

W. Y. A.

## AGENDA COVER MEMO

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AGENDA DATE: March 30, 2005

TO: Board of County Commissioners

DEPARTMENT: City of Eugene Public Works

PRESENTED BY: Kurt Corey, City of Eugene Public Works Director

AGENDA TITLE: Reconsideration of Board Order 05-2-9-5

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### I. MOTION

THAT THE BOARD RESOLUTION AND ORDER 05-2-9-5 BE AFFIRMED, AUTHORIZING THE CITY OF EUGENE TO ASSESS UNINCORPORATED PROPERTIES FOR STREET IMPROVEMENTS TO RIVER AVENUE – CITY IMPROVEMENT PROJECT #3693

### II. ISSUE

Should the Board affirm or revoke the authority given the City of Eugene to assess unincorporated properties for improvements to River Avenue?

### III. DISCUSSION

#### A. Background

At the request of Mr. Gordon Howard, a commercial property owner on River Avenue, on March 9, 2005 the Board agreed (3-2 vote) to reconsider Board Order 05-2-9-5. Mr. Howard stated that the City Council did not support the project. More precisely, the City Council has not yet decided whether or not to form a local improvement district and proceed with the project. Under state law, the City cannot form a local improvement district that includes property outside the city limits unless the Board of Commissioners approves.

The City Council's previous and proposed discussions on the project include:

- 1) The City Council declined in August 2004 to initiate island annexation for ten unincorporated properties abutting River Avenue as a method of forwarding the project.
- 2) The City Council support for the project will be determined after hearing comments at a public hearing scheduled on the formation of the Local Improvement District (LID) April 11 and further discussing and voting April

20, 2005. Six votes are necessary to form a LID, and the Board of Commissioners' approval is necessary to assess parcels in the unincorporated area.

- 3) Previous actions (adoption of Transplan, CIP and the Capital Budget which initiates the project) have indicated support of the project. (Each of these actions included public testimony opportunity.)

On February 9, 2005 the Board of County Commissioners approved Board Order 05-2-9-5 authorizing City of Eugene to assess unincorporated properties for street improvements to River Avenue, City Project #3693. This order is attached as **Attachment A**. The exhibits to the order include a list of the unincorporated properties and the preliminary proposed assessment amounts (Exhibit A), a map of the project (Exhibit B) and the City Code provisions regarding assessments (Exhibit C). Following the Board action, City staff sent an informational letter to property owners, included here as **Attachment B**.

The Board resolved by Resolution No. 00-8-9-1 (**Attachment C**) to adopt policies for use by the City of Eugene when assessing City road improvements to benefiting properties outside the City limits and within the Urban Growth Boundary. These policies are described in Eugene Code Section 7.175 which is provided as Exhibit C to Board Order 05-2-9-5.

Eugene City Council and Lane County Board of Commissioners have supported projects with a mix of incorporated and unincorporated properties. Recently Eugene Council authorized Lane County to assess properties inside the City limits for Lane County's Game Farm Road Project. Lane County has similarly previously supported Eugene projects on Garden Way and other City projects.

Both the Board of Commissioners and the Eugene City Council have approved the Metropolitan Transportation Plan (1986) and subsequent updates to the plan that included improvements to River Avenue. The City Council has also adopted Capital Improvement Plans (CIP) and Capital Budgets that included the improvements to River Avenue.

The City of Eugene also has adopted the Arterial and Collector Street Plan that outlines the design standards for roads by classification. The proposed improvements for this road are in compliance with Eugene Standards and Lane County Standards. The standards for both agencies for an urban major collector include curb, gutter, sidewalk and bike lanes on both sides, and turn lanes as necessary to support the volume of traffic and number of driveways.

The Eugene Code authorizes initiation of a project by inclusion in the CIP and Capital Budget. Once a project is initiated survey, design, right of way acquisition and preliminary work for utility relocation begins and the project is bid. Prior to award of a contract, a local improvement district is formed to confirm which properties benefit and will be assessed for a portion of the improvement costs. Proposed preliminary assessments are calculated based on the apparent low bid. For River Avenue, more than 50% of the improvements will be paid from the

System Development Charges, 47% of the total cost is proposed to be assessed. Of the assessable amount approximately 18% is proposed to be assessed to unincorporated properties.

A City hearings official held a hearing on the project in July 2005 and received remonstrances (objections) from property owners that would pay more than 50% of the assessment. The City Council holds a public hearing for projects with objections at this level. This matter is scheduled for the April 11, 2005 Council meeting if the Board of Commissioners affirms the authorization for the City to include unincorporated properties in the LID. The minutes of the July 2004 public hearing are included as Attachment D and will be forward to Eugene City Council with copies of all the remonstrances for their April meeting.

The apparent low bidder for the project is Delta Construction Co. They have indicated they will execute a contract based on 2004 prices indicated in their bid proposal through May 2005.

**B. Alternatives / Options**

1. Affirm the authorization for City of Eugene to assess benefiting unincorporated properties for River Avenue street improvements in accordance with the provision of the Eugene Code, Chapter 7.
2. Revoke the authorization for City of Eugene to assess benefiting unincorporated properties for River Avenue street improvements in accordance with the provision of the Eugene Code, Chapter 7.

**C. Recommendation**

Staff recommends the Board affirm Board Order 05-2-9-5.

**D. Timing / Implementation**

Eugene City Council will further consider the River Avenue Street Improvement Project on April 11 and 20, 2005 if the Board Order is affirmed.

**IV. ATTACHMENTS**

Attachment A - Board Order 05-2-9-5, Exhibits A, B and C

Attachment B - City of Eugene Informational Letter

Attachment C - Board Resolution 00-8-9-1

Attachment D - Minutes from July 2004 public hearing regarding formation of LID

# Attachment A

IN THE BOARD OF COMMISSIONERS OF LANE COUNTY  
STATE OF OREGON

**PASSED**

RESOLUTION & ORDER NO.

05-2-9-5

(IN THE MATTER OF AUTHORIZING  
(THE CITY OF EUGENE TO ASSESS  
(OUTSIDE CITY LIMITS FOR STREET  
(IMPROVEMENTS TO RIVER AVENUE

WHEREAS, the City of Eugene plans to improve River Avenue from 200 feet east of River Road to 100 feet West of Bellline Highway during the summers of 2004 and 2005; and

WHEREAS, proposed for inclusion in this assessable project are ten properties that fall outside Eugene city limits. These properties are proposed to be part of the City of Eugene's proposed River Avenue Local Improvement District (LID); and

WHEREAS, per ORS 223.878, cities may assess outside city limits for local street improvements subject to certain conditions. For assessment purposes, properties outside city limits must be treated in the same manner as those within city limits and have the same rights and remedies; and

WHEREAS, the Board resolved by Resolution No. 00-8-9-1, to adopt policies for use by the City of Eugene when assessing City road improvements to benefiting properties outside the City; and


WHEREAS, said policies were subsequently adopted by the city of Eugene as amendments to Section 7.175 of the Eugene Code; and

WHEREAS, per ORS 223.878, Lane County, by resolution, must approve the improvement and assessments against benefiting properties that fall outside city limits. The estimated assessment against the ten properties is shown on the attached exhibit; **NOW THEREFORE BE IT**

**ORDERED AND RESOLVED** that Lane County approve the Improvement of River Avenue, and

**BE IT FURTHER ORDERED AND RESOLVED**, that the City of Eugene is authorized to assess the benefiting properties described as Tax Lots 17-04-13-00-02900, 17-04-13-00-03000, 17-04-13-00-03200, 17-04-13-00-03400, 17-04-13-00-03500, 17-04-13-00-03501, 17-04-13-00-03502, 17-04-13-00-03600, 17-04-13-00-3601 and 17-04-13-22-00902 for improvements to River Avenue in accordance with ORS 223.878 and Eugene Code 7.175(5).

DATED this 9th day of February, 2004.

