**NOTICE OF PUBLIC MEETING**
CITY OF ALBANY
CITY COUNCIL WORK SESSION
Municipal Court Room
333 Broadalbin Street SW
Monday, December 11, 2017
4:00 p.m.

**AGENDA**

**OUR MISSION IS**

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

**OUR VISION IS**

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

Rules of Conduct for Public Meetings

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the meeting.
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 meeting.

4:00 p.m. CALL TO ORDER

4:00 p.m. ROLL CALL

4:05 p.m. BUSINESS FROM THE PUBLIC

4:10 p.m. MILLERSBURG FIRE PROTECTION DISCUSSION – John Bradner. [Page 2]
*Action Requested:* Information, discussion, and direction.

4:30 p.m. PORTABLE SYSTEM DEVELOPMENT CHARGE CONCEPT – Jeff Blaine. [Pages 3-10]
*Action Requested:* Information, discussion, and direction.

5:20 p.m. RIGHT-OF-WAY VACATION, NINTH AVENUE AND RAILROAD STREET – Ron Irish, Jeff Blaine. [Pages 11-12]
*Action Requested:* Information, discussion, and direction.

5:30 p.m. EMERGENCY SEWER CONNECTION, 3545 SPICER DRIVE SE – Gordon Steffensmeier. [Pages 13-16]
*Action Requested:* Information, discussion, and direction.

5:45 p.m. BUSINESS FROM THE COUNCIL

5:50 p.m. CITY MANAGER REPORT

6:00 p.m. ADJOURNMENT

*City of Albany website: www.cityofalbany.net*

*The location of the meeting/hearing is accessible to the disabled. If you have a disability that requires accommodation, advanced notice is requested by notifying the City Manager's Office at 541-917-7508, 541-704-2307, or 541-917-7519.*

TO: Albany City Council

VIA: Peter Troedsson, City Manager PT 12/7

FROM: John R. Bradner, Fire Chief JRB

DATE: December 6, 2017, for the December 11, 2017, City Council Work Session

SUBJECT: Expansion of Contract for Rural Fire Protection

RELATES TO STRATEGIC PLAN THEME:
- A Safe City
- A Healthy Economy

Action Requested:

Council is requested to provide direction on providing fire protection services to the City of Millersburg.

Discussion:

The Albany Fire Department provides emergency response through Fire Protection Agreements to three Rural Fire Districts that surround Albany city limits. The Districts pay the City a rate of $2.00 per $1,000 assessed property value in their district. The southern portion of the city of Millersburg is currently included in the agreement with Albany Rural Fire Protection District, which is scheduled to expire in 2023. Albany Fire Department has provided response to this area since 1974.

The City of Millersburg has requested to enter into an agreement with the City of Albany to provide fire protection services to their entire city at the existing $2.00 rate. In addition, Millersburg has suggested providing a fire station in Millersburg to support emergency response to the agency who enters into an agreement with them, as well as the potential of funding future equipment replacement needs.

Budget Impact:

Projected revenue in Fiscal Year 2017-18 is $926,220; future revenue projections are dependent on property values.

JB:rk

TO: Albany City Council

VIA: Peter Troedsson, City Manager 12/7

FROM: Jeff Blaine, P.E., Public Works Engineering and Community Development Director JB

DATE: December 6, 2017, for the December 11, 2017, City Council Work Session

SUBJECT: Portable Systems Development Charges

RELATES TO STRATEGIC PLAN THEME: • Effective Government

Action Requested:

Consider information presented regarding the "portable" SDC concept per Strategic Plan Objective EG-18, and provide direction.

Discussion:

The City's current Strategic Plan (2017-2021) contains an objective in the Effective Government section regarding a feasibility analysis of "portable" systems development charges (SDCs):

Objective EG-18: Conduct feasibility analysis on "portable" systems development charges. [Public Works]

*Actions: Retain consultant to evaluate feasibility of "portable" systems development charges and identify steps necessary for implementation. Identify risks/rewards, data system support needs, and any additional staffing requirements to support such a program.*

To frame the "portable" SDC discussion, some background regarding the history and purpose of SDCs in Oregon may be beneficial. **Attachment A** provides this background.

***"Portable" SDC Evaluation***

The "portable" SDC concept staff was asked to evaluate centers on the following scenario:

> A business develops a site and pays SDCs, then later wants to move that business to a new site in Albany and take their investment in system capacity (SDCs) with them to apply as a credit for their new site.

