

**CITY OF CORVALLIS
COUNCIL ACTION MINUTES
August 17, 2015**

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Decisions/Recommendations
Visitors' Propositions 1. CCAT IGA (Neumann, Shala, D. Friedlander, Faulkner, Hunter, J. Friedlander) 2. Permanent Homeless Shelter (Blair, Jensen) 3. Neighborhood issues and parking (Jensen) Pages 319-320	Yes Yes Yes		
Consent Agenda Page 320			<ul style="list-style-type: none"> • Adopted Revised Consent Agenda <u>passed U</u>
Items Removed from Consent Agenda 1. Council minutes – 8/3/15 2. CCAT IGA Pages 320-321		Assigned to USC	<ul style="list-style-type: none"> • Approved minutes <u>passed U</u>
Campus Crest Findings Pages 321-326			<ul style="list-style-type: none"> • Adopted findings <u>passed 6 to 3</u>
OSU Valley Football Center Parking Page 326		Yes	
Human Services Committee 1. Corrections to minutes 2. MCR: Chapter 5.01, "City Park Regulations" (Alcoholic Beverages in City Parks) 3. ACAB Annual Report Pages 326-327	Yes Yes		<ul style="list-style-type: none"> • Accepted Report <u>passed U</u>
Urban Services Committee 1. Corrections to minutes 2. Corvallis Airport Farming Lease 3. AAB Annual Report 4. CIPAB Annual Report Pages 327-328	Yes		<ul style="list-style-type: none"> • Approved lease <u>passed U</u> • Accepted Report <u>passed U</u> • Accepted Report <u>passed U</u>; ORDINANCE 2015-14 <u>passed U</u>
Administrative Services Committee 1. Corrections to minutes 2. Budget Commission Annual Report 3. EDAB Annual Report 4. Livability Code Pages 328-329	Yes Yes		<ul style="list-style-type: none"> • Accepted Report <u>passed U</u> • Accepted Report <u>passed U</u>
Other Related Matters 1. Second reading of RPD ordinance 2. Resolution accepting Airport Cargo Apron Access Road grant Pages 329-330			<ul style="list-style-type: none"> • ORDINANCE 2015-15 <u>passed 7 to 1</u> • RESOLUTION 2015-28 <u>passed U</u>

Agenda Item	Information Only	Held for Further Review	Decisions/Recommendations
Mayor's Reports 1. If I Were Mayor Contest – Joel Lim 2. CGTF Chairs meeting 3. City/OSU Good Neighbor Day 4. Benton County Jail Measure 5. Other: Support for Life Line Page 330	Yes Yes Yes Yes Yes		
Council Reports 1. Climate Action Task Force (Baker) 2. Housing Development Task Force (Glassmire) 3. Sustainable Budget Task Force (Brauner) 4. Vision and Action Plan Task Force (York) 5. OSU-Related Plan Review Task Force (Hann) 6. Mobile home parks/housing, 8/22 GCC (York) 7. Livability patrols (Hogg) 8. 8/15 GCC summary (Baker) 9. Weed abatement notification (Brauner) 10. Infrastructure and park maintenance, roadblocks to timely response (Hann) 11. Sidewalk repair, Cloverland Park tennis program, YVC, Johnson Hall/parking (Bull) 12. Neighborhood aesthetics (Glassmire) Pages 330-332	Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes		
Staff Reports 1. City/OSU updates 2. City Manager's Report – July 2015 Pages 332-334	Yes Yes		

Glossary of Terms

AAB	Airport Advisory Board
ACAB	Arts and Culture Advisory Board
CCAT	Corvallis Community Access Television
CGTF	Council Goals Task Forces
CIPAB	Capital Improvement Program Advisory Board
EDAB	Economic Development Advisory Board
GCC	Government Comment Corner
IGA	Intergovernmental Agreement
MCR	Municipal Code Review
OSU	Oregon State University
RPD	Residential Parking District
U	Unanimous
USC	Urban Services Committee
YVC	Youth Volunteer Corps

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I. CALL TO ORDER

The regular meeting of the City Council of the City of Corvallis, Oregon was called to order at 6:31 pm on August 17, 2015 in the Downtown Fire Station, 400 NW Harrison Boulevard, Corvallis, Oregon, with Mayor Traber presiding.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

PRESENT: Mayor Traber; Councilors Baker, Beilstein, Brauner, Bull (6:32 pm), Glassmire, Hann, Hirsch (6:40 pm), Hogg, York

Mayor Traber noted items at Councilors' places, including a letter from Rebecca Landis concerning Corvallis Community Access Television (Attachment A), an email from Interim Community Development Director Weiss to Councilor Bull regarding parking and the Interim Development Agreement with Oregon State University (OSU) (Attachment B), and a press release regarding the Benton County jail ballot measure (Attachment C).

