

**NOTICE OF PUBLIC MEETING**  
**CITY OF ALBANY**  
**CITY COUNCIL**  
**Council Chambers**  
**333 Broadalbin Street SW**  
**Wednesday, December 2, 2015**  
**7:15 p.m.**

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

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

**AGENDA**

Rules of Conduct for Public Meetings

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

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. ROLL CALL

4. SCHEDULED BUSINESS

a. Communication

1) Accepting Kristin Richardson's resignation from the Planning Commission. [Page 2]

Action: \_\_\_\_\_

b. Business from the Public

c. First Reading of Ordinance

1) Declaring a ban on recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and/or recreational marijuana retailers. [Pages 3-4]

Action: \_\_\_\_\_ ORD. NO. \_\_\_\_\_

d. Adoption of Resolutions

1) Amending the South Santiam Enterprise Zone boundary. [Pages 5-9]

Action: \_\_\_\_\_ RES. NO. \_\_\_\_\_

2) Authorizing a farm lease of South Albany Community Park to Ehrlich Farms, LLC. [Pages 10-12]

Action: \_\_\_\_\_ RES. NO. \_\_\_\_\_

3) Amending downtown parking restrictions. [Pages 13-15]

Action: \_\_\_\_\_ RES. NO. \_\_\_\_\_

e. Adoption of Consent Calendar

1) Approval of Minutes

a) September 9, 2015, Regular Session minutes. [Pages 16-20]

b) September 23, 2015, Regular Session minutes. [Pages 21-29]

2) Executing a quitclaim deed to Lowes HIW, Inc. [Pages 30-32] RES. NO. \_\_\_\_\_

Action: \_\_\_\_\_

5. BUSINESS FROM THE COUNCIL

6. NEXT MEETING DATE: Work Session: January 11, 2016

Regular Sessions: December 7, 2015

December 9, 2015

7. ADJOURNMENT

City of Albany Web site: [www.cityofalbany.net](http://www.cityofalbany.net)

## Hyde, Laura

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From: Kutschera, Rachel  
Sent: Friday, October 9, 2015 8:03 AM  
To: Richardson, Bob; Hyde, Laura  
Subject: Planning Commissioner Resignation

Laura,  
Please note that Kristin Richardson will be resigning from her position at the end of November. Her term expires at the end of the year.

Thanks

Rachel Kutschera  
Administrative Assistant | City of Albany Community Development  
333 Broadalbin St. SW, Albany OR 97321  
Phone: 541-917-7568 | Fax: 541-791-0150  
[rachel.kutschera@cityofalbany.net](mailto:rachel.kutschera@cityofalbany.net)

-----Original Message-----

From: Kris Richardson [<mailto:castilla13@12acres.com>]  
Sent: Thursday, October 8, 2015 8:58 PM  
To: Kutschera, Rachel; EXTERNAL - Tomlin, Larry  
Subject: Re: CHANGE OF VENUE: PC Meeting / Monday, October 12, 2015

Hi Larry and Rachel.

Good news, bad news.

I'll be finishing my degree at OSU this fall, and then starting a hydrology job with the US Forest Service in Montana in December. I am near the end of my 4-yr term, I think, but will need to resign my position on the Planning Commission by the end of November.

What do I need to do to make this formal?

Kris

DISCLAIMER: This e-mail may be a public record of the City of Albany and may be subject to the State of Oregon Retention Schedule and may be subject to public disclosure under the Oregon Public Records Law. This e-mail, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please send a reply e-mail to let the sender know of the error and destroy all copies of the original message.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF ALBANY DECLARING A BAN ON RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND/OR RECREATIONAL MARIJUANA RETAILERS; REFERRING ORDINANCE; AND DECLARING AN EMERGENCY.

WHEREAS, the Oregon Medical Marijuana Act, as amended by House Bill 3400 (2015) provides that the Oregon Health Authority will register medical marijuana processing sites and medical marijuana dispensaries; and

WHEREAS, Measure 91, which the voters adopted in November 2014, directs the Oregon Liquor Control Commission to license the production, processing, wholesale, and retail sale of recreational marijuana; and

WHEREAS, Section 134 of HB 3400 provides that a city council may adopt an ordinance to be referred to the electors of the city prohibiting the establishment of certain state-registered and state-licensed marijuana businesses in the area subject to the jurisdiction of the city; and

WHEREAS, the Albany City Council wants to refer the question of whether to prohibit recreational marijuana producers, processors, wholesalers, and/or retailers to the voters of Albany.

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

**DEFINITIONS:**

Marijuana means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

Marijuana processing site means an entity registered with the Oregon Health Authority to process marijuana.

Marijuana processor means an entity licensed by the Oregon Liquor Control Commission to process marijuana.

Marijuana producer means an entity licensed by the Oregon Liquor Control Commission to manufacture, plant, cultivate, grow, or harvest marijuana.

Marijuana retailer means an entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state.

Marijuana wholesaler means an entity licensed by the Oregon Liquor Control Commission to purchase items in this state for resale to a person other than a consumer.

Medical marijuana dispensary means an entity registered with the Oregon Health Authority to transfer marijuana.

BAN DECLARED: As described in Section 134 of House Bill 3400 (2015), the City of Albany hereby prohibits the establishment and operation of the following in the area subject to the jurisdiction of the city.

- (a) Marijuana producers;
- (b) Marijuana processors;
- (c) Marijuana wholesalers;
- (d) Marijuana retailers.

EXCEPTION. The prohibition set out in this ordinance does not apply to a marijuana processing site or medical marijuana dispensary that meets the conditions set out in subsections 6 or 7 of Section 134, Section 136, or Section 137 of House Bill 3400 (2015).

REFERRAL. This ordinance shall be referred to the electors of the city of Albany at the next statewide general election on Tuesday, November 8, 2016.

EMERGENCY. In as much as this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Albany, or to facilitate the prompt and timely completion of important City business, an emergency is hereby declared to exist; and this Ordinance shall take effect and be in full force and effect when signed by the Mayor.

Passed by Council: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

ATTEST:

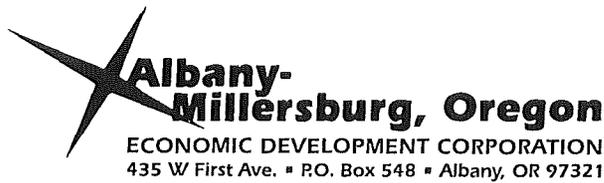
Effective Date: \_\_\_\_\_

\_\_\_\_\_

City Clerk

\_\_\_\_\_

Mayor



South Santiam Enterprise Zone  
Co-Sponsors

November 4, 2015

Linn County Board of Commissioners  
City of Albany, Wes Hare  
City of Lebanon, Gary Marks  
City of Millersburg, Barbara Castillo

By Consent: City of Tangent, Georgia Edwards

Re: Expansion of the South Santiam Enterprise Zone

I am requesting that you approve the expansion of the enterprise zone.

Recent opportunities have developed which have prompted me to ask for this action; the first is a potential project in our area looking at property that is not in the zone but could benefit from being included in the zone, the second is a pending expansion project on property which we thought was in the zone but because of previous regulatory limitations were not included but could also benefit from inclusion in the zone. Finally, because this process requires GIS mapping, we decided to take another look at properties that were not added previously but could be added due to the expansion of the limitations previously allowed.

In the past I have had to change the zone several times to accommodate various projects by including some sites and removing others. The City of Lebanon has allowed us to tag on to their South Santiam zone but the size limitations meant we had to pick and choose which of our Albany and Millersburg sites to include. This process has come back to haunt me several times because no sooner did we finalize the zone boundaries then another project pops up and the site turned out to not be in the zone. The cap at 12 square miles severely restricted us but the new cap of 15 square miles has allowed us to place all of the industrial zoned sites in Albany and Millersburg in the expanded zone and also include additional industrial property in the county outside of the three city's boundaries.

By including the potential project sites, we might encourage new investment which has the potential to grow the economy and add very good paying jobs. Tentative projects might be encouraged to proceed by being able to take advantage of enterprise zone benefits.

In addition, by being able to include more industrial property we can respond sooner to potential projects without having to go through the time consuming process of amending the enterprise zone again, our sites will already be in the zone.

As co-sponsors, I request that you pass a resolution approving the amendment. This could be at a regular meeting which also serves as a public hearing, which is required to amend the enterprise zone.

I will be happy to attend a work session to discuss this process if you feel it is necessary, prior to your public hearing and will certainly be present at the public hearing to answer any questions.

The taxing districts were notified by letter on August 31st which means the required 21 day notice to them has passed. Therefore, your public hearing can be held any time after receiving this request.

A draft resolution is also enclosed. Exhibit A, the property map referred to in the resolution is attached.

Thank you for your cooperation. By working together on economic development efforts such as this we can help build better communities for all of us.