In Albany, similar to other cities' SDC programs, payment of SDCs for system capacity is permanently tied to the property for which the SDCs were paid. The intent of Council's portable SDC inquiry is to determine if there is a way to prevent the same business from paying SDCs on two separate properties for the same activity. While this is a reasonable evaluation to conduct, implementation is not without challenges. Knowing this, Council asked staff to evaluate feasibility, risk/rewards, data system support needs, and staffing impacts.

This evaluation is based on the assumption that a portable SDC program would be limited to commercial and industrial businesses and not include single-family residential homeowners.

***Legal Review***

Following consultation with Galardi Rothstein Group from Portland, a financial consulting firm with many years of SDC program development experience, it was determined that an appropriately structured portable SDC program would be legally defensible. Should the Council decide to proceed with development of a portable SDC program, it would require amendments to Chapter 15.16 of Albany's Municipal Code.

***Feasibility Analysis***

*Community Comparison:*

As a first step in the feasibility analysis, staff worked with the Galardi Rothstein Group to look at SDC programs in other Oregon communities. Most communities do not incorporate any type of portable SDC concept into their programs. However, the cities of Newport, Bend, and Tualatin Valley Water District (TVWD) have tried different aspects of the portable SDC concept at one time or another. Our research did not yield any other communities in Oregon implementing a portable SDC program as envisioned by Council. More information about the identified programs is below.

*Tualatin Valley Water District (TVWD)* – The Board of Commissioners at TVWD may allow assignment and transfer of SDC credits between properties to promote economic development if the Board deems it beneficial to TVWD ratepayers and citizens of the District. Such authorization requires separate one-time approval via District resolution. The provision has only been used once in the District to allow a manufacturing facility to transfer previously paid SDCs between sites under common ownership. Approval of the transfer came with a requirement to further assess the combined impact of the two sites, and to assess additional SDCs if there was an overall increase in capacity requirements as a result of the new development.

*Newport* – The City of Newport adopted an SDC credit transfer program in 2008 that allowed for the issuance of a credit certificate upon termination of a use on a property for which SDCs had been paid. The credit transfer only applied to previously paid water, sewer, and transportation SDCs. The main conditions of the transfer included:

a. Credit based on a "unit" not "dollar" basis. Credit was given for the number of capacity units previously assessed, not the actual dollar amount at the time of the transfer.
b. Credit applied only to structures that had been physically removed from the property.
c. The credit expired in five years from the date of issuance.

On August 7, 2017, Newport adopted Ordinance No. 2113 to amend the Newport Municipal Code and eliminate the SDC credit transfer program. The Newport staff report indicated that the program was being eliminated because credit transfers can adversely impact system capacity depending on the location of the credit transfer. In addition, the staff report cited the fact that the transfer provision had been used less than a half dozen times since 2008.

*Bend* – The City of Bend adopted an SDC credit transfer program in 2011 apparently modeled on the Newport program. Bend's program allows for the transfer of credits for previous water, sewer, and transportation SDCs paid in the case of an existing use being terminated. Main conditions of the transfer include:

a. Credit based on a "unit" not "dollar" basis. Credit is given for the number of capacity units previously assessed, not the actual dollar amount at the time of the transfer.
b. Credit applies only to structures that have been physically removed from the property.
c. The credit expires in five years from the date of issuance.

Since the Bend SDC transfer provision was added, it has only been used once or twice, according to City of Bend staff. The use of the SDC credit transfer is also discouraged by Bend staff because it is extremely difficult to track due to the manual nature of the property flagging and the SDC reconciliation process.

In summary, no Oregon communities provide a portability component to their SDC programs. Two communities have attempted to provide transfers when existing structures are demolished and connections to utilities are severed. Newport's 2008 program has been discontinued due to implementation challenges and infrequent use. Bend has a program similar to Newport's former program but discourages customers from using it because of implementation complexities. The TVWD has provided a transfer, with conditions, for one major employer but does not have a formal portable SDC program. Should a major Albany employer wish to relocate within Albany, Council could consider an approach similar to TVWD's without development of a citywide program. Albany also has dedicated sewer and water economic development funds available for new economic development opportunities or business retention. An employer could request use of these funds to cover their SDCs and negate the need for consideration of a transfer.

