

City of Springfield
Regular Meeting

MINUTES OF THE REGULAR MEETING OF
THE SPRINGFIELD CITY COUNCIL HELD
MONDAY MAY 16, 2005

The City of Springfield council met in regular session in the Council Meeting Room, 225 Fifth Street, Springfield, Oregon, on Monday, May 16, 2005, at 7:04 p.m., with Mayor Leiken presiding.

ATTENDANCE

Present were Mayor Leiken and Councilors Ballew, Ralston, Lundberg, Woodrow and Pishioneri. Also present were City Manager Mike Kelly, Assistant City Manager Cynthia Pappas, City Attorney Joe Leahy, City Recorder Amy Sowa and members of the staff.

Councilor Fitch was absent (excused).

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Leiken.

SPRINGFIELD UPBEAT

1. Recognition of Troy McAllister for Fifteen Years of Service to the City of Springfield.

City Manager Mike Kelly recognized Troy McAllister for his years of service with the City of Springfield. Mr. Kelly discussed Mr. McAllister's position with the regional wastewater program in the city and the importance of that program. He gave a brief history of Mr. McAllister's background with the city. Mr. Kelly discussed Mr. McAllister's fishing expeditions and passed around a photo of one of his fishing trips. Mr. Kelly noted the dedication and hard work of Mr. McAllister and how his co-workers enjoy working with him.

CONSENT CALENDAR

Councilor Lundberg asked to remove item 1.a. She had a conflict of interest and recused herself from action on this item.

IT WAS MOVED BY COUNCILOR WOODROW WITH A SECOND BY COUNCILOR LUNDBERG TO APPROVE THE CONSENT CALENDAR WITH ITEM 1.A REMOVED. THE MOTION PASSED WITH A VOTE OF 5 FOR AND 0 AGAINST (1 ABSENT – FITCH).

1. Claims
2. Minutes
 - a. March 28, 2005 – Work Session
 - b. April 4, 2005 – Work Session
 - c. April 4, 2005 – Regular Meeting
 - d. April 11, 2005 – Work Session

- e. April 19, 2005 – Joint Elected Officials Work Session
- f. April 19, 2005 – Joint Elected Officials Public Hearing

3. Resolutions

- a. RESOLUTION NO. 05-26 – A RESOLUTION TO ACCEPT PERMIT PROJECT P30384; PUBLIC IMPROVEMENTS AT ASPEN PARK SUBDIVISION ON THE EAST SIDE OF ASPEN STREET BETWEEN DIAMOND STREET AND HAMILTON STREET.
- b. RESOLUTION NO. 05-27 – A RESOLUTION TO ACCEPT PERMIT PROJECT P30399; PUBLIC IMPROVEMENTS AT ASPEN PARK SUBDIVISION, FIRST ADDITION ON DIAMOND STREET.
- c. RESOLUTION NO. 05-28 – A RESOLUTION FIXING FEES FOR THE PLACEMENT UNDERGROUND OF NON-UTILITY FACILITIES WITHIN THE PUBLIC WAYS OF THE CITY OF SPRINGFIELD.

4. Ordinances

- a. ORDINANCE NO. 6128 – AN ORDINANCE CONCERNING SANITARY SEWER CHARGES INCLUDING RATES AND AMENDING SECTION 4.206 OF THE SPRINGFIELD MUNICIPAL CODE.

5. Other Routine Matters

- a. Approval to Award the Subject Contract to H & J Construction in the Amount of \$194,482.50 for Project P20389; Sanitary Sewer Repair and Construction, 30th Street Between Industrial Street and Olympic Street and Vicinity.
- b. Approval to Award the Subject Contract to Wildish Construction in the Amount of \$122,711.50 for Project P20289; South 14th Street Improvements Main Street to South A Street and Vicinity.

ITEMS REMOVED FROM THE CONSENT CALENDAR

- 1. a. Approval of the April 2005, Disbursement for Approval.

IT WAS MOVED BY COUNCILOR WOODROW WITH A SECOND BY COUNCILOR BALLEW TO APPROVE ITEM 1.A. OF THE CONSENT CALENDAR. THE MOTION PASSED WITH A VOTE OF 4 FOR AND 0 AGAINST (1 ABSENTION- LUNDBERG AND 1 ABSENT – FITCH)

PUBLIC HEARINGS - **Please limit comments to 3 minutes. Request to speak cards are available at both entrances. Please present cards to City Recorder. Speakers may not yield their time to others.**

- 1. Vacation of a Subdivision Boundary Line (Assessor's Map 18-02-02-12, TL 98 and 99), Jo. No. LRP2004-00034.