  
Chair  
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 7-21-04 Lane County

  
OFFICE OF LEGAL COUNSEL

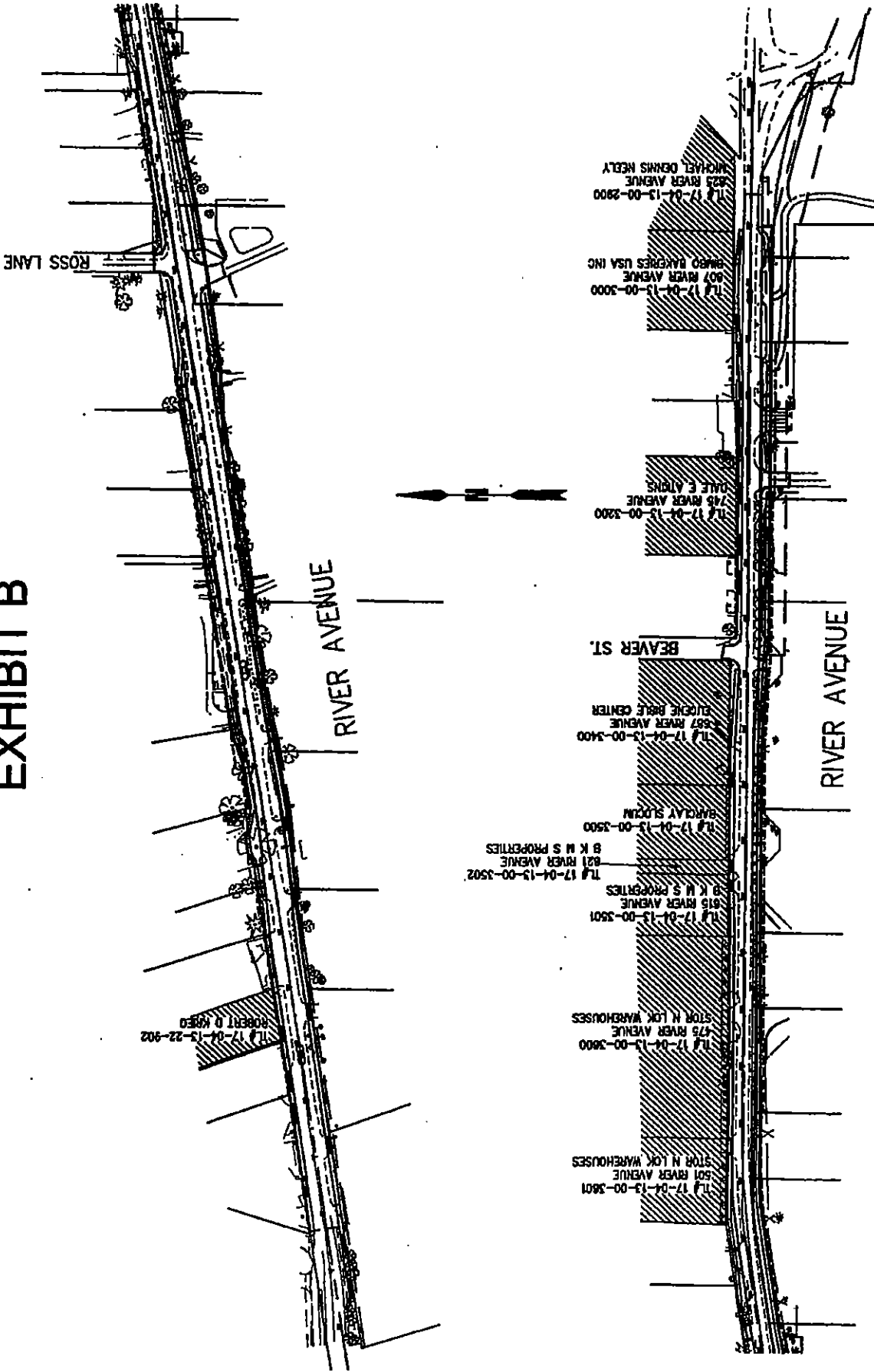
RIVER AVENUE STREET IMPROVEMENTS


COUNTY ASSESSABLE ACCOUNTS

Exhibit A

SEQUENCE NO.	TAX MAP NO.	TAX LOT NO.	PROPERTY OWNER	ASSESSMENT
100	17041300	2900	Neely	\$6,573.60
110	17041300	3000	Bimbo	\$23,458.75
140	17041300	3200	Atkins	\$23,728.85
180	17041300	3400	Eugene Bible	\$24,134.88
170	17041300	3500	Slocum	\$17,970.74
180	17041300	3501	Slocum	\$14,745.50
190	17041300	3502	Slocum	\$3,351.25
200	17041300	3600	Store N Lock	\$47,587.75
210	17041300	3601	Store N Lock	\$18,960.25
400	17041322	902	Rucker	\$12,541.72
				\$193,051.29

# EXHIBIT B





**CITY OF EUGENE**

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**CITY OF EUGENE**  
**PUBLIC WORKS ENGINEERING**  
**JULY 2004**

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**RIVER AVENUE**  
**STREET IMPROVEMENTS**

S:\Projects\Proj-318883 River Ave\Misc\COUNTYROW\_ACQUISITION.dwg Jul 14, 2004 cewerj

**7.175 Local Improvements - Apportionment of Assessments.**

**(1) Whatever share of the total actual project costs of the local improvement is to be borne by the city and by sources of funds other than assessments shall be deducted from the total project costs before they are apportioned and assessed under this section. The city shall pay the costs of the following, provided funds are available and the project has appropriate priority:**

**(a) Components of the local improvement that will not be assessed pursuant to subsections (2) through (12) of this section 7.175;**

**(b) Street improvements and sidewalks within the intersection of public ways other than intersections of new streets within the boundaries of a new development;**

**(c) A portion of the street and alley improvements for residentially zoned property upon which a single family dwelling or duplex exists which is owned and occupied by low-moderate income person(s) and which property is adjacent to a street or alley which is unimproved or improved with substandard improvements at the time the local improvement district is formed.**

**(d) Features of storm sewers constructed as part of a street improvement project within existing developed areas which are in addition to those necessary to properly drain the surface of the street being improved and to provide water quality treatment to the runoff from the street surface;**

**(e) Other costs attributable to special conditions or to policies adopted prior to or at the time the council adopts the resolution forming the local improvement district.**

**(2) The assessments for individual parcels of real property shall be calculated and assessed as follows against the property specially benefitted by the local improvement:**

**(a) Special costs or features of the improvement that benefit a particular parcel or parcels in a manner peculiar to the parcel(s) shall, together with a share of**



the overhead for the improvement, be assessed separately against each benefitted parcel.

(b) The remainder of the costs of the improvement shall be assessed as described in subsections (3) through (12) of this section.

(c) Notwithstanding any provision in subsections (3) through (12) of this section, the city engineer may accept an alternative means of assessments or other means of collecting funds for local improvements if:

1. The alternative means is approved by all affected property owners; and
2. The city engineer determines that the alternative means adequately protects the city's interest in recovering its costs.

**(3) Street construction assessments - General.**

(a) Assessable components of street improvements include driveway aprons, a share of the improvements to the traveled way from back of curb to back of curb as provided in section 7.175(4) and (5) (including, but not limited to street structure of a thickness determined by the city engineer as provided in sections 7.175(4)(a) and 7.175(5)(a), lanes for vehicular use, parking and parking bays); curbs; gutters; catch basins, piping and other features necessary to remove and treat or cleanse storm water from the improved surfaces; and other related features.

(b) Except when special circumstances exist that are identified in the resolution creating an assessment district, assessments for street improvements generally shall be based on the number of linear feet of property to be assessed, as provided in sections 7.175(3)(d) and (e) and 7.175(5)(c), multiplied by the per-foot cost of the assessable components described in paragraph (a) of this subsection. The portion of the street pavement to be assessed against an individual parcel shall be based on the assessable widths identified in subsections 7.175(4)(b) and 7.175(5)(b). Where not all of the linear feet of a parcel abutting a

street improvement are included in the assessment to be levied at the time the improvement is constructed, the parcel may be subject to a delayed equivalent assessment as provided in sections 7.175(3)(e) and (g), 7.175(4)(d) and 7.175(5)(d).

(c) For purposes of subsections 7.175(4) and (5), "development" means a structure designed or used for human residence, business, industry or other occupancy, or any physical alteration to land designed, used or intended to serve such a structure or a business or other use whose employees or customers access the structure or business or other use from a street. "Developed parcel" means a parcel, or a group of parcels with development that functions as an integrated development, that at the time of substantial completion of the street improvement project has any development on it, except for ancillary structures on a parcel used exclusively for farm use. "Fully developed parcel" means a parcel that has development on it and that has no undeveloped portion that could be further partitioned or subdivided for purposes of additional development. "Partially developed parcel" means a parcel that has development on it but which has an undeveloped portion that could be further partitioned or subdivided in the future. "Vacant parcel" means a parcel that has no development on it.

