

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, March 11, 2015
7:15 p.m.

MINUTES

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE TO THE FLAG

Konopa led the pledge of allegiance to the flag.

ROLL CALL

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

Councilors absent: None.

SPECIAL PRESENTATIONS

2014 Human Relations Awards & Certificates.

Mayor Sharon Konopa introduced Chris Equinoa, a member of the Human Relations Commission (HRC). Equinoa introduced Javier Cervantes, Kim Whitley, Graham Kislingbury, and Debbie Berg. Equinoa said the City Council established the HRC in 2007 to promote harmonious relations among citizens of Albany through recommending programs, activities, ordinances, and expenditures to the Council and the City Manager. The Commission works to foster positive and respectful relations in the community. The Commission strives to help Albany be a welcoming and nurturing community. One way is to sponsor this award, given to individuals and nonprofits who promote harmonious relations in the community. The first award was given in January of 2012. Tonight's awards will be given to two winners and a runner-up who have demonstrated commitment to promoting human relations, diversity, and equality in the community.

HRC member Debbie Berg presented an award to the nonprofit runner-up, the Albany Historic Carousel and Museum, and read part of the application (see agenda file). Wendy Kirbey accepted the award for the Museum.

The individual award was presented to Jim Lawrence for his work with the bicycle safety training program. Berg read part of the nomination letter (see agenda file). Lawrence acknowledged assistance from City staff and GAPS, and recognized parents and other volunteers who help keep the program going.

Berg announced the Linn-Benton Hispanic Advisory Committee (HAC) as winner of the nonprofit award. She read part of the award (see agenda file). The award made special mention of HAC's co sponsorship of Festival Latino. The festival has been a link between Hispanic people and services in the community. In 2013, HAC was a resource to English Language and Cultural Institute in taking over the English as a Second Language (ESL) program from Linn Benton Community College (LBCC). Tammy Skubinna accepted the award for the Committee.

Konopa congratulated all the award winners on behalf of the City of Albany. She said they are part of what makes Albany a great place to live.

Konopa added that Lawrence was humble in his acceptance speech. The question of bike lanes in Albany first came up with the reconstruction of Hill Street. A lot of people felt bike lanes weren't needed because very few bicyclists used the street. Lawrence spoke out on the importance of making streets safe for all users. Konopa offered her thanks to Lawrence for years of support for safe streets in Albany.

Konopa also thanked the HAC for the wonderful Festival Latino event.

Non-sworn Employee of the Year Award.

Police Chief Mario Lattanzio said the Police Department recognizes one employee in the operations division and one in the support division quarterly. From these honorees, the Department names one civilian employee and one sworn member as Employee of the Year.

Lattanzio presented the Civilian Employee of the Year Award to Anna Kitchen. Lattanzio read from the nomination letter which described Kitchen as "the grease that keeps the gears moving smoothly," and called her a "consistently positive influence." Lattanzio presented Kitchen with a certificate and a plaque.

Officer of the Year Award.

Lattanzio presented the award for Officer of the Year to Officer Greg Newman. He said Newman, who has only been with the Department since April of 2013, led the Department last year in arrests. Newman has an “uncanny” ability to remember faces and names, helping other officers to identify previously unknown suspects. Lattanzio praised Newman’s ability to respond creatively to situations as they develop. He presented Newman with a certificate and a plaque.

Konopa thanked the Police Department for their service.

SCHEDULED BUSINESS

Public Hearing

ST-16-02, Crocker Lane and Valley View Drive Local Improvement District (LID), adopting the engineering and financial investigation reports, authorizing to secure easements, obtain bids, increase appropriations, and issue warrants for construction.

Open: Konopa opened the public hearing at 7:33 p.m.

MOTION: Councilor Floyd Collins moved to continue the public hearing until April 22, 2015, but that tonight Council hears the staff presentation and from any citizen wishing to address the Council. Further, during the extended period, request staff to evaluate, at minimum, the following: 1) What is the result if the LID process is terminated? 2) Are there options to improving Crocker Lane which would involve only the owner/developer of Phase II/III and the City? If so, define what improvements would be constructed and how existing residents would be impacted. 3) Would projected cost be reduced if Crocker Lane were to be developed using the non urban design standards? 4) Are there other assessment options to more broadly apportion the assessment beyond the currently proposed LID boundaries? Councilor Rich Kellum seconded the motion and it passed 6-0.

City Attorney Jim Delapoer described the procedure for the hearing. He explained the difference between a quasi-judicial and a legislative hearing. He also explained *ex parte* contact. He recommended that Councilors send all received mail to the Public Works Department, which will post them on the City’s website where all can read them. He urged citizens to write or e-mail Council members, instead of telephoning, so the Council can make the communication available generally. He also reminded the Councilors to disclose any verbal communication. He asked citizens to send their comments no later than April 20, 2015, to allow everyone an opportunity to read them before the April 22, 2015, meeting.

Kellum asked if Councilors needed to report contact from anyone, or only the people who are concerned with this case. Delapoer said to report conversations with anyone who speaks about this issue. Kellum asked if he could put his disclosures in an e-mail. Delapoer said yes. That would give others a chance to look at it before the next hearing.

Councilor Bill Coburn said he received two letters and e-mails, and his response was only to thank the senders and express his hope that they would be at this hearing. He said he didn’t avoid discussion to be rude, but because he is aware of the *ex parte* restriction.