*Implementation Evaluation:*

The logistics of effectively managing a portable SDC program could be problematic. Successful implementation would be dependent on internal and external factors/controls.

Internal control would require creation of a new SDC credit-tracking database. Existing databases likely could not be used as they are location based, not owner or business based. Because credits for prior use are typically applied to previously developed properties, internal processes would need to be adapted to incorporate another step in the permit review process to identify properties where the SDC credit has been transferred and therefore credit for prior use is not applicable. Care would need to be taken to keep the database current. Given the perceived infrequent use and manual nature of data management, staff is of the opinion that such a program would be at high risk for potential errors.

External factors are also problematic. For example, if Business Owner-A relocates and takes their SDC investment in capacity with them, how does Business Owner-B know that SDCs are due on the property before they can start operating in Business Owners-A's old location? Most purchasers would assume the ability to move into an existing building and not have to pay SDCs if they aren't changing or intensifying the use. This scenario would place Albany in the position of enforcement for SDC collection. Staff would anticipate a significant volume of complaints associated with this type of enforcement.

To address this concern, with County approval, Business Owner-A could be required to record SDC information with their deed. Logistically this may sound reasonable but past experience would suggest that many people will not read such a document prior to purchase. Furthermore, staff would not suggest such an approach, as it will only complicate the property, and potentially

future sales, as SDC payments are made or the property changes hands multiple times and has multiple SDC payment documents recorded on it.

***Data System Support Needs***

It is not possible to fully understand the data system support needs at this time. Staff estimates that creation of a new database to manage portable SDCs would be required. It is unclear what the cost, if any, would be for the database itself. If Council chose to move forward with such a program, a detailed evaluation involving Engineering, Building, and Information Technology (IT) staff would be required.

***Staffing Impacts***

It is not possible to fully define the long-term staffing impacts of a portable SDC program at this time, primarily because it is difficult to predict how often the program would be used. However, there would be significant start-up costs and staff time required to:

- Develop and manage the selected database infrastructure (IT),
- Develop internal procedures and train staff (Engineering and Building Division),
- Maintain database to ensure accuracy over time (Engineering and Building Division),
- Conduct field inspections, or otherwise monitor property use, to determine when SDCs are due for new businesses starting on properties with SDCs that were transferred away (Engineering),
- Enforce SDC payment (Engineering),
- Manage and record documents with counties, if necessary (Engineering), and
- Overall program management (Engineering).

Without adding staff, there is concern that such a program would not be developed and managed effectively without reducing the level of service the Department provides in other areas.

***Risk/Reward***

Many of the risks or consequences of adopting a portable SDC program are identified in the preceding sections. Additional risks include a potential negative impact on SDC revenues that could limit the City's ability to financially support other important economic development projects or the ability to complete high priority capital projects. There is also the risk that such a program will complicate future SDC methodology updates that incorporate changes such as differential SDCs based on geographic area.

The potential rewards are primarily for the existing Albany business owner who chooses to relocate within the City of Albany on undeveloped property or property that hasn't previously paid required SDCs. As a result, development of such a program would likely only benefit a small number of businesses on an annual basis. Based on previous discussions with commercial and industrial businesses/developers, SDCs are a known and common element of property negotiations. Presumably, if a business must pay SDCs on the property they are purchasing it will impact the purchase price up to an offsetting amount, thereby negating the financial benefit to the seller of transferring SDCs. Thus, any reward of such a program may be questionable.

***Staff Recommendation***

Providing an administrative system that includes a portable SDC program must balance revenue sufficiency and administrative complexity with the economic development or other policy objectives that might be achieved by such a program. Staff suggests that the costs and complexities of such a program would outweigh potential rewards and does not recommend pursuing portable SDCs. If Council chooses to pursue such a program, staff will need direction on the priority of program development as compared to other planned work efforts.

Budget Impact:

Council direction to pursue a portable SDC concept will have budget impacts. These impacts are not quantifiable at this time.

JJB:rk
Attachment
c: Jorge Salinas, Assistant City Manager/CIO
Staci Belcastro, P.E., City Engineer
Matthew Ruettgers, Development Services Manager

## Attachment A - SDC Background

Systems development charges (SDCs) are one-time charges generally imposed upon new development at the time of issuance of a development permit, building permit, or connection to an infrastructure system. These charges are designed to recover all, or a portion of, the capital investment made by a local government to provide sufficient capacity in the system to serve new users. Systems development charges are an important funding source for capital improvement projects.