Mayor Traber said the OSU Valley Football Center Parking was removed from the meeting agenda at OSU's request.

IV. PROCLAMATION/PRESENTATION/RECOGNITION - None

V. VISITORS' PROPOSITIONS

Nancy Neumann highlighted the value of Corvallis Community Access Television (CCAT) and asked the Council not to approve the related Intergovernmental Agreement (IGA) with Corvallis School District 509J as proposed. Mayor Traber said a community group was being formed to work through CCAT's future and he encouraged her participation.

Betty Shala opposed the CCAT IGA as written and asked Council to support CCAT.

Debi Friedlander spoke from a prepared statement asking the Council not to approve the proposed IGA for CCAT (Attachment D).

Yancy Simon Faulkner read from prepared testimony supporting CCAT (Attachment E). In response to Councilor Hann's inquiry, Mr. Faulkner said there were viable, sustainable funding options for public access television, noting the City of Salem, Oregon's program.

Julie Blair read testimony from her husband, Mike Blair, concerning the proposed permanent homeless shelter (Attachment F).

Amy Hunter, CCAT Station Manager, read from prepared testimony (Attachment G). In response to Councilor inquiries, Ms. Hunter confirmed she is the only CCAT paid staff, and she has had a good relationship with the City's Public Works staff for the past eight years; however, she believed that relationship changed abruptly after her recent testimony to Council. Management

from Corvallis School District 509J had not been active in coordination of CCAT, so she had been working primarily with City staff.

John Friedlander read from prepared testimony in support of CCAT (Attachment H). In response to Councilor inquiries, Mr. Friedlander said public access television funding models vary from city to city; McMinville, Rogue Valley, and Ashland had vibrant operations. He believed funding through Comcast could be leveraged with a good funding model. He did not believe the \$5,000 repair budget allocated for Fiscal Year 2015-16 as proposed in the IGA would be sufficient to repair one piece of equipment, given the cost of technology. For future conversations concerning CCAT, he supported a joint committee that included a Council liaison, City staff, 509J staff, and the public.

Tom Jensen said the proposed permanent homeless shelter would create problems because it did not intend to screen people for drug and alcohol use prior to admittance. He said the Police Department's new livability patrols were needed immediately in his neighborhood, citing problems with speeding, shouting, and other late-night disturbances. He believed the City should be asking citizens about the student-related problems they are experiencing, rather than meeting with OSU. Regarding residential parking districts, he would like to see a more inclusive expansion. In response to his inquiry, Councilors Hirsch and Beilstein offered to meet to discuss the parking district expansion process. Councilor Baker noted a review of the process would be discussed by the Urban Services Committee.

VI. CONSENT AGENDA

Councilor Baker requested removing from the Consent Agenda the August 3, 2015 City Council meeting minutes (Item A.1) and Approval of an Intergovernmental Agreement with 509J for the Operation of Public Access Television (Item D).

Councilors Hirsch and Hann, respectively, moved and seconded to adopt the Consent Agenda as follows:

- A. Reading of Minutes
 2. For Information and Filing (Draft minutes may return if changes are made by the Board or Commission)
 - a. Bicycle and Pedestrian Advisory Board – July 10, 2015
 - b. Economic Development Advisory Board – July 21, 2015
 - c. King Legacy Advisory Board – July 28, 2015
 - d. Planning Commission – July 1, 2015
- B. Confirmation of appointments to Arts and Culture Advisory Board (Ryan) and Bicycle and Pedestrian Advisory Board (Georg)
- C. Announcement of Council liaison appointments to Corvallis Community Access Television Channel 29 (Hirsch) and Associated Students of Oregon State University (Hogg)

The motion passed unanimously.

VII. ITEMS REMOVED FROM CONSENT AGENDA

A. Reading of Minutes

1. City Council Meeting – August 3, 2015

Councilor Baker referred to his remarks in the Council minutes on page 21 of the electronic meeting packet. Regarding the RPD C expansion process, he wanted Council to be notified when the petition process started, instead of after the property owners had voted.

Councilors York and Glassmire, respectively, moved and seconded to approve the August 3, 2015 City Council meeting minutes.

The motion passed unanimously.