(d) Vacant parcels less than one-half acre in size with residential zoning and fully developed parcels with a single family dwelling or duplex and residential zoning shall be assessed for the actual front footage abutting the improvement, except that no parcel shall be assessed for less than 50 feet of frontage or more than 100 feet of frontage.

(e) Partially developed parcels of one-half acre or larger with a single family dwelling or duplex in a single-family or low-density residential zone and having more than 100 feet of frontage abutting the improvement shall be assessed for 100 feet of frontage at the time of the improvement, and the remaining frontage shall be used to calculate an equivalent assessment when required by and in

accordance with sections 7.175(4)(d), 7.175(5)(d) and 7.407 of this code.

(f) Notwithstanding paragraphs (d) and (e) of this subsection and paragraph (b) of subsection 7.175(5), developed parcels used for a single-family dwelling or a duplex in a single-family or low density residential zone and the developed portions of partially developed parcels meeting the same description shall not be assessed for street improvements if they do not take primary access from the street being improved. Notwithstanding the foregoing sentence, if such a parcel abuts the street improvement and is subject to a recorded petition for street improvements as described in section 7.160, it shall be assessed for street improvements, or the person who obtains a permit to develop such a parcel shall pay an equivalent assessment under the circumstances described in subsections 7.175(4)(d) and 7.175(5)(d), even if the parcel does not take direct access from the street being improved. For purposes of this section, a parcel "takes primary access" from a street if the parcel abuts only that street or, in cases where a parcel abuts two or more streets, the parcel uses that street for its address. A duplex on a corner lot, or a vacant corner lot that may be developed with a duplex shall be deemed to take primary access from both streets.

(g) Vacant parcels of one-half acre or larger shall not be assessed at the time of the street improvement, but the person who receives a permit to develop such a parcel shall pay an equivalent assessment when required by and in accordance with sections 7.175(4)(d), 7.175(5)(d), and 7.407 of this code.

(h) Revenue received as payment of an equivalent assessment required by this subsection shall be used for street purposes and shall be in addition to all other fees and assessments required by this code.

(i) Except as otherwise provided in section 7.175 of this code, a parcel shall be assessed for the actual full footage abutting the improvement.

**(4) Local streets:**

**(a) Calculation of assessments for improvements to a local street shall be as provided in this subsection 7.175(4). As used in this subsection, "local street" means any street not designated as an arterial or collector street on the Street Classification Map adopted on November 22, 1999, or as subsequently amended. In addition to the components listed in subsection 7.175(3)(a), assessable components of a local street improvement may include street lights and street trees if they are within the scope of the improvement project. The assessable thickness of the street structure shall be the full thickness determined by the city engineer to be appropriate for the permissible uses of the parcels abutting the street.**

**(b) A parcel abutting a local street shall be assessed for an improvement to a local street according to the zoning of the parcel as follows:**

**1. A parcel with single-family or low-density residential zoning shall be assessed for a maximum of 17 feet of width.**

**2. A parcel with zoning other than single-family or low-density residential zoning shall be assessed for a maximum of 22 feet of width.**

**(c) The cost for the assessable width shall be apportioned to each parcel on the basis of its front footage abutting the improvement, except where subsection 7.175(3)(d) or (e) of this code provides for assessment of less than the full frontage. Where the width of the street improvement varies within the improvement district or the improvement includes special features that abut fewer than all of the parcels in the improvement district, the city engineer shall determine whether the additional width or special features specially benefit specific parcels or benefit the improvement district generally, and parcels shall be assessed for additional width or special features in accordance with the engineer's determination.**

**(d) Concerning a parcel or a portion thereof for which paragraphs (e) or (g) of subsection 7.175(3) require no assessment at the time of the improvement:**

**1. A person who receives a permit to develop such a parcel after the improvement has been constructed shall pay an equivalent assessment based upon the abutting front footage that was not previously assessed, to be calculated, reviewed and paid as provided in section 7.407 of this code before any of the following occurs:**

**A. A permit is issued authorizing construction of a new driveway access to the local street;**

**B. A permit is issued authorizing construction of a new street that connects the parcel to the local street;**

**C. Any partition, subdivision or development of the parcel regulated by Chapter 9 of this code is approved; or**

**D. Construction of a new structure capable of human occupancy.**

**2. A person who receives a permit to develop such a parcel before improvements to the abutting street have been constructed shall not pay an equivalent assessment when the permit is received, but the parcel shall be assessed as otherwise provided in section 7.175 of this code when the street improvements are constructed.**

**(5) Arterial and collector streets:**

**(a) Calculation of assessments for improvements to an arterial or collector street shall be as provided in this subsection 7.175(5). As used in this subsection, "major arterial," "minor arterial," "major collector," and "neighborhood collector " mean streets or travel corridors designated by one of those terms in the city's or county's adopted comprehensive transportation plan, in an adopted arterial/collector street plan, or if not so designated, which the city engineer determines to function in the capacity of one of the four classifications. In addition to the components listed in subsection 7.175(3)(a), assessable components of an arterial or collector street improvement may include a portion of the street trees planted as part of the improvement project. The assessable thickness of street structure for an arterial or collector street shall be the thickness determined by the city engineer to be the equivalent of the thickness appropriate for predominantly local residential use.**

**(b) In addition to assessment for curb, gutter, sidewalks and driveway aprons, parcels assessed for improvements to an arterial or collector street shall be assessed for a portion of the pavement and the associated pavement drainage system (catch basins, connecting pipes and other drainage facilities) according to the functional classification of the street, as follows:**

**City Percentage of Cost =**

**(Pipe Diameter) - 24 x 100%**

**(Pipe Diameter)**

- 1. Major arterial - no paving or drainage.**
- 2. Minor arterial - 3-1/2 feet of pavement width and associated drainage system for the portion of pavement to be assessed.**
- 3. Major collector - 7 feet of pavement width and associated drainage system for the portion of pavement to be assessed.**

**4. Neighborhood collector - 10 feet of pavement width and associated drainage system for the portion of pavement to be assessed.**

**(c) Developed and partially developed parcels with commercial or industrial zoning shall be assessed for the full frontage abutting the street improvement and for 10 feet of the pavement.**

**(d) Concerning a parcel or portion thereof for which paragraphs (e) or (g), of subsection 7.175(3) require no assessment, a person who receives a permit to develop such a parcel, whether before or after the improvement has been constructed, shall pay an equivalent assessment based upon the abutting front footage of the parcel that was not previously assessed, to be calculated, reviewed, and paid as provided in section 7.407 of this code before any of the following occurs:**

**1. A permit is issued authorizing construction of a new driveway access to the arterial or collector street;**

**2. A permit is issued authorizing connection of a new street that connects the parcel to the arterial or collector street;**

**3. Any partition, subdivision or development of the parcel regulated by chapter 9 of this code is approved; or**

**4. Construction of a new structure capable of human occupancy.**

**(6) Alley improvement assessments. Alley improvement assessments shall be apportioned as follows:**

**(a) The front footage of a parcel along the alley shall be ascertained and that footage shall be weighted, on the basis of existing use of the parcel under the zoning of the city, by multiplying the footage by the factor indicated for that use in the following table:**

Use	Factor
Single family dwelling or duplex	1.0
Other residential	3.0
Commercial or General Office	10.0
Industrial	10.0
Other	1.0 - 10.0

According to the most intensive use of the parcel most comparable to the use listed above as determined by the city engineer.

(b) The area of each such parcel that is within 160 feet of the alley, as measured at right angles from the front footage of the parcel, shall be ascertained and that area shall be weighted on the basis of permissible use of the parcel under the zoning of the city, by multiplying the area by the factor indicated for that use in the table set forth in (6)(a) of this subsection.

(c) One-half of the general costs and overhead to be assessed shall be apportioned on the basis of the weighted front footage and one-half on the basis of the weighted areas.

(d) When sections of an alley separated by a cross alley or street are improved, the apportionment and assessment under this section shall be for each section of the alley separately.