Mayor Konopa summarized how the hearing will be conducted.

Staff Report.

Assistant Public Works Director Jeff Blaine explained that an LID is a tool to fairly apportion costs to properties benefiting from specific improvements. The proposed LID covers improvements to bring 2,100 feet of Crocker Lane, from Valley View to Meadow Wood, up to City standards. He described City standards. The LID also includes a 10-foot wide multiuse path running along Valley View Drive, 1,100 feet from Crocker to Hillcrest.

Blaine reviewed how streets are financed in Albany. The most common way to finance improvements is for private developers to pay for streets in the subdivision, and to pay the development’s share of offsite or frontage improvements. Typically, a developer builds the required improvements as part of their initial process. Sometimes the City may decide that the frontage or offsite improvements are not timely with the construction of the development, but it’s important that the development pay their fair share. In those cases, the developer signs a Petition for Improvements and Waiver of Remonstrance (petition and waivers), which is filed with the deed for each property in the development. The petition and waiver says that the property owner requests formation of the LID for specific improvements, and waives the right to object to formation of the future LID. All of the properties in question tonight have Waivers for the improvements, except for two properties on Valley View Drive near Hillcrest, and a pending new subdivision on the east side of Crocker Lane.

Blaine emphasized that the petitions and waivers apply only to the formation of the LID. Property owners have not waived their right to challenge the apportionment of the assessment made under the LID. He said that if property owners with waivers have already expressed concerns, Public Works encourages them to bring them up again during the public hearing process. Public Works has heard from 32 of the 72 properties proposed to be included in the LID. All of those properties are opposed to the LID. Blaine said all of the letters and e-mails Public Works has received have been given to the Councilors. He also reminded the audience that LIDs can be formed at any time, regardless of the existence of petitions and waivers; the petitions and waivers only make the process a little more straightforward. Public Works has combined the two LIDs (Crocker Lane and Valley View Drive) into one, just for ease of administration; but the benefitting properties and proposed assessments are unchanged.

Transportation Systems Analyst Ron Irish said he would address three broad topics: 1) Is the Crocker Lane improvement needed?; 2) If so, why start at the north end, not the south?; and 3) What is the benefit of urban design with curbs and gutters, over rural design with ditches and no gutters?

Irish said that Crocker Lane and other major North Albany streets look the same now as when North Albany was annexed. They are rural roads: two 12-foot travel lanes, a six-foot bike lane, ditches, with speed limits around 40-45 mph. They worked well before annexation when population and traffic were low. After annexation, problems developed as the population grew. People began to express concerns about pedestrians and bicyclists on the shoulder, separated from traffic only by a stripe. The City is making improvements along North Albany Road, and will do a sidewalk project on Gibson Hill Road this year that will address these concerns. Crocker Lane still looks the same as it did when North Albany was annexed. Most of the development since 2004 has occurred in the area where the LID is being considered. In 2004, traffic volume on Crocker just south of Valley View was 1,600 trips per day. Since then, new developments in the area have added 1,500 trips per day on Crocker Lane, doubling the number. When all the approved subdivisions are built out, traffic on the north end of Crocker Lane will be about 3,200 trips per day. Applications are in process now for the second phase of the North Creek development, which will add about 785 trips per day, for a total of about 4,000 trips per day. Irish said Elm Street at Seventh Avenue has about 4,000 trips per day. For comparison in North Albany, Quarry Road, just east of North Albany Road, carries about 1,330 trips per day.

Irish addressed the question, why is improvement needed? He said that as development continues, we are likely to see on Crocker Lane the same concerns as on North Albany Road and Gibson Hill Road. The road conditions and speed limit are the same. Pavement condition is another reason for making improvements. Crocker Lane is classified as a collector in the City's Transportation Plan. City standards for a collector street are 7 inches of asphalt over 12 inches of crushed rock, over fabric. Crocker Lane now has 2 to 3 inches of asphalt over 12 inches of round river rock, and no geotextile fabric. This means the road is not stable and will deteriorate quickly. We are already starting to see evidence of deterioration, particularly at the south end of the road. So why start improving at the north end? Most of the lots on the south end of Crocker are already developed. New development will happen at the north end of the street, and the City ties road construction to development. Some developments have already made improvements at the north end of Crocker Lane with private financing or petitions and waivers.

Irish said if the City Council decides not to do a LID, it will not be easier in the future than it would be now. One reason is that several existing petition and waivers will expire in 2016. In the next five years a lot of the waivers will expire, and development will continue. If the City Council decides now to defer forming an LID, a future LID would involve twice as many property owners, making the process more difficult for both the City and the property owners.

Finally, Irish addressed the question, why build to urban standards? First, he said, there are already several small subdivisions at the north end of Crocker Lane that already have improvements to urban standards. Second, urban standards use less right-of-way (ROW). Both have comparable travel lanes, bike lanes, and sidewalks. The biggest difference is between a landscape strip (urban) and a ditch (rural). A ditch takes up more space. There is enough ROW along the whole length of Crocker Lane from Valley View Drive to the intersection at Gibson Hill Road to build to urban standards without requiring more ROW. For development to rural standards the City would need additional ROW, maybe 5 to 6 feet, which would eat into the yards of existing homes. The third reason to build to urban standards is the opportunity to get the speed limit reduced. The Oregon Department of Transportation (ODOT) likely won't change the speed limit on Crocker Lane unless the City changes the character of the road. If Crocker Lane is built to urban standards, the City can petition ODOT to lower the speed limit to something more appropriate to an urban road.