Oregon legislation establishes guidelines for the calculation of SDCs. Within these guidelines, local governments have some latitude in selecting technical approaches and establishing policies related to the development and administration of SDCs. A discussion of this legislation follows.

### *SDC Legislation in Oregon*

In the 1989 Oregon state legislative session, a bill was passed that created a uniform framework for the imposition of SDCs statewide. This legislation (Oregon Revised Statute [ORS] 223.297-223.314) became effective on July 1, 1991 (with subsequent amendments), and authorizes local governments to assess SDCs for the following types of capital improvements:

- Drainage and flood control
- Water supply, treatment, and distribution
- Wastewater collection, transmission, treatment, and disposal
- Transportation
- Parks and Recreation

The legislation provides guidelines on the calculation and modification of SDCs, accounting requirements to track SDC revenues and expenditures, and the adoption of administrative review procedures.

### *SDC Structure*

SDCs can be developed as: (1) a reimbursement fee, (2) an improvement fee, or (3) a combination of the two fees. The **reimbursement fee** is based on the costs of capital improvements *already constructed or under construction*. The legislation requires the reimbursement fee to be established or modified by an ordinance or resolution setting forth the methodology used to calculate the charge. This methodology must consider the cost of existing facilities, prior contributions, gifts or grants from federal or state government or private persons, the value of unused capacity available for future system users, and other relevant factors. The objective of the methodology must be that future system users contribute no more than an equitable share of the capital costs of *existing* facilities. Reimbursement fee revenues are restricted to only capital expenditures for the specific system that they are assessed, including debt service.

The methodology for establishing or modifying an **improvement fee** must be specified in an ordinance or resolution that demonstrates consideration of the *projected costs of capital improvements identified in an adopted plan and list*, that are needed to increase capacity in the system to meet the demands of new development. Revenues generated through improvement fees are dedicated to capacity-increasing capital improvements in the adopted methodology or the repayment of debt on such improvements.

In many systems, growth needs will be met through a combination of existing available capacity and future capacity-enhancing improvements. Therefore, the law provides for a **combined fee** (reimbursement fee plus improvement fee components).

***SDC Credits***

The legislation requires that a credit be provided against the improvement fee for the construction of "qualified public improvements." Qualified public improvements are those required as a condition of development approval, identified in the system's capital improvement program, and either (1) not located on or contiguous to the property being developed, or (2) located in whole or in part, on or contiguous to, property that is the subject of development approval and required to be built larger or with greater capacity than is necessary for the particular development project to which the improvement fee is related.

While not specifically required by the legislation, in the case of redevelopment, most local SDC policies provide for a credit against the new development SDC for the capacity associated with the previous use *at the same location*. This is true of the Albany's existing municipal code (15.16.090), which provides credit for existing use.

***SDC Updates and Review***

The methodology for establishing or modifying improvement or reimbursement fees must be available for public inspection. The local government must maintain a list of persons who have made a written request for notification prior to the adoption or amendment of such fees. The legislation includes provisions regarding notification of hearings and filing for reviews. "Periodic application of an adopted specific cost index or… modification to any of the factors related to the rate that are incorporated in the established methodology" are not considered "modifications" to the SDC. As such, the local government is not always required to adhere to the notification provisions. The criteria for making adjustments to the SDC rate that do not constitute a change in the methodology are further defined as follows:

- "Factors related to the rate" are limited to changes to costs in materials, labor, or real property as applied to projects in the required project list.
- The cost index must consider average change in costs in materials, labor, or real property and must be an index published for purposes other than SDC rate setting.

The notification requirements for changes to the fees that *do* represent a modification to the methodology are 90-day written notice prior to the first public hearing, with the SDC methodology available for review 60 days prior to public hearing.

***Other SDC Provisions***

Other provisions of the legislation require:

- Preparation of a capital improvement program or comparable plan (prior to the establishment of an SDC), that includes a list of the improvements that the jurisdiction intends to fund with improvement fee revenues and the estimated timing, cost, and eligible portion of each improvement.
- Deposit of SDC revenues into dedicated accounts and annual accounting of revenues and expenditures, including a list of the amount spent on each project funded, in whole or in part, by SDC revenues.