ORDINANCE NO. 2 – AN ORDINANCE VACATING A SUBDIVISION BOUNDARY LINE ALONG THE EAST SIDE OF LOTS 98 AND 99, MCKENZIE HILLS FIRST ADDITION, AS RECORDED IN FILE 73, SLIDES 89 AND 90, LANE COUNTY, OREGON PLAT RECORDS. (FIRST READING)

City Planner Sarah Summers presented the staff report on this item. The applicant is requesting vacation of a subdivision boundary line along the east side of lots 98 and 99 in the McKenzie Hills First Addition subdivision. This action is in conjunction with a concurrent subdivision replat application.

The applicant is requesting the vacation of a subdivision boundary line along the east side of lots 98 and 99 in the McKenzie Hills First Addition subdivision. It is the common boundary line between the above subdivision lots and Tax Lot 5201 on Tax Map 18-02-02-12. The vacation in conjunction with a concurrent subdivision replat application will allow a portion of lot 99 to be added to lot 98. The remainder of lot 99 will be dissolved into TL 5201. Both lot 99 and TL 5201 have the same owner. The applications have been submitted in order to correct conditions created when the house on lot 98 was built within a side yard setback and with its driveway encroaching into lot 99. The Planning Commission held a public hearing on May 3, 2005, and voted to recommend adoption of the proposed vacation ordinance.

Ms. Summers said the applicants had hoped to attend tonight's meeting but were detained out of town. She discussed the issues regarding this property. This had taken a long process to come to resolution.

Councilor Ballew asked who issued the permit to build the home on this property.

Ms. Summers said the city issued the permit.

Mr. Leahy said there was a question regarding where the pin was located separating the two lots at the time the city's building inspector arrived.

Mayor Leiken opened the public hearing.

No one appeared to speak.

Mayor Leiken closed the public hearing.

NO ACTION. FIRST READING ONLY.

2. Liquor License Endorsements for the Renewal Period of 2005-2006.

Councilor Lundberg recused herself from this item as she had a conflict of interest. Her restaurant was one of the applicants.

Community Services Manager Dave Puent presented the staff report on this item. The attached list of 122 businesses will likely be applying to the Development Services Department for their 2005-2006 liquor license endorsements prior to June 30, 2005.

On December 19, 1994, council approved Ordinance No. 5768 that established specific criteria to be used when reviewing an application for a liquor license endorsement. Council may recommend denial based upon reliable, factual information as it relates to any of the criteria listed in Section 7.302 of the Springfield Municipal Code.

Some of the required information for liquor license renewal, i.e., ownership of the establishment, cannot be determined until staff receives the actual application. However, some determination about meeting the listed criteria can be made now since the criteria relates to the level of police activity associated with the establishment.

The public hearing this evening is scheduled for council to receive community testimony relative to the liquor license renewal endorsement. At the conclusion of the public hearing, council is requested to provide one of the following recommendations to the Oregon Liquor Control Commission for the license renewal of the listed establishments: 1. Grant; 2. No Recommendation; 3. Do Not Grant Unless (applicant demonstrates commitment to overcome listed concerns); or 4. Deny.

Mr. Puente said he had not received any verbal or written communication regarding tonight's public hearing.

Councilor Ballew said it did not appear there were any establishments that had received an excessive amount of police calls.

Mr. Puente said that was correct. The calls were similar to last year.

Mayor Leiken opened the public hearing.

No one appeared to speak.

Mayor Leiken closed the public hearing.

IT WAS MOVED BY COUNCILOR WOODROW WITH A SECOND BY COUNCILOR BALLEW TO APPROVE LIQUOR LICENSE ENDORSEMENTS FOR THE RENEWAL PERIOD OF 2005-2006. THE MOTION PASSED WITH A VOTE OF 4 FOR AND 0 AGAINST. (1 ABSTENTION – LUNDBERG AND 1 ABSENT – FITCH)

3. Annexation of 0.33 Acres of Industrial Property to the City of Springfield, Planning File LRP2005-00005 (Tumuck Tonsh Investment Company, Applicant).