Civil Engineer III Gordon Steffensmeier reiterated that the Valley View Drive LID and the Crocker Lane LID have been combined for purely administrative purposes.

Steffensmeier used several maps on the overhead projector (see agenda file). He pointed out the properties included in the Crocker Lane LID, and the properties subject to a petition and waiver. The properties on the west side of Crocker Lane are all included in a petition and waiver that happened with the Williamson partition in 1996. He described how other properties became subject to petition and waivers for the Crocker Lane improvements. He also pointed out properties along Crocker Lane that are not included in the LID. Developments on those properties have put in their own privately-funded improvements. Four other

properties on the east side of Crocker Lane have never applied for development and are not subject to a petition and waiver. Public Works has proposed that the City to put aside \$85,000 to cover any future frontage improvements if those properties develop, at \$139 per foot.

Steffensmeier said the proposed assessment is per lot. He described how the lots are proposed to be assessed. He said North Creek would be counted as one lot. The MBBH property would be counted as 113 lots based on surrounding density. Steffensmeier said the project estimate for all of Crocker is \$1,642,000. 192 lots would be assessed, at \$7,615 per lot. The assessment could be lower if the City provides funds from three possible sources, including the \$85,000 mentioned earlier. The City could pay up to 30% of the cost of the project if the Council chooses. Steffensmeier then used a map to explain the proposed Valley View Drive assessment, which includes the lots from the Williamson partition, obligated by a petition and waiver, and two properties not subject to petition and waiver but included to connect the improvements to Hillcrest Drive. He also showed how the two assessments overlap.

Steffensmeier said a neighborhood meeting was held January 13, 2015. Nine property owners attended, as well as two representatives of Benton County and two representatives of MBBH Development. He summarized the comments and concerns expressed at that meeting. He showed a map indicating the responses received from property owners. Public Works received a total of 43 letters and emails about the proposed LID; 22 of those were given to the Council at the March 9, 2015, Work Session. Since then, they've received 21 more responses, which he passed out to the Council (see agenda file). He summarized the most common comments and concerns in the correspondence.

Steffensmeier said staff recommends forming the LID as proposed, and begin the Crocker Lane design immediately with construction to start in the summer of 2016. Staff suggests waiting on the Valley View Drive design until Benton County and MBBH have decided the question of the park donation. The new subdivision is near wetlands and Benton County Park. If the donation could be connected with the park by a multi-use path, instead of a sidewalk on Valley View Drive, then the Valley View Drive LID would not be necessary. Staff recommends that the City contribute \$552,600 toward the Crocker Lane improvements, which would reduce the per-lot assessments by 38%. If the Council chooses to do this, they would need to move the project onto the Transportation System Development Charges (TSDC) funded list and take another project off. The same approach could be used for Valley View, which qualifies for a 40% City contribution, based on TSDCs.

Kellum said he tried to count the lots, but couldn't come up with a good total. He asked, how many lots are on the property? Steffensmeier said 82 building lots, plus the park donation and wetlands. The property will be assessed for 113 lots.

Assistant City Manager/Public Works and Community Development Director Mark Shepard said a Council decision on April 22, 2015, to form an LID would trigger design and then construction of the improvements. Improvement costs would not be assessed to properties until after construction is complete and total costs are known. If construction happens in summer 2016, he would anticipate assessments to become due in the fall or winter of 2016, or early in 2017. There would be another public hearing before final assessments would be levied.

Councilor Dick Olson asked, when North Albany Road was extended into the subdivision on the other side, was that whole subdivision part of an LID and was it charged? Steffensmeier said that all lots in Covey Run were assessed. Konopa said that was the same scenario as for the 53rd Avenue improvements; the subdivision paid for the road improvements, the bridge, and the traffic signal.

Konopa said a lot of people had signed up to testify. She asked them, if they already submitted written testimony, to just state if they were for or against. She said staff would write down any questions and address them at the end of the testimony, or after the public hearing. She said that all questions and answers would be part of the record. She also noted that the meeting would be posted the City's website tomorrow if anyone needed to leave early.

Konopa called the names on the sign-up list (see agenda file).

Jeff Powers, Benton County Natural Areas and Parks Department, reconfirmed that they are in discussion with the developer about the 10 acres being donated for addition to North Albany Park. One consideration is that although the land would be donated, Benton County would still be obligated for improvement expenses through the LID. Benton County wants to be clear about what those obligations are. They are also discussing putting a multiuse path through the property instead of a sidewalk on Valley View Drive. They would incorporate the path into the park amenities. Benton County's intention is to recognize the donated acres as one of the last forested areas in the neighborhood and hold it for the community as open space and parkland. They have heard that the neighbors want that, and it would be compatible with their goals also.

Collins asked if the donation has been concluded. Powers said no; they will not take action until Benton County's obligation becomes clear and the placing of the pathway is decided.

