per Council designation under the current code, Chief Boyd is the "Director" and Judge Scott the "Hearings Officer" in dangerous-dog cases.) Those discussions often included suggestions to change the ordinance to allow the Hearings Officer to consider options to euthanasia for dogs that are deemed dangerous. The work group's proposed revisions allow for an "alternative disposition," including relocation, to be proposed by the dog's owner. (AMC 6.16.050)

For potentially-dangerous dogs, the work group's revisions allow the dog's owner to apply to have the classification removed after two years of good behavior, or after one year if the dog is retrained and the owner presents clear and convincing evidence that the dog is unlikely to ever again show the behavior on which the original classification was based. (AMC6.18.040(9))

Other proposed changes:

- Clarify the process of classifying a dog as potentially dangerous or dangerous;
- Allow an impounded or quarantined dog to be housed at a secure facility other than the county animal shelter;
- Objectively define "serious physical injury";
- Establish timelines for classifying a dog potentially dangerous or dangerous;
- Require an audio recording of adjudication proceedings to be available for later judicial review;
- Establish rules under which dogs classified potentially dangerous or dangerous by other jurisdictions may live in Albany.

Budget Impact:

None.

MMS:ldh

Attachment

c: Ed Boyd, Chief of Police
Casey Dorland, Police Lieutenant
Jim Delapoer, City Attorney

Draft Ordinance Revisions
Chapter 6.18
DANGEROUS DOGS
Updated November 2, 2011

Sections:

- 6.18.010 Definitions.
- 6.18.020 Classification of levels of dangerousness.
- 6.18.030 Identification of dangerous and potentially dangerous dogs – Appeals – Restrictions pending appeal.
- 6.18.040 Regulation of potentially dangerous dogs.
- 6.18.050 ~~Euthanasia for dangerous dogs~~ **Consequence of a determination that a dog is dangerous.**
- 6.18.055 Notice of location of potentially dangerous or dangerous dog in city.**
- 6.18.060 Penalty.
- 6.18.070 **Quarantine or** ~~Impoundment pending adjudication of infraction.~~

6.18.010 Definitions.

As used in this chapter, unless the context requires otherwise:

- (1) “Dog at large” means any dog:
 - (a) On private property without the permission of the owner or person entitled to possession and not restrained by a physical control device and under the control of a person capable of physically restraining the dog; or
 - (b) On public property and not restrained by a physical control device and under the control of a person capable of physically restraining the dog.
- (2) “Council” means the City Council of the City of Albany.
- (3) “Dangerous dog” means any dog that has been found to have engaged in any of the behaviors specified in AMC 6.18.020(2).
- (4) “Director” means the person appointed by the Council to act under this chapter. **The person appointed will be someone deemed by the Council to be generally experienced in reviewing investigatory reports and generally accepted judicial processes.**
- (5) “Euthanized” means put to death in a humane manner by a licensed veterinarian or animal control officer.
- (6) “Hearings Officer” means the City Council or a person appointed by the City Council to review the correctness of the Director’s determination that a dog has engaged in any of the behaviors specified in AMC 6.18.020. Any person appointed as the Hearings Officer will be an individual deemed by the Council to be generally experienced in judicial processes.
- (7) **“Impoundment” means City custody of a dog at a county animal control shelter or other secure facility designated by the Director or designee for such purpose.**
- (8) “Owner” means the person having a possessory property right in a dog or who harbors, cares for, exercises control over or knowingly permits a dog to remain on premises occupied by that person.
- (9) “Person” means any natural person, association, partnership, firm or corporation.
- (10) “Potentially dangerous dog” means any dog that has been found to have engaged in any behaviors specified in AMC 6.18.020(1).
- (11) “Physical control device” means a sufficiently strong collar connected to a leash or tether made of chain links, or other material as strong, so as to prevent the escape of a dog.
- (12) **“Quarantine” means an order directing isolation of the dog or other instructions designed to protect the public pending a determination of a dog’s classification. Quarantine may also include impoundment at the county animal control facility or any other secure facility designated by the Director or Hearings Officer for such purpose.**
- (13) ~~“Serious injury” means any physical injury that results in a broken bone or the need for stitches, or any other medical condition, including emotional or psychological injury determined by the Director, in consultation with a health care worker, the County Health Officer, the County Health Officer’s designee, or any medical doctor to be of equal or greater severity. (Ord. 4847 § 1, 1989)~~ **impairment of any organ, limb, or digit reasonably anticipated to have a duration of more than ten (10) days or a wound of more than half an inch, measured in all directions, requiring or justifying medical closure through stitches, staples, or any other similar medical procedure, or any other medical condition determined by the Director, in consultation with any medical doctor, to be of equal or greater severity. The Director may also refrain from classifying an injury as serious which would otherwise meet the definition above based upon information from a medical doctor justifying such decision.**