RESOLUTION NO. 05-29 – A RESOLUTION INITIATING ANNEXATION OF CERTAIN TERRITORIES TO THE CITY OF SPRINGFIELD IN ACCORDANCE WITH ORS 199.490(2)(a)(B) AND REQUESTING THAT THE LANE COUNTY LOCAL GOVERNMENT BOUNDARY COMMISSION APPROVE THE ANNEXATION BY EXPEDITED PROCEDURES IN ACCORDANCE WITH ORS 199.466.

City Planner Jim Donovan presented the staff report on this item. The applicant/property owners are re-developing a 1.5 acre site in Glenwood for use as offices and warehouse space for Chambers Construction Company. A 0.33 acre portion of the larger site is not yet annexed to the City of Springfield. Pending annexation and concurrent site plan approval for the larger

development area, the subject area will be used as a parking lot. The subject site abuts city limits and the remainder of the development site along its east boundary.

Expedited processing by the Boundary Commission is requested to allow issuance of land use decisions and approval during this summer's construction season.

The City Council is authorized by ORS 199.490(2)(a)(B) to initiate annexation upon receiving consent in writing from more than half the owners and a majority of the registered electors residing in the territory proposed to be annexed (i.e. double majority). Written consent from the owners' group has been obtained; there are no registered electors residing at the site. The city is authorized to request a twenty-five day processing time in accordance with ORS 199.466. The expedited Boundary Commission procedure includes notice to affected properties and agencies, a hearing and remonstrance period is provided upon request of an affected party.

Availability of key urban services required by Section 6.030 of the Springfield Development Code and Metro Plan Policy 8.a., page II-B-4, including but not limited to fire, police, sewer, water, streets and storm drainage, has been reviewed by staff. All services can be provided to the site in accordance with city codes during a concurrent application for Site Plan Review.

Mayor Leiken opened the public hearing.

No one appeared to speak.

Mayor Leiken closed the public hearing.

IT WAS MOVED BY COUNCILOR WOODROW WITH A SECOND BY COUNCILOR LUNDBERG TO ADOPT RESOLUTION NO. 05-29. THE MOTION PASSED WITH A VOTE OF 5 FOR AND 0 AGAINST (1 ABSENT – FITCH).

BUSINESS FROM THE AUDIENCE - Limited to 20 minutes. Please limit comments to 3 minutes. Request to Speak cards are available at both entrances. Please present cards to City Recorder. Speakers may not yield their time to others.

1. Dave Carvo, 4010 East 16th, Eugene, OR and Steve Moe, P.O. Box 847, Springfield, OR. (Mr. Moe and Mr. Carvo requested ten minutes to speak under Business from the Audience. Their request was approved by council leadership.) Mr. Moe said Glenwood's Comprehensive Plan included bike paths and access to Glenwood. Franklin Boulevard would eventually be a main corridor. When Lane Transit District (LTD) made a presentation in 1989, they discussed a bike path in this area. Mr. Moe referred to a map which showed an area on 14th Street in Glenwood for a proposed bike path. He noted that this area was inside Springfield city limits and that 14th Street was paved. He noted the areas owned by LTD. He said Springfield Utility Board (SUB) was putting a water line down 14th Street this summer to Glenwood Boulevard. Mr. Moe said he and Mr. Carvo had talked with LTD and SUB about moving the fence back and building a bike path. He discussed how this could connect with other bike paths in that area. LTD would allow this bike path. SUB said they would put in their line and put down a compacted gravel surface. He said they needed the city to assist in

building the bike path. He said it would enable a route into Glenwood that everyone could use. Residents of Glenwood would be very much appreciative.

Mr. Carvo discussed the timeline and noted that SUB and LTD staff had agreed to this project. Money would be needed for lighting. He said this path could be built with impervious surface so as not to affect stormwater runoff. They would also approach the Springfield Economic Development Agency (SEDA) with this proposal. This path would alleviate dangerous situations for bicyclists in this area.

Councilor Ballew asked how much it would cost.

Mr. Carvo said they did not yet know. He said they just wanted to offer the concept to council for their consideration. He said the water line would be going through, and they were just looking for a way to get lighting and asphalt.

Mr. Moe said the timing would be perfect.