- Creation of an administrative appeals procedure, in accordance with the legislation, whereby a citizen or other interested party may challenge an expenditure of SDC revenues.

***Status of Albany's SDCs***

Albany currently imposes SDCs for water, wastewater, transportation, and parks. Water, wastewater, and transportation SDCs have both an improvement fee and a reimbursement fee. Parks SDCs only include an improvement fee. These fees are subject to annual adjustment using the *Engineering News Record* (ENR) Construction Cost Index.

Albany's SDCs comply with all aspects of Oregon law, and the administrative requirements are codified in Albany Municipal Code (AMC) Chapter 15.16.

The methodology process generally results in the definition of the maximum allowable SDC, but the Albany City Council has not always adopted the maximum allowable charge. The table below shows the methodology, adoption date, and percent of maximum allowable SDC for each of the facilities. There are multiple legal philosophies, or strategic options, in developing the maximum allowable SDC and setting the actual fee. There is no one right or wrong approach and Albany has used different strategies for different utilities. Consequently, comparing the percent of maximum allowable SDC between utilities is not a fair comparison. One must understand the differences in the methodologies themselves for an accurate comparison.

| | **Methodology Adoption** | **% of Max Allowable** |
|---|---|---|
| Transportation | February 2011 | 25 |
| Water | October 2004 | 90 |
| Sewer | June 2000 | 100 |
| Stormwater | n/a | n/a |
| Parks | October 1993 | 100 |

TO: Albany City Council

VIA: Peter Troedsson, City Manager 12/7
Jeff Blaine, Community Development and Public Works Engineering Director JB

FROM: Bob Richardson, Planning Manager
Gordon Steffensmeier, Civil Engineer III G.S.

DATE: December 6, 2017, for the December 11, 2017, City Council Work Session

SUBJECT: Vacation of a Portion of 9th Avenue SE and Railroad Street SE

RELATES TO STRATEGIC PLAN THEME:
- Great Neighborhoods
- Healthy Economy

Action Requested:

Staff recommends that the City Council initiate street vacation proceedings pursuant to ORS 271.130 and direct staff to prepare a street vacation application affecting Ninth Avenue between Jackson Street and Railroad Street, and the east half of Railroad Street north of Ninth Avenue and south of the railroad (see attached).

Discussion:

Van Vleet Meat Company, Inc., has submitted a Land Use application to expand their facilities at 800 Jackson Street SE. Their planned expansion requires the vacation of Ninth Avenue to provide room for needed parking, landscaping, and truck loading dock access. The submitted plan also includes a parking area west of the buildings in the Railroad Street right-of-way.