(e) Assessments for alley improvements shall include the cost of catch basins and pipings from catch basins to storm sewers for properties specially benefitted by the basins.

**(7) Sidewalk assessments.** Parcels abutting a sidewalk shall be liable for a proportionate share of the cost of the sidewalk, based on the front footage of the parcel abutting the sidewalk. The front footage shall be ascertained in the same manner as for street-improvement assessments. Where, however, the council finds that the topography makes it unfeasible to construct a sidewalk on both sides of the street, the cost of the sidewalk on one side of the street may be assessed to both the parcels abutting the sidewalk and the



parcels on the opposite side of the street from the sidewalk, on the basis of the front footage abutting or directly across the street from the sidewalk, or the costs may also be apportioned on the basis of the area of sidewalk or driveway apron or both abutting each parcel, whichever basis is determined to be more equitable by the council.

**(8) Storm drainage system assessments.** The cost of storm sewer construction shall be borne in the following manner:

**(a)** In a new or undeveloped subdivision or a new development, the parcels specially benefitted by the storm drainage system shall bear the cost of the system pipe or other facility up to and including the first 24 inches of pipe diameter or comparable capacity in another storm drainage facility. Subject to subsection (1) of this section, for pipes larger than 24 inches or comparable capacity in another storm drainage facility, the city shall pay a proportional share of the cost calculated as follows:

Where pipe diameter is actual pipe diameter or the comparable measurement of capacity of other storm drainage facility being used.

**(b)** The cost to be assessed shall be apportioned to each parcel on the basis of its land area in the assessment district.

**(9) Sanitary sewer assessments.** The cost of sanitary sewer construction shall be borne in the following manner:

**(a)** The properties specially benefitted by a sanitary sewer shall bear the cost of the sewer up to and including eight inches of pipe diameter. The additional cost of a sanitary sewer may be borne by the specially benefitted properties, the city and others as provided in subsection (1) of this section.

**(b) Sanitary sewer service lines.** Each parcel provided with a service line that extends from the eight-inch or larger lateral sewer line to within 10 feet of the property line, shall be considered to have one service line connection point. If more than one service line

connection point is provided the parcel, it shall be assessed for the actual number of service line connection points. For large, unplatted parcels, provided with one or more service line connection points, each service line connection point shall be considered to serve an area of not more than 120 feet in width, and not more than 60 feet on each side of the service line connection point. All costs related to the service lines, including overhead costs, shall be divided by the total number of service line connection points, to determine the cost per service line connection point. Each parcel shall be charged for the number of service line connection points provided.

(c) Lateral sewer system. The lateral system shall include all cost items, including overhead costs, related to at least an eight-inch lateral system. These costs shall be apportioned to each parcel on the basis of a cost per square foot of service area, determined by dividing the total lateral system cost by the total service area. The service area for each parcel shall be determined as follows:

1. For parcels provided with a service line, the service area shall be that portion of the parcel lying within 160 feet of the street right-of-way line or within 160 feet of the side- or rear-lot lines when the sewer is located nearer such a line than the street line.

2. For parcels where service lines are not provided, a compensating factor shall be applied to allow for the distance to the lateral sewer line. The factor shall be computed as follows:

Factor =  $160 - (\text{distance from property line to sewer} - \frac{1}{2} \text{ right-of-way width}) / 160$

The area, as determined in (9)(c)1 above, shall be multiplied by this factor to determine the equivalent area of service for the lateral system. Lateral system costs shall also include at least an eight-inch equivalent cost for a portion of all existing or new trunk sewer

lines larger than eight-inch diameter which are necessary to complete the sewer system within the improvement district.

(10) Other local improvements. The cost of local improvements not identified in subsections (3) through (9) of this section shall be borne by the property specially benefitted as provided in the council resolution forming the local improvement district.

(11) When parcels of real property to be assessed are in a planned unit development, condominium or other development in which the common elements are jointly owned by those owning individual units within the development, the entire development shall be treated as a single parcel and its assessment shall be determined as provided in subsection 7.175(2). After determining the assessment for the entire planned unit development or condominium, the assessment shall then be apportioned and assessed against each individual unit of ownership within the planned unit development or condominium and that unit's interest in the common elements according to the terms of the irrevocable petition, if there is one, or according to the recorded declaration if it contains express language directing the apportionment of assessments for public improvements. Notwithstanding the foregoing sentence, the city engineer may select an alternative method if, in the engineer's judgment, the recorded declaration does not provide adequate security for payment of the owners' obligations to the city and the alternative method is equitable to all owners. Absent such express language in an irrevocable petition, a recorded declaration, or a determination by the council that only specific individual units within the planned unit development or condominium specially benefit from the improvement and should therefore bear the assessments, the assessments shall be apportioned and assessed among the individual units according to the individual unit's proportionate interest in the common elements. Where the foregoing provisions conflict or do not provide sufficient guidance, the city engineer shall make an equitable apportionment of the assessments according to the engineer's judgment as to proportionate benefit and in a manner that provides adequate security to assure payment of the owners' financial obligations to the city.

(12) Without repeating the notice required by section 7.185, prior to enactment of the ordinance levying the assessment required by section 7.190, the proposed assessments for individual parcels of real property calculated under subsections 7.175(2) and 7.175(3)

may be adjusted by a written agreement between the affected owners and the city engineer provided:

- (a) No parcel's adjusted proposed assessment exceeds the assessed value of the parcel at the time of the agreement;
- (b) The proposed adjusted assessment for any parcel subject to subsections 7.160(2) and (3) remains within the limitations imposed under subsections 7.160(2) and (3); and
- (c) There is no increase in the city's share of project costs or in assessments to other parcels within the project whose owners were not a party to the agreement.

(Section 7.175 added by Ordinance No. 17955, enacted April 11, 1977; amended by Ordinance No. 19393 enacted July 28, 1986, effective January 28, 1987; Ordinance No. 19653, enacted November 22, 1989, effective May 22, 1990; Ordinance No. 19773, enacted May 13, 1991, effective July 1, 1991; Ordinance No. 19808, enacted November 4, 1991, effective May 4, 1992; Ordinance No. 19922, enacted June 21, 1993; Ordinance No. 20214, enacted October 23, 2000, effective April 23, 2001; and Ordinance No. 20235, enacted November 26, 2002, effective May 26, 2002.)

**7.185 Local Improvements - Assessments - Notice.**

(1) Before an assessment for a local improvement is levied, the finance officer shall dispatch by certified mail to each owner whose parcel of real property is to be subject to the assessment a notice stating:

- (a) The description of the parcel of real property to be subject to the proposed assessment.
- (b) A general description of the project and a description of the kind of improvement for which the proposed assessment is to be made.

# Attachment B



Public Works  
Engineering

March 1, 2005

City of Eugene  
244 East Broadway  
Eugene, Oregon 97401  
(541) 682-5560  
(541) 682-8410 Fax

**Subject: River Avenue Street Improvement Project – Job #3693**

Dear Property Owner and/or Resident:

Recent action by the Lane County Board of Commissioners has allowed the City of Eugene to continue to work towards improving River Avenue to urban standards. This letter provides updates and information on a number of issues related to the proposed River Avenue street improvement project. We've used a "question and answer" format we hope you will find useful.

**1. Why is the City of Eugene continuing to work on improvements to River Avenue?**

Improving River Avenue to urban standards has been identified for almost 20 years as a necessary improvement to the street network in the metropolitan area. River Avenue provides access to River Road, Beltline Highway, Division Avenue and the area north of Beltline in Santa Clara, as well as two connection points to the Willamette River bike path system, 32 commercial parcels, four residentially zoned properties, and the Regional Water Pollution Control Facility. As a result of increased use of the roadway, the existing roadbed is deteriorating and needs to be upgraded. Development in this general area has created a need to accommodate a variety of transportation users, including motorists, bicyclists, bus riders, pedestrians, and individuals in wheelchairs. There are safety concerns for all street users, particularly pedestrians and bicyclists, due to the existing shoulder widths being narrow and unpaved.

Eugene, Springfield and Lane County in 1986 adopted the Metropolitan Transportation Plan, which included this project. The project was included in an update of the plan in 2002. The Eugene City Council in 1999 adopted the Arterial and Collector Street Plan, which established the street design standards used for this project. This project design was initiated by the Council in June 2000 in the course of adopting the 2001 capital budget.