Councilor Ballew said it was not currently on the Capital Improvement Program (CIP) budget. She asked if they had talked with public works staff.

Mr. Carvo said they had talked with Nick Arnis in Transportation. Mr. Arnis was checking into the cost.

Councilor Pishioneri suggested they contact public works for ideas. He said it was a great idea and recommended they continue to push forward.

Mr. Carvo said SEDA could possibly take a loan from the city and pay it back as they received revenue. Most of the cost would be done by the other agencies. It would allow biking and walking in a safe manner.

Councilor Ralston said it was a great idea. He asked if LTD was going to put bike lanes along Franklin Boulevard.

Mr. Carvo said not at this time.

Councilor Ralston said this would be a less expensive way of putting in a bike path than if property needed to be acquired for a path along Franklin Boulevard. He said it would probably be better for SEDA to use funds received from the city in the form of a loan. He suggested partnering with LTD.

Mr. Carvo said it would have to be done by the city because it was in the city limits. He said it would take some action by the city either by partnership or alone. The other agencies were putting in what they could.

Councilor Lundberg asked if staff needed direction.

Mr. Kelly said staff could look into this issue. There was a grant offer from ODOT for bike paths and sidewalks closer to Franklin Boulevard, but a complicating issue for Franklin Boulevard is the right-of-way. This may be an opportunity for the city. He said the city did

not want to waste any public money by putting in paths that would be removed later for improvements to Franklin Boulevard. This may be a better option. He said staff would report back to council by the Communication Packet. If action by council was needed, staff would bring it back for consideration during a regular meeting under Business from the City Manager.

Mayor Leiken commended Mr. Moe and Mr. Carvo for thinking of this option. He agreed a Communication Packet memo would be helpful.

Mr. Kelly said staff would get that memo out to council in a week or two.

2. Fred Simmons, 312 S. 52nd Place, Springfield, OR Mr. Simmons said it appeared Qwest was already charging their customers the charge for the Utility Tax. He said it was his understanding that once the referendum was complete, the Utility Tax could not take affect until thirty days following the election. He said the city needed to check with Qwest on this issue. Mr. Simmons also discussed the Main Street stormwater cleaning issue which he had raised at a prior meeting. He said he had not seen any evidence of a 195 agreement that bequeaths the responsibility from ODOT to the City of Springfield for that \$100,000 annual cost for maintenance of the stormwater line. He said that was nearly thirty cents per month, per resident in the City of Springfield. He said this item would be Attachment B-2 in the Budget Committee packet and he would suggest putting pressure on ODOT that it was their responsibility. He also spoke on the county public safety district. He said there were more questions than answers and he asked council not to move forward on this item. He also made a friendly suggestion that Councilor Pishioneri declare a conflict of interest on that item due to his position with the Lane County Sheriff's office.
3. Curtiss Greer, 357 55th Street, Springfield, OR Mr. Greer said this nation was founded on Christian principles. He discussed the choice of Mayor Piercy of Eugene not to attend the Mayor's Prayer Breakfast and thanked Mayor Leiken for choosing to attend.
4. Joan Armstead, 4718 East 16th, Springfield, OR Ms. Armstead spoke first on the bike path proposed by Mr. Carvo and Mr. Moe. She said she supported that bike path because the Franklin Boulevard is dangerous for bikes to navigate. She said it could also be a showcase of what could be done with permeable pavement and the right type of lighting. She suggested putting in landscaping with native plants which would be beneficial and low maintenance. She said there was a neighborhood group that could assist with planting. She said 14th Street could become an alternate route that people would enjoy taking. She encouraged plans for the Franklin and I-5 Interchange to be gentle on the land and the river. She encouraged the use of bioswales along that area as much as possible and good lighting that didn't shine out in space but lower towards the ground. She recommended that buildings would not be any taller than the tallest tree along the Willamette River. She said she was excited about the future and hoped good decisions were made in Glenwood that would save money and work well.

COUNCIL RESPONSE

CORRESPONDENCE AND PETITIONS

1. Correspondence from Steve Moe and Dave Carvo, P.O. Box 847, Springfield, OR Regarding Additional Time to Speak to Council Regarding a Bike Path in Glenwood.