D. Approval of an Intergovernmental Agreement with 509J for the Operation of Public Access Television

Mayor Traber suggested assigning a review of the IGA to Urban Services Committee (USC). In response to Councilor Beilstein's inquiry, Public Works Director Steckel said 509J no longer wished to house CCAT after June 2016. While most elements of the current IGA could be continued, 509J desired to make changes to CCAT's existing space and wanted the ability to make those changes on their own time table. Councilors agreed with assigning a review of the IGA to USC.

VIII. UNFINISHED BUSINESS

A. Campus Crest Findings

Council's deliberations concerned a land use application for a Land Use Board of Appeals (LUBA) Remand of the Campus Crest decision (CPA11-00002, ZDC11-00005, PLD13-00003, and SUB13-00001). Only the Comprehensive Plan Amendment and Zone Change applications were appealed and were at issue in the proceeding. However, the approved Planned Development and Subdivision applications were contingent upon approval of the Comprehensive Plan Amendment and Zone Change.

The land use decision was based on information within the existing record, which was reviewed by LUBA. Public testimony regarding the application was not accepted, and the City Council did not consider any new information on the matter. Mayor Traber noted Councilors recently forwarded to the City Recorder emails regarding Campus Crest and a story about Campus Crest was published in the August 17, 2015 issue of the *Corvallis Gazette-Times*. Because the record was closed, none of the information was considered.

Declaration of any new conflicts of interest – None

Declaration of Councilors who did not participate in the original land use decision –

Councilor Bull said although she may have demonstrated an intense involvement in the affairs of the community by testifying as a citizen at the Campus Crest public hearing, she was able to judge the merits of the remand issue on the basis of the evidence, analysis, and arguments presented in the record of the proceedings. She made the

following specific points: She testified at the public hearing in opposition to the proposed development; she testified prior to taking her seat on the Council; and her testimony primarily concerned the need for a revised and current Comprehensive Plan and the problems with relying on a plan she believed was outdated, not with the particulars of the Campus Crest development. In general, her interest then and now was to have land use planning systems in place that assisted in guiding good land use decisions. Her testimony reflected that general concern. She believed it was also a concern of many Ward 4 voters. She had no particular bias toward or against any specific development proposal, as long as it complied with land use planning requirements. She would not gain any financial benefit or detriment from approving or denying the specific development proposal. She reviewed the record as required and could make a fair and impartial decision about the proposal based on the relevant criteria. In response to Mayor Traber's inquiry, Councilor Bull confirmed she had reviewed the record and wished to participate in the Council's decision.

Councilors Baker, Hann, and Glassmire declared they had reviewed the record and could participate in the decision.

Declaration of any new ex parte contacts –

Councilor Baker said while he was hosting the August 8 Government Comment Corner, a resident approached him about Campus Crest and he advised the person he could not discuss the matter. Councilor Hann received an email from a constituent; however, because Campus Crest was in the subject line, he did not read it. Councilor Glassmire received several emails and at a recent Arnold Park neighborhood gathering, some questions were raised; however, Campus Crest was not discussed. In response to Mayor Traber's inquiry, Councilor Glassmire confirmed he was not considering the questions that were raised as part of his deliberations. Councilor Hogg noted he forwarded Campus Crest emails he received to the City Recorder for the sake of transparency; however, they would not influence his decision. Councilor Brauner received emails that had "Campus Crest" in the subject line, so he did not open them. He also was approached about Campus Crest at a Government Comment Corner several weeks prior and he informed the resident that he could not speak about the matter. Councilor Brauner said he could still deliberate in a fair and impartial manner. Councilor Hirsch said he discussed with a fellow musician some frustrations about how Campus Crest was covered by the newspaper; however, he did not discuss Campus Crest itself and the circumstances did not influence his ability to make a fair and impartial decision. Councilor Bull said a few months ago, consistent with her testimony, she had a conversation where she stated her concerns about the Campus Crest proposal and the analysis; however, nothing was outside of the record, she had no new information, and could make fair and impartial decision.

Declaration of any site visits - None

Rebuttal of disclosures –

Seth King, Land Use Attorney with Perkins Coie, rebutted Councilor Bull's disclosures, noting his comments related to procedure, not substance. Mr. King requested Councilor Bull recuse herself because he believed she had demonstrated actual bias against the application by testifying in opposition earlier in the proceedings. Mr. King said the request was not made lightly and it was an isolated request based on the facts of

the case. He provided a letter addressed to the Mayor and City Council that further highlighted his procedural concerns (Attachment I).

