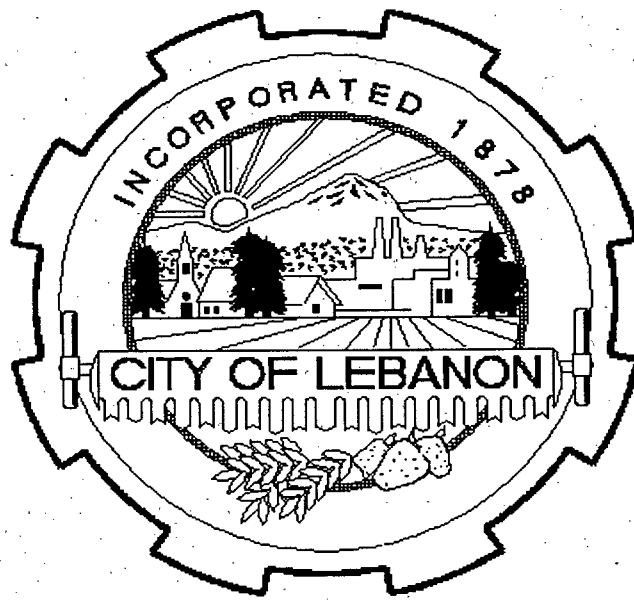


Council Agenda



March 26, 2003
7:30 p.m.

LEBANON CITY COUNCIL MEETING

March 26, 2003

7:30 p.m.

School District Board Room
485 S. 5th Street

AGENDA

CALL TO ORDER/FLAG SALUTE

ROLL CALL

CONSENT CALENDAR

CITY COUNCIL AGENDA – March 26, 2003

CITY OF LEBANON MEETING MINUTES:

- City Council Meeting Minutes – March 12, 2003
- Planning Commission Minutes – January 15, 2003
- Planning Commission Minutes – February 19, 2003
- Library Advisory Board Meeting Minutes –
- Senior Advisory Board Meeting Minutes –

PUBLIC HEARINGS

- 1) 5TH STREET LID – Final Assessment Roll
Presented by: Mr. Ron Whitlatch, Senior Engineer
Approval/Denial by ORDINANCE
- 2) LIQUOR LICENSE CHANGE OF OWNERSHIP APPLICATION (Tee Jay Oil Co., Inc.)
Presented by: Mr. Mike Healy, Police Chief
Approval/Denial by MOTION
- 3) REVIEW CITY FEES (Continuation of March 12, 2003 Public Hearing)
Presented by: Mr. John Hitt, City Administrator
Approval/Denial by RESOLUTION

LEGISLATIVE SESSION

4) PROVIDING INFORMATION SERVICES SUPPORT TO FIRE DISTRICT

Presented by: Tom Oliver, IS Manager

Approval/Denial of Intergovernmental Agreement by MOTION

5) WALDEN POND STATUS REPORT

Presented by: Mr. Jim Ruef, Public Works Director

Discussion Only

6) CITY ADMINISTRATOR'S REPORT

Presented by: Mr. John Hitt, City Administrator

Discussion Only

CITIZEN COMMENTS - *Those citizens with comments concerning public matters may do so at this time.*

ITEMS FROM COUNCIL MEMBERS

EXECUTIVE SESSION

Per ORS 192.660(1)(e) To conduct deliberations with persons designated by the Council to negotiate real property transactions.

ADJOURNMENT

Consent Calendar

CITY COUNCIL AGENDA – March 12, 2003

CITY OF LEBANON MEETING MINUTES:

- City Council Meeting Minutes – March 12, 2003
- Planning Commission Minutes – January 15, 2003
- Planning Commission Minutes – February 19, 2003
- Senior Advisory Board Meeting Minutes – February 19, 2003
- Tourism Commission Meeting Minutes – February 10, 2003

**MINUTES
LEBANON CITY COUNCIL MEETING**

March 12, 2003

Council Present: Mayor Ken Toombs and Councilors Bob Elliott, Mel Harrington, Ron Miller, Roger Munk, Dan Thackaberry and Scott Simpson

Staff Present: City Administrator John Hitt, City Attorney Tom McHill, Public Works Director Jim Ruef, Police Chief Mike Healy, Finance Director Casey Cole, City Planner Doug Parker, City Engineer Allen Dannen and Admin. Assistant Linda Kaser

CALL TO ORDER/FLAG SALUTE/ROLL CALL

Mayor Toombs called the regular session of the Lebanon City Council to order at 7:30 p.m. in the Lebanon School District Board Room at 485 S. 5th Street. All Councilors were present.

CONSENT CALENDAR

CITY COUNCIL AGENDA – March 12, 2003

CITY OF LEBANON MEETING MINUTES:

- City Council Meeting Minutes – February 19, 2003
- City Council Meeting Minutes – February 26, 2003
- City Council Work Session – February 26, 2003
- Library Advisory Board Meeting Minutes – February 12, 2003

APPOINTMENTS

BUDGET COMMITTEE APPOINTMENTS/CONFIRMATIONS (Fiscal Year 2003/04)

A motion was made by Councilor Elliott, seconded by Councilor Thackaberry, and passed unanimously that the consent calendar be approved.

PRESENTATION

LEBANON COMMUNITY FOUNDATION PACKET UPDATE

Mr. Greg Nervino and Mr. Warren Beeson provided an update on the Lebanon Community Foundation's packet that will help market their new facility at the Cheadle Lake site. Council was applauded for their support of the Foundation's project.

PROCLAMATIONS

- CHILD ABUSE PREVENTION MONTH (APRIL) – Marsha Swanson and Christine Rhea accepted the proclamation read by Mayor Toombs.
- ARBOR DAY CELEBRATION – Mayor Toombs read the proclamation.

PUBLIC HEARINGS

1) SCHWINDT ANNEXATION – Highway 20 (A-02-07)

Mayor Toombs opened the Public Hearing at 7:42 p.m., at which time City Attorney McHill briefed the Council on the Public Hearing procedures. ORS 197.763 requires that at the commencement of a public hearing, the applicable substantive criteria that have been identified should be listed as staff has done on pages 7 and 8 of the staff report. Attorney McHill read the Relevant Criteria and noted the Intergovernmental Agreement with Linn County allowing the City to designate a zoning policy for property outside the city limits, but within the urban growth boundary (UGB), as long as its consistent with the Comprehensive Plan Map.

Attorney McHill stated that all testimony, arguments, and evidence presented must be directed toward the criteria listed or other criteria specifically identified by the individual presenting the testimony. The criteria must be listed in the Comprehensive Plan or Land Use Regulations that applies to this decision. A failure to raise an issue with statements and evidence sufficient to allow the Commission and the parties to respond to the issue precludes any appeal on that issue.

Mayor Toombs asked the Councilors if they had any conflicts of interest or ex parte contacts. Councilor Simpson stated that he spoke to Councilor Harrington regarding the annexation proposal and asked Planning Commissioner Brown what the difference between Mixed Residential and Residential Mixed Density is. Councilors Simpson and Harrington felt they could render an impartial decision. There were no additional Council comments or disclosures.

City Planner Parker briefed the Council on the annexation request of the 3.5-acre territory comprised of a single parcel containing a single-family dwelling located on the west side of Highway 20 (north of Crowfoot Road) at 3980 South Santiam Highway (Assessor's Map 12-2W-23D, Tax Lot 1700). The applicant is F. C. Schwindt and Sharon R. Borman. Mr. Parker described the Zone Designation as Residential Mixed Density (upon annexation). The Comp Plan Designation is Mixed-Density Residential.

Commissioner Parker explained that the Comp Plan Map identified all land use designations in the City's UGB. Those designations were made approximately 30 years ago, prior to the adoption process of the Comp Plan. The Comp Plan Map shows what the zoning assignment would be upon annexation. In order to establish the difference between the Comp Plan Designation and the Zoning Map Designation there is a variation on the words, but both refer to a residential zone that would be able to experience development in a mixed density designation.

Mr. Parker reviewed the applicant's *conceptual* development plan to support future residential development, the Lebanon Community Foundation's plans to extend the sewer line through the subject property and the extension of a waterline to the Cheadle Lake site, the site description, and the planning and zoning considerations as outlined in the staff report.

City Engineer Dannen stated that urban services are or can be made available to serve the proposed annexation area. Mr. Dannen reviewed the City's infrastructure and possible additional infrastructure improvements in regard to streets, water, drainage, and sanitary sewer as outlined in the staff report.

Mr. Parker briefed Council on the Relevant Criteria, provided in the staff report, and expanded on the *City of Lebanon/Linn County Urban Growth Management Agreement (UGMA)* reading Section 2, Paragraph 2 and the 2nd sentence of Section 5, Annexation.

Planner Parker explained that the Planning Commission voted unanimously on January 15, 2003 to recommend to the City Council that the proposed annexation along with the requested Residential Mixed Density zoning be approved, and offered the staff report for the record. Mayor Toombs accepted the report.

Mr. Parker outlined the city limits on the Comp Plan Map. The proposed annexed property is immediately adjacent to the city limits. The northwest corner of the property is contiguous to the city limits.

Councilor Simpson was concerned about the potential overflows of the current Westside interceptor. Mr. Dannen stated that the eventual solution is to extend the new Westside Interceptor. The timeframe on the new Westside Interceptor is unclear because of the NW Urban Renewal District's finances. However, it is a system-wide problem not related to any potential development that may occur on the property proposed for annexation. There are designs in place to extend sewer piping in this area.

Councilor Harrington expressed his concern that the Lebanon Foundation (Cheadle Lake Project) may not be able to get permits to hook up to City services because the system is overburdened. Planner Parker explained that the system is vulnerable to failure during saturated soil conditions and storm events. It is unlikely that the Cheadle Lake festival site would be an area that would place any substantial demands on the system even during those extreme weather conditions.

In response to Councilor Thackaberry's question, Planner Parker recited his emailed conversation with DLCD concerning the City's zoning procedures. Staff asked if whether the City's procedures were in violation because a separate public hearing for a zone change amendment is not conducted. Planner Parked stated that DLCD had nothing unfavorable to say about the City's procedures.

Mayor Toombs invited the applicant to testify.

Jim Udell, Udell Engineering, 63 E. Ash, assisting applicant Schwindt, concurred with staff's findings. Mr. Udell gave a brief history of the property and past city policies in reference to annexing properties. This property is contiguous with the current city limits and within the UGB. Annexing this property does not commit it to a certain development. There is no need for immediate service upgrades to annex this property. If the property is developed then the developer will pay for any services that are needed.

Mayor Toombs opened the public hearing to opponents of the application.

Jim Just, Friends of Linn County (FOLC), P O Box 113, submitted written testimony dated March 12, 2003 and requested written notice of the annexation decision. Mr. Just discussed the legality of designating a zone prior to the annexation of a piece of property.

Attorney McHill asked if the FOLC had reason to object to the specific zoning being assigned to the proposed property. Mr. Just stated that the zone change criteria have not been identified and without identifying those criteria and applying the evidence and testimony that addresses those criteria, he was not prepared to answer the question.

Attorney McHill asked Mr. Just if he believed that the zone change assigned is inconsistent with the Comp Plan. Mr. Just had not evaluated it and was therefore not prepared to answer the question.

Councilor Thackaberry asked Mr. Just if he felt a separate public hearing on the zone change was warranted. Mr. Just felt a separate zone change hearing was not necessary. The statute specifically allows for consolidated procedures.

Mayor Toombs asked for rebuttal.

Mr. Udell asked for a continuance of seven days to allow him time for a written rebuttal of Mr. Just's written testimony received tonight. Mr. Just reserved the right to respond if there is any new evidence or testimony submitted in the rebuttal.

The Council granted the applicant until 5:00 p.m., March 20, to provide their written rebuttal to the City Recorder. Mr. Just then has until 5:00 p.m. on March 27 to respond to the applicant's written rebuttal. The City Council would then meet at its April 9, 2003 City Council meeting for deliberation and a potential decision. There will be no further written or oral testimony taken at that time.

Mayor Toombs closed the public hearing at 8:39 p.m.

2) SIMONIAN ANNEXATION – South Main Road (A-02-08)

Mayor Toombs opened the Public Hearing at 8:40 p.m.

City Attorney McHill explained that the Public Hearing procedures as well as the criteria listed on pages 7 and 8 of the staff report are exactly the same as the previous hearing.

Mayor Toombs asked if the Council had any conflicts of interest or ex parte contacts. There were none.

City Planner Parker briefed the Commission on the annexation request of a 2.19-acre territory comprised of four parcels, two containing single-family dwellings located on the west side of South Main Road (north of Vaughn Lane) at 3140 South Main Road and 85 Liberty Lane (Assessor's Map 12-2W-22A, Tax Lots 6400, 6600, 6699 and 6899). The property is surrounded by city limits on three sides. The applicant is Sam Simonian. Mr. Parker described the Zone Designation as Residential Mixed Density (upon annexation). The Comp Plan Designation is Mixed-Density Residential.

The applicant proposes to annex the property for future residential development. This site is surrounded by City limits on the north, east and west sides.

City Engineer Dannen stated that urban services are or can be made available to serve the proposed annexation area. Mr. Dannen reviewed the City's infrastructure and possible additional infrastructure improvements in regard to streets, water, drainage, and sanitary sewer as outlined in the staff report.

Mr. Parker explained that the Relevant Criteria provided in the staff report and posted on the wall reiterated the additional criteria from the City/County UGMA. Mr. Parker explained that this annexation proposal promoted infill and that the City has taken the State's direction in what the community should be doing in order to take maximum advantage of the land area within the UGB, as well as the existing infrastructure. The site can be developed using the infrastructure already in place that does not require a major investment.

Planner Parker explained that the Planning Commission voted unanimously on January 15, 2003 to recommend to the City Council that the proposed annexation along with the requested Residential Mixed Density zoning be approved, and offered the staff report for the record. Mayor Toombs accepted the report.

Mayor Toombs opened the Public Hearing to the applicant.

Mr. Jim Udell, of Udell Engineering, representing applicant Sam Simonian, concurred with staff's findings. The site is surrounded by city limits on all three sides and all city utilities are currently available to it. The applicant is ready to develop as soon as the annexation is approved. Mr. Udell added that the problem with the current Westside interceptor is not the number of people hooked into it, but the system itself. The current interceptor, like most older sewer mains, is susceptible to I & I and thus will tend to overflow under extreme rainfall events. Mr. Udell suggested that it be one of Council's highest priorities to continue the work being done on the Westside interceptor.

Mayor Toombs asked if anyone would like to speak in opposition of the proposal.