Sincerely,

John Pascone  
President  
Co-Manager of the South Santiam Enterprise Zone

Copy, Sean Stevens, Business Oregon

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION BY COSPONSORS OF THE SOUTH SANTIAM ENTERPRISE ZONE TO AMEND THE SOUTH SANTIAM ENTERPRISE ZONE BOUNDARY [PURSUANT TO CHAPTER 648, OREGON LAWS 2015 – B-ENGROSSED HOUSE BILL 2643]

WHEREAS, the City of Albany, City of Lebanon, City of Millersburg, and Linn County are sponsors of the South Santiam Enterprise Zone. The City of Tangent by Consent; and

WHEREAS, the enterprise zone has a total area of 14.94 square miles as amended; it meets other statutory limitations on size and configuration and is depicted on a drawn-to-scale map (Exhibit A). Its boundary is described as in a multipage Excel spreadsheet file S\_SantaimEntZnTaxlot1072015Expansion.xlsxproperties (Exhibit B\*); and

*\*Exhibit B: The file is available from John Pascone, AMEDC Zone Co-Manager, and Linn County GIS Department. The listing is too large to include.*

WHEREAS, the municipal corporations, school districts, special service districts, *etc.*, other than the sponsoring governments that receive operating revenue through the levying of *ad valorem* taxes on real and personal property in any area of the enterprise zone, as amended, were each sent a notice regarding this boundary change; and

WHEREAS, the cosponsors shall fulfill their duties and implement provisions [jointly with other cosponsors] under ORS 285C.105 or elsewhere in ORS Chapter 285C and related parts of Oregon Law; and

WHEREAS, the enterprise zone does not grant or imply permission to develop land within the Zone without complying with prevailing zoning, regulatory and permitting processes, and restrictions for applicable jurisdictions; nor does it indicate any intent to modify those processes or restrictions, except as otherwise in accordance with Comprehensive Plans as acknowledged by the State of Oregon Land Conservation and Development Commission; and

WHEREAS, the cosponsors agree that adding new industrial properties to the zone would expand the economic opportunities and prosperity to the communities in the area; and

WHEREAS, the cosponsors are interested in encouraging new business investment, job creation, and higher incomes for local residents and greater diversity of economic activity.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council, as a cosponsor of the Zone, does hereby change the boundary of the Oregon enterprise zone under ORS 285C.115 as shown in Exhibit A; and

BE IT FURTHER RESOLVED that the name of the Zone shall remain the South Santiam Enterprise Zone; and

BE IT FURTHER RESOLVED that John Pascone, zone co-manager, is authorized to submit documentation of this enterprise zone boundary change to the Oregon Business Development Department (OBDD) for purposes of a positive determination under section 18, Chapter 648, Oregon Laws 2015 (Enrolled House Bill 2643) on behalf of the zone cosponsors; and

BE IT FURTHER RESOLVED that this change in the South Santiam Enterprise Zone boundary takes effect on the date that this resolution/the latest resolution of a cosponsoring government is adopted or later, as so stipulated by OBDD in its determination following any revision or resubmission of documentation.

DATED AND EFFECTIVE THIS 2<sup>ND</sup> DAY OF DECEMBER 2015.

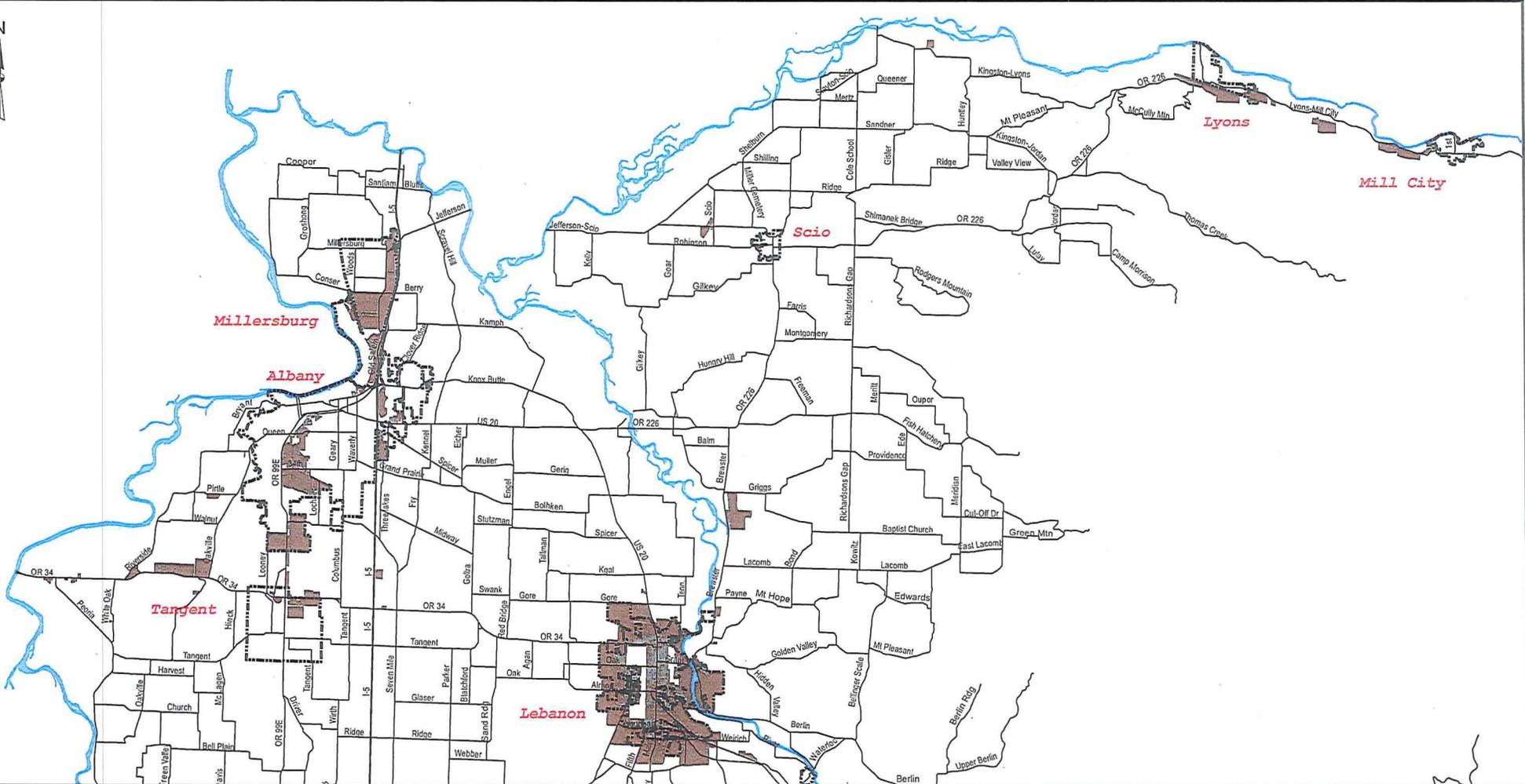
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Mayor

ATTEST:

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City Clerk



**Linn County Disclaimer**

The data contained in this map was designed for assessment and planning purposes only and not for precise engineering-level mapping. As such, it is subject to error and/or omission. Linn County disclaims any liability as to the accuracy or completeness of the data.



07/28/2015

**South Santiam Enterprise Zone - Linn County, Or**



Legend	
	Roads
	Citylimits
	Rivers
	Enterprise Zone

Exhibit A



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Ed Hodney, Director of Parks and Recreation *EH*  
DATE: November 20, 2015, for the December 2, 2015 City Council Meeting  
SUBJECT: Resolution authorizing South Albany Community Park farm lease  
RELATES TO STRATEGIC PLAN THEME: ● An Effective Government

Action Requested:

Approve a Resolution authorizing a farm lease of South Albany Community Park to Ehrlich Farms LLC.

Discussion:

Ehrlich Farms LLC has previously farmed South Albany Community Park in its entirety under a lease from the City and wishes to continue to do so. The City has no plans to develop the park in the near future, allowing farm use to continue on the property. The lease will terminate on August 31, 2018, unless terminated by either party on an earlier date. An annual rent of \$2,098 has been negotiated.

City Council is asked to authorize the City Manager to sign the lease.

Budget Impact:

New revenue in the amount of \$2,098 will accrue to the Parks and Recreation Fund 202.

Attachment: Exhibit A—Map

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING A FARM LEASE OF SOUTH ALBANY COMMUNITY PARK TO  
EHRlich FARMS, LLC

WHEREAS, the City of Albany previously purchased 26.6 acres on Lochner Road to establish the South Albany Community Park for future development, as shown on Exhibit A (attached); and

WHEREAS, the City does not plan to develop the park site in the foreseeable future; and

WHEREAS, Ehrlich Farms previously farmed before the City purchased the property; and

WHEREAS, Ehrlich Farms has continued to farm this property under a lease from the City through August 31, 2015 and wishes to continue to farm this property until park development occurs; and

WHEREAS, a new lease has been negotiated to allow continued farm use on the park until August 31, 2018 unless terminated sooner by either party; and

WHEREAS, an annual rent of \$2,098 shall be paid to the City by Ehrlich Farms LLC.

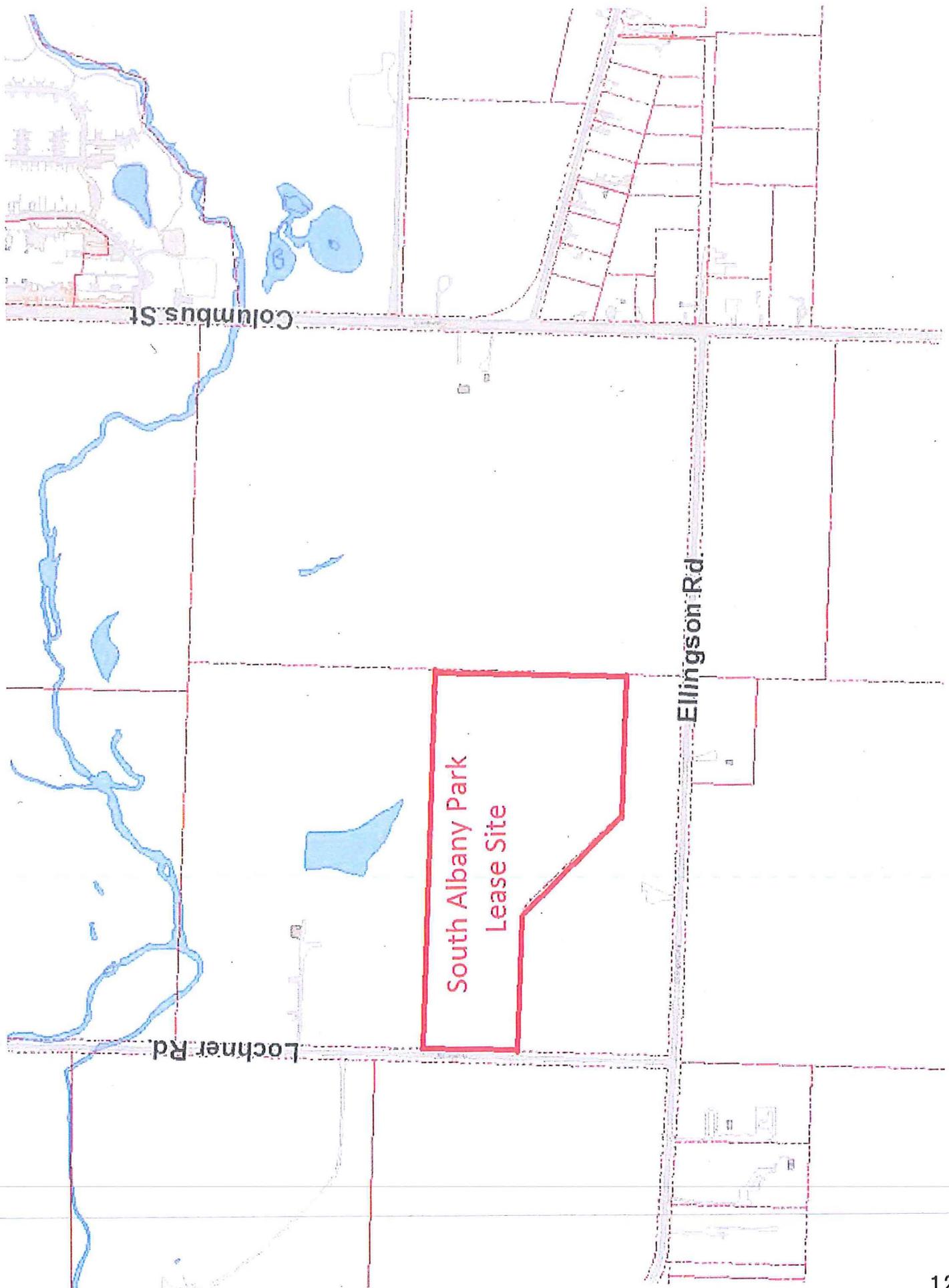
NOW, THEREFORE, BE IT RESOLVED the City Council hereby authorizes the City Manager to sign the lease with Ehrlich Farms LLC.