(14) “Victim” means the owner of the domestic animal(s) injured by the dog in question or the human being bitten or seriously injured, whichever forms the basis for the classification. In the case of a minor child, the victim is the parent or legal guardian of the minor child.

6.18.020 Classification of levels of dangerousness.

- (1) A dog shall be classified as potentially dangerous based upon specific behaviors exhibited by the dog as follows:
- (a) While at large, on more than two occasions within a single 24-month period, it bites any domestic animal, or
 - (b) While at large, it bites a human being or seriously injures any domestic animal.

(2) A dog shall be classified as dangerous if it causes the serious injury or death of any person or kills any domestic animal. A dog classified as a potentially dangerous dog shall thereafter be reclassified as a dangerous dog if, after the owner has received notice of the potentially dangerous classification, the dog again engages in conduct which would classify it as a potentially dangerous dog.

(3) The Director shall have the authority to refrain from classifying a dog as dangerous or potentially dangerous, even if the dog has engaged in the behaviors specified in subsections (1) or (2) above, if the Director determines that the behavior was caused by abuse, or torment, of the dog or other provocation **of the dog or if the injury was the result of intervention by the injured party in a fight between the dog and another animal.**

(4) No dog shall be found to be dangerous or potentially dangerous if it is a dog trained for law enforcement purposes and is on duty under the control of a law enforcement officer at the time it exhibits behavior under subsection (1) or (2) above. (Ord. 4847 § 1, 1989).

(5) The Director shall be expected, absent unusual circumstances, to make the classification within thirty (30) days of the quarantine or impoundment of the dog in question.

(6) Any City officer or employee authorized by the Director may quarantine or impound any dog that is proposed for classification as dangerous or potentially dangerous.

6.18.030 Identification of dangerous and potentially dangerous dogs – Appeals – Restrictions pending appeal.

(1) The Director shall have authority to determine whether any dog has engaged in the behaviors specified in AMC 6.18.020. The determination shall be based upon an investigation that includes **observation documentation** of the dog’s behavior by animal control officers or by other witnesses who personally observed the behavior **or are otherwise qualified to provide relevant and probative evidence.** ~~If the determination is based upon observations of witnesses other than animal control officers, the witnesses must first sign affidavits attesting to their observations or evidence behavior and must agree to provide testimony regarding the dog’s behavior if called upon to do so.~~

(2) The Director shall give the dog’s owner written notice by certified mail or personal service of the dog’s specific behavior, of the dog’s classification as a dangerous or potentially dangerous dog, and of the additional restrictions applicable to that dog by reason of its classification. **The Director is encouraged to share this information with victims as well.** Other forms of notification which result in actual notice of the information required above, shall be sufficient. If the owner denies that the behavior in question occurred, the owner may appeal the Director’s decision to the Hearings Officer by filing, with the Director, a written request for hearing. The request for hearing must be received, by the Director, within ~~10~~ **fifteen (15)** days of the following, whichever occurs first:

- (a) The date of mailing of notice to the owner, by certified mail;
- (b) The date the notice is personally served upon the owner; or
- (c) The date when the owner acquired actual knowledge of the information required to be contained in the notice.