Mr. Jim Just, representing FOLC, PO Box 113, Lebanon, Oregon submitted written testimony dated March 12, 2003. Mr. Just reviewed urban services described on Page 3 of his written Testimony.

Councilor Miller expressed surprise that the FOLC was not in favor of this annexation since it is surrounded by the city and clearly meets all relevant criteria, including the current availability of full urban services to the property. Mr. Just stated that the FOLC's position is not that the application isn't good, but that the applicant had not adequately addressed the criteria. Councilor Miller stated that FOLC has used the same arguments to oppose every annexation request even though the applications and their relationship to the criteria is different in every case. Councilor Miller stated that it was unequivocal that the Simonian application clearly and definitively met all relevant criteria.

Councilor Munk stated that last month the FOLC was a proponent of the Council splitting up the annexation and the map amendment hearings. This month the FOLC are telling us that we should put the hearings together. Mr. Just claimed he had not said that before.

Mayor Toombs asked for Rebuttal.

Mr. Jim Udell stated that the comments made from FOLC appear to be the same for each annexation proposal. He went on to say that in his personal experience, the city had been applying the annexation criteria in the Comprehensive Plan the same way for over twenty years. He didn't understand the rational basis for trying to redefine the criteria in order to stop any and all annexations, as seemed to be the interest and desire of the FOLC. Mr. Udell asked for a continuance of seven days to allow him time to prepare a written rebuttal of Mr. Just's written testimony. Mr. Just reserved the right to respond if there is any new evidence or testimony submitted in the rebuttal.

The Council granted the applicant until 5:00 p.m., March 20, to provide their written rebuttal to the City Recorder. Mr. Just then has until 5:00 p.m. on March 27 to respond to the applicant's written rebuttal. The City Council would then meet at its April 9, 2003 City Council meeting for deliberation and possible decision. There will be no additional written or oral testimony taken at that time.

Mayor Toombs closed the public hearing at 9:17 p.m. and called for a five-minute recess.

3) LIQUOR LICENSE APPLICATION – Shari's of Lebanon

Police Chief Healy reported that the Police Department had no evidence to support a denial of Shari's Restaurant's application request.

Mayor Toombs opened the Public Hearing to the applicant.

Dick Olsen, 8205 SW Creekside Place, Beaverton, OR 97008 representing Shari's Restaurant briefed Council on the proposed beer and wine sales, an added smoking session, along with future plans for video gambling at Shari's Restaurant located at 2650 S. Santiam Hwy. Councilor Elliott, Harrington, Miller, and Simpson expressed their concerns about the use of alcohol, smoking, and gambling at the family-oriented restaurant.

McHill explained that there are certain criteria, as in Planning Commission cases, that need to be addressed to support or deny any application.

Councilor Munk moved, Councilor Thackaberry seconded, to approve the liquor license application for Shari's Restaurant. The motion failed with Mayor Toombs breaking the tie vote. (Voting yea were Councilors Munk, Thackaberry and Simpson and voting nay were Councilors Elliott, Harrington, Miller and Mayor Toombs.)

City Attorney McHill explained that the Council would need to develop written findings that would support their decision to deny the request.

After a brief discussion, Mayor Toombs called for a brief recess in order to consult with legal counsel.

Councilor Harrington moved, Councilor Thackaberry seconded, to reconsider the applicant's proposal. The motion passed unanimously.

Councilor Thackaberry moved, Councilor Munk seconded, to recommend approval of the liquor license application for Shari's Restaurant. The motion passed with 5 yeas (Councilors Elliott, Harrington, Munk, Simpson and Thackaberry) and 1 nay (Councilor Miller).

4) REVIEW CITY FEES

The proposed fee schedule was inadvertently missing from Councilor Thackaberry's agenda packet. *(Councilor Thackaberry was given an extra copy of the material at the meeting.)*

Councilor Thackaberry moved, Councilor Munk seconded, and the motion passed unanimously to continue the public hearing at the March 26, 2003 City Council Meeting to allow Councilor Thackaberry ample time to review the material.

LEGISLATIVE SESSION

5) AUDIT REPORT

Finance Director Cole briefed Council on the Annual Audit, fiscal year 2001/02, of the City's financial statements. The auditors gave the City a clean audit noting that there were no areas of concern.

A motion was made by Councilor Miller, seconded by Councilor Elliott, and passed unanimously to accept the 2001/02 Annual Audit Report.

6) SURPLUS PROPERTY – Library / Public Works

City Administrator Hitt briefed Council on the proposed surplus property from the Library and the Public Works departments.

Attorney McHill read the title of the Resolution.

A motion was made by Councilor Miller, seconded by Councilor Elliott, and passed unanimously to approve A RESOLUTION AUTHORIZING THE SALE, DISPOSAL AND DONATION OF CITY-OWNED PERSONAL PROPERTY (Public Works).

Attorney McHill read the title of the Resolution.

A motion was made by Councilor Elliott, seconded by Councilor Miller, and passed unanimously to approve A RESOLUTION AUTHORIZING THE SALE, DISPOSAL AND DONATION OF CITY-OWNED PERSONAL PROPERTY (Library).

7) PERS – Filing of an appeal coordinated by League of Oregon Cities

City Administrator Hitt briefed Council on the proposed resolution authorizing the League of Oregon Cities to coordinate the filing of an appeal on behalf of various cities to prevent the PERS rate increase. The League feels that this increase does not meet the requirements of a recent Oregon State Circuit Court ruling. The law firm handling the appeal is Merserrau and Shannon, which is the City's current bond counsel.

The PERS rate is scheduled to increase the total payroll from 7.57% to 13.99% as of July 1, 2003. This percentage does not include the Pension Bond approved last year, which would add approximately another 2.5%. This rate increase has a total budget impact of over \$300,000. Of that, approximately \$100,000 is General Fund money.

Attorney McHill read the title of the Resolution.

A motion was made by Councilor Thackaberry, seconded by Councilor Munk, and passed unanimously to approve A RESOLUTION AUTHORIZING THE LEAGUE OF OREGON CITIES TO COORDINATE THE FILING OF AN APPEAL And To Authorize The Participation Fee Of \$150.

8) CITY ADMINISTRATOR'S REPORT

City Administrator Hitt reported on the following:

Santiam Travel Station: The contractor is making good progress and expects to finish on schedule. The framing is done on the freight section.

Phase II – Downtown Plan: Preliminary design is nearly completed.

LMS Site: Inquiries have been made for the City to name the site. Mr. Hitt requested that Council be thinking of a name.

Council Goal Setting Session: Set for April 2 at 5:30 p.m. in the School District Board Room. Mr. Hitt has found a facilitator and will sit down with him, Mayor Toombs and a few Councilors to work out the details.

Miscellaneous Matters:

- Mr. Hitt will be at the International City Managers Conference in Tacoma March 19 – 22.
- The Planned Development Hearing for Wal-Mart has been postponed until the May 21, 2003 Planning Commission Meeting.
- A reminder that a date still needs to be set for the City/County Dinner. Consensus was for Wednesday, May 21.

CITIZEN COMMENTS – *There were no citizen comments.*

ITEMS FROM COUNCIL MEMBERS

Councilor Thackaberry stated that he thought the City should promptly move forward on updating the systems development charges.

After giving a brief update on the status, Mr. Ruef was asked to bring back to the March 26 Council meeting a written update to show the public that staff is making progress.

Councilor Thackaberry noticed an error on the February 26, 2003 Work Session minutes, Page 1, #3, "Immediate Family Members . . . May Not Serve on the City Council." [Note: the minutes were corrected for the record on March 13, 2003]

Councilor Munk asked if modifications needed to be made in the draft of the proposed new charter to address the issue of equalizing the population of the different wards. City Administrator Hitt stated that the proposed wards in the draft charter are closer population wise than the current ward boundaries.

Councilor Harrington asked why the 1999 Comp Plan Update still had not been adopted and if the transportation plan can be done separately to move forward. The Council asked for a written update on the Comp Plan update. A report and projected timeline will be given at the March 26 meeting [Note: Item is scheduled for April 9 City Council Meeting].

Councilor Harrington asked to also have a written update on Walden Pond. A report and projected timeline will be given at the March 26 meeting.

ADJOURNMENT

Mayor Toombs adjourned the meeting at 10:25 p.m.

Councilors are scheduled to meet at the Police Department for a State required annual jail inspection.

Kenneth I. Toombs, Mayor []
Ron Miller, Jr., Council President []

ATTESTED BY:

John E. Hitt, City Recorder

**MINUTES
CITY OF LEBANON
PLANNING COMMISSION**

JANUARY 15, 2003

MEMBERS PRESENT: Chairman Don Robertson, Vice Chairman Barry Scott, Commissioners Paul Aziz, John Brown, Robyn Carson, Jon Davis, Tom Owen, Peggy Snyder and Mike Wells.

STAFF PRESENT: City Planner Doug Parker, Legal Counsel Natasha Zimmerman, City Engineer Allen Dannen, Assistant City Planner Terry Lewis, City Administrator John Hitt, Public Works Director Jim Ruef, Mayor Ken Toombs and Administrative Assistant Linda Kaser.

1. CALL TO ORDER/ROLL CALL

Chairman Robertson called the meeting of the City of Lebanon Planning Commission to order at 7:05 p.m. on January 15, 2003 in the Lebanon School District Board Room at 485 S. 5th Street.

2. APPROVAL OF MINUTES

Correction on Page 1: ~~Assistance~~ Assistant City Planner Lewis. Correction on Pages 4 and 11: Chairman Robertson opened for Rebuttal ~~of the applicant.~~

A motion was made by Commissioner Brown, seconded by Commissioner Scott, and passed unanimously to approve the December 18, 2002 Planning Commission Minutes as amended.

3. CITIZEN COMMENTS

There were no citizen comments.

4. PUBLIC HEARINGS

Chairman Robertson explained the public hearing procedure for the following hearings and that the Planning Commission would be following the criteria posted on the wall. There being no questions of the Planning Commission, Chairman Robertson opened the public hearing for Annexation A-02-07.

1. Annexation A-02-07 (Schwindt/Borman – Highway 20)

Attorney Zimmerman explained that ORS 197.763 requires that at the commencement of a public hearing, the applicable substantive criteria that have been identified should

be listed as staff has done on pages 7 and 8 of the staff report. Attorney Zimmerman reviewed those criteria.

City Planner Parker added additional criteria for the record: **Section 2: Delineation of Authority in the UGA (pg. 2) and Section 5: Annexations (pg. 5)** from the *City of Lebanon/Linn County Urban Growth Management Agreement*.

Attorney Zimmerman stated that all testimony, arguments, and evidence presented must be directed toward the criteria listed or other criteria specifically identified by the individual presenting the testimony. The criteria must be listed in the Comprehensive Plan or Land Use Regulations that applies to this decision. A failure to raise an issue with statements and evidence sufficient to allow the Commission and the parties to respond to the issue precludes any appeal on that issue.

Chairman Robertson asked the Commissioners to disclose any conflicts of interest or ex parte contacts. Commissioner Owen disclosed that he knew Mr. Schwindt from the Kiwanis Club and was involved as a real estate agent with the sale of this parcel a few years ago. Chairman Robertson disclosed that Mr. Schwindt was a client a number of years ago. Commissioner Davis disclosed that they took a class together a few years ago. All three Commissioners felt they could render an impartial decision. There were no additional comments or disclosures.

City Planner Parker briefed the Commission on the annexation request of the 3.5-acre territory comprised of a single parcel containing a single-family dwelling located on the west side of Highway 20 (north of Crowfoot Road) at 3980 South Santiam Highway (Assessor's Map 12-2W-23D, Tax Lot 1700). The applicant is F. C. Schwindt and Sharon R. Borman. Mr. Parker showed overheads of the property and described the Zone Designation as Residential Mixed Density (upon annexation). The Comp Plan Designation is Mixed-Density Residential.

Mr. Parker reviewed the applicant's *conceptual* development plan to support future residential development, the site description, and the letter from the Lebanon Community Foundation indicating their plans to extend the sewer line through the subject property and the Foundation's intent to extend a waterline to the Cheadle Lake site as outlined in the staff report. Slides were shown of the subject property.

City Engineer Dannen stated that urban services are or can be made available to serve the proposed annexation area. Mr. Dannen reviewed the City's infrastructure and possible additional infrastructure improvements in regard to streets, water, drainage, and sanitary sewer as outlined in the staff report.

Mr. Parker read the Relevant Criteria, provided in the staff report, including the two additional criteria from the *City of Lebanon/Linn County Urban Growth Management Agreement (UGMA)*. The Development Review Team recommends that the Planning Commission recommend to the City Council that the proposed annexation be approved along with the requested Residential Mixed Density zoning and offered the staff report for the record. Mr. Parker read staff's proposed findings including additional finding #11.

Mr. Parker explained that the City's annexation review procedures on this annexation request have complied with the UGMA regarding the City's authority to annex lands

within an urban growth area and assign city zoning in accordance with the Lebanon Comprehensive Plan Map.

Mr. Parker confirmed Commissioner Wells question in that there is no Finding #6.

Commissioner Aziz asked if staff knew what the impact on Highway 20 would be. Mr. Dannen stated that there had not been a specific study done, but access management and traffic from a proposed conceptual development such as this could be a problem. However, it could be dealt with by additional connections to the local system.

Chairman Robertson asked if the state highway abutting the property would be annexed. Mr. Parker stated not at this time; it is more cost effective to take a whole section of the highway rather than little increments at a time.

Chairman Robertson opened the Public Hearing to the applicant.

Mr. Brian Vandetta, a Professionally Licensed Land Surveyor and Engineer in the State of Oregon, works for Udell Engineering, 63 E. Ash Street, Lebanon. Mr. Vandetta, representing Mr. Schwindt, concurred with staff's findings. Mr. Vandetta gave a brief history of the property in that the Lebanon Foundation had approached Mr. Schwindt with a request for a sewer easement across his property. The extension request opened the door to developing the subject property. The Lebanon Foundation's future plans of waterline extension would also make water accessible to the subject property.

In response to Mr. Wells question regarding compact growth, Mr. Vandetta stated that his experience with annexations such as this along Highway 20 are that small and already developed properties tend to only annex if there is a public health burden due to the costs of annexing. When larger properties annex they create the opportunity for the smaller properties to be annexed that would not otherwise be able to afford the annexation process – creating infill. The subject property does abut city boundaries.

Chairman Robertson asked if anyone would like to speak in opposition of the annexation proposal.

Mr. Jim Just, representing Friends of Linn County (FOLC), PO Box 113, Lebanon, Oregon addressed criteria listed in the staff report as outlined and submitted in his written testimony.

