Monday, May 20, 2019
4:00 p.m. Work Session
Council Chambers, City Hall
333 Broadalbin Street SW

4:00 p.m. CALL TO ORDER
4:00 p.m. ROLL CALL
4:05 p.m. BUSINESS FROM THE PUBLIC
4:10 p.m. INFLATIONARY ADJUSTMENTS FOR PUBLIC WORKS FEES AND CHARGES – Rob Emmons. [Pages 2-3]
   Action Requested: Information, discussion, and direction.
4:25 p.m. UPDATE ON WILLAMETTE BASIN TOTAL MAXIMUM DAILY LOAD – Dave Gilbey & Kristin Preston. [Pages 4-7]
   Action Requested: Information.
4:40 p.m. PROPOSED CONSTRUCTION OF PICKLEBALL COURTS AT LINN BENTON COMMUNITY COLLEGE – Ed Hodney. [Pages 8-12]
   Action Requested: Information, discussion, and direction.
4:55 p.m. ALBANY MUNICIPAL CODE AMENDMENTS FOR TRANSIENT LODGING TAX COLLECTION – Seth Sherry. [Page 13]
   Action Requested: Information, discussion, and direction.
5:15 p.m. BUSINESS FROM THE COUNCIL
5:20 p.m. ALTERNATIVE REVENUE SOURCES – Mayor Konopa. [Verbal]
5:25 p.m. CITY MANAGER REPORT
5:30 p.m. ADJOURNMENT

The location of this meeting is accessible to the disabled. If you have a disability that requires accommodation, please notify the City Manager’s Office in advance of the meeting: cmadmin@cityofalbany.net | 541-791-0206 or 541-917-7519.
MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager

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

FROM: Robert Emmons, P.E., Assistant City Engineer

DATE: May 10, 2019, for the May 20, 2019, City Council Work Session

SUBJECT: Inflationary Adjustments for Public Works Fees and Charges

Relates to Strategic Plan theme: A Safe City; An Effective Government

Action Requested:
Staff requests Council provide direction regarding inflationary adjustments for various Public Works Fees and Charges.

Discussion:
Albany’s construction-related fees and charges are evaluated annually and adjusted for inflation based on the change in Engineering News Record Construction Cost Index (ENR CCI) for Seattle. This year the ENR CCI has increased 4.71 percent. Staff typically brings inflationary adjustments to council in June without preliminary discussion. With this year’s increase being slightly higher than average, staff felt preliminary discussions were warranted.

Over the last few years, council has reviewed and adjusted several of the Public Works fees and charges. The adjustments were required in response to system needs and costs of improvements. Adjustments were approved with the intent of covering the City’s/developer’s costs for providing the respective improvements. Inflationary adjustments are critical to retaining this relationship over time. Council has also recently repealed fees that were no longer representing community needs.

In March council adopted new Water and Sewer SDCs to be effective July 1, 2019. Consequently, they do not require inflationary adjustments at this time. Transportation SDCs; Water, Sewer, and Stormwater Connection Charges; and construction-related Post-Construction Stormwater Water Quality (PCSWQ) program fees do require inflationary adjustments. The table below summarizes inflationary percentage adjustments made over the past three years to those fees and charges considered for adjustment. The proposed inflationary adjustment percentages for 2019 are shown in the column to the far right.

<table>
<thead>
<tr>
<th>Fee/Charge</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>2019 Proposed</th>
</tr>
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<tbody>
<tr>
<td>Transportation SDC</td>
<td>1.85% Increase</td>
<td>1.11% Increase</td>
<td>7.25% Increase</td>
<td>4.71% Increase</td>
</tr>
<tr>
<td>Connection Charges</td>
<td>1.85% Increase</td>
<td>1.11% Increase</td>
<td>7.25% Increase</td>
<td>4.71% Increase</td>
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<tr>
<td>PCSWQ Program</td>
<td>4.13% Increase*</td>
<td>1.11% Increase*</td>
<td>7.25% Increase*</td>
<td>4.71% Increase*</td>
</tr>
</tbody>
</table>

*Only applies to off-site PCSWQ fee and transfer of landscaping responsibility.

