

**MINUTES  
LEBANON CITY COUNCIL MEETING**

**February 26, 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. 5<sup>th</sup> Street. All Councilors were present.

**CONSENT CALENDAR**

CITY COUNCIL AGENDA – February 26, 2003

CITY OF LEBANON MEETING MINUTES:

- City Council Work Session – January 22, 2003
- City Council Meeting Minutes – January 22, 2003
- CIP Committee Meeting Minutes – October 14, 2003
- CIP Committee Meeting Minutes – November 18, 2003
- CIP Committee Meeting Minutes – December 9, 2003
- Library Advisory Board Meeting Minutes – January 8, 2003
- Senior Advisory Board Meeting Minutes – January 15, 2003

Mayor Toombs amended the agenda by taking Item #9 CERTIFICATION OF PETITION (Referral to Voters of Proposed Charter Amendment) off of the agenda because it was discussed at a special Council Meeting last week.

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

**PUBLIC HEARINGS**

**1) GILBERT LIMITED TRUST – Oak Street Annexation**

City Attorney McHill briefed Council on the January 22, 2003 public hearing and that it is being continued tonight with the purpose of deliberation only. The applicant was granted seven days to respond to the opponents. The Friends of Linn County (FOLC) responded to the applicant's submittal

indicating that they felt that the applicant's response injected new evidence into the case beyond the scope allowed.

Councilor Thackaberry felt that the recent proponent's submittal injected new evidence beyond the scope allowed (letters from the Fire Chief and City Administrator). Therefore, he did not read the letters because he felt they were new evidence and should not be considered in rebuttal. City Attorney McHill explained that Council would need to decide on whether the letters and other materials submitted by the applicant after the close of the January 22 hearing constituted new evidence or was simply a response to evidence already heard.

Councilor Simpson felt that it was subjective on whether or not items were considered new evidence and listed several points of interest: The fact that the Comp Plan requires that the City then ensures adequate facility capability and that the capability exists, the unlikely probability of reoccurring flooding, adequate facilities to meet the need were presented from the Police, Library, and School District, the proposal would minimize the traffic on Oak Street, minimal impact on bicycles and pedestrians, and the fact that Mr. Walsh, OECD, had discussed that there are very few properties like this in the area prove that the annexation request meets all requirements.

The consensus was that the applicants written response of January 29 meets all the requirements and the written testimony was merely answering some questions raised during the hearing of January 22, but should not be considered as new evidence.

*A motion was made by Councilor Munk, seconded by Councilor Miller and passed with 5 yeas (Councilor Elliott, Harrington, Miller, Munk, and Simpson) and 1 nay (Councilor Thackaberry) that the written rebuttal from Weatherford, Thompson, Cowgill, Black and Schultz of January 28, 2003 was within the allowed scope of rebuttal and did not present any new evidence.*

City Attorney McHill read the title of the Ordinance.

*Councilor Simpson, seconded by Councilor Elliott, made a motion to adopt the Ordinance.*

Councilor Thackaberry stated he did not support the motion and he felt that the annexation request should be accompanied by a development proposal to adequately assess public need and the way the zoning is established.

*The motion passed with 5 yeas (Councilor Elliott, Harrington, Miller, Munk, and Simpson) and 1 nay (Councilor Thackaberry) by roll call that A BILL FOR AN ORDINANCE ANNEXING AND ZONING PROPERTY FOLLOWING CONSENT FILED WITH THE CITY COUNCIL BY LANDOWNERS IN SAID AREA PURSUANT TO ORS 222.120 and ORS 222.170 (File A-02-05) be adopted.*

## **2) CORNELL FAMILY TRUST – 5<sup>th</sup> Street Annexation**

City Attorney McHill explained that this annexation request is the same procedurally as the last and it was first heard at a public hearing on January 22, 2003. [McHill noted that the material in the Council packet at the end of the report does not belong in the packets, starting with the letter by Mr. Schultz dated January 28, 2003.] McHill explained that Council would need to decide on whether the opponent's material injects new issues into the case beyond the scope allowed.