Commissioners Brown, Davis and Scott addressed expert testimony from City Engineer Dannen who stated that *services could be made available to the subject property*. Mr. Just stated he felt there wasn't any documented evidence to support the City Engineer's claim.

Commissioner Synder stated it was her understanding that further data to support the claim would be made available at the development plan stage. Mr. Just stated that Section 1 of the City Annexation Policy says otherwise.

Mr. Just stated it could not be established that urban levels of transportation services, including pedestrian and bicycle facilities, are or can be made available. Commissioner Carson stated that the slides showed an existing pathway along Highway 20 to the

subject property, which indicates to her that there is safe movement for pedestrians and bicycles. Commissioner Carson stated that the criterion does not say it had to be upgraded to city standards, but a safe and sufficient movement of pedestrian and bicycle traffic. Mr. Just stated Criterion 2 should be read in conjunction with Criterion 3.

Chairman Robertson asked Mr. Just what kind of testimony he believes would constitute adequate proof. Mr. Just explained that more is needed than an expert simply stating it is adequate. Specific numbers are needed, e.g., a 16" main that can handle a certain amount of sewage at peak flows, etc.

Chairman Robertson asked if the testimony received had indicated worse case scenarios, e.g., if the system could handle the maximum density would that satisfy the FOLC. Mr. Just stated yes an assumption could be made, but it would have to be tied to numbers. Chairman Robertson stated he would like to see the same from the opposition's testimony. If we have expert testimony saying it is adequate, the opposition should give numbers contrary to that. Mr. Just stated it is the applicant's burden not his and a conclusive statement is not adequate evidence. Commissioner Scott felt that a licensed engineer's conclusive statement is substantial evidence. Mr. Just stated, "I can take that to LUBA every time – and win!"

Mr. Just referred to Goal 14 in his written testimony on page 5. Chairman Robertson asked for Mr. Just's definition of a compact growth pattern. Mr. Just stated he felt that land closest to the core should be used first and promote areas people can walk to. Commissioner Scott asked what Mr. Just felt about Mr. Vandetta's earlier testimony that by annexing the larger parcel first it enables the smaller parcel to annex, thereby enabling the infill annexation to occur. Mr. Just stated the city limits could then be extended to infinity.

Mr. Just spoke about the zone change being assigned in conjunction with annexation and the UGMA. It says it is the City's responsibility. The Plan lists the potential zones available not that it assigns a zone to a particular parcel.

Commissioner Davis stated that the Comp Plan designates the future city zoning that lands will receive upon annexation into the city. Chairman Robertson explained that the Comp Plan Map has Comp Plan Map Designations, plus designation for the lands as they are annexed. In the event that the property is annexed it has a zone designation. Mr. Just felt that the zoning map should be amended to reflect the new city limits. The City has to follow a zoning map amendment process. State Statutes require certain procedures to do a zone change. Commissioner Davis explained that this is not a zone change, but an initial assignment of the zone upon annexation. Mr. Just disagreed according to the Lebanon Zoning Ordinance. Mr. Just felt that the zone change should be made concurrently with an annexation, referring to page 8 of his written testimony Demone vs. City of Hillsboro. Mr. Just stated that case law states that a zone change be done concurrently.

Chairman Robertson opened for Rebuttal.

Brian Vandetta addressed the following criteria:

#3 – The burden is to upgrade any urban services and or public facilities within the area being considered by the annexation. The purpose for this is to make sure that the City doesn't allow properties within the city limits with insufficient services. There are currently no services on this property.

#5 – Public Need. The need of additional acres brought into the City was addressed in the 1997 Study.

#6 – Compact growth pattern. This proposed annexation would expand the city limits incrementally, which in his opinion wouldn't be possible if the city limits were not adjacent to the subject property. This annexation would open the door to provide services to those who are unable to afford the cost of annexation.

Commissioner Scott asked for clarification of the properties between the subject property and Highway 20 to the north. Mr. Vandetta stated that until you get to the Poor Richard property, to his knowledge, all of the properties abutting Highway 20 are separate tax lots with individual single-family residential units on them and are fully developed properties.

Commissioner Brown felt that this annexation was expanding the city limits incrementally in that a new sewer line will go through the property to accommodate the Cheadle Lake project.

Mr. Vandetta stated that the Lebanon Community Foundation is spending a substantial amount of money to get sewer to the property and will need water before they can do anything else and felt that they would get water to the property soon.

Chairman Robertson closed the Public Hearing @ 8:27 p.m.

Mr. Dannen explained that even in a worse case scenario of maximum density on the subject property it should not create a problem for the sewer system, as long as the upgrades mentioned in the staff report are undertaken. The only real issue is the Westside Interceptor. Further study will determine how much, if any, development or new connections could be allowed. The local system has capacity under maximum density.

Commissioner Davis asked if any services could *not* be made available under the worse case scenarios. Mr. Dannen stated that possibly the access issue; since it is subject to ODOT approval, i.e., securing an access permit. Also, in the next few months, staff could find that limitations are needed for the overall sewer system. It is possible we are close to the system being at capacity in certain areas in a five-year storm (DEQ's cutoff for violations). It has *not* been a problem in this particular area.

Commissioner Owen addressed Criteria Finding #3 in that submitting a development plan is very expensive and without knowing exactly where the utility lines are going would make it tough to layout building footprints. The sewer will soon be readily available. Regarding #5 it was brought out in testimony that this annexation is not just at the request of the applicant but also the Lebanon Community Foundation; which establishes need for the entire community. Commissioner Owen felt it would not be prudent to run city services through properties not inside the city limits.

Commissioner Davis asked if the pathway was adequate in regards to safe and efficient movement with bicycles or pedestrians. Mr. Parker stated that if the annexation is successful, when staff receives the final development proposal, they will then work with the applicant to try and find access to Cascade Drive rather than access to the highway, at a minimum providing pedestrian access to 7 Oaks School.

Commissioner Brown stated it would be logical if when they come through with the sewer line that an access be implemented at that time. There would be a wide enough right-of-way. Mr. Parker stated that it would be a likely route.

A motion was made by Commissioner Scott, seconded by Commissioner Snyder, and passed unanimously to adopt the proposed findings as outlined in the staff report to include Finding #11 as read into the record by staff and to recommend to the City Council that annexation proposal A-02-07 be approved.

Chairman Robertson called for a five-minute recess.

2. Annexation A-02-08 (Sam Simonian – South Main Road)

Attorney Zimmerman explained that ORS 197.763 requires that at the commencement of a public hearing, the applicable substantive criterion that has been identified should be listed as staff has done on pages 7 and 8 of the staff report. Attorney Zimmerman reviewed the criteria and added two additional criteria: ***Section 2: Delineation of Authority in the UGA (pg. 2) and Section 5: Annexations (pg. 5)*** of the City of Lebanon and Linn County Urban Growth Management Agreement (UGMA).

Attorney Zimmerman stated that all testimony, arguments, and evidence presented must be directed toward the criteria listed or other criteria specifically identified by the individual presenting the testimony. The criteria must be listed in the Comprehensive Plan or Land Use Regulations that applies to this decision. A failure to raise an issue with statements and evidence sufficient to allow the Commission and the parties to respond to the issue precludes any appeal on that issue.

Chairman Robertson asked the Commissioners to disclose any conflicts of interest or ex parte contacts. Commissioner Carson disclosed that the applicant was a former client, but has no current business transactions. Chairman Robertson disclosed that the applicant is a fellow realtor. Both Commissioners felt they could render an impartial decision. There were no additional comments or disclosures.

City Planner Parker briefed the Commission on the annexation request of a 2.19-acre territory comprised of four parcels, two containing single-family dwellings located on the west side of South Main Road (north of Vaughn Lane) at 3140 South Main Road and 85 Liberty Lane (Assessor's Map 12-2W-22A, Tax Lots 6400, 6600, 6699 and 6899). The property is surrounded by city limits on three sides. The applicant is Sam Simonian. Mr. Parker showed overheads of the property and described the Zone Designation as Residential Mixed Density (upon annexation). The Comp Plan Designation is Mixed-Density Residential.

Mr. Parker reviewed the applicant's conceptual subdivision plan to support future residential development and the site description as outlined in the staff report. The conceptual development plan shows that access would be from South Main Road. Because the property on the north is already developed with a driveway access to South Main Road through Liberty Lane, a local private access lane, it is not reasonably feasible to create a city standard road to the west as well. Staff identified an issue regarding access to one of the adjacent dwellings. Commissioner Brown asked if the property owner had a deeded right-of-way for an access. Mr. Parker stated that should not be a concern because annexation of that property without approval of a development plan (that might impact it) has no bearing on the access. Mr. Parker disclosed that the adjacent property owner expressed concern that a development plan may prevent reasonable access. Slides were shown of the subject property.

City Engineer Dannen stated that urban services are or can be made available to serve the proposed annexation area. Mr. Dannen reviewed the City's infrastructure and possible additional infrastructure improvements in regard to streets, water, drainage, and sanitary sewer as outlined in the staff report. Mr. Dannen corrected an error on Page 4, Section D, of the staff report; it should read Quail Place not Quail ~~Run~~.

Mr. Parker explained that the Relevant Criteria are the same as the previous annexation hearing. The City Development Review Team recommends that the Planning Commission recommend to the City Council that the proposed annexation be approved along with the requested Residential Mixed Density zoning and offered the staff report for the record. Mr. Parker read the proposed findings including additional Finding #11.

Chairman Robertson asked for clarification on whether or not there would be a required extension of Pheasant Run, other than a pathway. Mr. Dannen replied that it would allow for future full extension, if the property to the north redevelops. The conceptual access shown would suffice for this particular property and allow for flexibility in the future to extend the full width of the street. Mr. Parker clarified that Pheasant Run would be approved as the equivalent of a half street improvement to the west providing both pedestrian and bicycle access as well as emergency vehicle access.

Chairman Robertson opened the Public Hearing to the applicant.

Mr. Brian Vandetta of Udell Engineering, representing applicant Sam Simonian, concurred with staff's findings. Mr. Vandetta stated that this is an ideal site for annexation – surrounded by city limits on all three sides. The property is sized such that it is wasted land in its current development stage. The property has great potential with street alignments already being stubbed out and utilities available to it. A development plan would be submitted if the annexation request is approved.

Mrs. Sherri Parker, 35869 Bohlken Drive, Lebanon, stated she supported the annexation but had one concern. Mrs. Parker submitted a map showing Liberty Lane and surrounding tax lots. Mrs. Parker owns Tax Lots 6700 and 6800, which are directly south of the proposed annexed property. Mrs. Parker stated she was not asking to be annexed, but is concerned that Tax Lot 6700 could be landlocked. At the time of tax foreclosure of Tax Lots 6699 and 6899 and subsequent purchase by Mr. Simonian, the County granted her an easement to her property (Tax Lot 6800). She felt the County didn't issue an easement for Tax Lot 6700 (farther to the West) because she could grant

herself an easement, but it is not physically possible for vehicular access to Tax Lot 6700 from Tax Lot 6800 due to existing improvements.

Commissioner Brown disclosed the intent of a conversation during break with Mrs. Parker's son regarding farming. When Commissioner Brown found out the reason Parker's son was here he stopped the conversation. Planner Parker disclosed that he is not related to Mrs. Sherry Parker.

Commissioner Brown asked for clarification on whether this easement would be relevant to annexation or development procedures. Planner Parker stated that Sherri Parker simply wanted her statement to be on record.

Chairman Robertson asked if anyone would like to speak in opposition of the proposal.

Mr. Jim Just, representing FOLC, PO Box 113, Lebanon, Oregon submitted written testimony and stated that the comments on this application were similar to the previous annexation hearing.

Chairman Robertson opened for Rebuttal.

Attorney Zimmerman stated that the testimony offered by Mr. Just to the proposed annexation was in writing and the applicant has not had a chance to review the testimony. However, the testimony is based on the same oral presentation as the first annexation hearing heard tonight. Mr. Just confirmed that Attorney Zimmerman was correct.

Chairman Robertson granted Mr. Vandetta time to review the written testimony Mr. Just submitted and asked staff to proceed with the next item on the Agenda.

5. OLD BUSINESS

A. Update of candidate open space development standards for multi-family residential developments. Staff recommends being 2nd priority.

6. OTHER BUSINESS

A. Meeting Schedule – February 19, 2003

B. Comprehensive Plan Update – Staff recommends being 3rd priority.

C. Annexation Policy Update – Staff recommends 1st priority.

The Commissioners agreed with staff's prioritization of projects.

D. Appeal fee adjustment requested by the Planning Commission.

Mr. Parker researched appeal fee limitations and the Statute does put a cap of \$250 for Administrative Review, but not for other public hearing types of applications. The Planning Commission's recommendation of appeal fees was discussed at a staff level

and staff proposed that the appeal fees be half of the amount of the original application fee or \$300, whichever is greater, up to a maximum of \$1,000.

A brief discussion with City Administrator Hitt occurred on why staff was taking a different path than the Planning Commission had instructed at their previous meeting.

Chairman Robertson closed the discussion temporarily and asked for rebuttal of Annexation A-02-08.

Mr. Vandetta explained that Mr. Just basically itemized all the criteria and rebutted them without any numeric proof or professional backing to support his arguments. In his opinion the City has prepared a solid set of findings that address all the criteria.

Mr. Vandetta sympathized with Mrs. Parker regarding the easement access, but asked the Commission to keep in mind that her land is currently without access. The annexation does not play a role in it. The house his client intends to preserve faces the south and would maintain Liberty Lane access. The only thing he can think of that would prohibit access to Mrs. Parker's lot is the need to pave that lane to a city standard.

Chairman Robertson felt that as a Commission they do not have the power to dictate easements and this should be worked out between the applicant and property owner.

Chairman Robertson closed the Public Hearing @ 9:50 p.m.

Commissioner Brown felt that the annexation complies with everything. The subject property is surrounded by city limits on three sides and it has water and sewer lines on both sides.

Chairman Robertson asked if the system could serve a maximum density development. Mr. Dannen replied that his answer was the same as the previous hearing.

A motion was made by Commissioner Brown, seconded by Commissioner Carson, and passed unanimously to adopt the proposed findings as outlined in the staff report to include Finding #11 as read into the record by staff and to recommend to the City Council that annexation proposal A-02-08 be approved.

6. OTHER BUSINESS (continued...)

Commissioner Aziz felt that a unified recommendation to Council was necessary in regard to appeal fees.