DATED AND EFFECTIVE THIS 2<sup>nd</sup> DAY OF DECEMBER, 2015.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk





TO: Albany City Council

VIA: Wes Hare, City Manager  
Jeff Blaine, P.E., Public Works Engineering Director *JB*

FROM: Staci Belcastro, P.E., City Engineer *SB*  
Ronald G. Irish, Transportation Systems Analyst *RI*

DATE: November 17, 2015, for the December 2, 2015, City Council Meeting

SUBJECT: Downtown Parking Regulation Modification

RELATES TO STRATEGIC PLAN THEME: • A Healthy Economy

Action Requested:

Staff recommends Council approve, by resolution, the following modification to downtown parking restrictions:

- Designate the first parking space on the south side of 2<sup>nd</sup> Avenue just west of Ellsworth Street as “3-Hour Customer Only” parking.

Discussion:

The Albany Downtown Association has requested (Attachment A) that Council considers a modification to the on-street parking restrictions in the downtown area. The request is to change the space on the south side of 2<sup>nd</sup> Avenue just west of Ellsworth Street from “30-minute” parking to “3-Hour Customer Only” parking.

Budget Impact:

None.

RGI:kw  
Attachments

Ron Irish

City of Albany-Public Works

September 15, 2015

Dear Ron,

As the Park Wise Director, I would like to propose that the city consider changing a 30 minute customer parking spot to a 3 hour customer spot.

The location of this parking spot is 206 2<sup>nd</sup> Street, SW. I have spoken with Jeff Senders, owner of Custom Stained Glass, and he has agreed that this change would only benefit the customers parking on that block. With the addition to Novak's on 2<sup>nd</sup>, more 3 hour parking spots are needed.

Please consider in making this change.

Thank you for your time and consideration in this manner.

Sincerely,

Peggy Burris

Executive Director

Albany Downtown Association

Parkwise

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AMENDING PARKING RESTRICTIONS WITHIN THAT AREA OF DOWNTOWN ALBANY WHERE PARKING ON PUBLIC PARKING LOTS AND STREETS IS ENFORCED AND MANAGED BY THE ALBANY DOWNTOWN ASSOCIATION.

WHEREAS, the Albany Downtown Association has been authorized by the City to provide management and enforcement services for parking in the downtown area of the City of Albany; and

WHEREAS, the Albany Downtown Association has requested certain modifications to parking restrictions in order to provide a more efficient utilization of parking resources.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby authorize the following parking restrictions:

- Designate one "3-Hour Customer Only" parking space on the south side of 2<sup>nd</sup> Avenue just west of Ellsworth Street.

DATED AND EFFECTIVE THIS 2<sup>nd</sup> DAY OF DECEMBER 2015.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF ALBANY  
 CITY COUNCIL  
 Council Chambers  
 Wednesday, September 9, 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

Daniel Mize, Boy Scout Troop 3, led the Pledge of Allegiance to the Flag.

ROLL CALL

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

Councilors absent: None.

SCHEDULED BUSINESS

Business from the Public

Request for after-hours construction work in accordance with Albany Municipal Code 7.08.050(5).

Nicholas Pennington, Robinson Construction, is working on the Lowe's project. He said they did not understand that they were violating the noise ordinance. They have had 3-4 cement pours that started at 4:00 a.m. which disrupted the neighbors. Pennington said Robinson Construction has reached out to the neighbors and have shifted their wash-outs and lights in a manner that they think will appease them. They are requesting that the Council allow them to continue the cement pours Friday and Saturday of this week, and Monday through Saturday of next week. On Saturday, they would be done with all the concrete pours before 7:00 a.m.

Councilor Rich Kellum asked what issues the neighbors had. Pennington said after they pour, the trucks use a clean out area. It was at the front of the building, but they have relocated it to the back so that the building shields the sound. The back-up beepers on the trucks are loud and the light is also a concern. They have changed the lights, but there will still be truck traffic and back-up beepers at the rear of the building.

Kellum asked if the neighbors are satisfied. Pennington said overall, they have been understanding. City Manager Wes Hare said they had one complaint, which was that the person did not want to be awakened early in the morning by the noise. Pennington said he believes they spoke to that person and that the person is satisfied with the changes.

Councilor Bill Coburn said he is inclined to vote no on this request, because 4:00 a.m. seems too early. He wonders if they can compromise somehow and pour at 5:00 or 5:30 a.m. Pennington said they can do that on Saturday, but not on the other days due to the demand for concrete and the difficulty in getting trucks. Actually, they like to pour at 2:00 or 3:00 a.m., so they feel they are already pushing it back. They don't pour on Sundays.

Kellum said other businesses don't get to start construction that early. He thinks there might be other options and said there is more than one company selling concrete.

Councilor Ray Kopczynski said it is a matter of scale. There is so much being poured in a relatively short timeframe, that he thinks it would be better to get it done and over with. It would be disruptive, but only for a week or so.

Councilor Bessie Johnson said it needs to be done, and given the scale, a little over a week is a reasonable request. She supports giving the waiver.

Konopa asked if anyone recalls what was done for Costco. Hare said they did grant a waiver to Costco and Walmart to pour early. There is a precedent for allowing early concrete pours. Discussion followed. Pennington said they have addressed all of the neighbors who they are aware had issues with the early pours.

MOTION: Councilor Floyd Collins moved to approve an exception to AMC 7.08.050(5), by allowing concrete pouring to begin at 4:00 a.m. on Monday through Friday and to begin at 6:00 a.m. on Saturday, through September 19, 2015. Johnson seconded the motion and it passed 4-2, with Kellum and Coburn voting no.

Chuck Kratch, 1720 Ferguson Drive NW, said there was a letter to the Editor in the *Democrat-Herald* this morning that mirrors his opinion about the roundabout in North Albany. The article stated that the Albany City Councilors and Benton County Commissioners had a joint meeting three weeks ago. The article said that most people like the roundabout. He canvassed the neighborhoods and asked what people thought. He has a petition of

165 signatures. Kratch said that the primary comment was that it was good for the purpose it served, but now that the need has passed, they want it removed. Kratch plans to visit Benton County Commissioners next and present them with the petition. He doesn't think the roundabout is useful anymore and people are driving faster through it. He is aware it is outside the Council's jurisdiction, but he praised them for setting aside funds for its removal.

Kratch read the heading on the petition: "We the undersigned wish to express our opinion that the Springhill-Quarry roundabout in North Albany be removed and not replaced. We believe that the Springhill-Quarry intersection does not warrant the addition of an expensive roundabout as this intersection has a very low accident rate and good visibility."

Kratch said thank you to City staff for cleaning up the sight problems on Quarry Road and Springhill Drive; he said they did a good job.

Konopa asked Kratch if he came across any residents that said they did like the roundabout. Kratch said 11 people really liked it and felt it should stay because the reduced size forced people to slow down. Discussion followed.

Collins asked, if Benton County decides to have us remove it, are there other traffic calming techniques that could be used to slow traffic down? Acting Public Works Engineering and Community Development Director Jeff Blaine said it is a difficult location because of the speed of the road itself. Speed bumps wouldn't be appropriate. There are some rumble strips north of the roundabout, but they are not aggressive. However, the more aggressive the rumble strip means the louder it is for the neighbors. Staff has not looked into other alternatives yet.

Collins said before this project he got several complaints, particularly about loaded log trucks doing 50 mph instead of 40 mph. He said, if we remove the roundabout, the speed will elevate again all the way down to the railroad tracks where they would be forced to slow down. There are several homes and driveways along Springhill Drive. If we remove the roundabout, we will be back to the same problem. He wonders if there is a way to mitigate the speed by using traffic calming or speed reduction on permanent basis. Kratch said the neighbors agreed that they don't like the speed of vehicles on Springhill Drive. Discussion followed.

Kratch did not submit the petition for the record because he will be taking it to Benton County.

#### Second Reading of Ordinance

CP-01-15, amending the Comprehensive Plan text of the Transportation System Plan (TSP) to remove portions of Timber Ridge Avenue and Somerset streets from the TSP project list (projects L15 & L19), and install traffic signals at the Knox Butte/Clover Ridge Road intersection and the Knox Butte/Goldfish Farm Road intersection.