**2. What actions have occurred since last summer?**

Upon hearing of the receipt of remonstrances (objections) at the City's public hearing in July 2004, the Board of County Commissioners (BCC) in August 2004 voted against giving the City permission to assess the 10 unincorporated properties adjacent to River Avenue. Without the ability to assess those properties for their share of the project costs, the City did not have sufficient funds to go forward with the project. Subsequently, the BCC agreed to discuss the issue again. On February 9, 2005, the BCC voted to allow the City to assess the unincorporated properties adjacent to River Avenue.

**3. What process will the City Council use to decide whether to proceed with this project?**

The next step is a City Council public hearing regarding the formation of a local improvement district (LID) for this project. That hearing is tentatively scheduled for April 11, 2005. You will receive formal notice of the hearing, with the exact time and location, at least 10 days prior to the hearing.

The April 11 public hearing is an opportunity for the Council to hear directly from citizens on the subject of forming an LID. The LID identifies properties benefited by the project and subject to assessment for a portion of the costs of the improvements if the project goes forward. Before making any decision, the City Council will consider the minutes of the July 2004 public hearing on the formation of the LID and information about the objections made previously, as well as a staff report and any testimony offered at the April 11 hearing. If Council forms the LID, the City will move forward with the project, and construction could begin this summer. If Council chooses to not form the LID, the project will be placed on hold.

**4. How is the project being funded?**

The total cost of the project is estimated to be approximately \$2.3 million. More than half of the total cost of the project would be paid by the City of Eugene, using revenues from transportation systems development charges. Properties along River Avenue will be assessed for a portion (approximately \$1 million) of the proposed pavement improvements. Residentially zoned properties will be assessed for the cost of seven feet of the street improvements, and for sidewalk improvements and a portion of the cost of stormwater improvements. Commercial, industrial and public property will be assessed for a 10-foot pavement width, curb, gutter, and for sidewalk improvements, and a portion of the cost of storm water improvements. This process for division of costs was set by the Eugene Code and is intended to fairly apportion the costs of street improvements on arterial and collector streets that are used by the general community as well as adjacent property owners and residents. As a result of the action by the Board of County Commissioners, the 10 unincorporated properties adjacent to the proposed improvement section of River Avenue will be assessed if the local improvement district is formed.

**5. What do the proposed River Avenue improvements include?**

The proposed street improvements to River Avenue, from 200 feet east of River Road to 100 feet west of Beltline Highway, include a total street reconstruction: asphalt pavement ranging in width from 34 to 44 feet with 5-foot-wide bicycle lanes on both sides of the street, a center turn lane from just east of Ross Lane to the west, concrete curbs and gutters; 5- to 6.5-foot wide sidewalks on both sides of the street; three pedestrian refuges islands; streetlights and street trees; and connections to the Ruth Bascom Riverbank Trail System with parking bays near the Riverbank trail accesses. The existing stormwater pipe system will be upgraded, a new stormwater pipe system will be installed from Ross Lane to the east, and a stormwater quality treatment facility will be constructed.

**6. Why are sidewalks and bicycle lanes being proposed on both sides of River Avenue?**

Since River Avenue is classified as a major collector street, this project was designed using the City's adopted Arterial/Collector Street Plan standards. This plan specifies bike lanes and sidewalks are to be included in street improvements for streets classified as major collectors. This is the same standard set in the Lane County Code for design of urban streets of this classification. There are many bicyclists and pedestrians who use River Avenue as a means to gain access to the Willamette River and the multi-use path along the River. The large volume of traffic and higher speeds of vehicles on River Avenue decrease safety for pedestrians and bicyclists traveling along the roadway and trying to cross the roadway. Sidewalks and bike lanes on both sides of the street the full length of the project minimize the need to cross the street at unsafe locations and help ensure safe travel by all.

Design exceptions have been approved to reduce the City standard of a 10-foot minimum width on curbside sidewalks in pedestrian-oriented commercial areas to 6.5 feet for curbside walks and 5 feet for setback walks. The sidewalks vary from curbside to setback to balance impact to trees, utilities and properties while creating a clear pathway for pedestrian traffic.

**7. Does the Oregon Department of Transportation plan to make improvements to Beltline Highway and, if so, have improvements to River Avenue been coordinated with these?**

The Oregon Department of Transportation plans to begin a study of Beltline Highway improvements in 2008. The State Transportation Plan shows this study as being prioritized among other projects listed. Coordination of improvements to River Avenue has occurred as much as possible. The improvements to

River Avenue stop short of the off-ramp and on-ramp intersection of Beltline Highway. There has been concern that in the future the ramp at the east end of River Avenue will close. Without a study there is no certainty about the future of the ramp. However, the State, Lane County and the City of Eugene all have standards to encourage connectivity to facilitate local traffic. The River Avenue access to Division Avenue and Beaver and Hunsaker and north Santa Clara will likely remain regardless of changes to Beltline Highway.

Attached is a drawing that depicts three typical cross sections and the approximate location of each on River Avenue.

More information about the standards and process requirements for projects such as this one can be found at the Eugene Public Library and on the internet. The names of several specific documents and their locations on the internet are listed below:

- Arterial and Collector Street Plan (including design standards) -- [www.ci.eugene.or.us/pw/Transportation/ACSP/](http://www.ci.eugene.or.us/pw/Transportation/ACSP/)
- Lane County Code (including urban facility design standards, Chapter 15, beginning at 15.702) -- [www.co.lane.or.us/LaneCode/](http://www.co.lane.or.us/LaneCode/)
- Regional Transportation Plan (Chapter 3, Urban Standards projects, beginning about page 24), -- [www.lcog.org/mpo/rtp.html](http://www.lcog.org/mpo/rtp.html)
- Eugene Code (assessment policies related to street improvements, beginning at 7.160) -- [www.ci.eugene.or.us/cityreco/CITYCODE/Chapter7/C7CONTENTS.htm](http://www.ci.eugene.or.us/cityreco/CITYCODE/Chapter7/C7CONTENTS.htm)

For more information, please contact Project Manager Joe Ramirez at (541) 682-5228 or e-mail [joe.f.ramirez@ci.eugene.or.us](mailto:joe.f.ramirez@ci.eugene.or.us). If you'd like to send written comments on the project, please mail them to Joe Ramirez, Project Manager, 244 East Broadway, Eugene, Oregon 97401.

Sincerely,



Joe Ramirez, P.E.  
Civil Engineer II

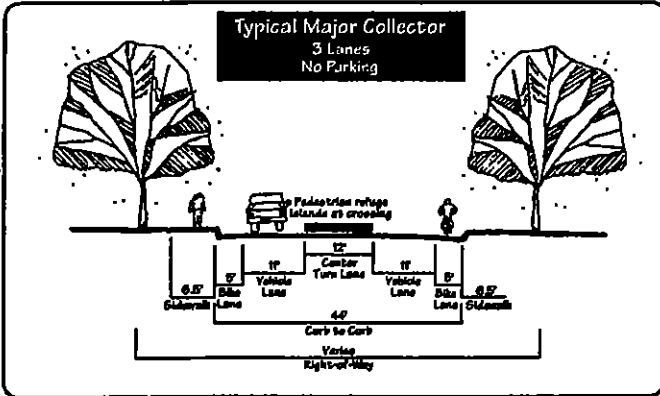
Cc: Eugene Mayor and City Councilors  
Lane County Commissioner Bobby Green