(3) The Hearings Officer shall hold a public hearing on any appeal from the Director’s decision to classify a dog as a dangerous or potentially dangerous dog. The owner and any other person having relevant evidence concerning the dog’s behavior as specified in AMC 6.18.020 shall be allowed to present testimony. **Information concerning medical condition rendered by a medical doctor may be presented as testimony at the hearing or in writing. Any written medical information offered at the hearing shall be made available to the Director, owner, and victim at least five (5) days prior to the hearing. The hearing shall be audio-recorded by the Hearings Officer. Any party to the hearing may also audio-record the hearing, but the audio recording prepared by the Hearings Officer shall be the official recording which shall be part of the record of the proceeding. The hearing procedure shall not be deemed flawed nor the outcome invalidated due to technical failures or other good-faith errors which impair the audibility or completeness of recording.** The Hearings Officer shall determine whether the behavior specified in AMC 6.18.020 was exhibited by the dog in question. The Hearings Officer shall issue an order containing his/her determination, which shall be final. **The Hearings Officer may recess the hearing to a later date and request that either party provide additional evidence if the Hearings Officer determines that such evidence would be helpful to the decision. Failure by a party to provide the requested evidence may be considered by the Hearings Officer in making a decision, but**

the Hearings Officer shall have no obligation to request supplemental evidence or continue the hearing simply because a party to the proceeding does not present compelling evidence.

(4) Once the owner has received notice of the dog's classification pursuant to subsection (2) above, the owner shall comply with the restrictions specified in the notice until such time as the Director's decision is reversed on appeal. Additionally, the Director shall have authority to impound the dog pending completion of all appeals if the Director has reasonable grounds to believe that the owner of the dog has failed to comply with any of the restrictions specified in the notice of classification. If the Director's decision concerning the classification of the dog is upheld on appeal, the dog's owner shall pay to the City all costs incurred in the dog's impoundment.

(5) If the Director finds that a dog is a dangerous dog, the dog shall be impounded pending the completion of all appeals. If the Director's decision is upheld on appeal, the dog's owner shall pay to the City all costs incurred in the dog's impoundment. (Ord. 4847 § 1, 1989).

(6) The Hearings Officer shall be expected, absent unusual circumstances, to make the classification within ninety (90) days of the quarantine or impoundment of the dog in question.

6.18.040 Regulation of potentially dangerous dogs.

In addition to complying with all other requirements of this chapter, the owner of a potentially dangerous dog shall:

(1) Physically restrain the dog to prevent it from having **off-leash** access to any public sidewalk, roadway, adjoining property, or any other portion of the property from which the public is not excluded. **A potentially dangerous dog shall not be allowed off the premises of the owner or keeper except while on a leash not to exceed ten (10) feet in length and, if the Director finds warranted, wearing a muzzle of sufficient strength and construction to prevent the dog from biting a human or animal.**

(2) Fasten to a collar and keep on the dog at all times such tag as may be issued by the City of Albany, identifying the dog as a potentially dangerous dog.

(3) Pay an annual fee of [] at the time the tag described in subsection (2) above is issued and a like fee each year thereafter so long as the dog remains within the corporate limits of the City of Albany. This fee shall be in addition to any other license fee.

(4) Notify the Director by certified mail where the dog is kept within 10 days of any change.

(5) Post a warning sign, supplied by the Director, at the location the dog is kept, in a conspicuous place visible from the public sidewalk or road adjoining the property or, if no such public sidewalk or road adjoins the property, then at the boundary line of the property where access is provided to the property.

(6) Have a microchip implanted in the dog which includes its classification status and the applicable Albany Police Department case number and provide the microchip identification information number to the Director.

(7) Keep the dog licensed by the applicable licensing authority.

(NOTE: Rabies vaccination will be required in order to maintain license status.)

(8) The requirements of this section shall apply to any person to whom ownership of a potentially dangerous dog is transferred. (Ord. 5026 § 1, 1993; Ord. 4847 § 1, 1989).

(9) The owner of any dog classed as potentially dangerous may apply to the Director, after the expiration of at least two (2) years from the date of original classification or one (1) year following completion of training designed and conducted to address the behavior upon which the original classification was based to have the classification as "potentially dangerous" removed as follows:

(a) If an application follows training, the application must be accompanied by a written statement from the trainer describing the trainer's qualifications, the course of training, and results thereof.