Myles Breadner, 123 NW Seventh Street, Corvallis, managing partner of MBBH development, owns the 31 acres next to the park. He has built a thousand lots in Albany in 23 years, and has committed all of his capital and efforts to working in Albany. This site was a product of the great recession, sold in 2008 for \$3 million, and financed by Columbia River Bank. When Columbia River Bank went out of business, the property was purchased by another bank in a loss share agreement with the FDIC. In 2012, Breadner bought 58 lots for Hayden Homes and land-banked them. The lots were not part of the development that got built; if they had been, MBBH would have expected to pay for a half-street improvement during Phase I. MBBH was not a part of it not getting done. The 31 acres had prior plat approval for 121 lots. MBBH didn't like the plat, saw the North Albany Park next to it, and talked to the City of Albany and Benton County about downscaling and adding the treed area to North Albany Park.

As to the LID, Breadner said that after 22 years in Albany, he would not be against something the City wants to do; but can't say he's for it because of the huge financial impact to him and the potential of losing the park donation. If MBBH built a half-street, it would cost \$340,000. If everything goes right under the LID, his cost would be \$535,000. He's giving property to Benton County for the park, but Benton County will be responsible for their half-street improvement. They figured it at \$140,000 and would need help with that amount. If MBBH's obligation is \$200,000 or more, Breadner is not sure whether the park donation will go through. If not, MBBH will have to consider resubmitting a subdivision application to put the property at its highest and best use. He asks that the City Council consider that possibility. He hopes to be able to do the improvements privately from the start of the property to Valley View Drive and would then be able to help Benton County with their part.

Brian and Amy Sikora, 2677 NW Kingston Way, said most of their concerns have been addressed. They want to go on record that they are against what is being assessed.

Howard Philipson, 2412 NW White Oak Avenue, is against the LID. He sees no benefit in the improvements. He asked why they have to pay to repair the whole street when the developers on the other side are not required to. Konopa said that some of the developers of property on the east side of Crocker Lane did pay into a fund that will lower the cost of this LID.

Lisa Philipson, 2412 NW White Oak Avenue, said she is against the LID.

Shavonne Sargent, 2422 NW White Oak Avenue, said she is opposed to assessment. She said, when Blaine spoke, he said improvements are for potential beneficiaries of a project, but she thinks the beneficiaries are disproportionately the non-LID proposed residents. She said, development happens over time; we're all part of the problem, all of the residents moved in at different times. But the assessment is not proportionate; those who have moved in more recently have the most cost, but the benefits go to those who have lived in the area 20-30 years.

Ken Marshall, 2697 Broadway Street NW, said he is not in the LID but would benefit, if there is a benefit to improving Crocker Lane. He agrees it is an unfair distribution of cost. He's been in real estate for 40 years and has done many subdivisions, but he has never seen a case of assessing a recent subdivision for full-street improvements. He thanked Collins for his motion to consider who benefits and how to spread out the cost. He thinks improving the condition of the road is a benefit and is in favor of reducing the speed. He said he recently sold a house on Brianna Street to his stepdaughter and her husband. The petition and waiver was on the preliminary title report. He read part of the petition and waiver regarding oversizing. He thinks the proposed LID is an oversizing of the assessment. The standard in the industry is for the developer to do half the road. He asked the Council to also consider how the improvements will end at Gibson Hill, where the urban road will meet the unimproved rural section. He wants the City to give more consideration to the project.

Konopa noted that 100% of City property taxes do not fully fund all City services. Gas taxes, which are very limited, are used for streets. The condition of approval provides for the residents of the development to pay for Crocker Lane, instead of all of the residents of Albany paying for Crocker Lane.

Brian Moran, 2422 NW White Oak Avenue, thanked the Council for their work. He does not support the LID. It needs more work.

Collin Huber, 2640 Red Oak Street, recently moved into the neighborhood. He is opposed to the LID. The improvements are on the north upper side of Crocker Lane. Part of the stated purpose is to give neighbors a safe place to walk, but people won't walk that section because it's too steep. It's a waste of money to put in sidewalks and bike lanes. The neighbors below don't drive up there; there's no shopping or restaurants, so they don't travel that way.

Mike Lafon, 2663 Red Oak Street, said the Pledge of Allegiance reminds him of the founding of this country. One of the reasons for its founding was unfair taxation. He objects to this form of it. It places the burden of the project on this group instead of on all who would benefit. The selection of properties to be assessed seems to be arbitrary. He said the audience had been given lots of additional information tonight. He'd like to make further comments at the next meeting. Konopa said he could do that. Lafon said if there are 1,500 trips per day on Crocker Lane; with 62 properties in North Creek, a lot of people outside of North Creek are

benefiting, too. The City is struggling for money; so are area residents. He asked, why not consider raising the gas tax to pay for roads? The assessment formula given for those on east side of Crocker Lane is \$139 per foot. Using the same formula for this project results in a cost of \$292,000 for 2,100 feet, yet the City says it will cost \$1.5 million. He asked, why the discrepancy? Also, the project is at least a year out, so the cost could go higher, yet residents already cannot afford the \$1.5 million the City estimates now.

Jesse Lovrien, 2464 SW Glacier Place, Suite 110, Redmond, said he represents Hayden Homes. He is here in opposition to the LID. He understands the importance of proper infrastructure and respects what the City is trying to do, but the assessments levied are excessive. This property has changed hands several times. The petition and waivers were created in 1996, long before any of parties involved would have been at the table. Since then other mechanisms have become available to fund improvements. Hayden Homes bought finished lots in North Creek in 2012; the earlier development could have been subject to paying into a fund or to a requirement to build infrastructure. When development occurs it is expected that the developer will do improvements along frontages. That didn't occur here and the costs are now being passed on to homeowners, who are much less able to afford them. The assessments are \$7,000-plus per lot, which is a lot of money. In a large-scale development, the developer can do a capital fund to absorb the cost, but to an individual homeowner it is a lot of money.