A motion was made by Commissioner Aziz, seconded by Commissioner Scott, and passed unanimously to amend the land use appeal fee recommendation to City Council to be half of the amount of the original application fee, or \$300 (whichever is greater), up to a maximum of \$1,000.

Mr. Parker was recently made aware of a "Citizen Enforcement Non Goal Compliance Order" that was filed against the City regarding annexation procedures. Mr. Parker is

unaware of the exact meaning of the order and will provide more information as he receives it.

Chairman Robertson asked what the involvement of the Planning Commission is with the Annexation Policy update. Mr. Parker explained that the Commission would review the proposed changes in a Work Session prior to approval.

Chairman Robertson asked if any terms expire this year. Mr. Parker confirmed there are none for 2003.

7. COMMISSIONER COMMENTS

Commissioner Owen felt that the public hearings were getting confrontational and the presenters were often interrupted with questions. Commissioner Brown stated that questions should be allowed but agrees that confrontation is not acceptable.

Commissioner Scott asked if a time limit on testimony was merited since the same testimony is constantly repeated. The consensus of the Commission was that testimony should not be limited.

8. ADJOURNMENT

Chairman Robertson adjourned the meeting at 10:33 p.m.

Meeting transcribed and recorded by Administrative Assistant Linda Kaser.

**MINUTES
CITY OF LEBANON
PLANNING COMMISSION**

FEBRUARY 19, 2003

MEMBERS PRESENT: Chairman Don Robertson, Vice Chairman Barry Scott, Commissioners Paul Aziz, John Brown, Robyn Carson, Jon Davis and Mike Wells.

STAFF PRESENT: City Planner Doug Parker, Legal Counsel Natasha Zimmerman, City Engineer Allen Dannen, Assistant City Planner Terry Lewis, City Administrator John Hitt and Administrative Assistant Linda Kaser.

1. CALL TO ORDER/ROLL CALL

Chairman Robertson called the meeting of the City of Lebanon Planning Commission to order at 7:00 p.m. on February 19, 2003 in the Lebanon School District Board Room at 485 S. 5th Street. Commissioners Tom Owen and Peggy Snyder were absent.

2. APPROVAL OF MINUTES - January 15, 2003

Corrections on Page 2 & 6: A failure to raise an issue . . . to respond to the issue ~~concludes~~ precludes any appeal on that issue. Page 6, last paragraph: The property is ~~surrounding~~ surrounded by city limits on three sides.

Commissioner Scott made a motion, Commissioner Brown seconded, and it passed unanimously to approve the January 15, 2003 Planning Commission Minutes as amended.

3. CITIZEN COMMENTS

There were no citizen comments.

4. PUBLIC HEARINGS

Chairman Robertson opened the Public Hearing @ 7:04 p.m. for PD-03-01 and explained that the Planning Commission would be following the criteria posted on the wall for the public hearing.

1. Planned Development PD-03-01 (Stillwater Senior Housing)

Attorney Zimmerman explained that ORS 197.763 requires that at the commencement of a public hearing, the applicable substantive criteria that have been identified should be listed as staff has done on pages 11, 12, and 13 of the staff report. Attorney Zimmerman highlighted those criteria.

Attorney Zimmerman stated that all testimony, arguments, and evidence presented must be directed toward the criteria listed or other criteria specifically identified by the individual presenting the testimony. The identified criteria must be listed in the Comprehensive Plan or Land Use Regulations. A failure to raise an issue with statements and evidence sufficient to allow the Commission and the parties to respond to that issue precludes any appeal on that issue.

Chairman Robertson asked the Commissioners to disclose any conflicts of interest or ex parte contacts, and removed himself from the hearing because Heritage NW represented the applicant in the purchase of the proposed development property. Commissioner Robertson then turned the meeting over to Vice-Chairman Scott. There were no additional comments or disclosures.

City Planner Parker briefed the Commission on the Planned Development proposal to construct a 40-unit senior housing complex on a 2.36-acre site. The applicant is Shelter Resources, Inc. The property is located on the east side of Second Street, south of the Santiam Canal, north of Airport Road, and directly west of the Shop N' Kart grocery store (Assessor's Map 12-2W-15AD, Tax Lot 1400). Mr. Parker showed overheads of the property and described the Zone Designation as Residential Mixed Density (RM). The Comp Plan Designation is Mixed-Density Residential.

Mr. Parker reviewed the applicant's development plan to construct a 2-story senior apartment complex as outlined in the staff report. Slides were shown of the subject property. Mr. Parker reviewed the Site Description, the applicant's Proposal, Site Density, Parking, and Zoning Consideration as described in the staff report. On page 10, under Site Density it should read Residential Mixed ~~High~~ Density site area

Planner Parker and City Engineer Dannen reviewed the Planning, Building, Fire Department and Engineering Services (transportation, water, sewer, and drainage) comments and requirements as described in the staff report beginning on Page 13.

Staff recommended that the Planning Commission grant approval of the Preliminary Development Plan and the staff's report and proposed findings were offered for the record. Vice-Chairman Scott accepted the report and findings.

Planner Parker responded to Vice-Chairman Scott on the development's housing restrictions and who the governing body is that regulates the restrictions. The Federal Fair Housing Act requires a certain amount of facilities be dedicated to a specific user group in order to qualify for restricted occupancy and is regulated by the federal government.

Commissioner Brown suggested that the elevator be 6 to 12-inches deeper in order to easily move furniture in/out. Planner Parker stated that the Fire Department would require certain elevator dimensions so that gurneys can be maneuvered easily in case of emergencies.

Commissioner Carson asked if staff took into consideration the large utility easement when reviewing the site plan. Planner Parker stated that part of the requirements were to ensure adequate setbacks and parking as well as adequate open space. All of the activities can legitimately occur within the easement, i.e., parking, walkways and garden activities.

Commissioner Brown proposed holding off on the gazebo, until adequate parking is a non-issue. The walkway could be moved to gain 20 spaces leaving ample room for open space.

Vice-Chairman Scott opened the Public Hearing to the applicant.

Laura Coomes, Project Development Consultant for Shelter Resources, Inc., 5320 Anaconda Dr, S., Salem OR 97302. Ms. Coomes announced that she had never seen such a thorough planning presentation done before and stated she was very impressed. Ms. Coomes addressed areas of concern for the Commissioners.

Emergency vehicle access through the Shop N' Kart property will be a recorded easement provided for in their purchase and sale agreement with the Shop N' Kart property owner. The easement would allow access through the parking lot for emergency vehicles. The gates would be used for emergency personnel access.

Ms. Coomes explained that they would have a civil engineer working on a plan to take the existing drainage through the parking lot and back out again. If there is not enough gravity flow, they will have to administer another plan.

The gazebo will require permission from Pacific Power since the proposed structure is to be constructed within the utility easement.

Ms. Coomes provided cities that have senior independent living apartments: Madras, Hood River, Florence, Brookings, Bandon and Newport. Newport had an 80% parking requirement and parking isn't at the 80% level. Sixty percent (60%) of the median low-income seniors will not have a vehicle if the housing is located next to services. Studies indicate that low-income seniors do not want the expense of an automobile.

Commissioner Aziz expressed concern for only having three parking spaces designated as handicap parking. Ms. Coomes explained that they have one designated handicap parking space for each of the three handicap designed apartments. These three apartments can be adapted for a handicapped person if needed. Ms. Coomes stated it would be easy to create another handicap parking space.

Ms. Coomes briefed the Commission that the majority of financing on this project is funded by Oregon Housing and Community Services, in which they have a requirement for senior living complexes that there be a central drop off point. Temporary parking for unloading groceries, moving in/out, dropping off, etc. needs to be allowed.

Ms. Coomes addressed specifics on dedicated housing requirements, the application for financing, and the 50-year Declaration of Restricted Covenants that is recorded in order to gain access to the funds from Oregon Housing and Community Services.

Vice-Chairman Scott asked if anyone would like to speak in favor of the development proposal.

Joanne Nelson, 39178 Mt. Hope, Lebanon, felt the proposal met all requirements and was a good use for the location. The complex addressed a great need in Lebanon for low-income senior housing.

Vice-Chairman Scott asked if anyone would like to speak in opposition of the development proposal. Hearing none, the Public Hearing was closed at 8:35 p.m.

The Commissioners expressed their concern for adequate parking to be made available. No one opposed to starting out with the 40 spaces as long as a contingency plan is available if there is a parking problem. Commissioner Aziz asked that an additional handicap parking space be provided and suggested the right of the south side of the building.

Commissioner Scott asked that in the event of any future "change of use" would occur if any mechanism would be in place to have another review process. Planner Parker stated it could be made a condition of approval.

Mr. Parker stated that applicants of past projects of this type stated that the City's parking requirements substantially exceeded what their experience had been in other cities.

The Planning Commission asked that staff talk with the Planning Departments of the other cities mention by Ms. Coombs to see what their experience has been with the parking at these complexes and report back to them.

Commissioner Carson asked staff if there had been any responses from property owners within the development area. Planner Parker stated the only comment was from a neighboring property owner who asked if her property would be rezoned. There were no other comments.

A motion was made by Commissioner Brown, seconded by Commissioner Aziz, and passed unanimously to grant preliminary approval for Planned Development 03-01 together with staff report, recommendations and comments, proposed findings and the applicant's testimony and direct the applicant to prepare the general develop plan and program according to Zoning Ordinance Section 4.414. (Specific recommendations by the Commission are that the access easement be recorded prior to granting an occupancy permit, and in the event that any future "change of use" should occur, another review process with the Planning Commission would need to take place prior to the new use.

Chairman Robertson returned to the dais and requested a five-minute break.

5. OLD BUSINESS

A. Candidate open space development standards for multi-family residential developments. Standards have not yet been adopted, although one approved development has implemented the principles.

6. OTHER BUSINESS

A. Meeting Schedule – March 19 and 20, 2003. Items for the agenda are General Development Plan (Wal-Mart Superstore) and Annexation A-03-02 (Mid-Valley Healthcare, Inc.). It may be necessary to extend the meeting to March 20. Consensus is to have the meeting go no longer than 11:00 p.m. the first night.

B. Comprehensive Plan Update (move to old business on the next agenda).

C. Annexation Policy Update Work Program – Staff has a preliminary draft and they will be revising it after the results of the May election and bring before the Planning Commission in July.

Mr. Parker added that from the start of this calendar year, staff has issued as many single-family dwelling permits as they did for the entire year of 2002.

Mr. Parker heard that there is a pending bill in the State legislature to cap appeal fees at \$250.00.

7. COMMISSIONER COMMENTS

City Attorney Zimmerman gave an overview of the intent by the Friends of Linn County to file a Citizen Enforcement Noncompliance Order with the DLCD against the City. The City has 60 days to review the order.

8. ADJOURNMENT

Chairman Robertson adjourned the meeting at 9:03 p.m.

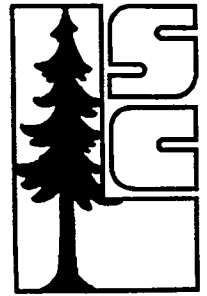
Meeting recorded by Jamie Bilyeu-Libra and transcribed by Linda Kaser.



SENIOR AND DISABLED SERVICES

LEBANON SENIOR CENTER
585 PARK STREET
LEBANON, OREGON 97355

(541) 451-7481 Fax (541) 258-7386



ADVISORY BOARD MEETING

February 19th 2003

MINUTES

Members present: Bob Johnson, Lori McNulty, Remona Simpson, Jim Toftner, Frances West, Susan Tipton, Cheryl Wagner

Members absent: Jackie Pendleton, Bonnie Prince

MINUTES: Minutes were accepted as written, motion made by Remona and seconded by Bob Johnson.

CHAIRPERSON'S REPORT:

Chair Jim Toftner noted that we still have a vacancy on the board. Two names were mentioned, Linda Learn and Debby Naegeli. Susan will contact each to see if they might be interested. We have a regular board position and a rotating community board vacancy.

REPORTS:

- ❖ Senior Meals Program- Cheryl reported that home delivered meals are on the rise and there are new guests coming into the dining room also. Cheryl mentioned the wonderful Valentines party that board member Lori McNulty hosted, it was very well received. Cheryl said on February 25th the senior meals program would have their Mardi gras event. There will be a special menu and some other commemorations. Cheryl said that some of the drivers who have been out are returning. There is a high level of anxiety among meal recipients about budget cuts; the funds for meals have been cut. Some of these clients will begin receiving home delivered meals, which will still be provided, but this eliminates a major benefit of the dining room experience-socialization. She mentioned that many seniors are losing their bus passes from Senior Services. This will impact their ability to come to the center and will affect the transportation program revenues also. There is concern about how long the home delivered meal program budget will hold out. Cheryl said this site delivers 152 meals a day.
- ❖ Senior Outreach Program- this will no longer be reported since Kathy's territory has been folded into the catchments area of another worker and she will not be able to come to meetings.
- ❖ Senior Center- Susan spoke of the slide show planned for Friday the 28th, and she and Cheryl hosted Linn Gateway leadership on the 13th of February by giving information about the center and senior meals program. Susan also thanked Lori for the great Valentines party. She mentioned the Volunteer Dessert coming up in April. She also discussed the budget outlook for the center, which will most certainly involved cuts to programs.

CONTINUING BUSINESS:

- ❖ Susan gave an update on the new Senior Center site. Work continues on the grounds with clean up and repairs. Estimates have been received for security and fire systems and a contractor is getting permits to begin working on the ADA modifications and creating an office space in the large library portion of the school. Shrubbery has been trimmed and a general repair of underground pipes damaged in the demolition have been repaired. New gas lines and electrical lines have been re-connected.
- ❖ Susan gave updates on budget; the city has many cuts to make to balance the budget. As for transportation, it is not clear if money available will be the same as last year. Contract managers have said they "think" it will be the same. Ann Johnson with COG who provides about 17% of our funding also said she "thinks" we will have the same support this coming year. No one knows for sure because figures are just coming out and there is much uncertainty about legislature decisions still to be made.

NEW BUSINESS:

Jim Toftner mentioned that Rotary has pledged \$1,000 to landscape the grounds at the Academy Square site of which the new community center will be a part. Rotary plans to recruit other service clubs in Lebanon to work on the project jointly. The goal is to have the plans in place for Arbor Day.

ITEMS FROM THE FLOOR:

Jim clarified that the board requested Susan to send a board membership application to Debbie Naegali and Linda Learn. Also suggested for membership was Paul Aziz. Susan will contact Paul to determine his interest and availability for a Rotating Community Business Member position. Jim Toftner suggested contacting Marti Stanley from community relations at Lebanon Communit Hospital for suggestions of someone at the hospital who may be interested in serving on the board.