Attachment: Drawing

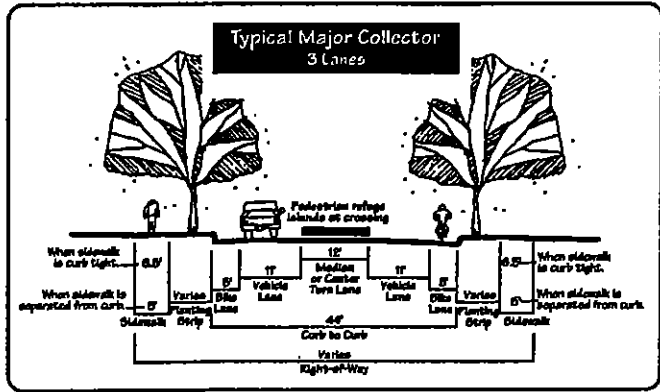


# PROPOSED RIVER AVENUE IMPROVEMENTS

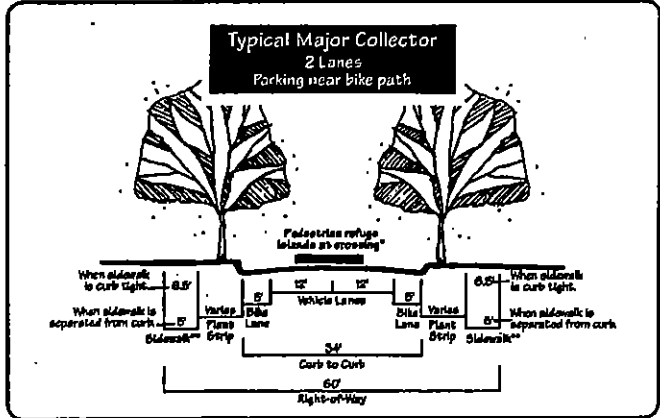
From River Road to 800' east



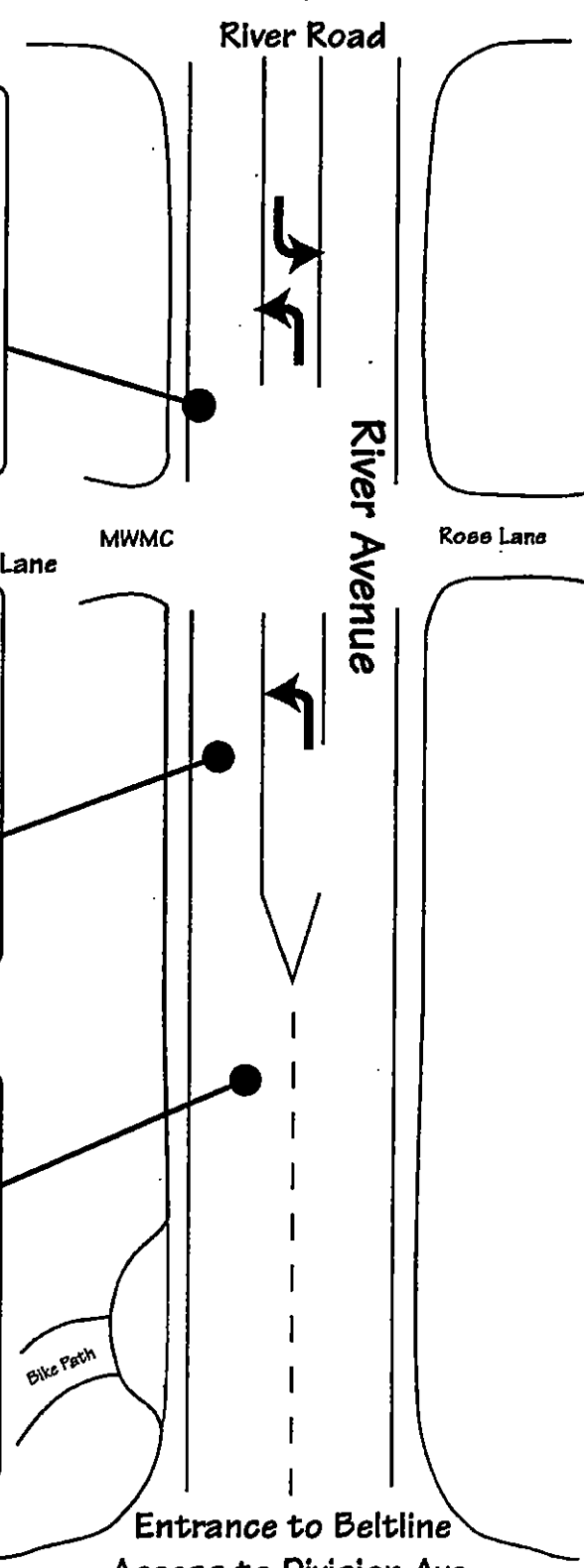
From 800' east of River Road to 400' east of Ross Lane



From 400' east of Ross Lane to end of project



\*Street width between curbs is adjusted to allow for pedestrian refuge  
\*\*Parking at Bike Path



March 2005

# Attachment C

**PASSED**

**IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON**

**RESOLUTION NO.  
00-8-9-1**

**) IN THE MATTER OF APPROVING THE  
) ROADS ASSESSMENT POLICY PROPOSED  
) BY THE ROADS ADVISORY COMMITTEE  
) FOR USE BY THE CITY OF EUGENE ON  
) CITY ROADS ADJOINING PROPERTY  
) OUTSIDE THE CITY**

**WHEREAS, the City of Eugene has planned for road improvements to Ayres Road, a City street, of which a portion adjoins property located outside the City, and**

**WHEREAS, a portion of the cost of the Ayres Road improvements are to be assessed to the adjoining properties, and**

**WHEREAS, ORS 223.878 requires that the county governing body approve by resolution, the assessment of property outside the city, and**

**WHEREAS, the City of Eugene requested such approval from Lane County and the County adopted Resolution and Order 98-3-18-12 authorizing the request, and**

**WHEREAS, property owners outside the City objected to the Board of Commissioners concerning the level of assessments to be levied by the City, and the County subsequently adopted Order 98-12-16-3 that rescinded Resolution and Order 98-3-18-12, and**

**WHEREAS, the City was unable to proceed with the improvements to Ayres Road, and**

**WHEREAS, at the request of the Board of County Commissioners, the County Roads Advisory Committee has worked with staff and elected officials of the City of Eugene to develop a policy whereby road improvements within the urban area of the City of Eugene can be more uniformly assessed to properties inside and outside the limits of the City, and**

**WHEREAS, the Roads Advisory Subcommittee on Revenue and Assessments and members of the Board of County Commissioners and Eugene City Council have held meetings with representatives of owners of property located outside the City of Eugene but adjacent to City streets, and**

**WHEREAS, through a collaborative effort involving significant personal time of volunteer members of the Roads Advisory Committee, an assessment policy has been recommended to the Board of Commissioners, and**

**WHEREAS, the policy incorporates a "livability factor" that imposes a sliding scale on assessed pavement costs based on functional classification of the road, and**

**IN THE MATTER OF APPROVING THE ROADS ASSESSMENT POLICY PROPOSED BY THE ROADS ADVISORY COMMITTEE FOR USE BY THE CITY OF EUGENE ON CITY ROADS ADJOINING PROPERTY OUTSIDE THE CITY.**

WHEREAS, the policy generally provides that residential properties would be assessed for a maximum 100-foot frontage and would not be assessed for additional frontage unless it is developed, and

WHEREAS, the City will use systems development or other funds to cover the differential between the new assessment policy and existing policy, and

WHEREAS, the proposal responds to many of the concerns of property owners that objected, and

WHEREAS, the Board believes that the proposal recommended by the Roads Advisory Committee provides an appropriate sharing of the costs of transportation improvements by the general public and adjoining property owners, and

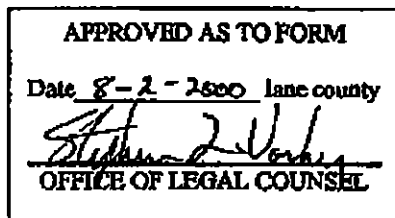
WHEREAS, the Board believes the "livability factor" and sliding scale on assessed pavement costs based on functional classification of roads provides an assessment that is more commensurate with the benefit received by the assessed property, NOW THEREFORE,

BE IT HEREBY RESOLVED that the Board approves the policy concepts proposed by the Roads Advisory Committee for use by the City of Eugene for assessment of City road improvements to benefiting properties outside the City.

DATED this 9<sup>th</sup> day of August 2000.



Chair, Lane County Board of Commissioners



IN THE MATTER OF APPROVING THE ROADS ASSESSMENT POLICY PROPOSED BY THE ROADS ADVISORY COMMITTEE FOR USE BY THE CITY OF EUGENE ON CITY ROADS ADJOINING PROPERTY OUTSIDE THE CITY.