Lovrien recalled that Breadner mentioned that doing development in the private sector would be cheaper. It can be done through a private competitive bid that isn't subject to prevailing-wage requirements. Also, the North Creek community is subject to assessments for both Crocker Lane and Valley View Drive. Lovrien doesn't see the connection between North Creek and Valley View Drive. The frontage that North Creek shares is minimal, but they're sharing a large burden of the cost. He opposes the LID because he thinks there are other ways to do the improvements.

Collins said Lovrien had raised the point that petition and waivers were in place when Hayden Homes bought the finished lots. He asked Lovrien if he could think of a way to help the City get rid of the petition and waiver process by incorporating some equivalent value into Hayden Home's selling price of the individual lots. Collins said buyers are surprised to find out about the petition and waiver because they don't see it in their title report; but if it were in their base lot price, it would be in their first transaction with Hayden Homes. Lovrien said usually improvements happen when the development occurs, so they would already be done before the homes were built. He has seen capital funds created or SDCs increased for improvements. If he were developing a property, he would expect to be required to do the frontage improvements as a condition of approval.

Collins said a previous City Councilor was always against half-street improvements, because of the difficulty of designing them to match up when the other side of the street developed. Collins thinks that is part of the timeliness issue. Lovrien agreed, and said he thinks that these improvement costs should have been levied on the previous developer and put into a fund, instead of passed on to the homeowners. Then the cost could have been put into the homes' purchase price. Collins asked Lovrien and Breadner to work with City staff to develop creative solutions so this doesn't happen again. Lovrien said he would value the opportunity to work with the City on a creative solution.

Mercedes Strowbridge, 2658 Red Oak Street, spoke on behalf of herself and her husband Jonathan. They moved in a year ago; it's their first home. They are both school teachers and were careful to buy a house within their means. The LID assessment would be a big financial hardship. They're both paying off student loans, and \$80 a month for 10 years is a lot of money. They don't think they should be assessed for parts of the road they're not using, especially the Valley View Drive portion. She agrees with previous speakers that it's a disproportionate burden. They know the City is in a hard spot and that there's no way to please everyone. She hopes the City will continue to work on a solution that works for everyone.

Harry Snoek, 2654 Kingston Way, said he delivered a letter to the City Manager on March 9, 2015. He handed the City Clerk a petition with 35 signatures of people who are opposed to paying the assessment (see agenda file).

Bill Root, 2634 Valley View Drive, said he is one of the two properties on Valley View Drive being assessed. He is chairman of the North Albany Neighborhood Association (NANA). He announced that Breadner and Powers will at next NANA meeting to discuss the parks development piece. He is opposed to the LID for Valley View Drive. He commented at the Homeowners Association meeting about Valley View Drive, and staff worked with those comments. He thanked staff for that. He was opposed to a sidewalk, and explained why. The City came up with a multiuse path instead. As to the park donation, if the path went through the property and the LID for Valley View Drive could be dropped, he wouldn't object. He doesn't object to the cost on his own part, but it would be hard on those assessed \$4,000 in addition to the Valley View Drive assessments. He suggests that the City drop the LID for Valley View Drive. It isn't needed and would help the park negotiations.

Peggy Johnson, 2649 Red Oak Street, said she turned in a letter of opposition to the Crocker Lane and Valley View Drive LID (see agenda file). She is opposed, partly because of the cost to homeowners. Her neighbors are mostly young families with small children. She herself is on a fixed income. This is very expensive. She

would like staff to do more research and bring the cost down. Crocker needs to be fixed, but the amount being assessed is extravagant.

Tim Harrington, 2646 Kingston, said he is opposed. He said, we know the cost when we buy something, but when they bought their property, they were not aware of the petition and waiver. To be blindsided like that is unreasonable and unfair. Developers should have to pay for improvements when they build. To pass the cost on to homeowner seems unfair and unethical. Kellum asked if Harrington thinks homeowners should not pay at all or that the costs should be in the price of the property. Harrington said he thinks the developer should pay.

Raymond Funke, 2526 White Oak Avenue, is opposed. The cost to homeowners is high. He wants to see if a lower cost could be worked out.

Robert Sams, 2662 Kingston Way, said he lived for 20 years on Crocker Lane. He has seen the increase in traffic. He's also seen that maintenance by the City and Benton County has been limited to striping and nothing else in 20 years. He said Crocker Lane's deterioration is due to lack of maintenance. He attended the hearings for North Creek. The City didn't require the original developer to pay their fair share or to post bond, but said the improvements could all be made with Phase II. The developer then went broke, and now the City is coming back to the people in the neighborhood who have already paid a lot of money to the City for building permits. He said the City wants the revenue the development will bring. He said Irish stated that trips on Crocker will double based on build-out, but at this point, Crocker Lane is sufficient for the people who live there. If the development will create double the trips, then the developer should build the road, and if he can do it for half price privately, let him. He also mentioned that at previous hearings, the City said it had funds for a traffic light at Gibson Hill and Crocker Lane. He asked, does the City still have those funds? The intersection warrants a light now. He said it's time for the City to step up and take care of the street. Current homeowners are only 5-10% of the traffic. Crocker Lane's deterioration is the City and Benton County's fault.