***Councilor Thackaberry made a motion, Councilor Munk seconded for sake of discussion, to accept that the scope of the applicant's written rebuttal of January 29, 2003 is new evidence and that Council should also consider the response from the FOLC.***

Councilor Munk asked what Councilor Thackaberry considered the new evidence to be. Councilor Thackaberry suggested that Exhibit "B" and the table of Land Annexed since August 1977 were new evidence. Councilor Munk felt it was addressing issues raised by the opposition. Councilor Munk stated that he felt that the table pertained to the opposition's question of the usable land already within the city limits.

Councilor Miller felt that all the relevant data had been presented and no new evidence is being presented.

***The motion failed with 1 yea (Councilor Thackaberry) and 5 nays (Councilor Elliott, Harrington, Miller, Munk, and Simpson) that the written rebuttal from the applicant not be accepted since it was new evidence.***

City Attorney McHill read the title of the Ordinance.

***Councilor Miller, seconded by Councilor Elliott, made a motion to adopt the Ordinance.***

Councilor Thackaberry stated he did not support the motion and he felt that the annexation request did not adequately address public need, public facilities, the zoning issues, and compact growth.

***After deliberation, the motion passed with 5 yeas (Councilor Elliott, Harrington, Miller, Munk, and Simpson) and 1 nay (Councilor Thackaberry) by roll call that A BILL FOR AN ORDINANCE ANNEXING AND ZONING PROPERTY FOLLOWING CONSENT FILED WITH THE CITY COUNCIL BY LANDOWNERS IN SAID AREA PURSUANT TO ORS 222.120 and ORS 222.170 (File A-02-06) be adopted.***

### **3) REMAND OF HERB-COOK ANNEXATION (A-02-03)**

City Attorney McHill briefed Council on the action of a previous hearing (Herb-Cook Annexation) that was appealed to LUBA and that it was remanded back to look at the findings and address issues raised by the petitioners (FOLC). McHill explained the public hearing procedure for this hearing and read the relevant criteria provided in the staff report. 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 concludes any appeal on that issue.

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

City Planner Parker explained that the Planning Commission conducted a public hearing regarding the annexation on May 15, 2002 and recommended to City Council for approval, August 14, 2002 at which time Council took action to annex the property. That ordinance passed in August and is in effect today. The Council needs to review the evidence and make sure that the findings adequately reflect and consider all the testimony provided. Mr. Parker gave a brief history of the annexation requested by Thomas Herb and Norm and Nancy Cook. The request is for Residential Low Mixed Density (RM) zoning upon annexation for Tax Lot 1400 and Residential Low Density (RL) zoning upon annexation

for Tax Lot 2000. The proposed annexation is for a 2.61-acre territory comprised of Tax Lots 1400 and 2000, Assessor's Map 12-2W-23A as well as the adjacent Cascade Drive right-of-way. The property is located at 265 Cascade Drive and directly across Cascade Drive from this address.

City Engineer Dannen reviewed the city's infrastructure and made a correction to "2. Engineering, B. Water, under Staff Comments, "The nearest water mains are a 16-inch ~~12-inch~~ main. . ."

City Planner Parker reviewed the proposed findings noting that staff had made an inquiry to the Department of Land Conservation and Development (DLCD) asking whether or not there are any problems or discrepancies with the current annexation procedure regarding the assignment of zoning. The procedure the City has implemented is considered valid and appropriate by the DLCD staff. Mr. Parker corrected Finding #3 of Exhibit "B", Page 1 of 4 of the proposed Ordinance to read, "The proposed annexation complies with City Annexation Policy, Section 3, in that public infrastructure, namely sanitary sewer, improvements ~~are currently under construction~~ have been constructed to comply. . . Staff recommends to the City Council that the annexation and Comp Plan Map determined zoning assignments of Residential Low Density for Tax Lot 2000 and Residential Mixed Density for Tax Lot 1400 be approved and offered the staff report for the record. Mayor Toombs accepted the report for the record.