ADJOURNMENT:

Stan moved to adjourn and Remona seconded it.

Next Meeting: Wednesday, April 16th 2003

Lebanon Tourism Commission
February 10, 2003
Special Meeting
12 Noon at Santiam Travel Station

Members Present: Mel Harrington, Scott Simpson, Ray Watts, and Virginia Franklin

Visitors Present: Carol Sedlacek, Karen Starett, and a representative from the Rollin Oldies Car Club

Because Chairperson Peggy Christopherson was absent, Scott Simpson, acting chairperson, called the meeting to order.

Under old business, Ray Watts updated the commission about the requirements needed for restaurants to be listed in the AAA Oregon Tour Book. Instead of receiving recommendations from restaurant patrons, AAA asks for a list of local restaurants that could meet their standards. The commission suggested seven restaurants. Those eateries will be evaluated by an inspector from AAA before July, 2003, and those restaurants passing will be included in the 2004 Oregon Tour Book.

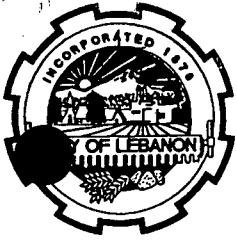
In addition, after talking with Fred Patel, owner of Shanico Inn, Ray learned that Fred is going to renovate the motel before he applies to AAA.

Under new business, Scott lead the group in discussing potential activities that could receive tourism funding in Lebanon. Also, they suggested tourism possibilities for Ralston Park with the inclusion of the vacant service station.

Scott adjourned the meeting at 1:20 P.M.

Virginia Franklin
Recording Secretary

Agenda Item 1



CITY OF LEBANON

PUBLIC WORKS DEPARTMENT - CAPITAL IMPROVEMENTS

MEMORANDUM

TO: Jim Ruef, Director of Public Works
FROM: Ron Whitlatch, Senior Engineer *(RW)*
SUBJECT: ORDINANCE - FINAL ASSESSMENTS
5th Street Sidewalk LID - Project # 00713

DATE: March 4, 2003

During the City Council meeting on February 26, 2003, the City Council approved the resolutions for the final cost report and the proposed final assessment roll for this local improvement district (L.I.D.). The next step is to conduct a public hearing, so the citizens who wish to comment on the assessments may do so.

To notify the general public, a Notice of Public Hearing will be published in the Lebanon Express on March 5th and March 12th, 2003. In addition, certified letters will be sent to the affected property owners on March 3rd, 2003.

The final assessment roll and ordinance are attached. To date, staff has received no written remonstrance against this L.I.D.

Action Requested: Approve the final assessment roll and direct staff to enter the assessments in the City unbonded lien docket.

A BILL FOR AN ORDINANCE APPROVING)
THE FINAL ASSESSMENT ROLL FOR)
THE COSTS OF THE 5th STREET)
SIDEWALK LOCAL IMPROVEMENT DISTRICT)

ORDINANCE BILL NO. _____
for 2003
ORDINANCE NO. _____

WHEREAS, the City Council of the City of Lebanon has established and administered the 5th Street Sidewalk Local Improvement District (L.I.D.) in the manner as set forth in Chapter 12.20 of the Lebanon Municipal Code, and as provided by the law; and

WHEREAS, the final cost of the improvements, to be assessed on the benefiting properties, is \$20,749.44; and

WHEREAS, the Assessment Roll set forth in Appendix A herein, has been filed with the City recorder; now therefore

THE CITY OF LEBANON ORDAINS AS FOLLOWS:

Section 1. That the costs of the 5th Street Sidewalk L.I.D. shall be apportioned to the individual properties within the boundaries of said L.I.D. in accordance with Appendix A, herein.

Section 2. That the City Recorder shall enter the assessments thus provided for in the unbonded lien docket, which assessments shall be a lien and charge upon the respective lots against which they are placed.

Section 3. This Ordinance shall be in full force and effect thirty (30) days after the date this ordinance is signed and approved by the City Council and the Mayor.

Passed by the Council by a vote of _____ for and _____ against and approved by the Mayor this _____ day of _____, 2003.

Ken I. Toombs, Mayor []
Ron Miller, Jr., Council President []

ATTEST:

John E. Hitt, City Recorder

Fifth Street Extension Sidewalk & Driveway L.I.D.

Final Assessment Roll

Extension price/sy PCC sidewalk \$31.54
 Extension price/sy PCC driveway \$44.00
 Contingency, E & A (percentage) 33.82%

Property Owner	Map No.	Tax Lot	Assessed Value	PCC Sidewalk SY	PCC Driveway SY	Sidewalk Assessment	Driveway Assessment	Total Assessment
Chester A & Thomas M Reynolds 260 N 5th St. Lebanon, OR 97355-2827	12-2W-10A	1903	\$71,502	18.3	7.9	\$577.18	\$347.60	\$1,237.54
Department of Vetrans Affairs Michael S & Sharry M Stitzell 226 N 5th St. Lebanon, OR 97355-227	12-2W-10A	1900	\$81,359	29.7	9.6	\$936.74	\$422.40	\$1,818.80
Dalton D & Sally I Johnson PO Box 714 Lebanon, OR 97355	12-2W-10A	3200	\$2,000	54.5	0.0	\$1,718.93	\$0.00	\$2,300.27
Robert L & Diana K Hoerauf 35269 Tennessee Rd SE Albany OR 97321-9737	12-2W-10A	7001	\$23,926	120.4	0.0	\$3,797.42	\$0.00	\$5,081.70
Benjamin & June McCreedy C/O Kay Lamarr Martin 6975 S Highway 89 Willard UT 84340	12-2W-10A	7000	\$159,413	46.0	0.0	\$1,450.84	\$0.00	\$1,941.51
James C Mills 88 N 5th St. Lebanon, OR 97355	12-2W-10A	7101	\$96,778	62.6	0.0	\$1,974.40	\$0.00	\$2,642.15
Inez B Bilyeu PO Box 303 Lebanon, OR 97355-0301	12-2W-10A	8402	\$196,451	98.4	0.0	\$3,103.54	\$0.00	\$4,153.15
Inez B Bilyeu PO Box 303 Lebanon, OR 97355-0301	12-2W-10A	8400	\$12,596	33.0	0.0	\$1,040.82	\$0.00	\$1,392.83
Cheri K & Roderick W Bylund 148 N 4th St Lebanon, OR 97355	12-2W-10A	3000	\$47,792	4.3	0.0	\$135.62	\$0.00	\$181.49


* Real Market Value

TOTALS= \$691,817 467.2 17.5 \$14,735.49 \$770.00 \$20,749.44

Agenda Item 2



LEBANON POLICE DEPARTMENT MEMORANDUM

TO: John Hitt, City Administrator
FROM: Michael Healy, Police Chief 
DATE: 14 March 2003
RE: LIQUOR LICENSE APPLICATIONS
CC:

The following Lebanon, Oregon establishment is requesting consideration of Change of Ownership application for OLCC liquor license:

	<u>Business Name</u>	<u>Address</u>	<u>Classification</u>
From:	M&M MART #5	805 Park Street Lebanon, OR 97355 Owner: M&M Rentals	Off-Premises Sales w/Fuel Pumps
To:	M&M CHEVRON	805 Park Street Lebanon, OR 97355 Owner: Tee Jay Oil Company, Inc.	Off-Premises Sales w/Fuel Pumps

The Police Department does not possess any documented evidence to support the denial of this request.

"Integrity. Professionalism. and Teamwork"

LIQUOR LICENSE APPLICATION APPROVAL/DENIAL FORM
 FINANCE DEPARTMENT
 CITY OF LEBANON

APPLICANT NAME : M&M Mart #5
 DATE: March 12, 2003
 LOCATION: 805 Park St., Lebanon, OR 97355
 Change of Ownership; Off-Premises Sales - w/Fuel Pumps
 Owner: From - M&M Rentals Co. - To - Tee Jay Oil Co., Inc.

RECOMMENDATION:	APPROVAL	DENIAL	DATE
FIRE DISTRICT <u><i>[Signature]</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>03-18-03</u>
POLICE DEPT <u><i>[Signature]</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>3/13/03</u>
SAFETY DIVISION _____	<input type="checkbox"/>	<input type="checkbox"/>	_____
PLANNING DEPT <u><i>[Signature]</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>3/14/03</u>
BUILDING DEPT <u><i>[Signature]</i></u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>3/14/03</u>

NOTE: Recommendation for denial must be accompanied by supporting documentation.

INSURANCE COMPANY:

*done
3/20/03
[Signature]*

1306

LIQUOR LICENSE APPLICATION APPROVAL/DENIAL FORM
FINANCE DEPARTMENT
CITY OF LEBANON

APPLICANT NAME : M&M Mart #5

DATE: March 12, 2003

LOCATION: 805 Park St., Lebanon, OR 97355

Change of Ownership; Off-Premises Sales - w/Fuel Pumps

Owner: From - M&M Rentals Co. - To - Tee Jay Oil Co., Inc.

RECOMMENDATION:

APPROVAL

DENIAL

DATE

FIRE DISTRICT _____

POLICE DEPT _____

SAFETY DIVISION

No basis for approval

3-17-03

PLANNING DEPT _____

BUILDING DEPT _____

NOTE: Recommendation for denial must be accompanied by supporting documentation.

INSURANCE COMPANY:

Note: Tee Jay Oil Co. Inc is not a current license holder with Dept of Ag - Food Safety Division. Approval is recommended when Tee Jay Oil has an active license.

*Dawn Smith RS
ODA*

503-391-8086

Agenda Item 3

MEMO

TO: Mayor and City Councilors

FM: City Administrator

RE: Continuation of Public Hearing – Resolution Establishing Fees and Charges for City Services

At our last City Council meeting we opened the public hearing to consider a proposed resolution revising our city fees and charges. At this meeting, the public hearing needs to be reopened and the public invited to provide input. You may recall that the Friends of Linn County previously provided written comment about the proposed resolution, specifically in regards to the increase of the Appeal Fee of Planning Commission decisions from \$300 to 50% of the original application fee, but not less than \$300 or more than \$1000.

Since this fee in particular has been challenged, I would like to offer the following comments:

1. This fee change was recommended by the Planning Commission in a public meeting. In fact, they originally discussed setting an appeal fee equal to the original application fee.
2. This fee would apply only to those situations where the Planning Commission is normally the decision making body. It would not apply to situations where the Planning Commission only makes recommendations to the City Council, such as annexations and Comprehensive Plan changes.
3. There are other cities besides ours that charge similar fees and more, for these appeals.
4. Planning Commission appeals require a great deal of staff and legal time to prepare. Usually the file is extensive and legal and planning staff must respond to numerous issues surrounding an appeal. It would not be unusual for an appeal to require a 100 hours of staff time.

5. Setting or revising this fee is not a land use action. LMC 17.62.010 makes it clear that the City Council has the authority to "...set and revise (planning and land use fees) by resolution." Section 17.62.010 (E.), specifically references Appeal Fees.

In the way of general comment, all of the fees proposed are based on staff's best estimate of the cost of providing the service or permit. We included staff time, support staff expense (HR, payroll, Admin.) utilities, equipment costs and other expenses involved in providing these services to the portion of the public that require or desire them. If these fees are not revised all taxpayers will subsidize, through their taxes, at least some of the costs involved in meeting the interests of particular individuals or groups.

One last note, in the fees schedule version attached, we have eliminated the faxing fee because we no longer have the staffing necessary to meet requests to fax information.

Friends of Linn County

PO Box 113
Lebanon OR 97355

Item # 4

RECEIVED
MAR 10 2003

March 10, 2003

Lebanon City Council
925 Main Street
Lebanon OR 97355

RE: Proposed increases to City of Lebanon's fee schedule

Dear Mayor Toombs and Councilors:

Friends of Linn County (FOLC) is concerned with one of the proposed fee increases. On p. 9 of the proposed fee schedule, the fee for an appeal of a planning commission decision is stated to be: "One half of the amount of the original application fee or \$300.00 whichever is greater up to a maximum of \$1000.00." This proposed fee fails to comply with statutory requirements. In addition, the process prior to the City Council hearing on this matter has not offered adequate citizen involvement, and an adequate factual base for the proposed fee has not been established.

ORS 227.180(1)(c) provides:

The governing body may prescribe, by ordinance or regulation, fees to defray the costs incurred in acting upon an appeal from a hearings officer, planning commission or other designated person. The amount of the fee shall be reasonable and shall be no more than the average cost of such appeals or the actual cost of the appeal, excluding the cost of preparation of a written transcript. The governing body may establish a fee for the preparation of a written transcript. The fee shall be reasonable and shall not exceed the actual cost of preparing the transcript up to \$500. In lieu of a transcript prepared by the governing body and the fee therefor, the governing body shall allow any party to an appeal proceeding held on the record to prepare a transcript of relevant portions of the proceedings conducted at a lower level at the party's own expense. If an appellant prevails at a hearing or on appeal, the transcript fee shall be refunded.

Thus, any appeal fee established by the City of Lebanon must be reasonable and must not exceed the average or actual cost of the appeal.

1. The proposed appeal fee is not reasonable.

Citizen involvement, the subject and focus of Oregon's Statewide Planning Goal #1, is a very important part of the Oregon land use planning program. Citizen involvement and public participation, for obvious reasons, could be discouraged and stifled by unreasonably high appeal fees. The purpose of the legislative directive that

fees be reasonable is to insure that citizen involvement does not suffer simply because it is not affordable for citizens.

An appeal fee of as much as \$1000 is not reasonable in the context of other appeal fees established by the legislature. ORS 215.416(11) and ORS 227.175(10)(b) cap the fee for an appeal to an initial public hearing at \$250. ORS 197.830(9) establishes, for an appeal to the Land Use Board of Appeals, a \$175 filing fee and a \$150 deposit for costs, for a total of \$325. ORS 21.010 sets the filing fee for an appeal to the Court of Appeals or the Supreme Court at \$140. Fees for preparing transcripts are capped at \$500. A reasonable range for appeal fees would be from \$140 to \$325. Under no circumstances should the fee for an appeal exceed \$500.

2. The proposed appeal fee does not reflect the average or actual cost.

The City proposes to base the fee for an appeal on the original application fee, and charge ½ that amount, with a minimum of \$300 and a maximum of \$1000. There has been no inquiry into either the actual or average cost of handling an appeal. No evidence of any kind is presented to establish any cost basis for the proposed fee. No evidence of any kind has been offered establishing a direct relationship between the cost of different kinds of applications and the cost of handling appeals of the respective applications. Without an inquiry addressing the actual or average cost of appeals, and without evidence establishing that appeals of differing kinds of applications result in differing costs of handling appeals, the City's proposed fees for appeals of planning commission decisions cannot be justified.