In response to Mayor Traber's inquiry, Deputy City Attorney Brewer cited a December 2014 Court of Appeals case involving an elected official participating in a vote. The Court focused on an actual conflict of interest constituting a bias, and found that general political predispositions were not biases. Given the case, Mr. Brewer recommended that the Mayor note the objection and continue with the proceedings. Mr. King interpreted the case differently. He agreed that the Court was distinguishing between a political predisposition and actual bias; however, he believed in the Campus Crest matter, actual bias had been shown. Mr. King said the Court opined that actual bias was demonstrated if someone made explicit statements indicating he pre-judged a specific matter that was before him. Mr. King believed that situation had occurred with Councilor Bull in the Campus Crest matter. In response to Councilor Baker's inquiry, Mr. Brewer confirmed the issue was relevant to the appeal if Councilor Bull's participation affected the outcome. In response to Councilor Hirsch's inquiry, Mr. Brewer said if the outcome would not have been affected either way, then it would not have mattered whether Councilor Bull recused herself. In response to Councilor Baker's inquiry, Mr. Brewer said regardless of whether the outcome was affected by Councilor Bull's participation or not, any party could raise a legal challenge, and if that occurred, Councilor Bull's participation would be easy to defend.

Mayor Traber' decided to continue with all nine Councilors participating.

Deliberations

Mayor Traber reminded Councilors they were deliberating on evidence and testimony included in the record of the decision and they would make findings in support of their decision. He further noted findings were to be based on applicable criteria of the case or other criteria in the Municipal Code, Comprehensive Plan, or Land Development Code which they believed applied to the decision. Mr. Brewer said, as explained in the staff report that was included in the Council meeting packet, the relevant criteria was to address the issue that was remanded to them by LUBA.

Councilor Hann said Mr. Birky's testimony about traffic generation lacked depth, as there was no comparison about whether land development patterns were more compact in Corvallis or more spread out in Florida, and Mr. Birky did not analyze the percentage of vehicle use per population. Councilor Hann believed that two elements of the three points made by Mr. Birky, which were dependent upon his recommendation to use the Florida data, were insufficient. Engineering Supervisor Gescher agreed with Councilor Hann's observations. Staff relied heavily on the Institute of Traffic Engineers (ITE) trip generation manual. In the Campus Crest case, an apartment designation was used, and the trip generation per unit was the average from approximately 90 individual studies. Mr. Gescher said other studies were introduced into the record, with some showing significantly higher trip generation rates and some showing significantly lower trip generation rates. He stressed those were individual studies and little background was provided about them. In the absence of better information, the ITE trip generation data was used because it represented a much broader range of studies and was well documented.

Councilor Baker understood that to demonstrate compliance with the Transportation Planning Rule (TPR), a worst case-scenario analysis between the existing zoning and proposed zoning was required. He referred to the February 5, 2013 memorandum in the record entitled *Corvallis Campus Crest Findings on TPR Significant Effect*, which cited the ITE data. In response to his inquiry about whether a separate analysis was necessary, Mr. Gescher said the analysis in the memorandum was typical of those conducted during staff's review of other applications. The worst case scenario comes from applying maximum densities for existing zoning and for the proposed zoning, and then applying an appropriate trip generation rate. In response to Councilor Baker's inquiry, Mr. Gescher confirmed compliance with the TPR was demonstrated through the worst case scenario, and compliance with local regulations was demonstrated through an analysis of the proposed development scenario.

Councilor Glassmire said for the worst case scenario, comparisons between Corvallis and Florida were not known, so he would have applied a 40 percent trip generation premium. Mr. Gescher emphasized the worst case scenario typically comes from applying an appropriate trip rate to the worst case density scenario.

Councilor Bull questioned whether using a designation for a typical apartment represented the worst case scenario, given that Campus Crest's model was to have individual leases for four or five bedrooms within one dwelling unit. Such a model was more like having four or five individual dwelling units, which would produce a different trip generation rate. She noted underestimating trip generation rates could result in inadequate infrastructure for a development. Mr. Gescher said given that individual studies that were introduced indicated higher and lower trip generation rates, the ITE's average of many studies appeared to be the most appropriate to use. Councilor Bull hoped the findings could indicate which mode choice and which trip distribution decisions were made for the worst case scenario. She said various analyses used different criteria and it was difficult for her to decipher.

In response to Councilor Hirsch's inquiry, Mr. Gescher said staff based trip generation on a per dwelling unit basis, not a per person basis. Mr. Gescher did not believe it was accurate to assume the same number of people would be housed on the property regardless of the dwelling type, given the underlying zoning changes.

Councilors Hann and Brauner, respectively, moved and seconded that the Council approve and adopt the findings and conclusions demonstrating compliance with the Transportation Planning Rule and supplementing the Council's original conclusion that the proposed Comprehensive Plan Amendment and zone change will not significantly affect transportation facilities and reaffirming approval of the post-acknowledgement plan amendment and zoning map amendment, and related ordinance.