City Attorney Sean Kidd read the ordinance for the second time in title only: AN ORDINANCE AMENDING ORDINANCE NO. 4447, WHICH ADOPTED THE CITY OF ALBANY COMPREHENSIVE PLAN AND MAP, BY AMENDING THE ALBANY COMPREHENSIVE PLAN TEXT OF THE TRANSPORTATION SYSTEM PLAN, AND ADOPTING FINDINGS.

MOTION: Coburn moved to adopt the ordinance and Kellum seconded it.

Councilor Dick Olsen said it is a shame to lose the connectivity between the adjoining neighborhoods and the schools. He said an article in the *WeShare* blog noted that mortality rate for cyclists increased dramatically over the last 30 years. Olsen said there seems to be a continuing move towards less connectivity for folks to ride bikes and walk safely and within walking distance. He thinks it is a shame to cancel these two streets, but he realizes that we don't have the money to build the bridge or improve the streets. He said, perhaps we should do more with Local Improvement Districts or System Development Charges. He will vote for the motion because he doesn't see any alternative.

Collins said he will also be voting for the ordinance, but pointed out that this is another example of the conflict of multiple purposes between federal and state jurisdictions. When Senate Bill 100 was passed in the 1970s, the concept of urban growth to save farm and forest land was a laudable objective. Then Environmental Protection Agency (EPA) started regulating wetlands, and now we have wetlands inside the Urban Growth Boundary (UGB) which weren't contemplated when Senate Bill 100 was formulated. So, we have to mitigate the wetlands, accommodate the densities which means we will have to expand the UGB sooner and impact farm and forest land, and as it applies to this, comply with the wetland issues, which is really counter to sound transportation planning. At some point, the state and federal agencies have to come to grips with competing priorities. Collins said the city of McMinnville has been trying to expand their UGB for 17 years. Newberg has also been trying to expand their UGB since they are out of buildable land because of the wetlands inside their UGB. Albany experienced the wetland issue with the PepsiCo project, and the South Albany Area Plan (SAAP) also had wetland limitations. It is already getting more and more complicated in order to comply, and then the Land Conservation and Development Commission (LCDC) said we can't break the UGB because we haven't demonstrated the full need. Collins reported that he attended the Governor's Solution Team and presented this dilemma. It has implications to the local area. Wetlands mitigation is impacting our Transportation System Plan

(TSP), driving up the costs of streets and housing, and it impacts how streets are routed. They need to come up with compatible policies so that the community is better served.

VOTE: A vote was taken on the motion to adopt the ordinance and it passed 6-0 and was designated Ordinance No. 5856.

#### Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) August 10, 2015, Work Session minutes.
- 2) Accepting a 20-foot wide sanitary sewer easement as part of the Autozone Development Project.

RES. NO. 6452

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

#### Award of Bid

##### WL-15-04, College Park Drive Water Line.

Blaine said that the bids were opened on August 18, 2015. There were four bids ranging from \$575,000 to \$646,000, which put this above the Engineer's estimate and the project budget. Blaine recommends they award the bid to the lowest bidder, Trenchline of Corvallis, for \$574,775. Kopczynski asked if this bid, along with other bids that are also coming in higher than expected, is indicative of rising costs of construction or if the estimations were off. Blaine said that Engineering Manager Staci Belcastro gave a presentation that explained the issue: material prices are on the rise, the budgets are put together 16-17 months prior to bid so the market can change, there is a lot of work going on for the private side so contractors are less aggressive and bidding higher now, and the City is always behind the market a bit because we are always looking at past bids to do the estimates. Blaine said when the market went down, our estimates came in high; so we lowered our estimates, and then the market picked back up resulting in low Engineer's estimates. Kopczynski is concerned that the bids might come in high for the new police and fire stations.

MOTION: Collins moved to award the contract in the amount of \$574,775 to Trench Line Excavation and Kopczynski seconded the motion.

Collins said Blaine is correct and that part of the issue is the timing of the bid. He encouraged staff to work out a schedule that would get the City's major projects out to bid during the competitive bid season. He thinks this is a high for water line. Blaine said they provided an extremely gracious bidding period and there are 135 water services on this short segment of water line. The poor pavement condition and the abnormally high number of services to work on dictated the cost. Collins asked, have we considered having a contractor put in the mainline and then have the City install the services? Blaine said they have discussed that in the past, but not recently. Staffing during the installation season would become a challenge. Discussion followed.

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

#### Report

##### Designating a Voting Delegate and Alternate for the 2015 League of Oregon Cities (LOC) Conference.

There was discussion about who would be attending the LOC Conference.

MOTION: Coburn moved to appoint Mayor Sharon Konopa as the voting delegate and City Attorney Sean Kidd as the alternate. Collins seconded the motion and it passed 6-0.

#### Approval of Agreement

##### Benton County Intergovernmental Agreement (IGA) for Jurisdictional Road Transfer.

Chris Bailey said that this replaces the existing IGA that describes which jurisdiction is responsible for roads. It benefits the county by reducing the number of miles of roads they have to maintain and it benefits the City by clarifying jurisdictional issues that come up with citizens in North Albany and simplifying processes. Bailey said the City Council has seen this twice already and recommends that the Council approve the IGA.

MOTION: Kopczynski moved to approve the agreement as presented. Coburn seconded the motion and it passed 6-0.

#### BUSINESS FROM THE COUNCIL

Kellum spoke about medical marijuana facilities. He said when certain medical facility owners came to the Council to testify, they said it was medicine. Kellum pointed out that when he said it appears that some people get Oregon Medical Marijuana Program (OMMP) cards just to get "high", that those testifying assured the City Council that that is not the

case; and that they don't want to deal with those people, that they just want to deal with people who need marijuana for medical reasons. The law now allows cities to prohibit recreational marijuana from being sold in medical marijuana facilities as of October 1, 2015. Kellum said, we do not have setbacks established for recreational marijuana, and I think we would all agree that the people who go to those places to get medicine are not the same folks that go to get it in order to get high. He said, we haven't dealt with that piece yet. He wants to not allow medical dispensaries to sell recreational marijuana until January, when they can apply to the Oregon Liquor Control Commission (OLCC). Kellum said, they told us that they were not interested in selling recreational, and if they were being truthful then there should be no problem. Kellum thinks they are two separate products, or two separate groups of people. He said, we don't want to jump in with both feet. Canna Kitchen said in the paper that they don't want to sell recreational; but they could change their mind tomorrow, and there is a house right next to them. In Measure 91 there is a 1,000 foot setback from schools. Discussion followed about schools and setbacks.

Kellum said there is an ordinance available to cities that starts the process of temporarily limiting sales of recreational marijuana from medical facilities.

Coburn said he doesn't understand Kellum's comment about regulation on setbacks. Coburn's understanding of the City Attorney's explanation is that the rules and regulations that are in place for medical also apply to recreational. Kellum said that as it currently stands, Canna Kitchen, for example, could choose to sell recreational marijuana in a residential neighborhood.

Konopa said that in order to accommodate Canna Kitchen, the Council exempted industrial from the 300-foot setback. She said, we now have four medical marijuana facilities in industrial zones and one is directly across the street from residential. Canna Kitchen is right next door to residential. Does the Council want to see recreational in the same areas? Discussion followed.

Kellum said his point is that if the Council wants to do something with the setbacks, they need to do it by January 1. If they don't, recreational can be sold on October 1, regardless of whether the Council thinks it is a good idea or not. Kellum said, the people who came before the Council already said they don't want to sell recreational, so now the Council just needs to make up their mind. Making a decision will also be helpful to the people who are thinking about starting a new business; they need to know what the rules will be, before spending a lot of money to start a business.

Konopa said there is a medical marijuana facility that has located in industrial zoning and has opened up a smoking lounge. If it was 300 feet from residential, she doesn't think they would be permitted in that location.

Collins asked Kidd if during a previous work session, he had said that a smoking lounge for recreational will be a violation of the law. Kidd said that in his conversation with OLCC and the Oregon Health Authority, in regards to the specific property Konopa is referring to, they said their position is that that would be consuming marijuana in a public place, which is prohibited by law. The OLCC has not seen a challenge to it yet and nothing has been litigated to date, but Kidd said that it is their position that a smoking lounge in that area would be illegal. They also stressed, and Kidd agrees, that the business is risking their medical license to distribute medical marijuana, and that if they are found to be in violation they will lose their license.

Collins said he worked through the packet of information that Kidd provided a few weeks ago. Collins asked, absent sending the issue to the ballot in November 2016, recreational marijuana will be allowed in January. Kidd said yes; the OLCC will start accepting applications and issuing licenses as early as January 4, 2016. So now, effective October 1, 2015, medical marijuana facilities are going to be allowed to sell recreational marijuana all the way through December 31, 2016. The OLCC's intent is to allow the recreational facilities to get licensed and established. The City Council could regulate time, place, and manner restrictions on recreational facilities that are different than medical facilities if they choose to do so; and if that is the case, it would give the Council time to decide what they want to do. Kidd said he does agree that if they do that, they should do it before January 1, so they can put businesses or potential businesses on notice, because once the OLCC gets an application they will contact the City to make sure the location is properly zoned. The City would have a 21-day window to respond to OLCC. Kidd said an ordinance could prohibit medical facilities from selling recreational marijuana; otherwise, they can sell it legally beginning October 1, 2015.

Kopczynski said he doesn't want to treat them differently than any establishment that sells alcohol; and if an action does, then he will be against it. Olsen agreed.

Kidd said he was asked to draft an ordinance, which is available on the dais (see agenda file). This ordinance only prohibits medical facilities from selling recreational marijuana on October 1, 2015. Collins said the ordinance does not affect recreational marijuana other than prohibits the early sale in October. Kidd said that is correct. Discussion followed.

Kidd read the ordinance for the first time in title only: AN ORDINANCE OF THE CITY OF ALBANY DECLARING A BAN ON THE SALE OF RECREATIONAL MARIJUANA BY MEDICAL MARIJUANA DISPENSARIES AND DECLARING AN EMERGENCY.