# Attachment D

## **Exhibit A**

### **MINUTES**

#### **Local Improvement District Formation**

**Paving, Curbs, Gutters, Sidewalks, Pedestrian Median, Street Lights, and Stormwater Drainage on River Avenue from 200 feet East of River Road to 100 feet west of Beltline Highway.**

**June 28, 2004 Public Hearing**

The hearing began at 6:15 after an initial wait for all the expected members of the public to appear. Hearings Official Milo Mecham began the hearing with an introduction outlining the purpose of the hearing and the expected process after the hearing. Present at the hearing representing the City of Eugene were Principal Civil Engineer Michelle Cahill and Project Engineer Joe Ramirez.

Principal Civil Engineer Michelle Cahill described the project, which involves street improvements, the installation of sidewalks, curbs and gutters, streetlights, pedestrian medians and stormwater drainage along River Avenue. Ms. Cahill explained that the project was initiated when the Council included it within the 2001 Capital Budget. The City Engineering Department developed a preliminary design and introduced it to the property owners along River Avenue in a series of informational letters and a local meeting in the area. Ms. Cahill explained that River Avenue is classified as major collector street, with traffic volumes in the mid range of major collector standards on the west end. Despite the volume, River Avenue is a narrow, deteriorating and dangerous street. In addition to the vehicular traffic, there are pedestrians, persons in wheelchairs and bicyclists using the street, even though there are no sidewalks.

Ms. Cahill also provided information about the proposed Local Improvement District. There are fifty properties along River Avenue adjacent to the improvement area. Ten of the properties are in Lane County, but not within the City. Assessment of these properties must be approved by the Lane County Commissioners.

Principal Civil Engineer Cahill described the intended progress of the proposed improvements. It is expected that the project will begin this year, but will not be completed during this construction season. Work will commence again next construction season (2005) and should be completed during 2005. Final assessments will be calculated in late 2005 or early 2006. Ms. Cahill characterized the main public concern that had been expressed as centering around the fact that ODOT has recently announced that it will begin to study the question of improvements to Beltline in 2008.

Principal Civil Engineer Michelle Cahill concluded her remarks by describing the proposed distribution of costs for the project. The total cost of the project is estimated to be approximately \$2,269,502. Properties along River Avenue will be assessed for a portion of the proposed pavement improvements, related to the zoned use of the property.

Residentially zoned properties will be assessed for the cost of seven feet of the pavement improvements, and for sidewalk improvements. Commercial, industrial and public property will be assessed for a ten foot pavement width, and for sidewalk improvements. Ms. Cahill indicated that just over half of the total cost of the project would be paid by the City of Eugene, using revenues from transportation systems development charges.

Several of the property owners, or their representatives, were present at the hearing. Property owners present included Gordon B. Howard, Michael Kearney (an attorney for Mr. & Mrs. Meeker), Lloyd Henson, Theresa Slocum, Charles Meeker and Patt Meeker. Present representing the Metropolitan Wastewater Management Commission were Todd Anderson (City of Eugene) and Steve Templin (City of Springfield). As Ms. Cahill was concluding her remarks about the City's proposed share of the cost of the project, Mr. Lloyd Henson pointed out that developers in the City, including property owners along River Avenue had already paid a portion of the cost of the project by paying SDCs. In response to a question as to what SDCs were, Ms. Cahill explained that SDCs were charges levied on development within the City to have these developments pay a portion of the costs of the public infrastructure that the development would use. Ms. Cahill acknowledged that any recent development along River Avenue would have contributed to the City's SDC accounts. Ms. Cahill reminded the audience that these SDC charges served many purposes, so SDC payments by development along River Avenue would have contributed to infrastructure improvements throughout the City, and developments elsewhere would be contributing a portion of their payments to the River Avenue improvements.

A general discussion of several aspects of the project followed, with property owners quickly making statements and asking questions on a range of issues, and Ms. Cahill and Project Engineer Joe Ramirez answering each question in turn. The first question concerned why the costs were to be divided in the way proposed, with property owners paying nearly half the cost of the project. Ms. Cahill explained that the process for division of costs was set by the Eugene Code, which states that property owners adjacent to a major collector will pay for either seven or ten feet of pavement width, depending on the zoning of the property, and which calls for the City to pay for many of the improvements that are called for by established street improvement standards. This led to a question about the need for many of the improvements. The questioner wondered about the need for amenities such as sidewalks, when there were no pedestrian oriented businesses along the street. Ms. Cahill explained that the street improvements were designed according to established standards, some set by federal regulations, others adopted standards of the City. These standards called for the installation of sidewalks, curbs and gutters, street trees and other design elements incorporated into the project. Ms. Cahill also pointed out that there were many pedestrians along a portion of the street, as well as many bicyclists who used River Avenue as a means to gain access to the Willamette River and the bicycle path along the River.

Ms. Cahill was asked about the presentation that was made to the Lane County Commissioners, and what would happen if the Commissioners said that the properties outside the City limits could not be assessed. Ms. Cahill characterized the discussion

before the Commissioners as being concerned primarily with the differences in philosophy toward street assessments. Ms. Cahill acknowledged that if the Commissioners chose to not allow the properties outside the City to be assessed, it would cause the City to re-examine the project as a whole. This might or might not delay further work on the project. Ms. Cahill indicated that the City might still have options that would allow the project to move forward, such as a delayed assessment on the properties that are outside the City but will eventually be brought inside the City limits.

One property owner announced that he was concerned because of what he perceived to be the excessive amounts of the City's estimated costs. He announced that he had gotten a contractor's estimate for the proposed first seven feet out from his property that was considerably less than the City's estimate. Ms. Cahill and the Hearings Official explained that the proposed assessment was not for the first seven feet of the City's right of way, but, for residentially zoned property, was for seven feet of the total pavement width of the major collector street. Other property owners insisted that it was inevitable that the City's costs would be higher than the cost of a private contractor. Ms. Cahill acknowledged that the City set high standards for street construction, but also noted that the City had put the project out for bid and was using the low bid submitted.

One property owner indicated his opinion that it was unfair to assess commercial property for ten feet of paving, but to also remove parking opportunities along the street. He indicated that he felt that arriving customers should be able to park on the street, and that the effect of the proposed design, with its curbs and gutters, would limit street parking in front of his business. Ms. Cahill responded by indicating the Project Engineer's willingness to meet with property owners on design refinements. The property owner responded that he did not feel that many of the design decisions that the City had made were appropriate. While he acknowledged such requirements as the Disability Act, he did not feel that the City needed such wide sidewalks as proposed because he felt no one ever used the sidewalk. Ms. Cahill indicated that the City was required to follow the design standards for a major collector street. The property owner disputed the assertion that it was a major collector. Ms. Cahill indicated that this was based on traffic counts along River Avenue.

The next series of questions was sparked by a question from Theresa Slocum concerning the perceived danger of making improvements now only to have them displaced by a decision by ODOT to close the River Avenue Beltline interchange. Ms. Cahill acknowledged that in the past there have been suggestions that ODOT would want to shut off the River Avenue Beltline interchange. Ms. Cahill pointed out that even though this has been talked about in the past, the newest proposed study will not be started until 2008. Ms. Cahill noted that the proposed improvements to River Avenue had been delayed in the past by this same speculation, which had not proven valid. Ms. Cahill felt that it was unlikely that ODOT would decide to close the River Avenue entrance, because of the importance of the entrance for local businesses. Ms. Cahill also noted that the high rate of use of River Avenue, not only by vehicles but also by bicyclists and pedestrians, and the unsafe conditions of an unimproved River Avenue,



were unlikely to change no matter what steps ODOT took. For that reason, the City had determined that it was appropriate to start improvements on River Avenue.

The final series of general questions concerned the remonstrance process. Property owners asked if this was the meeting where remonstrances were expected. Ms. Cahill and the Hearings Officer responded that it was. Other property owners asked what the remonstrance process involved. The Hearings Official explained that the remonstrance process was described in the Eugene Code. Remonstrance was a formal process of a property owner expressing a written objection to the proposed local improvement district. The Code also provided guidance on the impact of the remonstrance. If property owners representing half the proposed assessment sign remonstrances, the hearing will be concluded and the matter will be forwarded to the City Council for consideration of the proposed improvement and the remonstrances that have been filed. Ms. Cahill explained that remonstrances do not require the Council to delay or deny the project, they only require special consideration by the Council.