(b) If the application is based on any circumstance other than the training described in (a) above, the application must be accompanied by a written statement describing the grounds for the requested relief.

(c) The application must be accompanied by an application fee in an amount to be set by the City Council by separate resolution.

(d) The classification of "potentially dangerous" shall only be removed if the Director or Hearings Officer has received clear and convincing evidence that the dog is unlikely to ever again engage in behavior justifying a dangerous or potentially dangerous classification.

(e) The Director shall notify the owner of his/her decision in writing; and if the Director declines to remove the potentially dangerous classification, the owner may appeal the Director's decision to the Hearings Officer by filing, with the Director, a written request for a hearing. The request for a hearing must be received by the Director within fifteen (15) days following whichever first occurs:

(i) The date of mailing of the notice to the owner, by certified mail;

(ii) The date the notice is personally served upon the owner; or

(iii) The date when the owner acquired actual knowledge of the information required to be contained in the notice.

(f) The Hearings Officer shall hold a public hearing on an appeal from the Director's decision not to lift the classification that a dog is potentially dangerous. The owner and any other person having relevant evidence concerning the dog's rehabilitation or other circumstances which make it unlikely that the dog will ever re-offend may present testimony. The hearing shall be audio recorded by the Hearings Officer. Any party to the hearing may also audio record the hearing, but the audio recording prepared by the Hearings Officer shall be the official recording which shall be part of the record of the proceeding. The hearing procedure shall not be deemed flawed nor the outcome invalidated due to technical failures or other good faith errors which impair the audibility or completeness of the recording. The Hearings Officer shall issue an order containing his/her determination which shall be final.

6.18.050 ~~Euthanasia for dangerous dogs~~ Consequence of a determination that a dog is dangerous.

(1) Unless an alternative disposition is adopted pursuant to the provisions of Section 2 below, any dog that has been found to be a dangerous dog shall be euthanized. If a dog is euthanized by a licensed veterinarian, the veterinarian shall certify to the City of Albany that the dog has been euthanized. (Ord. 4847 § 1, 1989).

(2) Following the hearing called for in AMC 6.18.030(3) to review the Director's decision to classify a dog as dangerous, the owner or person in control of the dog may propose an alternative to euthanasia ("alternative" or "alternative order") in the event that the Hearings Officer affirms the Director's classification of the dog as dangerous. Before determining the acceptability of any alternative, the terms of the alternative must be provided to the Director in writing and the Director will thereafter provide written notice of the terms of the proposed alternative to the victim. If the alternative is relocation, the Director shall also provide written notice to the law enforcement agency with jurisdiction in the location where relocation is proposed. The Hearings Officer shall not consider any proposed alternative until and unless such notice has been provided to all listed parties and they have been given a ten- (10) day opportunity to submit written comments to the Hearings Officer concerning the terms of the proposed alternative. In considering a proposed alternative, the Hearings Officer shall take into consideration the extent to which abuse, torment, or provocation, while not excusing the dog's behavior, may have been a factor in the behavior and the extent to which the proposed alternative mitigates against a reoccurrence of these factors. The alternative may only be accepted by the Hearings Officer as an alternative to euthanasia in the event that the Hearings Officer determines, based upon substantial evidence in the record, that all of the following conditions have been met:

(a) All costs associated with the quarantine and impoundment of the dog pending adjudication as provided at 6.18.070 have been paid; and;

(b) The alternative will have no additional costs to the City; and;

(c) A relocation alternative shall include specific conditions concerning the future care, control, and supervision of the dog which satisfies the Hearings Officer that the dog is unlikely to repeat the behavior upon which a classification is based, including disclosure to subsequent owners of the dog's classification and the behavior which resulted in the classification. Removal from the city limits, without more, shall not satisfy this criteria. Examples of appropriate conditions, depending upon the behavior which resulted in the classification, may include prohibitions against ownership transfers to households containing minor children or other vulnerable parties, prohibitions on relocation to urban areas, or any other condition deemed by the Hearings Officer to be reasonably necessary to reduce the likelihood of reoffense.