2. Correspondence from Raymond Zimmer, P.O. Box 481, Springfield, OR Regarding Hayden Bridget Area Air Quality.
3. Correspondence from Steve and Sheri Tofflemoyer, P.O. Box 147, Springfield, OR Regarding Annexation and Offer to Purchase Real Property (18-02-05 TL 1900).

IT WAS MOVED BY COUNCILOR WOODROW WITH A SECOND BY COUNCILOR LUNDBERG TO ACCEPT THE CORRESPONDENCE FOR FILING. THE MOTION PASSED WITH A VOTE OF 5 FOR AND 0 AGAINST (1 ABSENT – FITCH).

BIDS

ORDINANCES

1. Continued Deliberation and Decision on Proposed Metro Plan Amendment to Chapter II, Growth Management, Policy 15 to Allow the Creation of a County-Wide Public Safety District Within the Boundaries of the Metro Plan.

ORDINANCE NO. 6129 – AN ORDINANCE AMENDING THE EUGENE-SPRINGFIELD METROPOLITAN AREA GENERAL PLAN (METRO PLAN) TO CLARIFY AND PROVIDE GREATER FLEXIBILITY FOR PUBLIC SAFETY SERVICE DELIVERY IN THE EUGENE-SPRINGFIELD METROPOLITAN AREA (METRO PLAN, *GROWTH MANAGEMENT, POLICY 15*).

Councilor Pishioneri said on April 20 of last month he contacted the Ethics Commissioner regarding his involvement as an employee of the county and the decision making process council was going through this evening regarding the Metro Plan. He said that he and the Ethics Commissioner realized there was no conflict and he would continue forward. He guaranteed he would not show any bias toward any party.

Planning Manager Greg Mott presented the staff report on this item. Policy 15 in the Metro Plan must be amended as an initial step in the formation of this countywide public safety district within the boundary of the Metro Plan. Formation of the boundaries of this taxing district will be approved or denied by the Lane County Local Government Boundary Commission. Ratification of the district will be determined by an election of the people who reside within the district.

After close of the record on April 19, 2005, several of the elected officials posed questions to Lane County staff regarding potential impacts caused by the proposed public safety district. The main theme to these questions involved compression, however, there were some questions directed toward service delivery and the precedent this amendment might set. Please refer to Attachment 1 in the agenda packet to review these questions and the answers provided by Lane County.

On May 10, 2005 the Board of Commissioners deliberated on this proposal and approved a modification intended to address concerns about compression. Please refer to Attachment 3 in the agenda packet for an explanation of this action.

Mr. Mott said this was a continuation of the hearing from the April 19, 2005 Joint Elected Officials. He asked council to review the questions listed in Attachment 1 and ask additional

questions if needed. He noted that Lane County staff was in the audience to assist with some of those questions.

Mr. Mott said the Lane County Board of Commissioners held their fourth reading on this ordinance on May 10. Attachment 3 in the agenda packet was a memo from Lane County Board Chair Anna Morrison regarding an addition to the Metro Plan text that the Board of Commissioners provisionally adopted. Eugene and Springfield would have to agree to that same language before it could be incorporated into the plan. He said the amendment was an attempt to address an issue that came up during the public hearing. That addition was in bold and underlined in the memo regarding policy 15F. The City of Eugene was prepared to take action this week, but rescheduled to May 23. The Springfield City Council could vote or not on this ordinance. He said council may choose to get advice from legal counsel on the additional sentence.

Councilor Woodrow asked Mr. Leahy if the addition of the last line fit within the parameters of the public hearing.

Mr. Leahy said it would because there was a lot of testimony and discussion that ensued regarding this issue. Although the sentence was not included in the public hearing, it was in the testimony and discussion and anyone attending the public hearing would have been informed. The affect falls on the proponents rather than council.

Councilor Ballew said the county justice system is in dire straights and this was the first move to do something different. This district was a financing tool for an improved justice system for the whole county and she said she would support it. She would ask the county to limit their special district to juvenile and adult corrections. She felt these steps were needed to begin the process and she did not see another way to solve the problem countywide.

Councilor Lundberg said she did not believe this would ever pass by an election of the people because it would take the whole county to vote for it. She didn't think the county would want to raise their taxes again to pay for something they believed should already be paid for. There were too many questions about what this meant. She said this was narrowly written to create this district. She said a solution would be found one way or another. She hadn't talked with anyone that supported this idea. She said she didn't want to see another special district and didn't think it would be supported. She said it was difficult to find an answer that she could support.