Staff plans to bring the proposed inflationary adjustments forward for a public hearing and subsequent Council action at the June 12, 2019, City Council Meeting. If council prefers to consider a different inflationary
adjustment than proposed, staff requests that direction be provided now so the appropriate resolutions can be prepared for the June 12 public hearing.

**Budget Impact:**
The additional revenue received through inflationary adjustments will depend on the selected adjustment and the level of development activity in coming years.

RE:kw
MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager
     Chris Bailey, Public Works Operations Director

FROM: Kristin Preston, P.E., Wastewater Superintendent
      David Gilbey, Environmental Services Manager

DATE: May 14, 2019, for the May 20, 2019, City Council Work Session

SUBJECT: Update on Willamette Basin Total Maximum Daily Load
Relates to Strategic Plan theme: An Effective Government; A Safe City

Action Requested:
None. Information only.

Discussion:
The Oregon Department of Environmental Quality (DEQ) issued the Willamette Basin Total Maximum Daily Load (TMDL) Order in 2006, requiring cities and other agencies to develop plans to help reduce specific pollutants in the Willamette River. This staff report provides background on the DEQ requirements, an overview of the City’s efforts for the last 10 years, and implementation plans for the next 5 years.

Willamette River Basin TMDL

In 2006, DEQ issued the Willamette River Basin TMDL Order. The TMDL is a regulatory mechanism required under the Federal Clean Water Act for water bodies that do not meet water quality standards. For the Willamette River, levels of bacteria, temperature, and mercury have been identified as problems for water quality, and those pollutants are the subject of the referenced TMDL. The TMDL establishes pollutant load limits to the Willamette River as part of a long-term effort to meet water quality standards.

Every agency facing TMDL requirements is labeled a Designated Management Agency (DMA) and include cities, counties, state agencies, and federal agencies. The City of Albany is a DMA and is required to develop and implement management strategies to reduce pollutant loads within our jurisdiction; i.e., a TMDL Implementation Plan. Because the TMDL is basin-wide, it applies not only to pollutants directly entering the Willamette River, but it also applies to pollutants entering tributaries to the Willamette such as the Calapooia River and the small creeks within Albany.

The City is required to address both point and nonpoint sources of the three pollutants (bacteria, temperature, and mercury) within our jurisdiction. Point source pollution comes from a single source such as wastewater treatment plant discharging directly to the river. Nonpoint pollution does not have one specific source but comes from many diffuse sources that run off the land and into water bodies. Sediment and nutrients are the most commonly recognized nonpoint pollutants. Toxic contaminants, like heavy metals and man-made
chemicals and pathogens (disease-causing organisms) from human or animal waste, are some of the most common pollutants in stormwater runoff.

**Wastewater Discharge Permit**

The City currently has only one-point source – the Albany-Millersburg Water Reclamation Facility (wastewater treatment plant). The plant’s permit to discharge treated wastewater to the Willamette expired in 2005. The permit has been administratively extended, and it is awaiting renewal by DEQ. The renewal schedule is not known at this time.

Of the three pollutants, only bacteria limits are currently in the City’s wastewater discharge permit. Upon renewal, requirements for mercury and temperature will also be included in the City’s permit. Staff anticipates that the bacteria limit in the renewed permit will be the same as previously permitted. Due to legal challenges of Oregon’s temperature standard, there remains uncertainty regarding what the effluent temperature discharge limit will be and how the City will be able to comply. Staff continues to be engaged with DEQ and other communities on the status of the temperature TMDL and alternative compliance strategies, such as water quality trading programs. DEQ is currently updating the Willamette basin mercury TMDL and mercury monitoring and minimization plans are anticipated as new requirements.