City Administrator Hitt conducted an informal survey of twelve cities approximately the same size as Lebanon and found that ten cities have, upon annexation, the same zoning assignment procedures as the City of Lebanon. City Planner Parker noted that staff made inquiries to the Planning Directors Association with seven out of nine respondents stating that they do not conduct a separate zone change hearing.

***Mayor Toombs opened the public hearing up to the applicant at 8:28 p.m.***

Brian Vandetta, Licensed Land Surveyor and Civil Engineer, with Udell Engineering spoke on behalf of the applicants and concurred with the findings listed. Mr. Vandetta spoke to the FOLC's reference at the last hearing that the storm drainage was inadequate in this area. Mr. Vandetta noted that Section 7.4 of the City's Drainage Master Plan states that the roadside ditches are adequate in this area. Mr. Vandetta reiterated the need for more residential land within the City of Lebanon addressed in a 1997 study done by the City of Lebanon.

***Mayor Toombs opened the hearing up to anyone in favor of the application. Hearing none, Mayor Toombs opened the hearing up to opponents of the application.***

Jim Just, FOLC, PO Box 113, Lebanon spoke to the growth pattern, public need, existing infrastructure, urban services provided, and Goals 11, 12 and 14 as outlined in his written testimony dated February 26, 2003. Mr. Just felt it was not clear who owns the Cascade Drive right-of-way.

***Mayor Toombs opened the public hearing up to the applicant for rebuttal.***

Mr. Vandetta addressed the right-of-way issue. All deeds that existed prior to the road being dedicated as public right of way, most of the property is dedicated to the County or the public use indefinitely. In his experience annexations often include public right-of-ways to keep the growth orderly.

***Hearing no other comments, Mayor Toombs closed the public hearing at 8:40 p.m.***

Councilor Harrington asked if the property belonging to ODOT and/or Linn County could be annexed. Mr. Parker stated that prior Council actions did annex the property and ODOT and Linn County

received notice and have not stated that the city was encroaching on their property.

City Attorney McHill read the Ordinance by Title.

*After deliberations, a motion was made by Councilor Elliot, seconded by Councilor Harrington, and approved by roll call vote with 5 yeas (Councilor Elliott, Harrington, Miller, Munk, and Simpson) and 1 nay (Councilor Thackaberry) that AN ORDINANCE AFFIRMING THE CITY OF LEBANON'S LAND USE DECISION IN ORDINANCE BILL NO. 34 FOR 2002, ORDINANCE 2321 (HERB/COOK), AND MAKING FURTHER FINDINGS IN SUPPORT OF SUCH DECISION including the amendment to Finding No. 3 (Exhibit "B").*

## **LEGISLATIVE SESSION**

### **4) 5<sup>TH</sup> STREET LID**

City Engineer Dannen briefed Council on the conclusion of the sidewalk construction on 5<sup>th</sup> Street and it being the time to assess the abutting property owners for the construction. The final cost for this LID is \$20,749.44.

City Attorney McHill read the Resolution by title.

*A motion was made by Councilor Thackaberry, seconded by Councilor Miller, and passed unanimously that A RESOLUTION APPROVING THE FINAL COST REPORT FOR THE 5<sup>TH</sup> STREET SIDEWALK LOCAL IMPROVEMENT DISTRICT (LID) PROJECT #00713 be adopted.*

City Attorney McHill read the Resolution by title.