3. The City's procedures have violated requirements for citizen involvement.

Goal 1 provides:

"3. Citizen Influence – To provide the opportunity for citizens to be involved in all phases of the planning process. Citizens shall have the opportunity to be involved in the phases of the planning process as set forth and defined in the goals and guidelines for Land Use Planning, including Preparation of Plans and Implementation Measures, Plan Content, Plan Adoption, Minor Changes and Major Revisions in the Plan, and Implementation Measures."

A modification of an appeal fee is an implementation measure, as it implements statutory provisions and impacts opportunities for citizen involvement. In addition, Lebanon Zoning Ordinance (LZO) 2.080(1) provides: "Filing fees shall be paid at a rate in the Lebanon filing fee ordinance." A schedule title "Planning Department Fees" is found at LZO Appendix A-1. A revision of the fee schedule is thus an amendment of the LZO.

Goal 1, Section C, Citizen Influence, provides:

"4. Implementation - The general public, through the local citizen involvement programs, should have the opportunity to participate in the development,

adoption, and application of legislation that is needed to carry out a comprehensive land-use plan.”

Relevant portions of the Lebanon Comprehensive Plan (Plan) implement Goal 1, and must be interpreted and applied in a manner consistent with Goal 1. In addition, Plan Administrative Policy 8 states:

“The City of Lebanon hereby adopts the applicable Statewide Planning Goals as they apply to the community, and reinforces them through specific goals, objectives, and policies in response to community needs.”

Goal 1 thus applies directly, where applicable.

At 1-9, the Plan establishes the Lebanon Citizen Involvement Program. The intent of the City’s Citizen Involvement Program is “to assure that all citizens have an opportunity to be involved in all phases of the planning process.” The Plan at 1-9 states: “(1) The Planning Commission is designated as the Committee for Involvement.” The Lebanon Planning Commission is thus designated as the body before which citizens are to have the opportunity to participate in “all phases of the planning process.”

No hearing on the proposed appeal fee increase was held before the Planning Commission. No notice of a Planning Commission hearing on the proposed appeal fee increase was given. The proposed appeal fee increase did not appear on any Planning Commission agenda, as required by Plan (4)(A) at 1-9.

The proposed appeal fee increase cannot be approved without first complying with Goal 1 and Plan requirements for citizen involvement in the proposal’s development and adoption.

4. Adoption of the proposed appeal fee would violate requirements for land use planning.

Goal 2 provides, in relevant part:

“All land-use plans and implementing ordinances shall be adopted by the governing body after public hearing[.] * * * Opportunities shall be provided for review and comment by citizens and affected governmental units during preparation, review and revision of plans and implementation ordinances.”

An increase of an appeal fee requires an amendment to the City of Lebanon’s Fee Schedule and to the LZO. No notice of any Planning Commission hearing on the proposed appeal fee increase was given, as required by LZO 9.020(1). No hearing on the proposed appeal fee increase was held before the Planning Commission, as required by LZO 9.020(2). No Planning Commission recommendation has been forwarded to the City Council, as required by LZO 9.020(3).

The Plan at 9-1 identifies the zoning ordinance as the "most familiar legal instrument used in plan implementation." The Plan at 1-15 discusses major revisions and minor changes to the Plan or implementing measures. The Plan states, in relevant part:

"Minor changes should be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change should be established."

The quoted provision implements Goal 2 Guideline E(2). The Plan language is, for the most part, identical to the Goal 2 language. The Plan requirements must be interpreted and applied in a manner consistent with Goal 2.

No special study or other information has been provided establishing a factual basis for the proposed appeal fee increase. No public need or justification has been identified. No facts are presented establishing that the amounts of the proposed appeal fees would be either reasonable or reflective of the actual or average cost of an appeal. No facts are presented establishing that the cost to the City of handling an appeal differs in relation to the amount of the initial application fee.

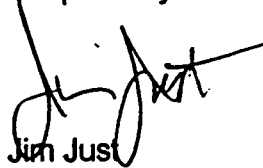
Conclusion

Citizens have not had adequate opportunity to participate in the development and adoption of the proposed appeal fee increase. An adequate factual base for the increased appeal fee has not been established. Approval of the proposed appeal fee increase would be in violation of Goals 1 and 2 and of implementing Plan provisions.

The amount of the proposed appeal fee is not reasonable. It has not been established that the amount charged for an appeal would reflect the actual or average cost of the appeal. Approval would violate ORS 227.180(1)(c).

For these reasons, the proposed appeal fee increase must be rejected.

Respectfully submitted,



Jim Just
for Friends of Linn County

and



Jim Just
as an individual

Mayor and City Council

March 7, 2003

City Administrator

Re: Resolution Establishing Fees and Charges for City Services

As you may recall, last May 1st a new City Fee schedule went into effect.

It is appropriate to consider revising the current fee schedule for the following reasons:

1. City Personnel costs have risen sharply due to PERS, COLAs, and employee benefits increases.
2. The rising number of legal challenges has significantly increased both the number and complexity of issues and appeals concerning planning and land use matters. Hence, the need to increase those fees to partially recapture the greater staff and legal costs being incurred.
3. Increasing number and complexity of public information requests.
4. Rising citizen and police concerns about tracking stolen merchandise and dealing with business-related complaints and code enforcement issues.

Staff recommends approval of the attached resolution.

jeh/tat

A RESOLUTION ESTABLISHING FEES
AND CHARGES FOR CITY SERVICES

)
)

RESOLUTION NO. _____
for 2002

WHEREAS, it is the policy of the City of Lebanon to require the ascertainment and recovery of certain City costs from fees and charges levied therefore providing City services, products and regulations; and

WHEREAS, the City Administrator has caused a review of City fees and charges to recover a reasonable percentage of City costs in providing City services, products and regulations, and recommends such adjustments to the City Council; and

WHEREAS, notice has been given for public comment upon said charges and the City Council has deliberated and considered said public comment; and

WHEREAS, said review of all City fees and charges as well as necessary and appropriate new fees and charges are provided in Attachment "1".

WHEREAS, public notice of the proposed City fee changes was provided in the newspaper of record on Feb. 21, 2003.

THEREFORE THE LEBANON CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The following fees, rates and charges as attached hereto as Attachment "1" and incorporated herein by this reference are adopted by the City, effective May 1, 2003.

Section 2. The City Council hereby determines that the fees, rates and charges hereby adopted are not subject to the limits of section 11 or 11b, Article XI of the Oregon Constitution.

Passed by the Council by a vote of _____ for and _____ against and approved by the Mayor this 26th day of March 2003.

Kenneth I. Toombs, Mayor []

Ron Miller, Jr., Council President []

ATTEST:

John E. Hitt, City Recorder

CITY OF LEBANON FEES AND CHARGES		Original
TYPES OF FEES	FEES/CHARGES	Fee
ADMINISTRATIVE FEES:		
Administrative Requests - Miscellaneous	\$25.00/hr	\$25.00
Appeals (Non Land Use)	\$25.00	
Audit Report	\$15.00	
Budget Document	\$15.00	
Foreclosures notice	\$25.00	
Housing Rehab Payoff and Reconveyance	\$15.00	
Lien Search (online)	\$25.00	
Non Sufficient Funds (NSF) Charge	\$25.00	
Notary Fee	\$1.00	
Residential RV Permit (1 - 15 days)	\$35.00	
Renewal periods 15 days (nor more than 3 renewals)	\$25.00 each	
Tall Weeds & Grass Abatement (if not abated within 10 days)	\$25.00	
Temporary Use Permit	\$250.00	
Public Information Request Form and Guidelines:		
A simple request (definition on back of request form)	cost to be determined	
A complex request (definition on back of request form)	cost to be determined	
Audio Tape Copies (\$15.00 for first tape, \$5.00 for each additional)	\$15.00 / \$5.00	\$12.00/5.00
Video Tape Copies	\$25.00	
Photocopies (\$.25 cents per page. Front & back of paper = 2 pages)	\$0.25	\$0.20
Archived Electronic Information Retrieval	\$100.00 per hour	

Presented @ 3/26/03 City Council mtg 10:15

BUSINESS LICENSE FEES (Miscellaneous):		
Annual Business License issued after July 1 issued @ 1/2 annual fee		varies
Auctions		\$150/year, \$25/ea.
Boxing & Wrestling (per event)		\$50.00
Business License Listing (per event)		\$5.00
Carnivals		larger of \$100/day or 1% of gross
Circuses and Exhibitions (per event)		larger of \$100/day or 1% of gross
Dances (Public) - Annual Permit		\$150.00
Dances - Per Dance		\$25.00
Drug Paraphernalia Sales		\$250.00
Fairs, festivals per each vendor participating (per event)		\$150.00
Gambling License		
Ongoing Annual License		\$200.00
License for one day special event		\$50.00
License for one day special event/ non-profit organization		\$20.00
Liquor License (first license requested)		\$100.00
Annual renewal of a liquor license		\$35.00
Change of location or ownership of liquor license		\$75.00
Merchant Police, Security Service (annual)		\$75.00
Mobile Home/Trailer Court Park (annual)		\$100+\$10/space
Non Profit Organizations		\$0.00
Parade Permit		\$20.00
Peddler, Solicitors and Temporary Business		
1-30 days		\$15.00
31- 60 days		\$25.00
61 days to 6 months		\$30.00
More than 6 months up to a year		\$40.00
Recording Fees (Linn County)		\$10.00
Secondhand Buyers and Sellers Annual Fee		\$75.00
Taxi Licenses:		
Annual Taxi Operator License		\$100.00
Annual additional vehicle		\$25.00
Annual Taxi Driver Permit		\$15.00
		Flat \$30.00
		\$50.00

BUSINESS LICENSE FEES (Continued)		
Transient Merchants/per 30 days	\$30.00	
Transfer of ownership/change of location or name	\$10.00	
CITY FACILITIES (Use of):		
City Park Facilities (see Park Shelters)		
Santiam Travel Station Rental:		
Passenger Lobby	\$5/hr.	
Freight Room (plus refundable deposit)	\$25/hr.	
GIS DIVISION:		
City Street Map with UGB	\$12.00	
Zoning Map	\$25.00	
Each additional data layer	\$50 - \$150	
Site maps for applicants	\$50/hr.	
LIBRARY FEES:		
Interlibrary loan (per item)	\$2.00	
Internet copies (each copy)	\$0.10	
Lost item processing fee (plus replacement cost of item)	\$3.00	
Lost Library Card Fee	\$1.00	
Nonresident Cards:		
For Family Household	\$30.00	
For Senior Citizen(60+) Family/Household	\$25.00	
Junior-Materials-Only Card	\$5.00	
Overdue items per day per item (up to a maximum of \$4.00)	\$0.10	
Photocopies by coin operated machine (per copy)	\$0.10	
Photocopies made by staff	\$0.25	\$0.00
Reservation fee (per item)	\$0.50	

MUNICIPAL COURT FEES:	
Appeal to Linn County Circuit Court (+ certified copy charge)	\$25.00
Certified copies (per sheet)	\$5.00
Copies (per sheet)	\$1.00
Court Costs:	
Cite or Arrest Warrant	\$50.00
Notice of court action of driving privileges to DMV	\$20.00
Court Costs (per Trial):	
Confinement Fee/day	\$20.00
Criminal (non Jury - if convicted)	\$20.00
Jury trial (if convicted)	\$50.00
Traffic (if convicted)	\$15.00
DUII Diversion extension fee	\$25.00
Failure to Appear Fees:	
Arraignment	\$20.00
Trial (jury) (and jury fee)	\$150.00
Trial (no jury)	\$100.00
Fee for turning to collection	40%
Insufficient funds service charge	\$25.00
Jury fee (if canceled after arrival of Jurors)	\$15/juror
Late Payments	\$15.00
Miscellaneous petitions and warrants	\$15.00
Payment extension fee	\$25.00
Payment extension interest	(9% per annum)
PARK FEES:	
Gill's Landing camping fees per day (+ transient tax)+B278	\$22.00
River Park camping fees	\$10.00
Sewage Dump Station fee	\$3.00
Sewage Dump Station Permit, Commercial Accounts by Permit Only	\$5.00
Special Event Application fee	\$10.00

PARK SHELTER RENTAL FEES:		
Booth Park Shelter	\$15.00	
Century Park Shelter	\$30.00	
Century Park Community Center:		
Century Park Main Building Area, Full day	\$40.00	
Century Park Main Building Area, 1/2 day rate (4 hours a.m. or 4 hours p.m.)	\$20.00	
Century Park Main Building Area, Evening after 5:00 p.m.	\$20.00	
Century Park Office Space, Monthly rental fee	\$30.00	
Christopher Columbus Park Shelter	\$15.00	
Ralston Park Gazebo	\$30.00	
River Park Main Shelter	\$30.00	
River Park Horseshoe Area Shelter	\$15.00	
River Park Small Shelters (2)	\$15.00	
PLANNING DEPARTMENT FEES:		
Administrative Review	\$400.00	
Annexation	\$2,000.00	\$1,500.00
Appeal of Planning Commission Decision		
One half the amount of the original application fee or \$300.00 whichever is greater up to a maximum of \$1000.00	\$300.00 up to \$1000.00	flat fee of \$300
Appeal of Staff Decision	\$250.00	
Compile Planning Action Record File	\$25hr. + 25¢ per page	\$0.00
Comprehensive Plan Map Amendment	\$2,000.00	\$1,600.00
Comprehensive Plan - Text / Map	\$25 for plan/ \$25 for map	
Conditional Use Permit	\$600.00	
Land Partitions		
Lot Line Adjustment	\$200.00	
Minor Partition	\$500.00	
Subdivision		was a flat fee of \$2000
Tentative Plat	\$1500 + \$15 / lot	plus \$35 per lot for both
Final Plat	\$1200 + \$25 / lot	tentative & final plats
Measure 56 Mailing	\$2,500.00	
Modification to Approved Application	\$100 - \$800	
Nuisance Abatement (if not abated within 10 days)	\$100.00	