MOTION: Coburn moved to read the ordinance a second time in title only and Johnson seconded it. The motion failed 4-2, with Olsen and Kopczynski voting no. It takes a unanimous vote of the Council for a second reading in the same meeting. This item will come back to the September 23, 2015, meeting.

Kopczynski asked why this ordinance had an emergency clause. Kidd said in this particular case the emergency clause was added because otherwise the ordinance would be effective in 30 days, and they would miss the October 1 deadline. It would be better for medical facilities to know beforehand what is allowed, as opposed to beginning to sell it on October 1 and then have it prohibited after that date.

Olsen asked how they will distinguish between medical and recreational sales. Kidd said the medical would be obtained with an OMMP card. Kidd said his understanding is that it is not difficult to obtain an OMMP card, and that it can be done online. The OMMP card also allows the patient to get more product, whereas recreational users will only be allowed a half ounce per day per person once it becomes legal to sell. Discussion followed.

Hare explained that under the current law a patient can't buy marijuana from a dispensary; rather they buy it from a grower which can be arranged by the dispensary. The new state law that goes into effect on October 1 makes it so that dispensaries are no longer just dispensaries; they would be sales outlets where anyone over the age of 21 could buy it for their personal consumption. If the Council passes the ordinance, it would prevent that from happening, and we would wait until January to find out what the OLCC rules are for the sale of recreational marijuana. Hare explained that if a community doesn't want to allow recreational marijuana, then their City Council has the option of referring to the November 2016 ballot the question of recreational marijuana. Hare said, any city can refer to their voters the question of a ban on the sale of recreational marijuana. Cities in counties that had a 55% vote on Measure 91 can have their local governing body ban it without referring it to the voters. Kellum said, we were at 52%. Hare said that last year the City passed an ordinance that does not allow either recreational or medical marijuana to be located within 300 feet of a residential zone unless they are located in an industrial zone.

Kellum pointed out that Albany is not the only City Council talking about this. There are lots of other cities that have already banned the sale of recreational. Kidd said there are a good number of cities banning the sale of recreational marijuana being sold through medical facilities, and there are more scheduled this month to be voted on before October 1. Kopczynski said the OLCC publishes a list every week and there are about 25 cities and counties across the state so far that have passed an ordinance. Discussion followed as to whether this represented a large or small number.

Collins said that regardless of this ordinance, we need to decide if we want to modify the time, place, and manner standards of recreational marijuana starting January 2016. Albany has regulations for within 300 feet of residential already in place; the state has it prohibited within 1,000 feet of schools. He asked, if the state sees fit to protect schools, should Albany consider other places kids congregate, such as daycare centers and boys and girls clubs? Collins wants this to be a topic of a work session.

Kopczynski said that realistically, there wouldn't be a retail license granted until mid-2016. Kidd said it depends on how many applications the OLCC receives and how fast they can process them. Cities have 21 days to respond to OLCC's inquiries regarding zoning and land use. Kellum said, in all fairness, they should know what they want to do as of January 1 so that folks know what to expect in terms of potential business opportunities. Johnson agreed.

Konopa said this item will come back to the September 23, 2015, Regular Session.

Kopczynski said that the terms will be expiring soon for some of the Community Development Block Grant (CDBG) Committee members. Konopa provided some history of how the CDBG appointments were made. The CDBG members do not want to be interviewed in a public forum for this volunteer position, so changes need to be made to the ordinance.

Finance Director Stewart Taylor reported that he got a letter from Albany Millersburg Economic Corporation (AMEDC) President John Pascone (see agenda file). AMEDC wants to expand the enterprise zone to accommodate the expansion of a current business and to accommodate a new business. Taylor said a resolution will come to a future meeting.

NEXT MEETING DATE: Work Session: September 21, 2015, and Regular Session: September 23, 2015

#### ADJOURNMENT

There being no other business, the meeting was adjourned at 8:17 p.m.

Respectfully submitted,

Reviewed by,

Mary A. Dibble, MMC  
City Clerk

Wes Hare  
City Manager

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
333 Broadalbin Street SW  
Wednesday, September 23, 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

Boy Scout Troop #7365 led the pledge of allegiance to the flag.

ROLL CALL

Councilors Present: Mayor Sharon Konopa and Councilors Floyd Collins, Bill Coburn, Bessie Johnson, Rich Kellum, Ray Kopczynski and Dick Olsen

Councilors Absent: None

SCHEDULED BUSINESS

Proclamation Mental Illness Awareness Week

Konopa read the proclamation for Mental Illness Awareness Week.

Public Hearing

Community Development Block Grant 2014 Annual Report and Community Needs

Konopa opened the public hearing at 7:20 p.m.

Planner Anne Catlin gave a PowerPoint presentation (see agenda file). She said the City became an entitlement community in 2013 and now receives Community Development Block Grant (CDBG) funds annually from the U.S. Department of Housing and Urban Development (HUD) to implement a variety of community and economic development activities. As part of the program, the City is required to create an annual action plan for accomplishing goals in the five-year Consolidated Plan and to report on progress made toward achieving those goals. Staff recommends the City Council hold a public hearing to consider comments on the City's 2014 Consolidated Annual Performance and Evaluation Report (CAPER), as well as comments regarding the City's community development needs. Staff also recommends the Council authorize staff to submit the CAPER to the HUD.

Catlin said the purpose of the CDBG program is to develop viable communities by providing decent housing, a suitable living environment, and expanded economic opportunities, primarily for low and moderate income residents. Efforts to address the goal related to decent housing include housing rehabilitation loans and funding to Albany Helping Hands and the Jackson Street Youth Shelter. Efforts to address a suitable living environment include replacement of a section of Periwinkle Path and a remodel of Sunrise Park. The Sunrise Park project has been delayed for wetlands delineation, and construction is tentatively scheduled for summer 2016. Expanded economic opportunities related efforts include working with Linn Benton Community College (LBCC) to provide tuition for microenterprise training and advising, small business development and advising, and small business grants.

Konopa called for public testimony.

Lisa Grisham, 1505 Walnut Street SW, asked how and when the wetlands mitigation would occur for the Sunrise Park project. In response to a request from Konopa, Catlin explained that the City would submit a removal and fill permit and mitigation would be determined by the State.

There was a signup sheet available (see agenda file).

There being no other public testimony, Konopa closed the public hearing at 7:27 p.m.

MOTION: Councilor Floyd Collins moved to authorize staff to submit the CAPER to the U.S. Department of Housing and Urban Development. Councilor Rich Kellum seconded the motion, and it passed 6-0.

Business from the Public

Konopa noted that a number of people had signed up to comment on an ordinance declaring a ban on the sale of recreational marijuana by medical marijuana dispensaries. She asked the City Attorney to explain the action being considered. City Attorney Jim Delapoer said the agenda includes a second reading of an ordinance that is narrow in its effect, in that it proposes only to limit recreational sales of marijuana in medical marijuana dispensaries until December 31, 2016. In response to questions from Council, Co-City Attorney Sean Kidd explained that the State will allow medical facilities to sell recreational marijuana until December 31, 2016, but local jurisdictions can take action to ban those recreational sales. The State will accept licenses for recreational sales facilities beginning January 4, 2016, and this ordinance will not affect those licenses. Medical facilities will not be allowed to sell recreational marijuana after December 31, 2016.

Trey Mork, Albany Alternative Health Solutions, 2614 Prairie Place SE, said Oregonians passed the law because they believe registered dispensaries are ready to sell recreational marijuana to adults beginning October 1, 2015. Governor Kate Brown approved it because she supports Oregon's future where cannabis sales are regulated and cannabis isn't associated with the black market but instead helps boost tax revenue for city and state needs. With this ban, the City Council would cripple six local small businesses by driving sales to other towns, go against what was approved by the voters and the legislators, and drive sales to the black market. At his request, about 60 people in the audience held up signs in support of allowing recreational sales by medical marijuana dispensaries.

Steven Van Buskirk, 230 Lyon Street SE, said it seems unreasonable to not allow recreational marijuana to be sold at medical dispensaries as an interim measure. He has read that 14 percent of people smoke marijuana which means that about 7,000 in our community are using illegally. It is unlikely that allowing it to be sold legally at dispensaries would lead to more use. If people have to drive to other communities to buy marijuana, it may encourage more impaired driving.

Deborah King, 4027 Woodward Drive NE, encouraged Council to vote against any ban of recreational marijuana sales to adults. She has worked as a substance abuse counselor, social worker and union organizer, and she is currently working for UFCW 555. She said it is well documented that cannabis is less dangerous than alcohol. She helped with Measure 91 because she believes in the democratic process. She believes the war on drugs is about class and money, in that 20 percent of all people have issues with substance abuse but our prisons are not that diverse. She said cannabis is the number one crop in Oregon and has been for years. She said the City could use the tax money that would be generated by recreational marijuana sales. She asked that the Council embrace the workers employed by the dispensaries, trust the voice of the people and the legislators, and vote no on the proposed ban.

Trevor Ballard, 1540 Salem Avenue SE, said many people from many walks of life have expressed an interest in this issue. People want to be able to keep their money in Albany.

Kate Chitwood, 3514 22<sup>nd</sup> Court SE, said this town has serious problems with heroin and opiates. Taxes from recreational marijuana sales would go to schools; mental health, alcohol and drug services; and local law enforcement. She wants to know how it makes sense to lose that tax money while spending money to prosecute people who are selling illegally. She believes the ban is unsupportive of a few small business owners while the Council supports the annual Wine Walk and other events that encourage public intoxication. She thinks these priorities are messed up.

Alesia Ball, 2420 Mountain View Drive SE, said she was diagnosed with a degenerative spine disease eight years ago, at age 19. She is lucky her parents can afford the \$400 a year it costs to get a medical card so she can go to a dispensary and have access to safe medicine. There are many who need medical marijuana who can't afford those costs. She wants those who need marijuana to be able to obtain it.