*A motion was made by Councilor Munk, seconded by Councilor Thackaberry, and passed unanimously that A RESOLUTION APPROVING THE PROPOSED FINAL ASSESSMENT ROLL FOR THE 5<sup>TH</sup> STREET SIDEWALK LOCAL IMPROVEMENT DISTRICT (LID) PROJECT #00713 be adopted.*

### **5) MOTORCYCLE TRAFFIC ENFORCEMENT REPORT**

Police Chief Healy and Lieutenant Schulte gave a presentation on the motorcycle traffic enforcement program. A discussion followed regarding the collection rate on fines and the revenues lost to the county and state.

### **6) PRIVATE PARKING**

Police Chief Healy briefed Council on regulating parking on City-owned parking lots.

City Attorney McHill read the Resolution by title.

*A motion was made by Councilor Miller, seconded by Councilor Munk, and passed unanimously that A RESOLUTION REGULATING PARKING ON CITY-OWNED PARKING LOTS be adopted.*

### **7) CONSUMERS POWER FRANCHISE AGREEMENT**

Finance Director Cole briefed Council on the proposed 20-year franchise agreement, with the option to renegotiate after ten years upon proper notification. The estimated increase will provide an additional \$15,000 annually (from 3.5% to 5.94%).

City Attorney McHill read the Ordinance by Title.

*A motion was made by Councilor Munk, seconded by Councilor Thackaberry, and passed unanimously by roll call vote that A BILL FOR AN ORDINANCE GRANTING TO CONSUMERS POWER, INC., A NON-EXCLUSIVE FRANCHISE AND FIXING TERMS, CONDITIONS, AND COMPENSATION OF SUCH FRANCHISE be adopted.*

## **8) NW NATURAL GAS FRANCHISE AGREEMENT**

Finance Director Cole briefed Council on the modification Entek Incorporated made to interruptible tariff schedule for gas service, effective May 2002. The current agreement allows NW Natural Gas to exclude revenues received under this rate schedule from their franchise payment. The proposed agreement removes the exception from the agreement. NW Natural Gas has accepted this proposed change.

City Attorney McHill read the Ordinance by Title.

*A motion was made by Councilor Miller, seconded by Councilor Munk, and passed unanimously by roll call vote that A BILL FOR AN ORDINANCE AMENDING ORDINANCE BILL NO. 1 FOR 2001, ORDINANCE NO. 2274 CONCERNING TERMS, CONDITIONS, AND COMPENSATION FOR A NON-EXCLUSIVE GAS UTILITY FRANCHISE TO NORTHWEST NATURAL GAS COMPANY be adopted.*

## **9) CITY ADMINISTRATOR'S REPORT**

City Administrator Hitt discussed the following:

- City Council Goal Setting – April 2, 2003 – School District Board Room.
- Budget Committee Meetings – May 7 (7:30 p.m.), May 8, 9 and 10 (6:30 p.m.) – School District Board Room.
- Working on a new form to assist in getting public information and the costs involved.
- Staff has had a series of meeting regarding sharing vehicle maintenance with the School District and Fire District to reduce costs.
- The Senior Center has received insurance coverage for the LMS site. However, coverage for the gymnasiums has been difficult due to obtain due to the poor condition of the buildings.
- Inquiries have been received for profit and nonprofit gambling activities. An ordinance will be drafted and presented to Council.
- The new Council binder was reviewed. A page with phone numbers and emails for both Council and senior staff was requested by Councilors Elliott and Munk to insert in the new binders.
- The City will hold a Council meeting the week of Spring Break (March 26, 2003).

## **10) SALARY REVIEW – City Administrator**

Mayor Ken Toombs reminded Council that at their last meeting they came to a consensus that a 2% cost of living pay be given to City Administrator Hitt to match the exempt staff's cost of living pay done in July of 2002.

*A motion was made by Councilor Thackaberry, seconded by Councilor Munk, and passed unanimously to give City Administrator John Hitt a 2% cost of living increase effective as of July 1, 2002.*

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

Jim Just, Friends of Lebanon, presented a report prepared by John Puma and himself regarding taxpayers subsidizing growth. Review of SDC charges were reviewed and calculations were done on the city's data. Transportation Plan, Walden Project and inflation were not taken into account. Their conclusion was that the City is charging 20% of what is needed to recover costs of providing infrastructure. Councilor Munk asked if comparative cities were looked at to see what they were charging. Mr. Just stated, with the exception of Eugene, he had not.