To make certain that each property owner had a chance to speak, the Hearings Official then asked each property owner to take turns speaking or asking questions. The Hearings Official asked Mr. Gordon Howard to begin. Mr. Howard began by asking that the hearing be extended to allow time for additional consideration of several matters. Mr. Howard expressed concern that property owners along River Avenue had not understood that the hearing was the appropriate time to file remonstrances, and that the hearing should therefore be extended. The Hearings Official deferred a decision on this matter until other property owners had had an opportunity to speak on this matter.

Mr. Howard also asked that the hearing be extended because his estimated assessments had recently been increased. Mr. Howard had requested the installation of a storm drain system to allow storm drainage runoff to be captured from his house. He had recently been told that the amount of the proposed assessment would increase, and had only the day before learned that the proposed increase was because of a change in the preliminary design of the proposed storm drain manhole. Project engineer Joe Ramirez acknowledged that the storm drain extension had been redesigned. Mr. Ramirez explained that the storm drain had been moved to avoid conflicts with other utilities in the ground. Mr. Howard stated his objection to having to pay an additional amount because the City had chosen to shift the location of the storm drain system.

Mr. Howard also explained that he would like a postponement so that he could have a final determination of whether he was actually required to put in a storm drain. Mr. Howard explained that he had been told by the City Permit and Information Division that he would have to install a storm drain to capture runoff when the property was developed according to its zoning designation as commercial. At the same time, Mr. Howard explained, he had been told by the engineers that a storm drain for his property was not necessary because of the flat topography of the area. Mr. Howard requested that he be given a straight answer about the need for a storm drain. Ms. Cahill and Mr. Ramirez responded that they could not guarantee any particular answer from the Planning Division, but that they understood that the need for stormwater system connection for Mr.

Howards' property was necessitated by the current Eugene Code. Ms. Cahill offered to work with Mr. Howard to try to get what he would accept as a definitive answer from the Planning Division.

Mr. Howard also objected that his property was being assessed because it was zoned commercial even though it had always only contained a residence. Ms. Cahill explained that the assessment was based on the intended use of the property, and not a temporary use. Just as Mr. Howard was having storm water assessments directly charged to his property because of the potential for future development, so the City sought to assess the drainage charged based on the likely maximum use of the property, as specified in the Eugene Code.

Mr. Howard also objected to the fact that he was being charged an additional amount because of the street trees and other improvements that were not the subject of general assessment. Ms. Cahill acknowledged that it was established policy that in circumstances where direct charges were assessed, there was a component of charges for all project costs. Mr. Howard had requested the storm drain be installed at this time because it would avoid the potential of larger charges in the future when the property developed. This request led to a direct charge for Mr. Howard's property, and the direct charges reflected a proportional charged based on the total improvement costs. This process was set forth in the Eugene Code.

With the exception of the question of remonstrances, the Hearings Official did grant the requested extension of time to file remonstrances. After hearing additional details concerning Mr. Howard's request for an extension of the hearing, the Hearings Official was of the opinion that a resolution of the matters would not affect the process, and, for that reason an extension would not be appropriate. The Hearings Official stated that there were always a series of changes to be expected in a project as it moved forward. Therefore the proposed assessment was not a final and binding amount on the project. Final assessments and charges would be resolved after the project was completed. Resolution of some of the particular concerns were a matter of policy – such as the assessment according the property's zoning – which could only be resolved by the City Council. Resolution of some questions, such as whether a storm drain extension was necessary for Mr. Howard's property, would have to be resolved by the Planning Division. Ms. Cahill's offer to request clarification would help, but ultimately Mr. Howard must decide the matter for himself, as he has done on a preliminary basis by requesting the storm drain lateral extension.

Mr. Charles Meeker was the next property owner to respond with specific questions. His initial concern was with the matter of the utility relocation. Mr. Meeker was concerned that property owners would be assessed for a City choice as to which trees would be cut down. Ms. Cahill and Mr. Ramirez explained that the City was not being charged for EWEB movement of the utility poles. The City had not actually decided which trees should be removed. The trees that were "spared" were on the grounds of the MWMC plant, and had been retained at the request of MWMC because of their relationship to the operation of the wastewater treatment plant. Ms. Cahill reviewed the

utility charges that were listed among the project costs, and determined that these charges were for new utility meters for the street lights, and did not involve the relocation of the power lines.

Mr. Lloyd Henson raised concerns about the design of the street, especially the proposed curbs and gutters. He felt that a more appropriate design would be the elimination of the curbs and gutters, to be replaced by swales and "dry wells" to deal with stormwater runoff. Mr. Henson cited the example of the development of Highway 99 as an indication of the value of alternative stormwater systems. Eugene Principal Civil Engineer Cahill discussed the Highway 99 improvements, acknowledging their use of swales, and discussed some of the other methods besides curbs and gutters for useful stormwater management. Ms. Cahill explained how the City must follow state regulations, which have changed recently with regard to storm drainage. Mr. Hensen went on to question the reasonableness of the project. He doubted the need for pedestrian and bicycle amenities, stating that there are few pedestrians and that bicycles would only be encouraged to use the sidewalks and thus endanger pedestrians. Mr. Hensen also questioned the need to put in a street developed to the highest City standards.

Property owner Theresa Slocum asked why the City has already started the project when it was unsure of the funding for the project. She pointed to the engineering and predesign work that had gone on even though the local improvement district had not been formed. Ms. Cahill explained that the project had been approved and the City did know how it was going to be paid for. Ms. Cahill explained that the Council allowed the design work to be done in advance of the question of formation of an LID so that the project could be appropriately designed, and so that public input could be taken on the project scope before the bids were let and the local improvement district formed.

Ms. Slocum indicated that she felt that it was inappropriate to move forward with the project until questions were resolved about what ODOT would do concerning the Beltline, River Avenue interchange. Ms. Slocum felt that changes by ODOT could affect the status of River Avenue and could result in it being down-graded from a major collector to something less. Principal Engineer Cahill acknowledged the concern, and reiterated the City's conclusions that the project was appropriate even if ODOT made changes to Beltline four or five years from now. Ms. Slocum also suggested that sidewalks were only necessary along one side of River Avenue. She indicated that, in her opinion, the businesses along the north side of the Avenue are not pedestrian oriented and it is unlikely that this would change even in the long term. Ms. Slocum acknowledged that the portion of River Avenue closer to River Road needed sidewalks for pedestrians, but felt that the eastern portion did not need sidewalks.

Finally, Ms. Slocum indicated that she agreed with other requests to postpone further consideration of the proposed local improvement district. Ms. Slocum felt that the notice had not explained in enough detail what property owner's rights of remonstrance were, so that she had not come prepared to file a remonstrance.

The final property owner represented at the hearing was the MWMC, represented by Steve Templin, a civil engineer from the City of Springfield, and Todd Anderson from the City of Eugene. Mr. Templin explained the MWMC position, which was that the project represented a desirable upgrade in the area around the MWMC plant.

The one remaining issue was the question of remonstrances. No property owner submitted a remonstrance. Several property owners indicated that they had not understood that the time of the hearing was their opportunity to do so. The Hearings Officer and the property owners discussed the nature of a remonstrance, the language of the notice of the hearing, the proper form of a remonstrance and the need for additional opportunity to file remonstrances. It was agreed that the word remonstrance is not a commonly used or understood phrase. The property owners acknowledged that they had not attempted to investigate the process or ask what the reference to remonstrances in the notice meant. The Hearings Official allowed property owners some additional time to file remonstrances, allowing property owners until 5 p.m. on Tuesday August 3 to file remonstrances. An acceptable remonstrance was defined as a written statement of objection to the proposed local improvement district formation. The remonstrance should indicate which property is owned by the signatory. If there are multiple owners of a property, a signature by one owner will be counted proportionately to the owner's share of ownership. Husbands and wives can sign the same remonstrance.

In response to questions, the Hearings Official and the property owners discussed the ramifications of remonstrances. The Eugene Code sets the threshold for a meaningful number of remonstrances to be remonstrances reflecting fifty (50) percent of the proposed assessments. Remonstrances at or above this level do not have a particular guaranteed effect on the project. That many remonstrances mean that the hearing will be referred to the Council for special consideration. The Council may decide to continue the process or not. Property owners need to understand that remonstrances may only have the effect of delaying the project and the assessments, which may mean that the final cost will be higher.

There being no further questions, the hearing ended at approximately 8:50 p.m.