(3) In the course of presenting an alternative as called for in Section 2 above, the burden of proof shall rest with the owner or person in control of the dog. In deciding upon an appropriate alternative, the Hearings Officer may, but is not required to, solicit the opinion of third parties who, in the exclusive discretion of the Hearings Officer, have special knowledge or expertise that may be helpful in fashioning an appropriate alternative.

(4) If an alternative is adopted for a dangerous dog, all of the terms thereof shall be incorporated into a written order.

(5) A dog which, subsequent to adoption of an alternative order, again engages in behavior from which it could be classified as dangerous or potentially dangerous shall be euthanized.

6.18.055 Notice of location of potentially dangerous or dangerous dog in city.

(1) No person shall keep within the city any dog which has previously been classified as potentially dangerous or dangerous by any jurisdiction other than the City of Albany without providing notice to the City as required herein. This requirement shall also apply to any dog that has received any classification or designation by any jurisdiction other than the City of Albany as a result of the dog having caused injury to any person or animal. If

such classification resulted from serious injury to a human being or the death of an animal, the dog may not be relocated to the city of Albany. Thereafter, all provisions of this ordinance shall apply to any dog lawfully relocated to the city of Albany as if the classification had been made by the City. The notice required herein shall be given in writing to the Albany Police Department within five (5) days of the animal first being kept within the city and shall contain the following information:

- (a) The name, address, and date of birth of the animal's owner or keeper; and
- (b) The address at which the animal will be kept; and
- (c) The jurisdiction which classified the dog; and
- (d) The behavior from which the classification resulted.

(2) This section shall not apply to dogs brought into the city by any unit of government for purposes of impoundment or quarantine or by any person for veterinary care.

6.18.060 Penalty.

The violation of any provision of this chapter shall be punishable subject to the penalties set forth in AMC 1.04.010. In addition to these penalties, the Municipal Court Judge may order the dog in question euthanized if the Judge finds that the owner of the dog has failed to comply with any of the requirements of this chapter after having received notification that the dog in question has been classified as a dangerous or potentially dangerous dog. (Ord. 4927 § 1, 1990; Ord. 4847 § 1, 1989).

6.18.070 Quarantine or impoundment pending adjudication of infraction.

(1) If the owner of any dog is cited for ~~an infraction based upon the a~~ violation of any provision of this chapter, the Director may **quarantine or** impound the dog pending adjudication of the ~~infraction~~ **violation** if, in the exercise of reasonable discretion he/she believes that the dog constitutes a threat to public safety and/or private property. If the dog's owner is ~~convicted of the infraction~~ **adjudged to have committed the violation** which caused the impoundment, the dog's owner shall pay to the City all costs incurred in the dog's **quarantine or** impoundment, ~~and unless such costs are paid within 10 days of the date when the owner is convicted of the infraction, the dog shall be euthanized. Euthanasia shall not relieve the owner of his/her responsibility to pay all quarantine or impoundment costs previously incurred.~~ (Ord. 4847 § 1, 1989)

(2) **Any dog considered for classification as potentially dangerous or dangerous may be quarantined or impounded if the Director or designee, in the exercise of reasonable discretion, believes that the dog constitutes a threat to public safety and/or private property. If the dog is ultimately classified as potentially dangerous or dangerous, the dog owner shall pay to the City all costs incurred in the dog's quarantine or impoundment.**



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Mark W. Shepard, P.E., Public Works Director *MWS*
DATE: October 28, 2011, for the November 7, 2011, City Council Work Session
SUBJECT: Water- and Sewer-Rate Overview

Action Requested:

Staff is seeking direction from Council regarding a water-rate increase that would go into effect in January of 2012.