PLANNING DEPARTMENT FEES (Continued)		
Planned Development Preliminary	\$1,500.00	was a flat fee
Planned Development General		of \$2500 + \$10
Residential	\$1200 + \$10 / Unit	a unit
Non-Residential	\$1200+ \$5/100 sq.ft	
Sign Review	50.00 + \$1.00/sf	
Engineered Site Plan Review	\$650/\$850	\$600-\$800
Single Family Residential Site Plan Review (New Fee)	\$25.00	
Street/Alley Vacation	\$750.00	
Subdivision Amendment	\$1,600.00	
Subdivision/Code (each set)	\$5.00	
Temporary Occupancy Permit/day	\$10.00	
Traffic Study Deposit	\$3,000.00	
Variance	\$500.00	
Zone Change (map or text)	\$2,000.00	\$1,500
Zoning Ordinance - Text	\$25.00	\$10.00
Zoning Map	\$25.00	\$1.00
POLICE DEPARTMENT FEES:		
Abandoned Vehicle Abatement (if not abated within 10 days)	\$50.00	
Alarm permits (Phase in over 5 year period)	\$10.00	
Audio tapes	\$15 /5	\$10.00
Bike Licensing (<i>free</i> during bike rodeo)	\$2.00	
Diversion Classes, Other (\$35 to \$50 maximum)	\$50.00	
False alarm billing:		
1st & 2nd alarm	\$0.00	
3rd alarm	\$25.00	
4th or more increases by \$25 up to a maximum of \$100	\$50 - \$100	was a flat \$50
Finger Printing	\$15.00	
Inspection fee for "fix-it" tickets (each)	\$5.00	\$0.00
Parking Permit - Annual Residential	\$75.00	
Parking Permit - Daily	\$10.00	
Police Reports Copies	\$10.00	\$5.00
Records [local] Check (waive fee for Armed Forces)	\$7.50	
Additional fee for over 5 pages (per page)	\$0.25	\$0.20

POLICE DEPARTMENT FEES (Continued)		
Seat Belt Class	\$50.00	
Vehicles:		
Boot Removal Fee	\$50.00	
Impounded Vehicle Release (Admin. Fee)	\$100.00	
Video Tapes	\$25.00	\$20.00
SENIOR CENTER FEES:		
Building Rental Fees		
Basic Rental Deposit	\$100.00	
Alcohol Deposit	\$500.00	
Weeknight (After 4:00 p.m. Monday thru Friday)		
Hourly - Without kitchen use	\$20.00	
Hourly - With kitchen use	\$30.00	
Weekend (Saturday, Sunday and Closed Holidays)		
1/2 Day (4 hours) - without kitchen use	\$150.00	
1/2 Day (4 hours) - with kitchen use	\$175.00	
Full Day (8 hours) - without kitchen use	\$300.00	
Full Day (8 hours) - with kitchen use	\$350.00	\$275.00
Extra Hour on the Weekend - Without kitchen use	\$30.00	
Extra Hour on the Weekend - With kitchen use	\$35.00	
Custodial Services	\$50.00	
PA System	\$10.00	
Slide Projector	\$10.00	
TV/VCR	\$10.00	
Easel & Flip Chart	\$10.00	
Photocopies - Letter 8 1/2 x 11, Legal 8 1/2 x 14 (per side)	\$0.25	\$0.10
Photocopies - Jumbo 11 x 17 (per side)	\$0.50	
Faxes - First Page (each additional page \$.50)	\$1.50	
Bus Transportation		
Seniors and Disabled Persons (one way)	\$1.00	
Public (one way)	\$2.00	
5 years of age and under (one way)	Free	

STREETS AND RIGHTS OF WAY:		
Banner Installation	\$30.00	\$25.00
Basic Right-of-Way Encroachment Fee:	\$65.00	\$60.00
Contractor Pre-qualification	\$50.00	
Deferral of improvements	\$200.00	
Public Improvement Drawing Review	\$250 + 1% of const.	
Public Improvement Permit		
\$250 + 4% of cost up to \$25,000		
\$250 + 3% of cost from \$25,001-\$50,000		
\$250 + 2.5% of cost above \$50,000		
Right-of Way Encroachment Surcharges:		
Curb Cut	\$1.50/sf; \$20 min	
Hard Surface Street Cuts	\$1.00/sf; \$30 min	
4" Sanitary Connection	\$55.00	
6" Sanitary Connection	\$110.00	\$100
4" Storm Connection	\$30.00	\$25.00
6"-8" Storm Connection	\$90.00	\$50.00
Over 8" Storm Connection	\$125.00	\$75.00
WATER/SEWER SPECIAL SERVICE FEES:		
3/4" Water Meter Service Connection Fee	\$850.00	
1", 1 1/2", 2" Water Meters (cost of materials & labor - deposit required)	Cost	
Contaminated Waste Dump Permit	\$250.00	
Industrial Pretreatment Program Fees	\$500.00	
Service Charges:		
After Hours Meter Turn On	\$50.00	
Door Hanger	\$5.00	
Lock-Off (Meter)	\$25.00	
Installing a 3/4" Meter to an Existing Service	\$65.00	
Install a 3/4" Hand Valve	\$25.00	
Provide a Water Meter Box.	\$30.00	

WATER/SEWER SPECIAL SERVICE FEES (Continued)		
Service charges:		
Remove an Existing and Replace a Water Meter Box	\$40.00	
Replace a Damaged Meter Lock	\$40.00	
Replace a Damaged Meter Locking Cap	\$40.00	
Replace a Damaged Meter Resetter	\$50.00	
Test Water Meter, <i>Refund when Test Indicates Meter Runs Fast</i>	\$20.00	
Utility bill late payment fee (added to late payment notice)	\$7.50	



CITY OF LEBANON
MEMORANDUM

TO: Jim Ruef, Director of Public Works DATE: March 25, 2003
FROM: Rob Emmons, Senior Engineer *RE*
CC: Allen Dannen, City Engineer
SUBJECT: Project "Walden" Infiltration Test

This memo reviews the status of the infiltration test for Project "Walden".

Background

A preliminary economic analysis performed by our consultant, Kennedy Jenks, has shown that Project "Walden" could be economically viable compared to our present South Santiam River discharge. Since then the project has moved to the technical feasibility stage – investigating the site to evaluate its physical ability to adequately accept and "polish" wastewater effluent.

In late October three monitoring wells were drilled into and alongside one of the site's natural drainage channels. Information was obtained relating to the existing geology and hydrology at those locations.

Low Groundwater Infiltration Test

A low groundwater infiltration test was conducted November 15th through November 22, 2002. The objectives of the low groundwater infiltration test were to 1) assess feasibility of surface/subsurface discharge at low river and groundwater conditions, and 2) evaluate the proportions of surface and subsurface flow.

The test method, simply put, was to pump approximately 800 gallons per minute from the river into the drainage channel (swale) in which the test wells have been drilled. By observing the distance of surface flow and water level within the wells (and other locations on the site), Kennedy Jenks was able to estimate the magnitude and direction of both surface and subsurface flows. This approach has been reviewed and approved by DEQ.

The low groundwater test results indicated that the drainage swale has a high infiltration rate. The water pumped into the swale had a maximum discharge distance along the channel of 316 feet and the water fully infiltrated into the channel 34 minutes after the pumping stopped. The high infiltration rate indicates that the subsurface flow component will be much greater than

surface flow characteristics. By monitoring the wells during and after the pump test, it was determined that the groundwater flow direction is towards the river during low groundwater conditions.

The overall results of the dry weather infiltration test indicate a basic feasibility of the concept was demonstrated.

Next Steps

The next critical test is to simulate effluent discharge onto the site and then measure how the site reacts during wet weather and subsequent high groundwater conditions. This will be done through an additional infiltration test during high water conditions in the spring.

Most critically, data from both infiltration tests will be used in computer models that will predict the site's long-term behavior under increased and varying flow rates.

FLOW-INFILTRATION TESTS METHODS

Two flow-infiltration tests will be completed to evaluate the hydrology and hydrogeology of one potential discharge swale that is likely to be in hydraulic connection with the gravel ponds and river. The purpose of these tests is to examine how the discharge swale and wetland system responds to a continuous discharge of water at a potential maximum discharge rate. The flow-infiltration tests will serve to assess changes in ground-water levels near the swale, measure the extent of surface flow in the swale, monitor changes in surface water levels in the ponds, and measure changes in surface and ground-water quality "field" parameters. The first flow-infiltration test will be completed in the summer or early fall during low river stage and low groundwater. The second test will be completed during the winter under higher river stage and ground water level conditions. The first test will be completed using three monitoring wells. Additional monitoring wells may be added prior to the second test if the results from the first test indicate favorable conditions for water discharge and more detailed groundwater data is desired. The proposed pumping rate, design of the discharge area, water level, and water quality monitoring are discussed below.

Pumping Rate

Water will be pumped from the South Fork of the Santiam River for 7 days and discharged into a swale. A maximum discharge rate for the entire Project Walden system is estimated to be 8 million gallons per day (mgd) or 5,556 gallons per minute (gpm). There are at least three swales near the proposed test area that could be used as future discharge points, with each swale potentially receiving 1,800 gpm or less. Initially, the flow and infiltration tests will be conducted at a rate of 1,000 gpm. The flow rate may be adjusted downward if there is significant erosion occurring in the swale, or other problems associated with a high rate of discharge are encountered. The pumping rate will be monitored with a flow meter installed in the discharge line.

Discharge Area

The discharge area will be on the adjacent ridge approximately 5 feet higher than the swale. Water will be discharged from a pipe or hose onto sheets of plywood or other non-erodible material that extends to the bottom of the swale. This will allow the discharge water to spread out, dissipate energy, and minimize any erosion from the discharge. The drainage channel will be monitored during the flow-infiltration test for erosion, down cutting, channelized flow, areas of noticeable loss of flow to the subsurface and other disturbance features.

Water Level and Water Quality Monitoring

The primary intent of water quality monitoring will be characterization of the area. The dataset will also provide an indication of the potential for the infiltration flows to affect water quality in the area.

At a minimum, water levels will be monitored in the river, in the three monitoring wells, in the onsite well, if it has been repaired, in at least one nearby domestic well, and in the closest gravel pond. Outflow of water will be measured at locations that show flow, including at the old gravel ponds. Outflow will be measured using a Global® current meter. Water levels will be measured using an electronic water level indicator and/or electronic data loggers. Water level monitoring will begin 24 hours before the flow-infiltration test begins and end 7 days after the flow-infiltration test ends. The electronic data loggers will record water level changes every hour. Water levels hand-measured with an electronic water level indicator will be recorded at least twice a day. The water level data will be used to further characterize the hydrogeology of the discharge area and evaluate the potential extent of ground water mounding.

Water quality "field" parameters (temperature, electro conductivity [EC], pH, and dissolved oxygen) will be monitored in the ground and surface water. Temperature will be monitored at the river, in the three monitoring wells, in the drainage swale before the first gravel pond, and in the first gravel pond using electronic data loggers. EC, pH, and dissolved oxygen will be measured at the river and gravel ponds using an EC, pH, and dissolved oxygen meter. The temperature data will be used to assess potential impacts to the surface and ground water system resulting from the discharge to the swale.

DATA EVALUATION AND REPORTING

Data collected during drilling and from the flow-infiltration test will be assembled into data files and subjected to quality control evaluation and checks. These data will initially be presented in figures and tables to the City of Lebanon and DEQ with a verbal summary of the findings and preliminary conclusions after the first flow-infiltration test. A report will be prepared after the second flow-infiltration test if the findings and preliminary conclusions are favorable for further investigation and design of the discharge system.

Project Walden Study Updated Time Schedule

26-Mar-03

Date

Task

June '02

August '02

Sept. '02

Sept. - Oct. '02

Nov. '02

April '03

April '03

May - June '03

July '03

August '03

August - Sept. '03

Nov. '03

Project Walden Economic Analysis

DEQ Regulatory Review

Drilling/Infiltration Workplan

Drilling & Well Construction

Infiltration Test 1 (Low Groundwater)

Drill Additional Monitoring Wells

Infiltration Test 2 (High Groundwater)

Model Development

Feasibility Analysis Report

City Council - Walden "Go/No Go" Decision

WWTP FP Updated

Submit WWTP FP to DEQ

MINUTES
LEBANON CITY COUNCIL WORK SESSION
Neuman Insurance

March 26, 2003

Council Present: Mayor Ken Toombs and Councilors Bob Elliott, Ron Miller, Roger Munk, Dan Thackaberry and Scott Simpson

Staff Present: City Administrator John Hitt, Public Works Director Jim Ruef, Finance Director Cole, Police Lieutenant Mike Schulte, Human Resource Manager Fugate and Admin. Assistant Linda Kaser

Presenter: Dunny Sorenson of Neuman Insurance

Mr. Sorenson presented topics that elected officials should be aware of in terms of risk management. Mr. Sorenson urged the Council to follow the advise of counsel if uncertain how to handle or resolve a situation.

The main focus was on Employment Practices Risks. The highest volume of claims is due to labor disputes with the highest rising claims filed by exempt employees. Elected officials should not address an employee's performance to anyone other than the employee's supervisor or the City Administrator.

City Administrator Hitt explained that most of the information covered in this work session is located in the Council Guide, under the legal and insurance section, in the back of their Council binders.

EASEMENT FOR PUBLIC ACCESS AND UTILITIES

THIS AGREEMENT, made and entered into this _____ day of _____, 20__ by and between Michael C. White and Shirley J White, herein called Grantors, and the CITY OF LEBANON, a Municipal corporation, herein called "City."

WITNESSETH:

That for and in consideration of the total compensation to be paid by the City, the Grantor does bargain, sell, convey and transfer unto the City of Lebanon, a perpetual and permanent easement and right-of-way, including the right to enter upon the real property hereinafter described, construct sidewalk, and to maintain and repair public utilities for the purpose of conveying public utilities services over, across, through and under the lands hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of the said public utilities and the further right to remove trees, bushes, under-growth and other obstructions interfering with the location and maintenance of the said public utilities.

This agreement is subject to the following terms and conditions:

1. The right-of-way hereby granted is described as follows:

SEE ATTACHED "EXHIBIT A AND B"

- 2. The permanent easement described herein grants to the City and to its successors, assigns, authorized agents or contractors, the perpetual right to enter upon said easement at any time that it may see fit for construction, maintenance, evaluation and/or repair purposes.
3. The easement granted is in consideration of \$ 1.00, the receipt of which is hereby acknowledged, and in further consideration of the public improvements to be placed upon said property and the benefits Grantor may obtain therefrom. Nothing herein shall reduce or limit grantor's obligation to pay any costs or assessments which may result from the improvements.
4. The Grantor does hereby covenant with the City that Grantor is lawfully seized and possessed of the real property above described, has a good and lawful right to convey it or any part thereof, and will forever warrant and defend the title thereto against the lawful claims of all persons whomsoever.
5. Upon performing any maintenance, the City will make reasonable efforts to return the site to its original condition.
6. No permanent structure shall be constructed on this easement.