Eric Swanson, 2400 White Oak, said he has lived there one year. They moved there to get a bigger house for their foster son, who just passed away. The funeral was expensive. Now they are facing an assessment up to \$10,000. They bought their house knowing they could afford it, but adding \$10,000 to the cost now puts it in question whether they can afford it. They give to the community and it seems unfair. The cost should have been paid up front by the developer, not after the fact. Even if they knew what they were looking at they would not know how much it would be. He said, for the community and the future, don't do the LID. People think everyone in North Albany is well-to-do, but that's not the case; most are stretching. He is willing to pay his fair share but it's disproportionate to pay for sidewalks he won't use. He is opposed. If there was a fair and reasonable offer to vote on, he would be in favor.

Rachel Haggerty, 2659 Brianna Street, said her household is two students. Her husband is working on his PhD and she is working on her Masters. They have \$125,000 in student loans. They have just bought their first home. She said Apartments in Corvallis rent for \$1,000/month for 900 square feet. Owning a home is a traditional part of the American dream. They are here because they chose the City Council to represent them as elected officials. They have voices and the Councilors are the leaders of their voices. They are opposed to the LID. They budgeted carefully and chose Hayden Homes because it fit their budget. Their mortgage is less than rent in Corvallis. She thanked the Council for their time and patience.

Mark Mostek, 2654 Red Oak Street, said he has lived there about five years. He's seen how the area's been developed. He understands the need for road improvements, but it is not fair to assess just this group of homeowners. He sees a lot of traffic. He asked, does the traffic volume numbers take into account people who don't live in the neighborhood but use the road? Can the City reevaluate the assessment? He said, the improvements need to be made, but the cost needs to take in more people. He asked, why are those not living on Valley View Drive being assessed for those improvements? The City needs to assess all in North Albany that use the road. He is opposed to the LID.

A letter was turned in from Todd and Emily Franson Jones (see agenda file).

A letter of opposition to the "Crocker Lane and Valley View Drive Local Improvement District," from Aujin Jang and Seona Lee, was turned in to the City Clerk (see agenda file).

Judy Foster, 2645 Red Oak, says her mother owns her own home. She is elderly and lives by herself on a fixed income. Foster says she doesn't know how to tell her mother about this assessment. She is opposed to the LID.

Mark Lankford, 2300 Cluster Oak, said he moved in two weeks ago. He is opposed. The improvement costs should have been paid by the developer or by Hayden Homes.

Scott Palmer, 2660 Brianna Street, said he is opposed. The new developer, MBBH, is being assessed now, but Hayden didn't add the assessment into the cost of their homes. MBBH will add it into the cost of the homes. Breadner is paying up front now and will get it back, but the home-buyers won't get it back. Palmer moved here from Salem for a better life for his son, but is a single-income family. Palmer drives to

Woodburn daily for his job. Gas prices are high. He's doing everything he can to just to buy his family food, clothes, and necessities. He can't afford a \$10,000 assessment. He says he will lose his house to pay for the road. He doesn't use the road; he drives north every day. He says it seems ridiculous to pay for something they don't use. He likes the area for its country feel and wants to keep it that way. The assessment will force him out.

Cindy Lafon, 2663 Red Oak, said today was their first day in their new house. She asked, where is the county in all of this? Crocker Lane is a county road; what is the county contributing? Some people in the area already paid their assessment. She asked, did they pay by the same formula new residents are being assessed at? If not, can the formula be made equal across the board? They are being assessed at \$9,000 for 2,100 feet of improvements. Three steps on the sidewalk at \$400 a foot is \$1,200. Konopa asked Lafon if they were told about the petition and waiver before they signed for the house. Lafon said there was a "waiver petition" in the Hayden paperwork. She said they asked if there was any work pending on Crocker Lane and were told that they didn't know of any. That was in early January. The petition and waiver was vague. It said they could remonstrate against the assessment; that's why they are here tonight. The petition and waiver is 19 years old, and there were no numbers attached. Lafon said she thinks most home-buyers assumed the petition and waiver would expire. Most people in the neighborhood got their notices by registered mail a few days ago. The Lafons got theirs by email. They were surprised to have to sign for a \$9,000 debt on a property they had just paid for.

Mike Marthaller, 2502 White Oak Avenue, said he is opposed. He and his family moved into North Creek almost two years ago. He drives 130 miles to work and back so they can live here. Getting blindsided by a \$10,000 fee is ridiculous.

Rodney Wyatt, 2673 Red Oak, said that Delapoer' explained that this hearing is just about getting the facts. The letter they received from the City Manager references a Bloom Lane LID. The letter says that LID was abandoned because the neighborhood came out against it. That is why they are here tonight; to get this LID dropped, because the hearing isn't just about getting the facts.

Konopa stated that the hearing will be continued to April 22, 2015. She asked if the Council had questions for staff. Shepard said staff would be happy to answer questions, but it might be more constructive to provide the Council with a written list of questions and answers already made, before April 22.