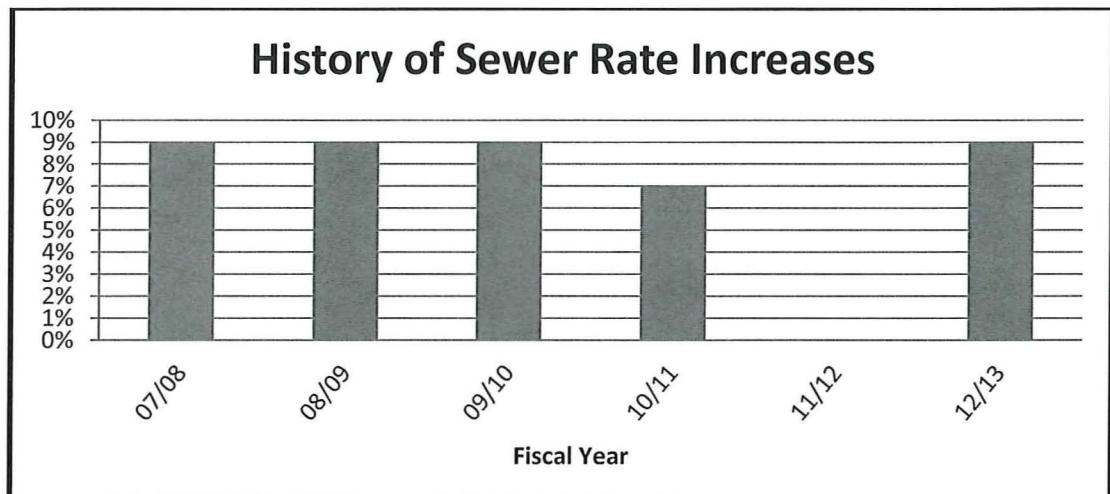
Discussion:

The information about water- and sewer-rate requirements that follows in this report is provided to the Council for perspective on utility-rate needs over the next year. Staff believes it is important for Council to have a perspective on both sewer- and water-rate needs over the next year as Council considers water rates at this time. Staff also recommends Council review and discuss longer-range financial plans for the water and sewer system in Spring 2012.

Sewer

There was no sewer-rate increase implemented last year. Council chose to forego a 6 percent rate increase and use \$840,000 in litigation settlement funds to provide adequate revenue to meet the City's debt coverage requirements. Without additional litigation settlement funds next fiscal year, sewer rates will need to be increased by 9 percent in July 2012, in order to meet debt coverage requirements. This increase is required because the litigation settlement funds were one-time revenues and the debt coverage ratio requirements must be met every year. If the 6-percent rate had been implemented last year instead of using litigation settlement funding, the rate increase required in July of 2012 would have been only 3 percent in order to meet the coverage requirements.

The following graph shows recent sewer-rate history.



The requirement for a sewer-rate increase in July of 2012 is being driven by the debt service requirements on the loans the City took out for the Water Reclamation Facility improvements and

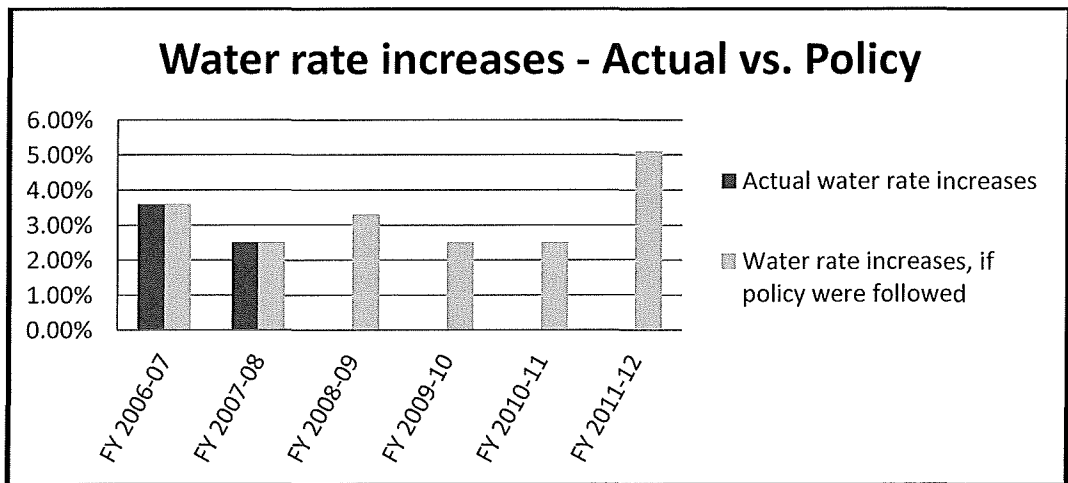
Talking Water Gardens. The debt service requirements along with operating expenses dictate how much revenue the City needs to generate each fiscal year as a minimum.