Councilor Pishioneri said he had worked around corrections for two decades and he had seen criminals getting away with crimes. He said there was a point when enough was enough. Innovative ideas were needed and this was innovative. This was the first step and a tool to keep looking for something that could work. He said it wasn't up to the council to tell the county they should not do this, but rather it should be left to the citizens to decide. He said he would support the amendment.

Councilor Ralston said he did not support special districts. He said it was a way to circumvent the voters desire to help cut the cost of government. Lane County would not solve this problem. Springfield was in the process of solving this problem in our own way and this would be counter productive to anything the city was doing. He said compression would affect every aspect of the services the city, Willamalane, and other agencies provide. He said it would fail at the polls. There were no dollar figures known yet and to throw large amounts of money at this problem

would not solve anything. There was no guarantee the county would do what needed to be done regarding prosecuting or retaining criminals or making them have some type of consequences for their actions. He said he would not support changing the Metro Plan.

Councilor Woodrow said this was a tough decision. It was difficult in part because the special district would be voted on in 2006 at the same time the Springfield Police levy would go back to the voters. He applauded Lane County, especially the District Attorney and Sheriff, for looking for a way to resolve the problem. He didn't think it was right yet, but he would support it to the point of taking it to the next step.

Mayor Leiken said it was a travesty that council had to discuss this issue. He said the officials from Lane County, Douglas County, Coos County and other timber producing counties needed to speak to their Federal representatives regarding the lack of funding from timber harvesting. He said it had been a lack of leadership and local government needed to step up to talk to our Federal partners to get the funding needed for these services. He said we had a great opportunity when Oregon and California Timberlands (O & C) funded all of these services. He discussed the loss of funds. He supported looking at the land use issue and asking council to move forward on this. He said he would want to see the details of the district. He said the resources to fund this were available.

Councilor Ralston asked if all three jurisdictions had to pass this in order to change the Metro Plan. Yes.

IT WAS MOVED BY COUNCILOR WOODROW WITH A SECOND BY COUNCILOR BALLEW TO ADOPT ORDINANCE NO. 6129 PREDICATED ON SUCCESSFUL NEGOTIATIONS OF AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH LANE COUNTY THAT WOULD SPECIFY HOW THE PUBLIC SERVICE DISTRICT FUNDS WOULD BE ALLOCATED TO SPRINGFIELD. WE WOULD WANT TO SEE THAT IGA COMPLETED AND SIGNED PRIOR TO THE NOVEMBER 2006 ELECTION. THE MOTION PASSED WITH A VOTE OF 3 FOR AND 2 AGAINST (LUNDBERG & RALSTON) (1 ABSENT – FITCH).

BUSINESS FROM THE CITY COUNCIL

1. Business from Council

- a. Councilor Ralston said if anyone had questions about the LRAPA issue, they could contact him later. He would be discussing this with Mayor Leiken, Councilor Woodrow, Mike Kelly and Joe Leahy regarding Springfield's options. Springfield could not drop out of LRAPA because that would leave businesses in our boundaries with no representation.
- b. Councilor Ballew said she attended the Metropolitan Policy Organization (MPO) meeting, but she had nothing to report.
- c. Councilor Woodrow thanked Councilor Pishioneri for taking his spot on the McKenzie Watershed Council, allowing him to attend the Boundary Commission Budget Committee and other obligations.
- d. Councilor Ralston said the Human Services Commission passed their budget for the next two years. He said the last two years had been very difficult. This year the budget was status quo and it passed with little discussion. He said Human Services was able to stay within their means.

- e. Councilor Pishioneri said he enjoyed the McKenzie Watershed Council meeting and he looked forward to serving on that committee. He attended the HIV Alliance Walk on Saturday as a representative of Springfield and let them know it was a regional issue.

BUSINESS FROM THE CITY MANAGER

1. Recommendation and Approval of Award for Project P20208: Martin Luther King, Jr. Parkway Construction.

RESOLUTION NO. 05-30 – A RESOLUTION RECOMMENDING AND APPROVING AWARD BY THE LANE COUNTY BOARD OF COMMISSIONERS OF A CONSTRUCTION CONTRACT FOR THE MARTIN LUTHER KING, JR. PARKWAY PROJECT.