Councilor Kopczynski asked if the assessments are payable immediately, or can they be paid over time. City Manager Wes Hare clarified that nothing been assessed yet. The concern tonight is what the bill will be and that will depend on how much the Council wants to contribute to the project, if the LID is formed. There would be a payment plan, with interest.

Finance Director Stewart Taylor said that in Albany, the repayment period has typically been 10 years, but could be longer under state statute.

Kellum asked when the public will get answers to the questions they asked tonight. Shepard said answers to the questions posed tonight will be part of the agenda packet for the April 22, 2015, meeting. The packet will be posted on the web site the Friday before the meeting.

Scott Palmer came forward again. He said he understands that none of the questions and answers will be available to the public before April 20, 2015, but he wants a running dialogue on a public forum like the web site. Hare said he doesn't know of a process to manage a public hearing that way. Konopa explained that the record is left open to the public hearing April 22, 2015, and the public can address any of tonight's questions and answers then. Palmer is concerned about knowing what is being done on a daily basis. Hare said nothing will be done, other than the City will be gathering information. Palmer wants the information on a daily basis. Delapoer explained that the City Council is a deliberative body, which means there isn't one person here who can answer any of the questions. Many of tonight's questions are on debatable points. There are seven members of the Council and none of them have decided yet how they will vote. Collins' motion to continue the hearing means that before the next hearing, staff will try to figure out other ways to address the concerns raised tonight. Delapoer explained that if the Councilors knew right now how to address the issues, this would be a phony hearing. The process has to take time. Konopa said the Council will not discuss this topic until the public hearing on April 22, 2015.

Coburn said one of the reasons he didn't respond to e-mails is that the Councilors are not allowed to have those discussions outside the public meeting.

Olsen said this is a really tough problem, and the Council is asking staff for a better solution. They hope to hear a better solution on April 22, 2015.

Collins said as he remembers state statute on LIDs, there are provisions for deferring assessments for seniors until the property transfers. Shepard said there was such a program but it was discontinued in 2011. However, the Council could create their own deferred assessment process, but they would have to figure out how to finance it. It has been done by previous Councils for previous LIDs.

A letter of opposition to the “Crocker Lane and Valley View Drive Local Improvement District” from Mark Lanford was turned into the City Clerk (see agenda file).

Collins asked about interest rate on deferred assessment programs. Taylor said state statute defines the interest rate and there is some flexibility.

Councilor Bessie Johnson said the Council is here to listen. She said she once asked a title company why they don't they tell people about petitions and waivers; they told her it was not their job. Her opinion is that people should talk to their legislators and get something changed so that things like this are brought out during mortgage closings rather than hidden in the fine print. She was hit with something like this, too, but didn't have to pay until she sold her house. She understands that it's frustrating to find out this way. She thinks a gas tax would be a great way to pay for road improvements. She said the public should keep their comments coming, and the Council will do best they can.

The Council recessed at 9:52 p.m. for a 5-minute break.

Letters of opposition to the “Crocker Lane and Valley View Drive Local Improvement District” were given to the City Clerk by the following people: Mercedes Strowbridge; Jason Robert Scheafer; Michael Marthaller; and Denise and Forrest Johnson (see agenda file).

The Council reconvened at 9:58 p.m.

Business from the Public

There was no business from the public.

Adoption of Resolution

Adopting a supplemental budget increasing appropriations in the Central Services Fund.

MOTION: Kopczynski moved to adopt the resolution adopting a supplemental budget increasing appropriations in the Central Services Fund and Collins seconded the motion. The motion passed 6-0 and was designated Resolution No. 6397.

Adoption of Consent Calendar

Approval of Minutes

- a) January 26, 2015, City Council Work Session.
- b) January 14, 2015, City Council Regular Session.

MOTION: Collins moved to adopt the Consent Calendar. Kopczynski seconded the motion and it passed 6-0.

Award of Contract

Authorizing the Finance Director to enter into a contract with Piper Jaffray, Seattle-Northwest Division; and repealing Resolution No. 6379.

Taylor reminded the Council that in January he brought a one-year extension of this contract to the Council. Piper Jaffray wanted changes that were substantial enough that he and Delapoer thought they should bring back the complete contract. The original contract dates back about 8 years. Since then, the contract has been transferred. There were three items to be renegotiated, and staff thought it would be better to have a new contract. These types of contracts are exempt from competitive bidding under Oregon purchasing rules. Staff recommends going forward with the new contract so we can continue with the same financial advisors.

MOTION: Kopczynski moved to authorize the Finance Director to enter into a contract with Piper Jaffray and adopt the resolution. Collins seconded the motion and it passed 6-0 and was designated Resolution No. 6398.

Award of Bid

ST-13-03, North Albany Road Reconstruction.

Coburn stated that he had a conflict of interest. The company he works for will be involved with the project. He recused himself and left the dais.

Engineering Manager Staci Belcastro summarized staff's award recommendation for the North Albany Road Reconstruction project. The City received six bids, ranging from \$6.1 million to \$7.8 million. The engineer's estimate was \$5.8 million. K & E Excavating was the apparent low bidder but their bid was determined to be non responsive. Staff recommends that the City accept the bid from the next-lowest bidder, Emery & Sons Construction of Salem.