The three major components of the sewer program that must be considered when evaluating rate increases are debt service, operations and maintenance, and capital project funding. Further discussion about future sewer revenues and funding will be brought to Council in the spring of 2012. The previous sewer funding plan adopted by Council in 2000 expired in 2009. Council has not adopted a new long-range sewer-rate plan like the one in place for water. Staff believes a long-range sewer financial plan would be a helpful guide to staff and Council for future planning and decisions regarding sewer funding and operational and capital expenditures.

Water

In 2004, Council adopted a long-range water-rate plan based on a Water Financial Plan. The Water Financial Plan developed by the Mayor's Water Task Force recommended annual water-rate increases based on inflation as measured by the 12-month change of the Seattle Engineering News Record (ENR) Construction Cost Index. The plan called for rate increases equal to the ENR Construction Cost Index plus one percent. The rate plan also put a floor on the rate increase amount of not less than 2.5 percent and a ceiling on the rate increase amount to not more than 6 percent per year. This plan was established to allow the water utility to maintain service levels, complete needed capital improvement projects, pay for the debt service, and meet debt coverage for the water bond projects. The plan was established to also allow systematic, somewhat predictable rate increases while minimizing the chance for large unanticipated rate increases.

It has been Council's past practice to evaluate water rates each year and implement water-rate increases in January. Due to the sensitivity regarding utility rates and the economic climate, Council chose to deviate from the long-range water-rate plan and forego water-rate increases for the last three years. The following graph shows recent water-rate history compared to what rate increases would have been if the long-term water-rate policy had been strictly followed.



Staff is seeking direction from Council regarding a rate increase this January. The 12-month change in the ENR Cost Index was 4.1 percent. Therefore, if Council chooses to follow the adopted long-range water-rate plan, a water-rate increase of 5.1 percent would be instituted in January of 2012.

However, since the City will meet the debt service coverage requirements for water this next fiscal year without a water-rate increase, Council has flexibility with water-rate increases that is not available for sewer. Council can choose to institute a lesser rate increase or no increase at all in acknowledgement of the anticipated sewer-rate increase in July and the current economic times. However, continuing to forego small rate increases now will continue to limit the ability to complete capital projects such as leaky water line replacements and needed preventive maintenance or improvements at reservoirs, pumps stations, and treatment facilities. Continued delays of rate increases cannot be sustained indefinitely and will ultimately erode the health of the water system. Below is a table showing the impact different rate increase options have on capital funds available to complete water projects.

Rate Increase	Funds Available for Capital Expenditures
None	\$ 860,000
2.5%	\$1,100,000
5.1%	\$1,400,000

Summary:

A sewer-rate increase of nine (9) percent will be required effective July, 2012, to meet the debt coverage ratio requirement. Council has discretion in what water-rate increase, if any, should be instituted in January of 2012.

Ultimately, it will be helpful and appropriate for the Council to develop and adopt a 10-year financial plan and related policies for the sewer system similar to the water-rate plan. This plan could serve as a guide for Council when considering future changes to rates and System Development Charges (SDCs) and when making budget decisions related to capital and Operation and Maintenance funding. It is also timely for Council to revisit the existing long-range water-rate plan to either confirm the plan or modify it based on the current financial status of the water fund and current economic climate.

Staff recommends Council hold this discussion for both sewer and water utilities in the spring of 2012. If Council is receptive to this recommendation, staff will schedule these discussions for a Council Work Session in the spring.

Budget Impact:

The impact to the Water Fund is dependent on Council direction.

MWS:prj

Attachments



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: John R. Bradner, Fire Chief *JRB*
DATE: November 3, 2011, for the November 7, 2011, City Council Work Session

SUBJECT: Fire Station 12 Seismic Construction Contract Increase in Excess of Ten Percent

RELATES TO STRATEGIC PLAN THEME: • A Safe City

Action Requested:

Staff requests Council approval of a construction contract increase to Baldwin General Contracting, Inc. in the amount of \$107,387 for additional work, which is a contract increase in excess of ten percent of the original contract bid.