City Engineer Al Peroutka presented the staff report on this item. Lane County has asked for a City Council resolution which approves of the county awarding the construction contract for the Martin Luther King, Jr. Parkway project. They asked that the resolution state that the city has sufficient funds available to pay for the city share of project costs, and they asked the council to make a recommendation (based on life cycle costing available funds, or other factors) to build the project with either the asphalt or concrete pavement alternative bid. Since bids will not be received by Lane County until Thursday, May 12, and time is of the essence, we will bring the bid results along with a staff recommendation to the May 16 meeting and present them to the Council under Business from the City Manager.

Lane County has provided \$5.2 million for the construction of the Martin Luther King, Jr. (MLK) Parkway. By Intergovernmental Agreement dated February 25, 2003, the City of Springfield has agreed to provide funding costs which exceed the county's grant amount. Most of the city contribution to the project is being provided by PeaceHealth under the provisions of our annexation agreement with them. LTD has agreed to provide additional funding for costs of the project caused by the addition of a Bus Rapid Transit (BRT) lane to the project. The County Board is scheduled to award the MLK Parkway construction contract at their May 18 regular meeting and will need our resolution of recommendation and approval of award at that time. Based on our cost estimates at this time, our project costs are estimated to be very close to, and possibly greater than, our budgeted funding for the project. The staff recommendation at the May 16 meeting will depend on bid results.

Mr. Peroutka referred to the Council Briefing Memorandum which was distributed to the Mayor and council prior to the meeting. This memo outlined the bids that came in for this project. He said good bids did come in that were within the city's budget. He said he would need council approval of the bid Lane County had chosen and the type of material to be used (concrete or asphalt). Based on the bids, the city could affirm they could cover their cost. The county requested that a life cycle analysis was completed for both concrete and asphalt and a recommendation was made based on that analysis. Staff had completed that and recommended the concrete pavement alternate for this project. He noted that the amended resolution was attached to the memo. The amended resolution included the additional information including the statement that the city had sufficient funds, the contractor chosen and the type of pavement recommended. He asked council to consider this amended resolution for adoption.

Councilor Ralston asked if this could possibly run over the amount.

Mr. Peroutka said there was a five percent contingency included in the city budget for this project, which was about \$350,000.

Councilor Ralston asked if LTD and Lane County were also responsible for any overruns.

Mr. Peroutka said that Lane County had indicated that they had a fixed amount of \$5.2 million. LTD's amount was an approximate until final costs were known regarding costs for the bus lanes and to acquire the right-of-way. It would be close to \$500,000.

Councilor Ballew asked when construction would begin. She also asked about the location.

Mr. Peroutka said it was a two-year contract. The new parkway would run from Harlow Road through the improvement on Beltline Road and over to Hutton Street. The portion of Beltline which would be crossed was a portion of the Gateway/Beltline project and there was an additional \$7 million from PeaceHealth for that project that could be used for overrun.

Councilor Ballew asked when PeaceHealth would begin construction. She asked about the amount of construction in that area at the same time and if there would be a conflict.

Mr. Peroutka said the same contractor that gave the low bid on this project was also doing the site work on the PeaceHealth site, which was a big advantage. He discussed the construction of the building of the hospital and the added trucks for that project. PeaceHealth was starting their site work now and would be doing a lot of grading.

Mayor Leiken commended staff and their partnership with Lane County on this project. This project defined our community and it had been fun to watch the progress.

Mr. Peroutka said a groundbreaking ceremony would be planned for the MLK, Jr. Parkway.

IT WAS MOVED BY COUNCILOR WOODROW WITH A SECOND BY COUNCILOR LUNDBERG TO ADOPT ORDINANCE NO. 05-30. THE MOTION PASSED WITH A VOTE OF 4 FOR AND 1 AGAINST (RALSTON) (1 ABSENT – FITCH)

2. Status of the City's Ballot Measure 37 Demands of Compensation.

City Planner Gary Karp presented the staff report on this item. On November 2, 2004, the voters of the State of Oregon approved Ballot Measure 37 which amended Oregon Revised Statutes Chapter 197 to require under certain specific circumstances, payment of compensation to present owners of real property if the government land use regulations reduce fair market property value. On November 22, 2004, the City Council adopted an ordinance adding Chapter 2.900 through 2.995 to the Springfield Municipal Code, 1997 to establish a process to review Ballot Measure 37 Demands. On March 14, 2005, the City Council adopted amendments to Chapter 2.900 through 2.995.