Sunnie Sanchez, 3390 NE Oxford Court, Corvallis, said she is a marijuana patient, grower, and activist. She said the demographic that has been forgotten are shut-ins, people who can't easily leave their homes and who can't afford the medical exam and state fee required for an Oregon Medical Marijuana Program (OMMP). Measure 91 makes this medicine easily available to those who really need it. Konopa clarified that the ordinance would not prohibit medical marijuana and that the costs associated with medical marijuana cards are regulated at the state level. Sanchez reiterated that allowing recreational sales through medical dispensaries would allow those who need the medication to obtain it without the expense of obtaining a medical marijuana card.

Lisa Grisham, 1505 Walnut Street SW, said the Oregon Liquor Control Commission (OLCC) doesn't anticipate having any recreational marijuana facilities open prior to October 2016. As a property owner who has lived here since 2003 and who has seen her property taxes increase each year, she encouraged the City Council to consider taxes on marijuana as a revenue source.

Eric Thomas, 2025 Water Avenue NE, said he is an OMMP patient due to a back injury he incurred while serving in the Marine Corps. He tried every other medication first but he was most helped by marijuana. He voted for recreational marijuana sales because some people need dispensary-quality marijuana, but cannot

afford the OMMP cards. He said the ban wouldn't make the community safer because money currently going to the black market would continue to do so and that could ultimately fund other illegal activities. The ban keeps millions of tax dollars from the community that could be used for police, fire, roads, and schools. He asked that Council allow dispensaries to sell recreational marijuana.

Kellum asked staff to explain how much tax revenue would come to the City. Kidd said that, beginning next January, the state will put a 25 percent tax on recreational marijuana. Once retail facilities are open beginning in 2017, the state will tax at 17 percent and local jurisdictions can add up to an additional 3 percent subject to voter approval. There is a lot of uncertainty about how much tax revenue would be distributed to communities and the revenue received would have to be used for specific programs associated with Measure 91.

Councilor Ray Kopczynski thanked Mr. Thomas for serving. He asked, how many in the audience are veterans? A number of people raised their hands, and Kopczynski thanked them for serving.

Rhea Graham, 1440 Lawnridge Street SW, said Councilors Rich Kellum and Bessie Johnson have said they don't want cannabis sold in Albany; however, it is currently sold illegally all over town with no taxes, no regulations, and no testing. Not allowing cannabis to be sold in a regulated, secure marketplace just ensures that the black market thrives and citizens miss out on tax revenue when it becomes available. She said the people voted for this and the legislators approved it. She said no one has ever died of cannabis in 10,000 years of documented use. She said only one-quarter ounce per day per person will be allowed to be sold for the recreational market.

Rhonda McNeal, 687 Tangent Street, Lebanon, said she has smoked marijuana for the last 45 years and she has been an OMMP card holder since 2005. She is a mother and an activist, and she supports the sale of recreational marijuana. The right for people to legally smoke marijuana has been a long fight. Alcohol has caused more damage than any other substance; she would rather her son smoke marijuana than drink alcohol or take pharmaceuticals. She asked Council to give the dispensary owners a break – they put a lot of money into their businesses, they are creating jobs, and the tax money could be used to help get people off the streets.

Todd Dalotto, 35714 Ebenger Street SW, said he is a horticultural scientist, cannabis industry consultant, and public policy advisor. He serves on the Oregon Health Authority Committee on Marijuana and he helped draft legislation that led to Measure 91. He serves clients nationwide and he has never seen a case where crime has increased due to the legalization of medical or adult use of marijuana. Crimes have only gone down, allowing local law enforcement to focus on actual crimes with victims. He said it would be good for the community to see adult sales in a regulated environment rather than having the revenues go to the illegal market where there is no testing for mold, pesticides, or potency. The current dispensaries are perfectly poised to be the first retail businesses selling to adults; they have a good record of acting responsibly with no increase in crime. He said many patients who need the medication but can't afford to get their OMMP card have been anticipating recreational sales, and these are often the most seriously ill. He encouraged the City Council to do the right thing and not ban adult sales of marijuana in Albany.

Kellum asked why Measure 91 included the 1,000-foot set back from schools. Dalotto said he doesn't believe the authors of Measure 91 believed there was any actual risk, but the setback was added because it was politically viable. He believes that restriction may be removed in the future as people see that this regulated industry doesn't pose a public safety risk.

Councilor Bill Coburn asked for Dalotto's opinion as to the effect of recreational sales on the medical marijuana dispensaries. Dalotto said he thinks the medical dispensaries will still be viable because medical patients won't pay the retail sales tax and many patients may have developed a relationship with their dispensary.

Casey Costa, 2935 Shortridge Place SE, read a statement which she previously e-mailed to City Councilors. She reviewed statistical information from the State related to deaths and monetary costs associated with cigarette smoking and alcohol consumption and stated that alcohol is the cause of one in every nine deaths in Oregon. There are more than 130 OLCC licensed businesses in the City, generating tax revenue of \$50,000. It is beyond her why taxes from cannabis, which has never been cited as the direct cause of death or overdose, would be something the City Council would chose to block. The people of Albany elected the Councilors to represent them. The people voted yes on Measure 91 and now it's time for their representatives to enact the legal and safe sales of recreational marijuana.

Sean Aman, 2310 McKinley Lane, Lebanon, distributed and reviewed a research report from the Oregon Legislative Revenue Office regarding the revenue impact of marijuana legalization under Measure 91 (see agenda file). He encouraged Councilors to read the report before making a decision on this issue. As the owner of the Going Green dispensary, he employs 15 people and he pays a lot of taxes. If allowed to sell recreational marijuana, he could employ 20 additional people. The City needs revenue and jobs. With this ban, he said, the City Council is basically telling their constituents that the amount of jobs this would create doesn't matter.

Michael Partin, 4815 Knox Butte Road E, owner of West Coast Alternative Medicine, said he is an advocate for personal freedom and he supports the use of marijuana at a recreational level for adults. He encourages adults

and parents to keep the product out of reach of children and to educate them about its effects on their growing bodies. He said it makes sense to allow dispensaries in Albany to sell recreational marijuana because they are already regulated and have procedures in place. Over the past two months, his dispensary has made improvements to accommodate recreational sales, and he is sure others have as well. Those improvements cost money which they anticipated would be justified due to the increased sales. Had they understood the possibility of a ban, they would have held off. The criminality of marijuana has been a burden on the community and law enforcement. A ban will do nothing to curb illegal use which has no testing guidelines or safety standards, is not regulated, and does not provide tax revenue. He urged the Council to not go through with the ban.

Tom Cordier, 2240 NW Park Terrace, said he is opposed to having the medical dispensaries sell recreational marijuana. He said Representative Andy Olson recently held a community forum, and he is hearing information tonight that disagrees with the findings of that group of community representatives. He heard the statement that it is clearly documented that marijuana is less dangerous than alcohol, but he doesn't think that is true. He heard the argument that this will make money for the City combined with statements that the dispensaries need the extra business, which leaves a dispute in his mind about the real motive. He heard comments about keeping money off the black market and helping people, but he wonders if dispensaries have really taken money from the black market. He said some legislators in Colorado are seeing unintended consequences with the increase in marijuana use and they are seriously considering more restrictions. He said drivers can be tested for alcohol impairment, but there is no such test for marijuana impairment. Where use is made easier, he thinks it will add strain to police and ambulance services. He thinks the City Council has received biased information tonight. He encouraged them to approve the ordinance.

Cynthia George, 2440 Pioneer Trail, Toledo, said the City Attorney has falsely stated that recreational users could purchase one-half ounce per day and that the OMMP card could be purchased online. In fact, she said, recreational users would be allowed to buy only one-quarter ounce a day and the OMMP program requires a doctor's recommendation. She related her experiences in using medical marijuana products to help her father who was fighting dementia and her mother who had rheumatoid arthritis. She sees hostility and bias by members of Council and she thinks that needs to be addressed.

Cody Zuniga, 2780 21<sup>st</sup> Avenue NW, said there are many citizens age 21 and over who want to see the sale of recreational marijuana allowed in the medical dispensaries. He asked for clarification regarding the reasoning behind the proposed ban. Konopa said the issue was raised by Council, so they are receiving input and will then make a decision. Zuniga said it's hard to overcome an objection when there is no stated objection. In his job as a lab technician for one of the dispensaries, he has tested a lot of street drugs and he has seen many harmful pesticides and heavy metals. He doesn't understand the City Council's objection and he doesn't think public health is being considered.

Shane Lemco, from Independence, complimented the City Council for listening and interacting with the crowd. He referred to the propaganda film, "Reefer Madness", which he feels is a doctrine that the Councilors and their generation were fed. He feels they are wrong. This is America; citizens used the process and marijuana is now legal. This is a representative government, and if citizens don't like the Councilor's decisions, they can be replaced.

Karen Chambers, 3472 College Loop SE, said cannabis was a mandatory crop for many years. Ford's first vehicle ran on hemp oil and was made with hemp fibers. The illegality was spearheaded by the Hearst family because it was impeding on their paper income. She said there is no better vetting process than having the sale of recreational marijuana be available through dispensaries initially. Black market marijuana can make people sick. The Council has the ability to put this in place. Even if revenue is limited, it is revenue that we don't have now. She thinks Council should look to caring for their constituents and their safety.

Josh Winter, 325 Main Street SE, said the voters approved a process. He said veterans fought and died for a democracy so that when the people say they want something, decision-makers can't overrule their wishes. He asked that the Councilors honor their position, the process, and the voters' wishes.

Steve Reynolds, PO Box 1420, said he believes that marijuana is a choice for adults who then deal with the consequences that come with it. He has a number of housing units and anyone with a federal subsidy is bound by federal law. Many of the things that make society work – insurance, banking, housing, employment – are also bound by federal law. He has sympathy for what has been said here tonight and he is not for or against this, but he is just looking for direction from the Council.

Nicolle Lee, 4270 Highway 20, Corvallis, said it is inevitable that the sale of recreational marijuana will occur in Albany no matter what the date, so why should we postpone it?