Discussion:

Council awarded a contract to Baldwin General Contracting, Inc. on July 13, 2011, for the seismic upgrade of Fire Station 12. This project is being done through the Oregon Seismic Rehabilitation Grant (74% Grant Funding / 26% City Funding).

Often during construction there are unknown or unforeseen circumstances that arise. Since these issues are not in the original contract, they typically are dealt with by issuing a Change Order to the contractor to complete the work. There were several items that have come up during construction that need to be addressed with Change Orders. Change Orders are usually completed administratively by staff. However, the Albany Municipal Code (AMC 2.66.040) requires that if the Change Orders result in a change in the contract price that exceeds ten percent of the original contract, the contract increase must be approved by City Council.

Therefore, staff is requesting Council approval of these Change Orders in accordance with Albany Municipal Code. The contract changes of \$107,387 increase the original contract amount of \$216,704 by 49.55 percent to \$324,091.

Following is a description of the items covered by change orders on this project:

- **Install Dedicated Circuit in Kitchen for Microwave:** Microwave in kitchen is required to have a dedicated circuit. Original plans did not show the microwave so it was not included in Baldwin's original bid. **Cost: \$303.**
- **Relocate Fire Department Connection (FDC):** The FDC requires relocating to the west side of the driveway in order to position it within 40 feet of the hydrant to promote more efficient fire suppression operations and to meet the City of Albany Fire Department standard for placement of a FDC. **Cost: \$2,166.**
- **Extend Office Space and Reconfigure Entry Sidewalk, Ramp, and Steps to Allow for New Current Transformer (CT) Can Installation:** The initial design directed the contractor to install a new shear wall along the south side of the station to support the apparatus bay area of the building. Doing so required the relocation of the electrical meter by approximately two feet so that it would continue to be accessible from the outside (for utility provider access, maintenance, etc.). During construction, Pacific Power indicated their new policy is that all electrical meters are to be located on the side of the building closest to the public right-of-way, and the CT cabinet and disconnect

(components of the electrical service that are “downstream” of the meter) must be within 18 inches of the meter. To resolve this issue, two things will need to happen: electrical work to relocate the wiring and equipment to the front of the building and an expansion of the front office area to allow enough blank wall to mount all of the equipment (meter, CT cabinet, and disconnect need about eight feet of wall). By doing so, it allows for shear wall installation at the back of the building to proceed as designed, meets the utility provider’s requirements for service relocation, and provides the required space at the front of the building for the new service. **Cost: \$38,288**

- **Remove and Replace All Exterior Siding and Paint:** Removal of exterior siding in areas required for the seismic upgrade revealed moisture damage in the plywood sheathing. Removal of the remaining exterior siding at the shear wall areas is recommended by the engineer to verify that the plywood in those areas does not also have water damage. New siding will have to be installed back over these areas. It will be difficult and more expensive to match the new siding to the existing siding, so the team has discussed the concept of removing all the existing siding and replacing it with new siding. By doing so, we will ensure that all exterior walls that act as part of the seismic force resisting system are intact and functional. In addition, the new siding will greatly reduce the potential for future leaks that could again damage the seismic force resisting system. **Cost: \$66,630.**

Budget Impact:

Oregon Seismic Rehabilitation Grant (203-25-5080): \$63,086.

City Facilities Replacement (217-10-1034): \$44,301

The grant capped out at \$280,023, requiring additional City funds over the required 26% match in order to complete the work described in these change orders.

Project Costs/Grant Funding To Date:

Design Fees, Permits, Etc.	\$76,454	
Construction Contract Amount	\$216,704	
Change Orders to Date	\$107,387	
Total Project Costs to Date:		\$400,545
Total Grant Award	\$280,023	
City of Albany 26% Match	* \$98,386	
Total Award		\$378,409
Additional City of Albany Contribution		\$22,136

* On October 14, 2009, City Council approved up to \$100,000 in matching funds for the grant.

JB:ljh