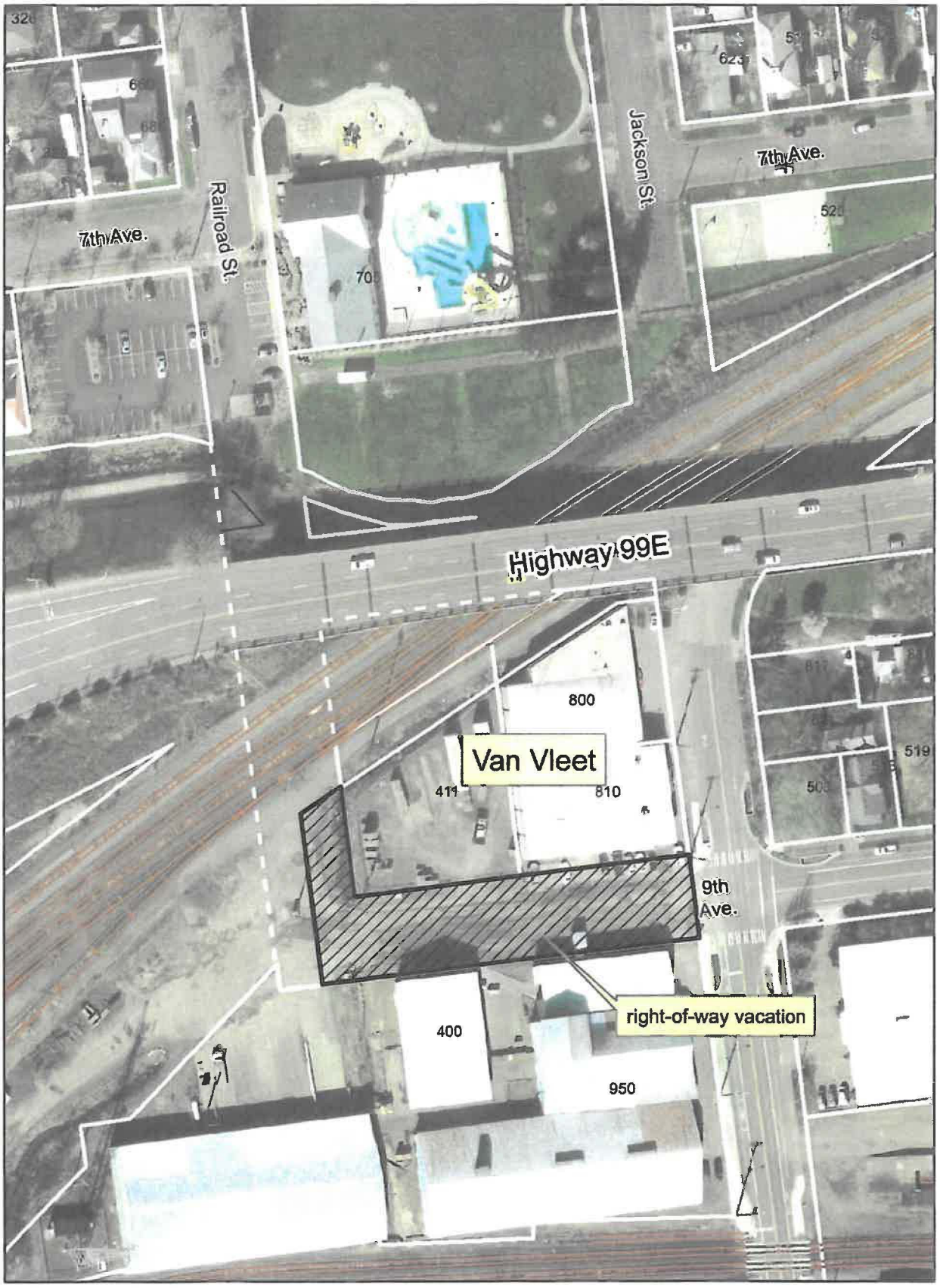
If the western half of Railroad Street were vacated, that area would revert to the railroad. Van Vleet Meat Company would like to use the western half of the Railroad Street right-of-way for access and possibly for future additional parking. Accordingly, they would like to retain the possibility of using the western half of the Railroad Street right-of-way in the future through a License to Occupy right-of-way.

Budget Impact:

The City would no longer be required to maintain Ninth Avenue, saving the street fund an unknown amount of funds.

GS:kw
Attachment

# Proposed right-of-way vacation



TO: Albany City Council

VIA: Peter Troedsson, City Manager 12/7
Jeff Blaine, Public Works Engineering and Community Development Director 913

FROM: Matthew Ruettgers, Development Services Manager MR
Gordon Steffensmeier, Civil Engineer III GS

DATE: December 6, 2017, for the December 11, 2017 Council Work Session Meeting

SUBJECT: Request for City Sewer Service for Property Outside City Limits – 3545 Spicer Road SE

RELATES TO STRATEGIC PLAN THEME: • An Effective Government

Action Requested:

Staff recommends Council authorize, by motion, the property at 3545 Spicer Road SE be allowed to connect to City sewer under the condition they extend an 8-inch diameter public sewer line across the frontage of the property, pay all fees, and execute an Irrevocable Request to Annex.

Discussion:

On November 17, 2017, staff received the attached letter (Attachment 1) from civil engineer Troy Plum and his clients, Danae and Andrew Jones. In the letter, Mr. Plum and the Joneses request permission to obtain City sewer service for 3545 Spicer Road SE (vicinity map, Attachment 2). The property is currently uninhabitable. The email (Attachment 3) from Linn County explains the septic system on the property cannot be repaired, and the property must be connected to the City of Albany sewer system before the property can be occupied. The property is outside of the city limits but within the Albany Urban Growth Boundary.

AMC 10.01.050 (4) states the Council may authorize the extension of sanitary sewer facilities to properties outside of the city limits if a number of conditions are met. Among those conditions is a requirement that the property owners requesting sewer service must submit a signed and notarized Irrevocable Request to Annex before receiving sewer service.