On December 28, 2004 Mr. Nick Shevchynski submitted a Ballot Measure 37 Demand for Compensation letter (PA-BM 37-2004-12-001) asking the city to: either pay for changing the permitted use of the properties from commercial/ industrial to residential; or to waive the

regulations and allow the commercial/industrial use to continue (storage of materials). The addresses of the properties are 2315 and 2347 Marcola Road (Lots: 3, 4, 28 and 29 of Northview Subdivision). Staff reviewed the Lane County zoning at the time the Shevchynski family purchased the property in 1956, which was Residential Agricultural (primarily single-family residential), and the zoning history since the property was annexed to the city in 1979, R-1/Low Density Residential (primarily single-family residential). On the basis of this history, and the fact that the storage of materials is a nuisance and therefore, not a Ballot Measure 37 Claim, staff denied this Demand.

On February 25, 2005, Mr. Shevchynski submitted a revised BM 37 Demand letter which discussed the status of "R" Street. Staff considered this submittal to be a separate BM 37 Demand (PA-BM 37-2005-02-002). Staff found that "R" Street was dedicated on the Northview Subdivision Plat as public right-of-way and could not be used for the private storage of materials. On the basis of this history, and the fact that the storage of materials is a nuisance and therefore, not a Ballot Measure 37 Claim, staff also denied this Demand. On May 6, 2005, Mr. Shevchynski was sent notice of staff's decisions. This notice was the city's final action, no public hearing is required for these Demands for Compensation.

Ballot Measure 37 provides that in order to receive compensation, a property owner must make a written "Demand for Compensation" to the government entity enacting or enforcing a land use regulation that allegedly restricts the use of their property and has had the effect of reducing the fair market value of the property. The government entity has 180 calendar days to make a decision. The property owner may then file an action in Circuit Court for compensation, and obtain attorney's fees, expenses, and costs reasonably incurred in addition to just compensation.

Mr. Kelly said he had made a decision on two initial Ballot Measure 37 claims that had been denied. Letters were sent to the applicant but no response had been received. The file was included in the agenda packet.

Councilor Ballew asked to review the process.

Mr. Karp reviewed the process. He said the applicant would file a demand claim. They would then have a right to write a letter or follow the process established by the Municipal Code. In this case, the applicant sent a demand letter only. In a case where the City Manager did not deny the claim, the Municipal Code allowed a public process in which a public meeting would be held. Citizens would be noticed regarding the demand and could participate in the dialogue on that demand. A public hearing would then be held before the council in the case where the city was going to pay compensation or waive a land use regulation.

Mr. Kelly said when the city received a request that may become a demand, they offered a consultation with the City Manager and other staff. Some of these issues were points of confusion by the property owner. Staff would try to meet with them to determine the issue. Because of an ongoing issue with this applicant, staff offered to sit down to speak with the applicant regarding this issue and other issues he had regarding code enforcement. That meeting did occur with the City Manager, other staff, the applicant and the applicant's advocates. The city had been very patient in trying to sort this out and to give the applicant time to understand the Ballot Measure 37 (BM37) ordinance and his rights. In the end, the city offered the applicant the opportunity to submit new and more complete information on the BM37 claim, which was not forthcoming. The incomplete application was denied.

Mr. Leahy said even though the application was incomplete, Mr. Karp and other staff went to the county and did research to gather the needed information. They found that there was an ordinance that was in affect at the time the claimant's family came into the property which prohibited what he was alleging he was entitled to do. Staff did try to treat the applicant's claim fairly and did do a search and examination of the record. The second claim related to a claim that had been filed in 1996, stating that the applicant had the right to use the public right-of-way which was created in the applicant's plat for purposes. After thoroughly examining the records, staff found a letter from an attorney that indicated it was public right-of-way. Staff tried to go the final mile even when the applicant did not provide all information.

BUSINESS FROM THE CITY ATTORNEY

ADJOURNMENT

The meeting was adjourned at 8:15 p.m.

Minutes Recorder Amy Sowa

Sidney W. Leiken
Mayor

Attest:

City Recorder