Lori Inman, PO Box 382, said she was diagnosed two years ago with Post Traumatic Stress Disorder (PTSD) due to past abuse, and marijuana helps her control her night terrors. She is on a fixed income and cannot afford the OMMP card even with the discounts. If Council would allow dispensaries to sell recreational marijuana, she would know she is getting it safely.

Conner Buchert, 3777 Three Lakes Road SE, said he is a full-time student, going to LBCC for welding, and also works. Alcoholism runs in his family; he knows plenty of alcoholics and it hurts him when he sees his friends drinking heavily. He chooses not to drink and he doesn't understand why it should be made difficult for him to use marijuana as an alternative.

Kellum commented that marijuana use could affect the ability to get a welding job. Buchert said he has the ability to refrain from smoking marijuana when he chooses.

Bill Root, 2634 NW Valley View Drive, commented that marijuana is now legal but not controlled; banning it from being sold in town for the next year or so just gives up control.

Root reminded Council that the Annual Toy Run will be held on December 6, 2015. There will be a large number of motorcyclists in town that day and they will give out several hundred toys to needy children. The Mayor will be reading a proclamation for Motorcycle Awareness Day in conjunction with the event. He thanked the City for their assistance.

Josh Hall, 1110 S 6<sup>th</sup> Street, Lebanon, said he was present on behalf of the locked out steel workers. He thanked Council for the letter they sent urging the parties to finish the bargaining process and get back to work.

#### Presentation

##### Marijuana Information

Sergeant Robert Hayes, Albany Police Department, distributed and reviewed the following materials: *Newer Drug Paraphernalia, Marijuana and the Young Brain, Marijuana Edibles, and Marijuana Related Deaths* (see agenda file). Hayes said he has 23 years in law enforcement and he is certified as a drug recognition expert. Newer drug paraphernalia includes vaporizers, dabs, and edibles. Dabs can have very high Tetrahydrocannabinol (THC) levels and they are created using an extraction process that involves butane. The process is very volatile and there has been one related explosion incident in Albany. Edibles have problems related to knowledge, using the product as instructed, and childproofing. He showed an example where one serving is one-sixth of a cookie, making it easy to overuse.

Hayes clarified that any tax revenue that comes to the City would have to be used specifically for enforcement of Measure 91. He drew attention to information regarding marijuana related deaths, some of which cite cannabis as a contributing factor and one which cites death from "cannabis poisoning". He said poison control calls have increased in Colorado and Washington with the legalization of marijuana. A survey in Colorado documented that since commercial use was legalized, there has been an increase in school expulsions, marijuana related traffic deaths, and emergency room visits for the ingestion of marijuana.

Kopczynski asked how crime in Albany has been affected since the medical marijuana dispensaries opened. Hayes did not have that information. Councilor Dick Olsen said he assumes no crime wave has occurred because of medical marijuana. Hayes said none that he is aware of. Kellum wondered how the police would know if marijuana contributed to a specific problem.

Konopa said there are methods to measure impaired drivers for alcohol; she asked how police would measure for marijuana impairment. Hayes said that marijuana is tested for through a urine test except in the case of a fatality, in which case a blood test is taken. He believes this will be addressed in the upcoming legislative session.

Kopczynski said he understands the tests show the presence of THC for a long time and he asked if they are valid in measuring impairment. Hayes said he believes there is a way to measure impairment through a blood test but not through a urine test. He clarified that driving under the influence arrests are typically made based on impairment symptoms observed in the field.

Konopa said Albany is fortunate to have Hayes' experience, training, and education related to drug enforcement, and she thanked him for his work.

#### Second Reading of Ordinance

Declaring a ban on the sale of recreational marijuana by medical marijuana facilities and declaring an emergency.

Delapoer read the ordinance a second time in title only: AN ORDINANCE OF THE CITY OF ALBANY DECLARING A BAN ON THE SALE OF RECREATIONAL MARIJUANA BY MEDICAL DISPENSARIES; AND DECLARING AN EMERGENCY.

MOTION: Kellum moved to adopt the ordinance. Johnson seconded the motion.

Kopczynski said he has two problems with the language of the ordinance. First, it states that "The people of the City of Albany, Oregon do ordain..." but it isn't the people who are doing this. Delapoer explained that is mandatory charter language for all ordinances. Kopczynski referred to the emergency clause from the ordinance, and he asked that someone explain why it is an emergency. Delapoer said the emergency clause allows the ordinance to take effect immediately rather than 30 days later. In this case, if the majority of the Councilors wish to go forward with the ordinance, they must do so by October 1, 2015.

Kopczynski said as he understands Measure 91, any individual in the state can grow up to four plants on their property as long as they are outside of public view; therefore, in theory, we could have schools surrounded by homes that are growing their own marijuana.

Kellum said a member of the audience asked why the Council was considering this ordinance. He said the legislation related to both medical marijuana and recreational marijuana facilities specifies a 1,000-foot setback from schools. If it was important to have that setback, then he wonders why it's okay to have it next door to residential or other places where there are kids. He said the federal government wrote a position paper that indicated they wouldn't take action against marijuana use in states that have voted to legalize it as long as children are protected, but the City doesn't yet have those rules in place.

Johnson said that even though the federal government did write that position, marijuana is still against federal law. Councilors took an oath to obey local, state, and federal laws, and that means something to her. She recalled that the medical dispensary owners originally said they didn't want to sell recreational marijuana, but that has changed. The citizens she has talked with don't want marijuana near their kids and they are concerned about people driving under the influence. She said there have been marijuana-involved deaths, and she is concerned about children getting ahold of edibles. The majority of her constituents do not want the dispensaries to sell recreational marijuana. She will vote yes on the ordinance.

Coburn said the current ordinance includes an exception for industrial zoned properties which was added to help Canna Kitchen, but he thinks that resulted in unintended consequences. He asked for information on how the locational criteria could be changed and how that would impact existing uses. Kidd said the Council could change the ordinance to remove the industrial zone exemption; existing medical marijuana dispensaries would be grandfathered in. Brief discussion followed regarding state regulations regarding recreational marijuana facilities.

Olsen said he hasn't heard any complaints from the public about dispensaries being too close to homes or businesses. He thinks prohibition is only good for organized crime, and he is against prohibition in general. He sees the move to decriminalize marijuana as a good thing for the state in general and the city in particular. Marijuana is Oregon's biggest cash crop and a bunch of it is sold locally, tax free, with profits going to the criminal element. He will vote no on the ordinance.

Kopczynski said high school kids can easily get marijuana illegally and since it is difficult to even get in the door of a legal establishment, he doubts they would even try. He doesn't think that banning dispensaries from selling recreational marijuana will protect kids; it will just make it more difficult for adults to get the product.

Coburn said marijuana is legalized and he doesn't have an issue with that. The City Council is trying to come up with reasonable regulations and the locational restrictions that have been discussed seem reasonable to him. There is a desire by some on Council to wait and see what the state will do the first of the year and that would also give time for the Council to come up with local changes that they can all accept. He does not support banning recreational sales until the end of 2016. He would like this body to come up with reasonable restrictions and move ahead.

The motion passed 4-2, with Kopczynski and Olsen voting no and was designated Ordinance No. 5857.

Coburn clarified that he would like to work for the rest of the year to come up with reasonable regulations, noting that with four votes of Council, the ordinance could then be revised.

#### First Reading of Ordinances

##### Consumers Power, Inc. Franchise Agreement

Delapoer read the ordinance for a first time in title only: AN ORDINANCE CREATING ALBANY MUNICIPAL CODE (AMC) CHAPTER 3.03, TO EXEMPT CONSUMERS POWER FROM THE PRIVILEGE TAX OBLIGATIONS SET FORTH IN AMC 3.04 AND ESTABLISHING AN ELECTRICAL UTILITY FRANCHISE AND GENERAL UTILITY EASEMENT FOR CONSUMERS POWER; AND DECLARING AN EMERGENCY.

MOTION: Johnson moved to have the ordinance read a second time in title only. Coburn seconded the motion and it passed 6-0.

Delapoer read the ordinance a second time in title only.

MOTION: Johnson moved to adopt the ordinance. Olsen seconded the motion.

Kopczynski asked why the emergency clause was added. Delapoer said that without the emergency clause, Consumers Power customers and PacifiCorp customers would pay slightly different rates for the 30-day period. Staff felt that that was justification for the emergency clause, but the Council could by motion amend the ordinance by removing the clause.

MOTION TO AMEND: Kopczynski moved to amend the ordinance by removing the emergency clause. Kellum seconded the motion.

VOTE ON AMENDMENT: The motion to amend failed 2-4, with Collins, Johnson, Kopczynski, and Coburn voting no.

VOTE ON MAIN MOTION: The main motion passed 5-1, with Kopczynski voting no, and was designated Ordinance No. 5858.

Amending the PP&L Franchise Agreement

Delapoer read the ordinance for the first time in title only: AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 3.04, TO EXEMPT PACIFICORP FROM THE PRIVILEGE TAX OBLIGATIONS SET FORTH THEREIN AND ESTABLISHING AN ELECTRICAL UTILITY FRANCHISE AND GENERAL UTILITY EASEMENT FOR PACIFICORP; AND DECLARING AN EMERGENCY.

MOTION: Johnson moved have the ordinance read a second time in title only. Collins seconded the motion and it passed 6-0.

Delapoer read the ordinance a second time in title only.

MOTION: Johnson moved to adopt the ordinance. Coburn seconded the motion and it passed 5-1, with Kopczynski voting no, and was designated Ordinance No. 5859.

Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) August 17, 2015, Work Session.
- 2) Approving the full on-premises sales, commercial establishment, change ownership liquor license application for Marwood Concepts, Inc., d/b/a Loafers Station, located at 222 Washington Street SW.

Olsen requested that Item 2 be removed for discussion.

MOTION: Coburn moved to adopt the Consent Calendar with the exception of Item 2. Kellum seconded the motion and it passed 6-0.