The property is already connected to City water. The properties in this neighborhood received water service from Pacific Power and Light before the City purchased the water system in 1984.

If the Council approves this request for City sewer service, the Joneses would be required to submit an Irrevocable Request to Annex, pay $3,070 in sewer System Development Charges (SDCs), pay approximately $1,455 in sewer Connection Charges for the existing sewer main across a portion of their property's frontage, and build approximately 70 feet of 8-inch public sewer main across the remainder of the property's frontage, before they could receive City sewer service.

Budget Impact:

The $4,525 in sewer SDCs and Connection Fees would be received into each respective Sewer Fund.

GPS:kc
Attachments (3)

TKP ENGINEERING
P.O. Box 374
Corvallis, OR 97339
Phone: (541) 760-7205
Fax: (866) 861-5704

November 16, 2017

City of Albany Engineering Department
Attn: Gordon Steffensmeier, PE, PLS
333 Broadalbin Street SW
Albany, OR 97321-0144

*RE: 3545 Spicer Road Sewer Extension, 17-012*

Dear Mr. Steffensmeier:

This letter concerns a failing septic system currently serving a residential property owned by Andrew and Danae Jones located at 3545 Spicer Road SE. The subject property is located beyond the Albany City Limits, but is within the Urban Growth Boundary. The subject property is currently served by City of Albany public water. The septic system serving this single family residential home is failing. The Linn County Environmental Health Department has determined that a repair septic drain field on the property is not possible. In order for the residential dwelling to remain habitable, connection to City of Albany public sanitary sewer is the only remaining alternative.

City of Albany public sanitary sewer has been extended within Spicer Road to the subject properties western frontage. The existing public sanitary sewer within Spicer Road currently serves several other residences that are beyond the City Limits. In order to connect to City sanitary sewer, the existing 8" public sewer pipe would need to be extended to and through the properties Spicer Road frontage per Pubic Works requirements. A new 4" sanitary sewer lateral would be extended from the mainline improvements to the structure as required to allow abandonment of the failing septic drain field.

TKP understands that requests for public utility service for properties beyond the City Limits may be approved through City Council action. Please accept this letter as a formal request to allow the subject property to connect to public sanitary sewer so that the existing residence may remain habitable.

Please let me know if you have any questions or require additional information at (541) 760-7205.