**Nonpoint Source Requirements**

Albany’s TMDL Implementation Plan identifies management strategies for each of the targeted pollutants – bacteria, mercury, and temperature. Nonpoint sources of bacteria include stormwater runoff contaminated with waste from wildlife and pets, failing private septic tanks, and sewage pipelines illegally or inadvertently connected to City stormwater infrastructure. A large portion of nonpoint source mercury originates from atmospheric deposition directly on water or land. Disturbed soil as a result of construction activities can be a source of mercury pollution through erosion during rainfall events. Control of construction erosion is specifically required in the TMDL. Some mercury may also be contained in pollution on urban roads that washes into streams as stormwater. Nonpoint source temperature contributions are the result of several factors, but the TMDL specifically addresses stream warming caused by loss of riparian shade.

Many municipalities in Oregon have been required to obtain a National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) permit from DEQ for operating an urban stormwater system. The permit recognizes urban stormwater runoff as a source of nonpoint pollution and requires permit holders to develop and implement a Stormwater Management Plan to reduce pollution from urban runoff. When the TMDL was developed and issued in 2006, Albany’s population did not meet the threshold for a stormwater permit (50,000). However, because of the City’s size, the TMDL required Albany to address the six stormwater control measures that form the backbone of a Stormwater Management Plan that would be required in a MS4 permit. The six stormwater control measures are:

1. Public Education and Outreach
2. Public Participation/Involvement
3. Illicit Discharge Detection and Elimination
4. Construction Site Runoff Control
5. Post-Construction Runoff Control
6. Pollution Prevention/Good Housekeeping
With the completion of the 2010 Census, Albany exceeded the 50,000-population threshold for a stormwater permit and was identified by DEQ as eligible for coverage under the new MS4 Phase II General Permit, effective March 1, 2019. For the last several years, staff worked with other municipalities and DEQ in the development of this new permit to help incorporate reasonable stormwater permit requirements; however, staff found the final permit to be unreasonable and unlawful and filed a Petition for Judicial Review on January 28, 2019, along with five other communities. Staff will update City Council on the status of this legal action and will continue to implement the City’s TMDL Implementation Plan that includes the six minimum stormwater control measures.

**TMDL Required Actions**

The 2006 TMDL required all DMAs to submit a five-year TMDL Implementation Plan within 18 months. Albany’s TMDL Implementation Plan was presented to the city council in March 2008 and was approved by DEQ in June 2008. In accordance with DEQ requirements, this Implementation Plan:

- Described management strategies to achieve pollutant load allocations or percent reductions for the pollutants, including a timeline, milestone schedule, and resource estimates
- Described a performance monitoring plan and a commitment to report progress on the status of our management strategies annually
- Included a provision to review and revise our management strategies after five years

**Albany’s TMDL Implementation Plan**

The City’s initial 2008 TMDL Implementation Plan explored many structural and nonstructural best management practices (BMPs), including constructed wetland treatment, re-vegetation projects, new policy and education programs, and improved operational strategies. Accomplishments and lessons learned over the first five years helped refocus the City’s strategies in subsequent TMDL Implementation Plan in 2013 and again in 2018. No new activities have been added to the updated Implementation Plans, but activities that were completed or found to be ineffective were removed or modified; effective pollutant reducing activities are reviewed annually and remain as on-going activities and strategies. Some highlights of Albany’s first 10 years of TMDL implementation efforts include:

- Constructed a system of treatment wetlands (Talking Water Gardens) to reduce the wastewater effluent thermal load from the wastewater treatment plant to the Willamette River
- Collaborated with and supported local watershed council projects in the lower Calapooia River basin, Cox Creek floodplain, and mainstem Willamette between Albany and Corvallis
- Collaborated with OSU to complete an assessment of streamside shade in Albany
- Focused on City-owned riparian areas and parks for demonstration and restoration projects
- Implemented a local erosion prevention and sediment control program
- Adopted post-construction stormwater quality requirements in the Municipal Code, Development Code, Engineering Standards, and Construction Specifications
- Completed upgrades to the Water Reclamation Facility to address wet weather overflows
- Completed condition assessment of wastewater collection system
- Continued connection requirements for failing septic systems within 300 feet of the public sewer
- Completed dental office certification program for proper dental amalgam management
• Adopted and implemented amendments to the Comprehensive Plan and Development Code with State Land Use Planning Goals for natural resources, open spaces, and water quality protection