Belcastro said the North Albany Road project will include full-width improvements to urban standards from the railroad tracks to just north of Quarry Road, with curb and gutter, sidewalks, bike lanes, and a center turn lane. A new bridge will be built over Thornton Lake, and West Thornton Lake Drive will be realigned to connect to the traffic signal at the North Albany Middle School entrance. The road will also be raised for emergency-vehicle access in case of a major flood. The project will also include about 3,800 feet of 30-inch diameter HDPE water line, which will complete the last phase of the Broadway Transmission Main project, connecting Albany south of the river to the Broadway Reservoir.

Belcastro said staff determined that K & E's bid was nonresponsive because they failed to meet the minimum HDPE experience requirements. She explained the requirements, which staff feels are critical to the project because HDPE pipe has material properties that make it different to handle during construction compared to other pipe materials. K & E's bid listed Oxbow Construction to fulfill two of the experience minimum requirements, but did not list them as a first-tier subcontractor. All other bidders who listed subcontractors to fulfill the experience requirements also listed them as a first-tier subcontractor. K & E explained to staff that they planned to use one person from Oxbow, not the company, to fulfill both experience requirements. Staff finds that this approach is unacceptable and provides an unfair advantage to K & E. Engineering staff consulted with the City Attorney in making this decision.

Kellum asked if there is any evidence that K & E could not do the work. Belcastro said according to the bid, Oxbow was to do the work – but Oxbow in fact wouldn't be doing it. Shepard said K & E did not meet the standards set by the City for demonstrating experience, so the City can't determine whether they have that experience. Not meeting the requirement to demonstrate also gave K & E an unfair advantage over the other bidders.

Blaine said it is his understanding that K & E did not meet the minimum requirements of the bid document. They intended to hire a superintendent from another company to train K & E's crew to install the HDPE pipe on this project. He is uncomfortable with that, for the same reasons Belcastro described. It's a big project, and a critical one. The importance of the project justifies the need for the experience required.

Kellum asked if the pipe is tested after it is put in. Belcastro said yes. Kellum said he doesn't see the problem. The issue is basic fairness. Doing the job is what's important. The job will be tested so we know it will work. Shepard said the water line is a crucial part of the road project, which is on an extremely tight timeline. Any issues with the pipe could delay the whole project.

Konopa added that accepting K & E's bid would change the project requirements and require the project to go back out to bid to allow other bidders to not meet the requirement. Kellum said that would depend on whether the standard is functional, or whether we object to the way they met the standard. Delapoer said they did not meet the standard.

Collins said the Council has two options: award as staff suggests, or reject all bids and readvertise. He asked, what would the consequences be of rebidding? Shepard said the project likely would not get done this summer. If we tried to bid again for this summer, we would pay more because contractors are filling up their schedules. Construction costs have gone up 7% since last summer, so the City would probably pay another 7% more if we bid for next summer. That would be \$320,000 more just for inflation. Collins said the project has already been delayed two years. Utility work has been done in preparation, the school has already planned for the road closure, and the community has been notified. The bid tabulation shows five contractors that followed the rules and one that did not.

Johnson asked Belcastro if there is an appeal process for K & E. Delapoer said they can file a lawsuit to try to stop the project. If we do award to K & E, Emery could also file a lawsuit to stop the award, saying we didn't follow the law.

Kellum said he thinks we are using the wrong standards. Belcastro clarified that the bid requirement wasn't a prequalification; it was an experience requirement for installing large-diameter HDPE pipe. K & E has never done that.

Collins said, if K & E had listed Oxbow as a subcontractor with experience who would bring their own crew and their own superintendent and their own tech, we wouldn't be discussing this question. The error was made by K & E. They did not demonstrate that they have ever done the work, nor are they hiring a firm that has ever done the work.

MOTION: Kopczynski moved to award the contract in the amount of \$6,559,593.16 to Emery & Sons. The motion passed 4-1 with Kellum voting no and Coburn recusing himself.

Appointment

Appointing Jane Donovan to the Arts Commission.

MOTION: Johnson moved to appoint Jane Donovan to the Arts Commission. Kopczynski seconded the motion and it passed 6-0.

Albany City Council Regular Session
March 11, 2015

BUSINESS FROM THE COUNCIL

Kellum said the County has announced that they have received the last two proposals for the sales position system at the Expo Center.

Kopczynski mentioned a tour of the new Woodwind apartments. They are doing wonderful work out there.

RECESS TO EXECUTIVE SESSION TO DISCUSS PENDING LABOR NEGOTIATIONS AND PENDING LITIGATION OR LITIGATION LIKELY TO BE FILED IN ACCORDANCE WITH ORS 192.660 (2)(d)(h)

The Regular Session recessed to Executive Session at 10:26 p.m.

RECONVENE

The Regular Session reconvened at 11:07 p.m.

MOTION: Collins moved to authorize the Mayor to send a letter to the City of Lebanon Mayor to utilize the Canal as a drinking water source for \$1.2 million for past capital investments and \$125,000 annually for operations & maintenance and future capital. Johnson seconded the motion and it passed 6-0.

MOTION: Kellum moved to ratify the Albany Police Association contract. Kopczynski seconded the motion and it passed 6-0.

NEXT MEETING DATE: Work Session: March 23, 2015
 Regular Session: March 25, 2015

ADJOURNMENT

There being no other business, the meeting was adjourned at 11:09 p.m.

Respectfully submitted,

Reviewed by,

Mary A. Dibble, MMC
City Clerk

Wes Hare
City Manager