Sincerely,

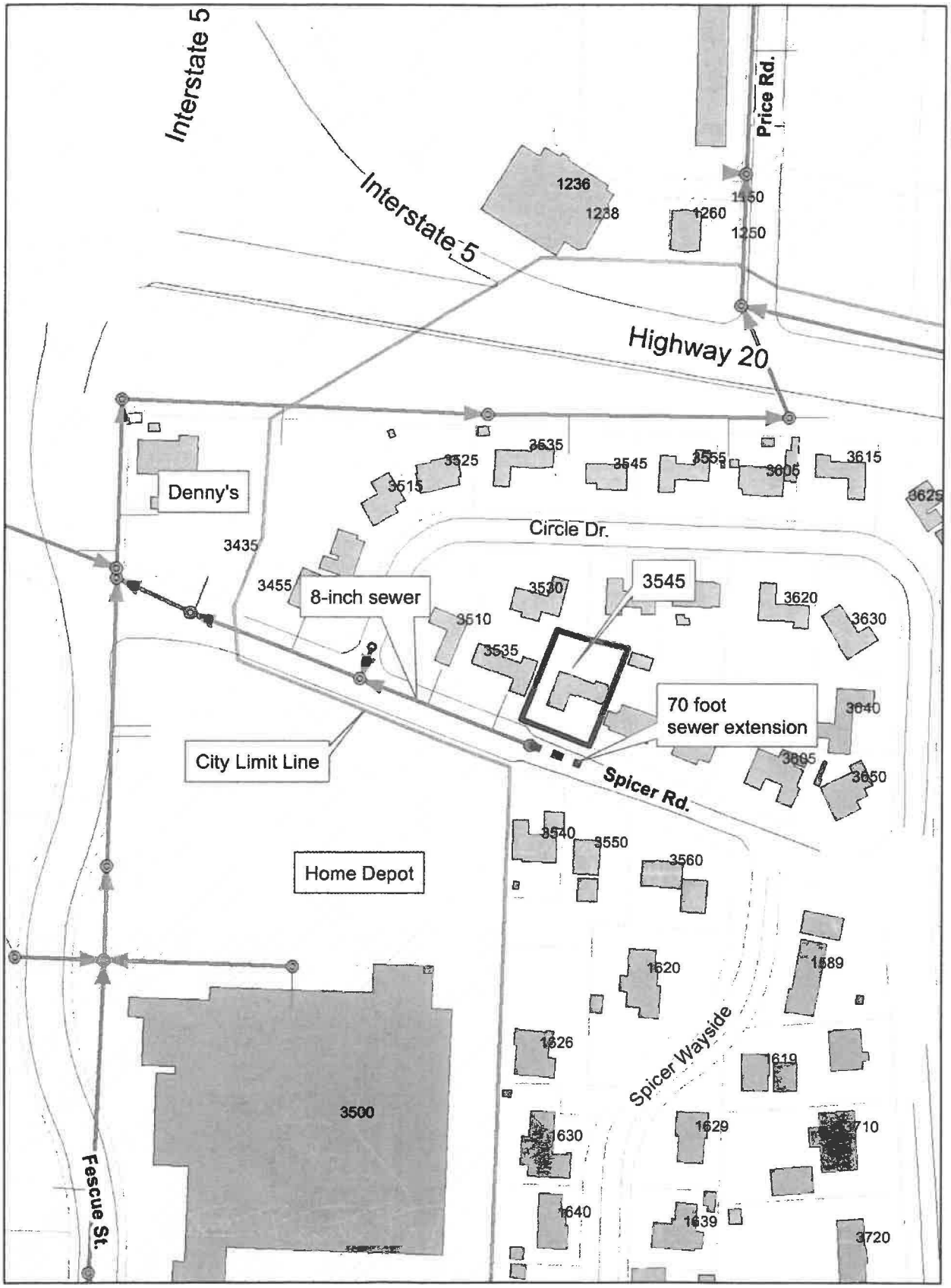
Troy L. Plum, PE
Principal

***Property Owner Signatures***

Danae Jones, Owner

Andrew Jones, Owner

# Vicinity Map



## Steffensmeier, Gordon

**From:** May, Brittany [bmay@co.linn.or.us]
**Sent:** Wednesday, November 15, 2017 3:59 PM
**To:** Steffensmeier, Gordon; danaecbj@gmail.com; troy@tkpeng.net
**Subject:** 3545 Spicer Dr SE

**We have received word that the septic system on this property is failing. In accordance with OAR 340-71-160 (4), we are prohibited from issuing a permit to repair the system if city sewer is legally and physically available (see below).**

(4) Permit denial. The agent must deny a permit if any of the following occurs:

(a) The application contains false information.

(b) The agent wrongfully received the application.

(c) The proposed system would not comply with applicable requirements in this division or in OAR chapter 340, division 073.

(d) The proposed system, if constructed, would violate a commission moratorium under OAR 340-071-0460.

(e) The proposed system location is encumbered as described in OAR 340-071-0130(8).

(f) A sewerage system that can serve the proposed sewage flow is both legally and physically available, as described in paragraphs (A) and (B) of this subsection.

(A) Physical availability. A sewerage system is considered available if topographic or man-made features do not make connection physically impractical and one of the following applies:

(i) For a single family dwelling or other establishment with a maximum projected daily sewage flow not exceeding 899 gallons, the nearest sewerage connection point from the property to be served is within 300 feet.

(ii) For a proposed subdivision or group of two to five single family dwellings or other establishment with the equivalent projected daily sewage flow, the nearest sewerage connection point from the property to be served is not further than 200 feet multiplied by the number of dwellings or dwelling equivalents.

(iii) For proposed subdivisions or other developments with more than five single family dwellings or equivalent flows, the agent will determine sewerage availability.

(B) Legal availability. A sewerage system is deemed legally available if the system is not under a DEQ connection permit moratorium and the sewerage system owner is willing or obligated to provide sewer service.

**Please let me know if you need any additional information.**

Sincerely,

*Brittany K May, REHS*
Linn County Environmental Health Program
PO Box 100
315 SW 4th Ave, 2nd Floor
Albany, OR 97321
Phone: (541) 967-3821 x2260
Fax: (541) 924-6904
bmay@co.linn.or.us