John Brown, 33435 Tennessee Road, questioned whether Councilor Thackaberry had a conflict of interest since he was recently a board member of the FOLC.

Gloria Olson, representing the Friends of Lebanon and FOLC, 236 Airport Road, asked Council to look closely at the process in which land use decisions are made and that the organizations in which she belongs simply ask for higher standards and to work together for the good of the community.

John Brown, 33435 Tennessee Road, discussed the costs of developing a subdivision and how the developer is the one that incurs the costs through SDC charges; the citizens do not pay for the development.

### **ITEMS FROM COUNCIL MEMBERS**

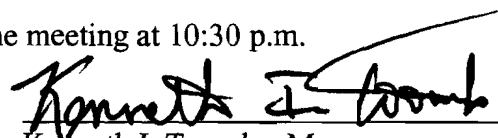
Councilor Simpson informed the Council that there would be a Council Forum at 7:00 p.m. on March 5, 2003 at the Nazarene Church. Annexation issues will be the first item.

Councilor Thackaberry would like to be considered for both the SDC Committee and the Parks Committee.

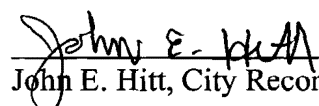
Mayor Toombs asked Council to come up with a date for the City/County Dinner.

Councilor Thackaberry asked if the cut of money the County receives from the traffic citations goes into General Fund.

**ADJOURNMENT** - Mayor Toombs adjourned the meeting at 10:30 p.m.

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

ATTESTED BY:

  
John E. Hitt, City Recorder

# Lebanon Police Traffic Team

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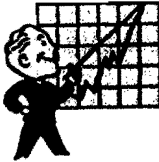
## Progress Report





## Lebanon Police Traffic Team

### Progress Report



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## Original Proposal

- To increase level of traffic enforcement within Lebanon and allow officers to refocus attention:
  - Form a two-person motorcycle traffic enforcement team.
  - Team could issue sufficient citations to recoup expenses of the team.

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## Accomplishments

- Over 4800 contacts with the public since implementation.
- Overwhelming positive response by public. (Even by those receiving cites).
- Unanticipated \$18,000 in impound revenue.

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### Accomplishments (cont.)

- Very high rate of compliance on seatbelt use.
- Numerous narcotics cases.
- Methamphetamine Lab Seizures.
- Found and arrested Kidnapping suspect.
- Creates cooperation with VALIANT.

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### Non-Monetary Benefits

- Increased police presence on street. (Often the only visible police officers).
- High visibility presence.
- Extra officers = more back-up, faster response to emergencies.
- More "bad-guys" off the street.
- Allows patrol officers to refocus their attention.

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### Violator's Comments

- *"I think it's great we finally have some traffic enforcement."*
- *"You can use my driveway anytime, they speed through here all the time."*
- *"I just wish it was a two-seater, so I could ride along."*
- *"I don't care if I'm suspended, I'm going to drive anyway."*
- *"Why do I need insurance, I don't never get into wrecks."*

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### Violator's Comments (cont.)