• Continued ongoing outreach and education, river cleanups, storm drain marking, facility tours, and student education programs

• Continued ongoing responses to spills, complaints, and illicit discharges

Staff submitted the 2018-23 Implementation Plan to DEQ, which was approved on June 18, 2018. Given the progress that Albany has made in the last 10 years, this current plan was streamlined and does not contain any significant new projects or programs. However, when the MS4 Phase II stormwater permit is issued to Albany, many of the tasks required to implement the six stormwater control measures may need to be modified or expanded to comply with the permit. These efforts, assuming a reasonable permit, have been considered in the projected funding needs of the stormwater program.

Implementation of Albany’s TMDL Plan requires cooperation within various City departments and with other DMAs in our region. Public Works staff will continue to work closely with Community Development staff on our response to statewide planning goals and Parks and Recreation on restoration and education goals. Staff is also in contact with Linn and Benton Counties, the Linn Soil and Water Conservation District, and the Calapooia Watershed Council regarding watershed issues related to the TMDL. Continued regional cooperation will be important to successfully implement the TMDL requirements, the pending MS4 Phase II stormwater permit requirements, and the renewal of the NPDES wastewater discharge permit for the Albany-Millersburg Water Reclamation Facility.

**Budget Impact:**
Funds for required TMDL actions are budgeted biannually as needed.

KFP:kc

c: Jeff Blaine, P.E., Public Works Engineering and Community Development Director (via email)
TO: Albany City Council
VIA: Peter Troedsson, City Manager
FROM: Ed Hodney, Parks & Recreation Director
DATE: May 13, 2019 for the May 20, 2019 City Council Work Session

Relates to Strategic Plan theme | Relates to: Effective Government

Action Requested:

Receive a staff report regarding the proposed construction of new pickleball courts on the Linn Benton Community College campus; authorize the City Manager to sign a Memorandum of Understanding with LBCC regarding the construction, maintenance and use of the courts.

Discussion:

The current Albany Capital Improvements Program and the Parks and Recreation Department budget include the design and construction of new pickleball courts. In a review on April 2, 2019 of the proposed update of CIP, the City’s intent to fund this project was confirmed, subject to a decision on the location for these new facilities. Two possible locations for the courts—Timber Linn Park and the Linn Benton Community College campus—have been assessed. The Timber Linn Park site is adjacent to the softball field complex. The LBCC project site would replace their existing tennis courts with the new pickleball facility.

Reece & Associates completed a facility design and submitted a report on the merits of both sites with an estimate of costs for each. In summary, Reece & Associates concluded the LBCC site could be constructed at a much lower cost than the Timber Linn Park site:

- The estimated construction costs for Timber Linn Park are $490,000 vs. $285,000 for LBCC’s location.
- There is already adequate paved parking at LBCC to support the pickleball courts, while new paved parking may be required at Timber Linn Park.
- Stormwater improvements would be required at Timber Linn; LBCC has adequate facilities.
- Due to permitting and land use requirements, Timber Linn Park facilities would likely take much longer to build than the LBCC location.

LBCC staff and board members of the Albany Pickleball Club have been involved in the assessment of the alternative project sites. Together, we have determined that the LBCC location offers the most benefit to the community:

- The LBCC facility can be achieved within the budget allocated from the Parks SDC Program; no other capital funding is required.
• The project creates enough court capacity to serve the needs of the Parks & Recreation Department’s program and of the Albany Pickleball Club, while also accommodating recreational use by LBCC.
• The new courts, along with LBCC’s ample parking spaces, will provide an attractive, secure and safe venue for pickleball tournaments promoted by the Club.
• While capital costs will be borne by the City, daily operating and maintenance will be performed by LBCC. This proposed facility partnership between LBCC, and the City will meet a stated recreation facility objective without adding to the Parks and Recreation Department’s maintenance expenses.