Olsen commented that the City is approving liquor licenses for establishments that allow children to come in, and he compared this to the discussion about protecting children from marijuana retail facilities. Collins clarified that the Oregon Liquor Control Commission (OLCC) issues liquor licenses and the City only passes along a comment to that agency. Brief discussion followed.

MOTION: Olsen moved to adopt Item 2 of the Consent Calendar. Coburn seconded the motion.

Kopczynski said he will vote no one time only, due to the conundrum with the marijuana issue.

VOTE: The motion passed 5-1, with Kopczynski voting no.

Award of Bid

MS-14-01, OPS crew quarters, to Baldwin General Contracting, Inc.

Staff provided clarifying information related to the project size and timeline.

MOTION: Johnson moved to award the construction bid to Baldwin General Contracting, Inc. Kopczynski seconded the motion and it passed 6-0.

Report

Adopting findings for denial of Planning File CP-01-14 and ZC-100-14, Comprehensive Plan Map and Zoning Map changes, for property located at 241 Waverly Street SE; Linn County Assessor's Map No. 11S-3W-0500, Tax Lot 400.

MOTION: Olsen moved to approve the draft findings in support of a denial decision and to deny the request. Kellum seconded the motion.

Kopczynski said Council directed staff to find reasons to deny the application and, in theory, could now ask them to find reasons to approve it and keep going in circle. He said the impetus for Council making this request was input from the approximately 16 - 18 people involved, yet there were far more than that who showed up for the marijuana issue, and the Council didn't follow their wishes.

VOTE: The motion passed 5-1, with Collins voting no.

Konopa said this decision may be appealed to the Land Use Board of Appeals within 21 days.

#### BUSINESS FROM THE COUNCIL

Konopa noted that discussion on the one percent for Art as related to the public safety facilities was carried over from Monday's work session. Collins said he would like to see the ordinance amended so there is a minimum of one-quarter percent with a not-to-exceed of one percent, and so that all contributions count toward that value. Brief discussion followed. Delapoer suggested that staff bring back an ordinance that gives general parameters and provides that the Art Commission makes a recommendation and the Council makes the final decision. City Manager Wes Hare said that since we don't yet have final construction costs, he recommends Council proceed with construction of the fire station with the inclusion of the space necessary for the fire apparatus, but not necessarily the reconditioning of the steam engine, and the building of the police station with the drainage elements built in but not the art work associated with the drainage elements. A decision to add art can then be made at a later time when we know more about the total budget. Staff could bring back an ordinance that allows that flexibility.

MOTION: Kellum moved that we keep the size of the space that the Arts Commission recommended for the fire station at their recommendation, and not go forth with any reconstruction of engines and other amenities until we know what the funding sources and the funding needs will be. Collins seconded the motion.

Olsen said, we have four outstanding pieces of fire equipment and this is the only chance we have for a decent fire museum in Albany; he would like to see our downtown be special and doesn't want to pass up this opportunity. In response to his questions, Fire Chief John Bradner clarified that the Art Commission endorsed the project of refurbishing the steamer, but they didn't make a recommendation on space needs. The architect designed enough space for one antique apparatus in the front lobby.

WITHDRAWN: Kellum withdrew the motion.

Collins asked if there is room on the fire station site to expand the lobby and accommodate three apparatus. Bradner said the current lobby is about 850 square feet and the space needed to display an antique apparatus is roughly 200 square feet. With public space area of about 450 square feet and circulation area of about 200 square feet, his rough estimation is that an additional 200 feet would be needed for each additional apparatus. At the architect's estimate of \$200 per square foot, that would be about \$40,000 per additional vehicle in that space. Due to the need to maintain sight clearance for apparatus pulling out, he doesn't think there is the physical space for all three apparatus, but he could check with the architect. Hare noted that there would be other associated costs in addition to the construction costs. It was agreed that staff will bring back a draft ordinance.

Konopa said she was contacted by a business owner who was approved for a marijuana dispensary at the triangle area near the intersection of Pacific Boulevard and Santiam Highway. When the ordinance was established, Konopa said, she looked at the maps to see how the 300-foot setback from residential zones would impact the community, and she had noted this location was less than 300 feet from the apartments near Staples. However, she had measured from tax lot to tax lot while the ordinance calls for measuring to the residential zone. The apartments are on a split-zoned lot with the front part being zoned Community Commercial, and the measurement from the dispensary site to the Residential zone is more than 300 feet.

Delapoer added that staff reviewed the application, found the property was further than 300 feet of any property zoned Residential, and told the applicants in writing that they met the requirements. He said the applicants may sue if they are prevented from opening their business and he thinks the City would have a vulnerable legal case.

Konopa said this is a visible location and, if allowed, the site will be grandfathered as a medical dispensary. She is trying to keep dispensaries away from residential zones. She asked if Council wanted to direct staff to respond with a denial of the application. There was not support to do so. There was agreement that the existing regulations will be brought back in a work session for additional discussion. Items for discussion would include whether the 300-foot setback should be to the property or the zone; reconsideration of the exemption for industrial zones; and potential time, place, and manner restrictions for marijuana facilities.

Coburn said he thinks Councilor Olsen has a great idea with the fire museum, and he will want to discuss that further.

Kopczynski noted that the Chevron station on west Pacific Boulevard has changed to a Mobile station.

Albany City Council  
September 23, 2015

Konopa expressed appreciation to the Moda Center for including Albany in their Trailblazers - Rip City events. She said all of the representatives were very nice and the kids who participated had a great time.

Assistant Public Works Director/Operations Manager Chris Bailey said the Albany Area Metropolitan Planning Organization has a compressed timeline to develop their transportation project improvement list. Staff would like to include two of the Hill Street phases, as well as a third project from the Capital Improvement Program that they believe would score well. She requested general approval with some flexibility. There was general agreement.

NEXT MEETING DATE

Work Session: October 12, 2015  
Regular Session: October 14, 2015

ADJOURNMENT

There being no other business, the meeting was adjourned at 11:15 p.m.

Respectfully submitted,

Reviewed by,

Teresa Nix  
Administrative Assistant

Wes Hare  
City Manager

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION DIRECTING STAFF TO EXECUTE THE ATTACHED QUITCLAIM DEED:

Grantor: **City of Albany**

Purpose

Grantee: **LOWES HIW INC**

Releasing 3 Easements over a Public sewer main that has been converted to a Private sewer service line for Lowes.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby direct staff to execute the attached Quitclaim Deed.

DATED AND EFFECTIVE THIS 2ND DAY OF DECEMBER 2015.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF ALBANY Grantor	After Recording Return to: City of Albany
LOWES HIW INC Grantee	Until requested otherwise send All tax statements to:
c/o Tax Department PO Box 1000 Mooresville, NC 28115	

**QUITCLAIM DEED**

KNOW ALL PEOPLE BY THESE PRESENTS, that THE CITY OF ALBANY, a municipal corporation, hereinafter called Grantor, for the consideration hereinafter stated, does hereby remise, release and quitclaim unto **LOWES HIW INC**, hereinafter called Grantee, and unto Grantee's heirs, successors and assigns all of that certain real property with the tenements, hereditaments and appurtenance thereunto belonging or in anywise appertaining, situated in the County of Linn, State of Oregon, described as follows, to wit:

**Legal Description**

All of those Sewer Easements recorded in Linn County, Oregon, Deed records Volume 68 - Page 912, Volume 68 - Page 914, and Volume 68 - Page 916. As shown on the attached map labeled Exhibit A.

To Have and to Hold the same unto said Grantee and Grantee's heirs, successors and assigns forever. The true and actual consideration paid for this transfer, stated in terms of dollar, is \$-0-. However, the actual consideration consists of or includes other property or value given or promised which is the whole consideration.

In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, the Grantor has executed this instrument this \_\_\_\_ day of \_\_\_\_\_, 2015.

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS, WHICH, IN FARM OR FOREST ZONES MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND WHICH LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND EXISTENCE OF FIRE PROTECTION FOR STRUCTURES.

\_\_\_\_\_  
Wes Hare, City Manager

\_\_\_\_\_  
Stewart Taylor, Finance Director

STATE OF OREGON, County of Linn ) ss.

This instrument was acknowledged before me on \_\_\_\_\_, 2015, by Wes Hare, City Manager for the City of Albany.

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: \_\_\_\_\_

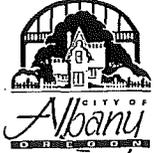
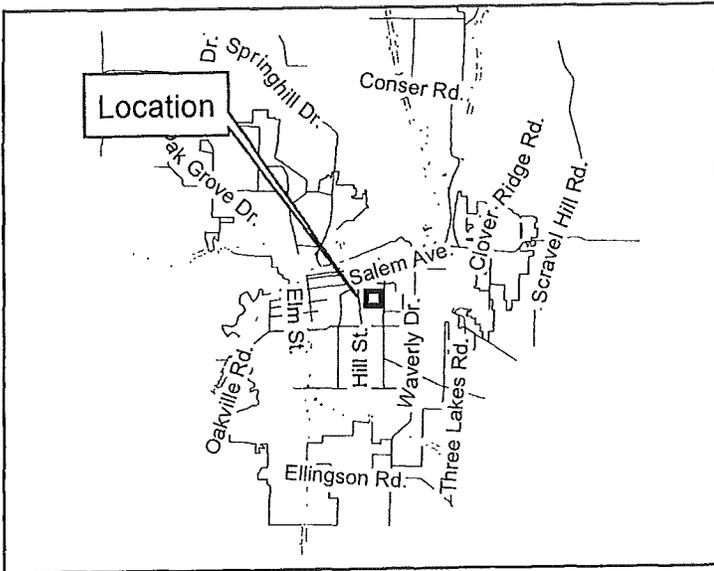
This instrument was acknowledged before me on \_\_\_\_\_, 2015, by Stewart Taylor, Finance Director for the City of Albany.

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: \_\_\_\_\_

# EXHIBIT A

11S03W08BC- 01000

Releasing 3 Easements over a  
Public sewer main that has been  
converted to a Private sewer  
service line for Lowes



Geographic Information Services