- *"I used to out run you guys but now I don't stand a chance."*
- *"I usually wait until after 5:00 o'clock to speed because I know you guys get off then."*
- *"You guys are hard to see, so I gotta look hard to find you."*

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### Non-Violator Comments

- *"If it's cold or wet, come on inside and make some coffee."*
- *"People have really slowed down a lot since you started working here. I can tell a big difference."*
- *"People are a whole lot nicer when they see you sitting here." – School crossing guard.*
- *"They must think you're hiding, because they don't pass me anymore." – School bus driver.*

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### Sample of Requests

- Airport Rd. (Multiple).
- 12<sup>th</sup> & D St.
- 2<sup>nd</sup> & J St.
- 5<sup>th</sup> & Vine St.
- Walker & 6<sup>th</sup>.
- 10<sup>th</sup> & Lindsay
- Williams St. (Multiple).
- S. Main & Kari Pl.
- E. Grant St. (Multiple).
- 5<sup>th</sup> & Grant

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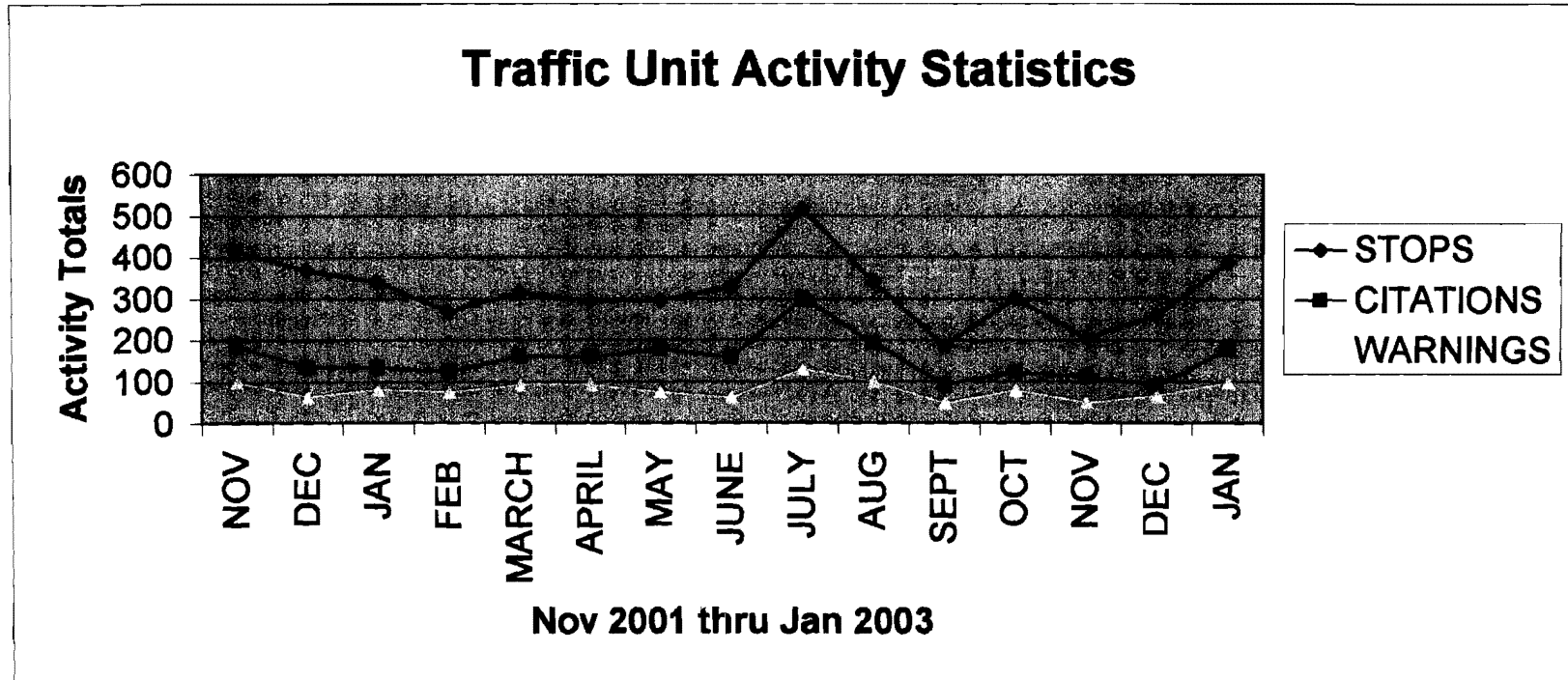
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### Traffic Unit Activity Statistics November 2001 - January 2003