City staff and LBCC have prepared a Memorandum of Understanding (attached draft) that summarizes the structure of a partnership to build, maintain, and use the new pickleball courts. We seek your authorization for the City Manager to sign the MOU.

The MOU will allow us to prepare an Intergovernmental Agreement (IGA) for approval by the two parties and initiate construction drawings for the facility. If the IGA is approved, we expect the new courts to be completed in the fall 2019. The IGA would terminate in 20 years from its execution date and would require LBCC to reimburse the City for its construction costs if LBCC wishes to terminate the agreement sooner.

**Budget Impact:**

The adopted FY 2018-2019 Parks & Recreation Fund budget allocates $150,000 from the Parks SDC Program toward this project. The proposed biennial budget includes an additional $150,000 for the project from Parks SDCs. The total allocation is $300,000 for the pickleball courts.
Memorandum of Understanding

Between the City of Albany, Oregon and Linn Benton Community College

WHEREAS, Linn Benton Community College (LBCC) and the City of Albany, Oregon (CITY) have a history of partnering to share resources in furtherance of the common goal of providing the best educational and recreational opportunities possible for their shared constituencies; and

WHEREAS, LBCC is willing to make available a portion of its Albany campus to the CITY for the purpose of constructing new pickleball courts to serve the CITY’s and LBCC’s community education and recreation purposes; and

WHEREAS, City is willing to commit its funding to the design and construction of these public improvements; and

WHEREAS, LBCC is willing to assume responsibility for the routine costs to maintain and operate these improvements; and

WHEREAS, both parties agree to negotiate any future costs or expenses associated with non-routine repair and upkeep of the new courts; and

WHEREAS, both parties agree to sustain these public improvements in ways that preserve the use and availability of the facility for community members, LBCC students and staff for twenty years, subject to future negotiations and amendments to this or other contracts; and

WHEREAS, both parties desire, by this Agreement, to memorialize their understandings concerning the sharing of facilities and compensation therefore; and

WHEREAS, both parties envision that if this Memorandum of Understanding is acceptable to both sides, following public consideration, that the terms hereof will be incorporated into a binding Intergovernmental Agreement.

NOW, THEREFORE, the parties memorialize their understanding as follows:

1. CITY Financial Obligation and Use of Facilities.
   A. CITY agrees to pay all costs to engineer, design and construct the proposed pickleball courts at LBCC. The estimated construction value is $300,000.

   B. CITY shall be responsible for all equipment and supplies necessary for CITY activities.

   C. CITY will have the right to use said facilities for its parks and recreation programs and activities, including classes, lessons, events, tournaments, and free play. Said uses will be subject to facility use schedules to be determined annually by mutual agreement of both parties.
2. **LBCC Financial Obligation and Use of Facilities.**

   A. LBCC agrees to pay all routine operating and maintenance costs that may be necessary to ensure a safe and useful facility for community uses. Anticipated expenses include but may not be limited to litter collection, general cleaning, spray washing, striping, the use of electricity and water.

   B. LBCC shall be responsible for all equipment and supplies necessary for LBCC activities.

   C. LBCC will have the right to use said facilities for its education and recreation programs and activities, including classes, lessons, events, tournaments, and free play. Said uses will be subject to facility use schedules to be determined by LBCC policy and annually in accordance with LBCC’s fiscal calendar.

3. **Related Facilities.**

   Use of the pickleball courts shall include parking lots and pedestrian walks on the LBCC campus in accordance with LBCC Administrative Rules. LBCC shall designate and maintain said parking and walks. CITY may also provide portable toilets if necessary, to serve its participants.

4. **Operational Modifications of Agreement.**

   The parties envision that LBCC and the CITY will continue to cooperate concerning the scheduling of activities and events in a manner intended to avoid conflict with scheduled activities of either party. In order to carry out this intent, the Parks & Recreation Director of the CITY and the Athletic Director of LBCC, or such other persons who may be designated by the CITY or LBCC, may cooperate to modify the usage schedule.