IN WITNESS WHEREOF, we have set our hands hereto this 03-21 day of March, 2003

IN WITNESS WHEREOF, we have set our hands hereto this day of _____, 20__

STATE OF OREGON)
County of Linn)ss.
City of Lebanon)

Handwritten signatures of Michael C. White and Shirley J. White

STATE OF OREGON)
County of Linn)ss.
City of Lebanon)

Ken Toombs, Mayor []
Ron Miller, Council President []

John E. Hitt, Recorder

GRANTOR(S)

GRANTEES

On the 21st day of March, 2003, personally appeared the within named who acknowledged the foregoing instrument to be a voluntary act and deed.

On the _____ day of _____, 20__, personally appeared _____ and JOHN E. HITT, who each being duly sworn, did say that the former is the _____ and the latter is the Recorder for the City of Lebanon, a Municipal Corporation, and that the seal affixed to the foregoing instrument was signed and sealed in behalf of said corporation by authority of its City Council, which accepted this easement on the day of _____, 20__: and each of them acknowledged said instrument to be its voluntary act and deed.

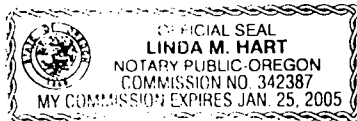
BEFORE ME:
NOTARY PUBLIC FOR OREGON

Handwritten signature of Linda M. Hart

My commission expires:

01-31-05

BEFORE ME:
NOTARY PUBLIC FOR OREGON



My commission expires:

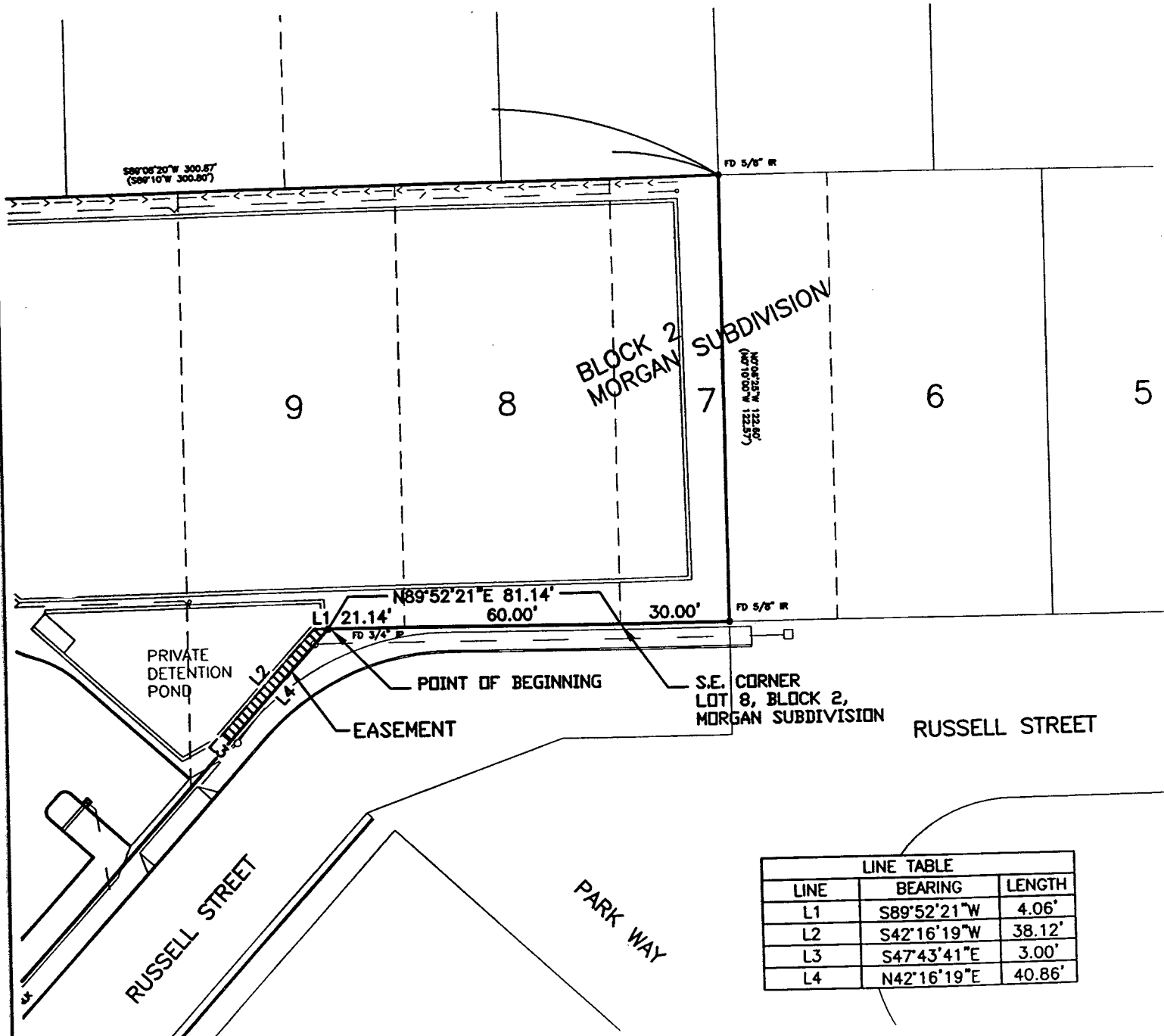
Exhibit "A"

A portion of land in the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 14, Township 12 South, Range 2 West, of the Wilamette Meridian, City of Lebanon, Linn County, Oregon more particularly described as follows:

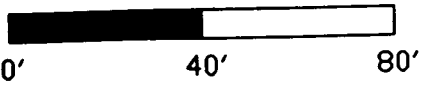
Beginning at a $\frac{3}{4}$ " iron pipe which is South $89^{\circ}52'21''$ West along the North Right-of-Way of Russell Street 81.14 feet from the Southeast corner of Lot 8, Block 2, Morgan Subdivision; thence South $89^{\circ}52'21''$ West 4.06 feet; thence South $42^{\circ}16'19''$ West 38.12 feet; thence South $47^{\circ}43'41''$ East 3.00 feet to a point on the North Right-of-Way of Russell Street; thence North $42^{\circ}16'19''$ East along said North Right-of-Way 40.86 feet to the $\frac{3}{4}$ " iron pipe at the point of beginning.

EXHIBIT B

LOT 9 OF BLOCK 2 OF MORGAN SUBDIVISION
 SW 1/4, SW 1/4, SEC. 14, T. 12 S., R. 2 W., W.M.
 CITY OF LEBANON, LINN COUNTY, OREGON



LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°52'21"W	4.06'
L2	S42°16'19"W	38.12'
L3	S47°43'41"E	3.00'
L4	N42°16'19"E	40.86'



ENGINEER 8072 SURVEYOR 1366
JAMES F. UDELL
 ENGINEERING & SURVEYING
 63 EAST ASH ST.
 LEBANON, OREGON
 97355
 PH. (541) 451-5125
 FAX (541) 451-1366
 EASEMENT

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WITNESSETH:

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SEE ATTACHED "EXHIBIT A AND B"

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3. The easement granted is in consideration of \$ 1.00, the receipt of which is hereby acknowledged, and in further consideration of the public improvements to be placed upon said property and the benefits Grantor may obtain therefrom. Nothing herein shall reduce or limit grantor's obligation to pay any costs or assessments which may result from the improvements.
4. The Grantor does hereby covenant with the City that Grantor is lawfully seized and possessed of the real property above described, has a good and lawful right to convey it or any part thereof, and will forever warrant and defend the title thereto against the lawful claims of all persons whomsoever.
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IN WITNESS WHEREOF, we have set our hands hereto this 21 day of March, 2003

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STATE OF OREGON)
County of Linn)ss.
City of Lebanon)

Michael C White
Shirley J White

STATE OF OREGON)
County of Linn)ss.
City of Lebanon)

Ken Toombs, Mayor []
Ron Miller, Council President []

GRANTOR(S)

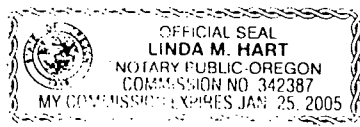
John E. Hitt, Recorder

On the 21st day of March, 2003, personally appeared the within named who acknowledged the foregoing instrument to be a voluntary act and deed.

GRANTEES
On the _____ day of _____, 20__, personally appeared _____ and JOHN E. HITT, who each being duly sworn, did say that the former is the _____ and the latter is the Recorder for the City of Lebanon, a Municipal Corporation, and that the seal affixed to the foregoing instrument was signed and sealed in behalf of said corporation by authority of its City Council, which accepted this easement on the day of _____, 20__; and each of them acknowledged said instrument to be its voluntary act and deed.

BEFORE ME:
NOTARY PUBLIC FOR OREGON

Linda M. Hart
My commission expires: 01-25-05



BEFORE ME:
NOTARY PUBLIC FOR OREGON

My commission expires:

Exhibit "A"

A portion of land in the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 14, Township 12 South, Range 2 West, of the Wilamette Meridian, City of Lebanon, Linn County, Oregon more particularly described as follows:

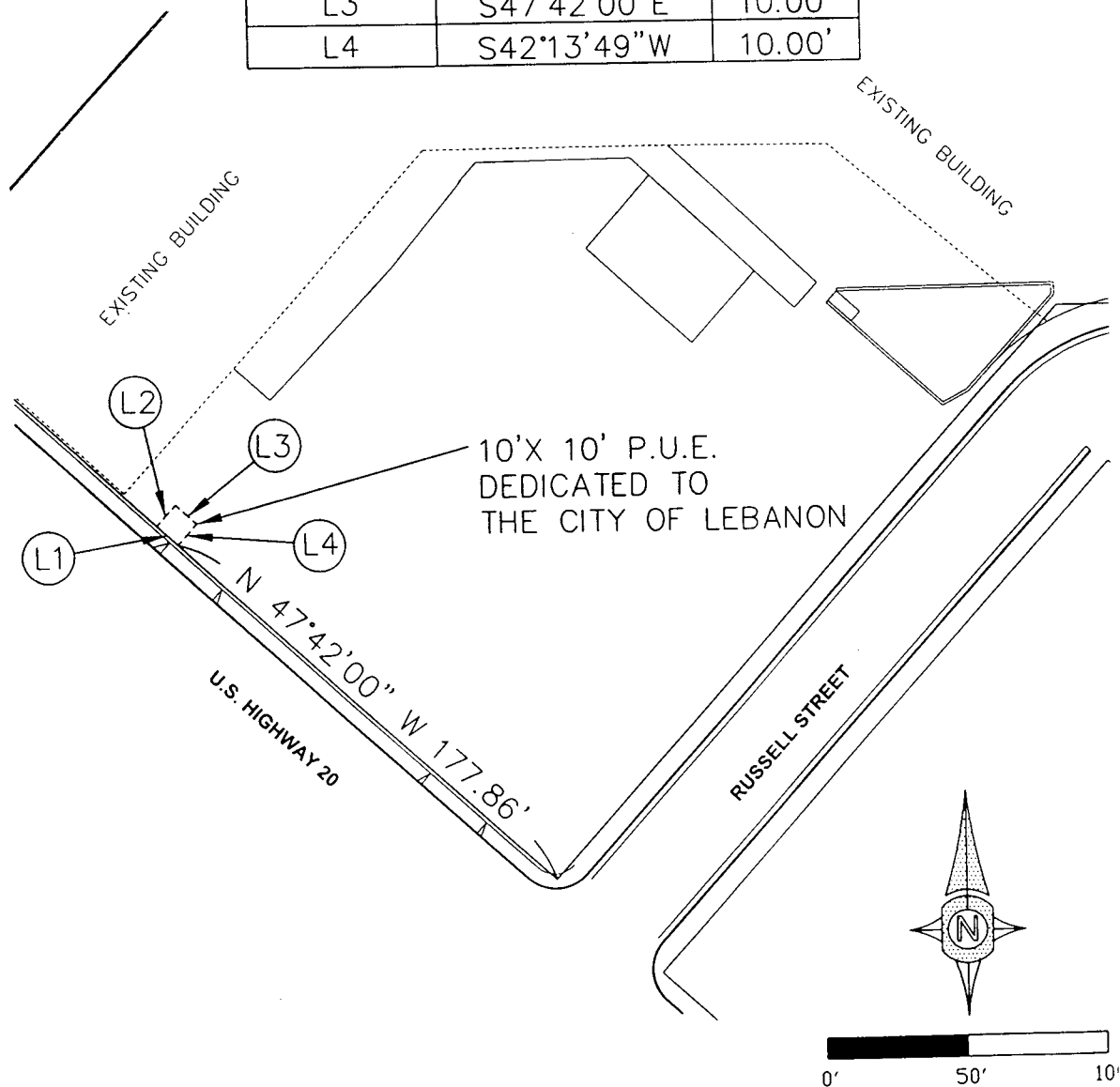
Beginning at a point on the North Right-of-Way of Santiam Highway which is North $47^{\circ}42'00''$ West 177.86 feet from the North corner of the intersection of Santiam Highway and Russell Street, said north corner also being the most southerly corner of property described in volume 638, page 867 in Linn County Deed Records; thence North $47^{\circ}42'00''$ West along said North Right-of-Way 10.00 feet; thence North $42^{\circ}13'49''$ East 10.00 feet; thence South $47^{\circ}42'00''$ East 10.00 feet; thence South $42^{\circ}13'49''$ West 10.00 feet to the point of beginning.

EXHIBIT B

PUBLIC UTILITY EASEMENT TO THE CITY OF LEBANON

SW 1/4 SW 1/4 SECTION 14, TOWNSHIP 12 SOUTH, RANGE 2 WEST, W.M.
CITY OF LEBANON, LINN COUNTY, OREGON
MARCH 21, 2003

LINE TABLE		
LINE	BEARING	LENGTH
L1	N47°42'00"W	10.00'
L2	N42°13'49"E	10.00'
L3	S47°42'00"E	10.00'
L4	S42°13'49"W	10.00'



Agenda Item 6



CITY OF LEBANON

MEMORANDUM

TO: City Councilors

DATE: March 21, 2003

FROM: Mayor Toombs

SUBJECT: Re: City Administrator's Report

John will present an oral report at the March 26th, 2003 City Council meeting.

JEH/tat

Executive Session

Per ORS 192.660(1)(e) To conduct deliberations with persons designated by the Council to negotiate real property transactions.

Executive Sessions are closed to the public due to the highly confidential nature of the subject. Therefore, it is unlawful to discuss anything outside of the Executive Session.