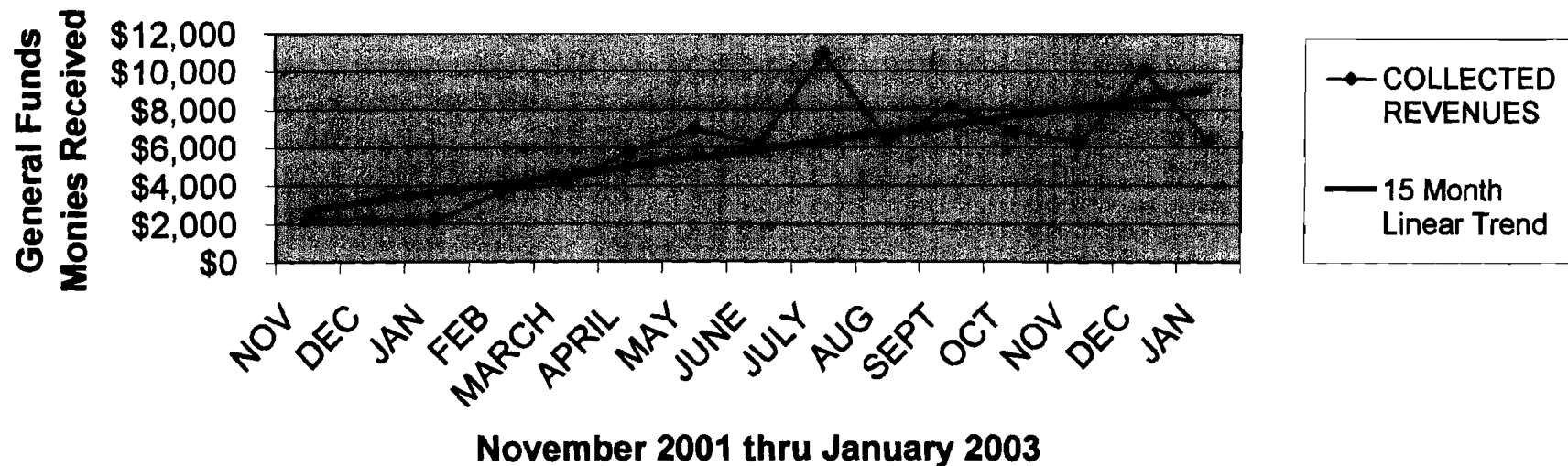
	NOV	DEC	JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	TOTAL
<b>STOPS</b>	416	367	341	268	316	292	296	328	515	339	186	301	204	261	387	4817
<b>CITATIONS</b>	187	133	133	123	161	159	178	159	300	192	92	122	111	90	176	2316
<b>WARNINGS</b>	100	64	82	76	93	94	76	62	130	100	49	80	51	67	98	1222



# **Traffic Unit General Fund Revenues Generated November 2001 - January 2003**

	NOV	DEC	JAN	FEB	MARCH	APRIL	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	JAN	TOTAL
COLLECTED REVENUES	\$2,240	\$2,240	\$2,212	\$3,689	\$4,146	\$5,757	\$6,943	\$6,142	\$10,883	\$6,387	\$8,101	\$6,830	\$6,205	\$10,028	\$6,349	\$88,152