5. **Term of Agreement.**

   This agreement will expire May 31, 2039.

6. **Termination of Agreement.**

   Should LBCC determine a need to terminate this Agreement before May 31, 2039, LBCC and CITY agree to do so as follows:

   A. Written notice shall be issued the other party no less than 180 days in advance of the desired termination date.

   B. Recognizing CITY’s significant capital expenditure to establish the pickleball facility, LBCC will reimburse CITY’s construction costs on a prorated scale:

      a. 80% of final construction costs if terminated prior to December 1, 2024.

      b. 60% of final construction costs if terminated prior to December 1, 2029.

      c. 30% of final construction costs if terminated prior to December 1, 2034.

      d. 15% of final construction costs if terminated prior to December 1, 2039.
7. **Non-Binding Effect.**
The terms of this Memorandum of Understanding are not binding upon either party. Instead, they express the intentions of the governing bodies of both parties and direct their respective legal counsels to prepare an Intergovernmental Agreement consistent with the terms hereof for formal execution by the respective governing bodies or their authorized representatives.

8. **Legal Compliance and Non-Discrimination**
Both parties agree to comply with all applicable requirements of federal, state, and local laws, ordinances and regulations applicable to the work under this agreement as well as prohibiting unlawful discrimination based on race, color, religion, ethnicity, use of native language, national origin, sex, sexual orientation, marital status, disability, veteran status, age, or any other status protected under applicable federal, state, or local laws.

9. **Liability and Indemnification**
LBCC agrees to hold harmless, indemnify, and defend the CITY against claims arising out of acts or omissions by LBCC or its officers, agents, employees, volunteers, or students during use of the Pickleball Courts. The CITY agrees to hold harmless, indemnify, and defend LBCC against claims arising out of acts or omissions by or at the direction of the CITY’s officers, employees, or agents for use of the Pickleball facility.

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CITY OF ALBANY

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LINN BENTON COMMUNITY COLLEGE

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MEMO

TO: Albany City Council
VIA: Peter Troke, City Manager
FROM: Seth Sherry, Economic Development Manager
DATE: May 16, 2019, for the May 20, 2019, City Council Work Session

SUBJECT: Transient Lodging Tax Advisory Committee Recommendation

Action Requested:
Provide direction to staff on updates to the Albany Municipal Code (AMC) 3.14 to include all transient rentals per the recommendation of the Transient Lodging Tax (TLT) Advisory Committee.

Discussion:
The Transient Lodging Tax Advisory Committee recommends that City Council amend Chapter 3.14 of the Albany Municipal Code to include all transient rentals, as it currently exempts structures with less than six units, private homes, vacation cabins, or like facilities from any owner who rents such facilities incidentally to his/her own use thereof from paying transient lodging tax.

When the Transient Room Tax Ordinance was passed in 1977, the City was encouraging small bed and breakfasts, especially in the downtown area, and did not have to consider new vacation rental businesses like Airbnb, VRBO, Home Away, and others.

Staff estimates there are over 100 non-traditional transient rentals currently in Albany. The TLT committee, along with the Albany Visitors Association and local hotels have suggested that extending current TLT tax to all transient rental properties will more equitably recognize and support the collection and use of TLT dollars to promote tourism in Albany, which all rental units benefit from.

If the council was to amend the AMC to include all transient rental properties in Albany, it would not increase the City's current TLT tax rate of nine percent, nor does it impose a new tax. This amendment would simply eliminate the existing exemptions for “small establishments” found in 3.14.025 and 2.14.050(3). Other exemptions would remain.

Budget Impact:
It is difficult to estimate immediate budget impacts as the exact impact will fluctuate with the number of rooms available, occupancy rates, room rates etc. However, staff has conservatively estimated that with current room stock, annual new TLT revenue would be roughly $50,000.

SS:sd