## **Traffic Unit General Funds Generated (After State Assessments and Fees)**

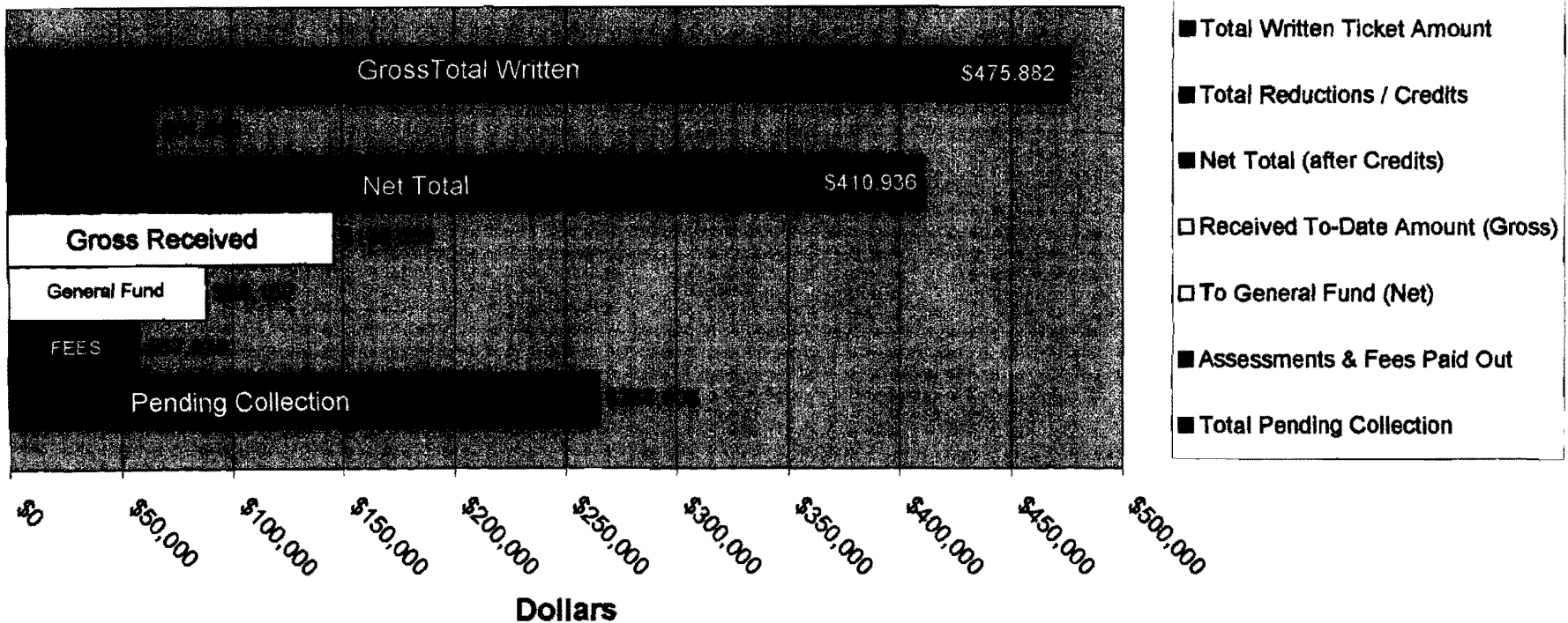


**Total General Fund Revenues Received: \$ 88,152 (NET)**

**Traffic Unit Revenue Statistics  
November 2001 thru January 2003**

Total Pending Collection	\$264,906
Assessments & Fees Paid Out	\$57,878
To General Fund (Net)	\$88,152
Received To-Date Amount (Gross)	\$146,030
Net Total (after Credits)	\$410,936
Total Reductions / Credits	\$64,946
Total Written Ticket Amount	\$475,882

**Traffic Unit Revenue Statistics Nov. 2001 thru Jan. 2003**



Based on the above information, it is projected that of the \$264,906 still pending collection, and if collected, would net approximately 55% or \$145,698 for General Fund and approximately 45% or \$ 119,207 would be paid out in State and County Assessments and Fees.



# Traffic Unit Vehicle Impounds

Nov. 2001 thru Jan. 2003

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- 303 Vehicles Impounded
- \$17,600 General Fund Dollars  
Generated in Collected Admin Fees
- 58% Average Collection Rate