Councilor York said she voted to deny the application when it was first presented to the Council. When focusing on the very narrow boundaries of the remand, she examined the issues and whether she could find evidence in the record that she had not noticed previously. She cited a December 10, 2013 memorandum from McKenzie which responded to questions raised by Corvallis resident Rolland Baxter regarding worst case scenario analysis. She thought Mr. Baxter's comments were valid and she did not believe the applicant demonstrated his comments were not directly relevant to the issue.

Councilor Brauner believed staff presented findings that were in the record and doing so satisfied LUBA's remand.

Councilor Glassmire said in the November 19, 2013 memorandum from DKS Associates submitted into the record at the Planning Commission's public hearing, in a calculation that was not about the worst case scenario, DKS used a 40 percent trip generation rate premium to determine trips. He believed using the worst case scenario with that 40 percent premium presented a problem.

Councilor Bull believed Mr. Birky's testimony was persuasive and she was not convinced the worst case scenario was adequately considered based on her review of the record and findings. She believed a student trip rate was relevant because in Corvallis, students impacted how dwelling units were occupied. She noted conversion of what were previously single-family homes to student housing changed the number of trips generated.

Councilor Hogg voted to deny the application when it was presented to the previous Council, as he believed placing high density and low density developments next to each other would negatively impact livability. However, that Council made its decision and this Council's charge was not to revisit the decision. Rather, it was to determine whether the Council had adequate information to make a decision for this remand. So while he disagreed with the original decision, he supported the motion because he believed the Council had adequate information to make a decision about the remand issue.

Councilor Hann said when the property was initially annexed into the City, he was on the Planning Commission for all of the land use proposals that were subsequently submitted. Although he did not like any of them, his responsibility as a Planning Commissioner, which applied equally to City Councilors, was to take clear and objective data, review the Land Development Code, and apply it fairly, no matter the applicant. His initial vote as a Planning Commissioner was to support the zoning change; however, he later voted against Campus Crest based on subsequent issues. Given the remand issue before the Council today, he believed the matter had been adequately considered based on the record.

Councilor Hirsch said choosing to not develop the property was not an option and based on what was presented to Council, a decision was made. He appreciated the comments made by Councilors Hogg and Brauner.

Councilor Baker acknowledged the need to focus on what was remanded to Council. When he reviewed the record, on balance, he supported what was in the findings. He noted his earlier concerns about the worst case scenario analysis and understanding the TPR requirement was to look at trip generation for the existing zoning and the proposed zoning. He said the February 5, 2013 memorandum *Corvallis Campus Crest Findings on TPR Significant Effect* accomplished that and it did consider 500 units, not just the 296 units that the development was limited to. He said the Council decided use of the ITE standard to calculate the worst case scenario was appropriate, so he respected their decision. He believed the findings supported what the Council did at that time. He noted he did not find the traffic analysis convincing; however, it was not a consideration for the worst case scenario as required by the TPR.

Councilor Beilstein noted that the ITE standard had been used by the City for other projects in the same area and he believed the standard was appropriate. He said while it may be true the apartment dwelling unit standards don't reflect the exact type of usage for students, evidence of higher trip generation rates from student apartments in Florida is no indication that would be the case here. He noted Corvallis' high use of transit and other alternative transportation modes, such as bicycling and walking, compared with other communities.

Councilor York complimented staff for pulling together the pieces of information for the remand; however, she did not find evidence in the record to support a yes vote on the motion.

Councilor Bull expressed concern that the findings as presented were not making a good argument for what would be the worst case scenario.

The motion passed 6 to 3 on the following roll call vote:

Ayes: Beilstein, Hirsch, Hann, Brauner, Hogg, Baker
Nays: Glassmire, York, Bull

Mayor Traber recessed the meeting from 8:30 pm to 8:38 pm.

Mr. Brewer said anyone not satisfied with the Council's decision may appeal to LUBA within 21 days from the date the decision was signed.

B. OSU Valley Football Center Parking

As noted by Mayor Traber at the beginning of the meeting, review of the OSU Valley Football Center Parking proposal was removed at OSU's request.

IX. STANDING COMMITTEE REPORTS, ORDINANCES, RESOLUTIONS, AND MOTIONS

A. Human Services Committee – August 4, 2015

1. Corrections to HSC minutes, if any

Councilor Glassmire provided the following clarification:

On page 251 of the electronic packet, the minutes read: *Mr. Krieg noted that insurance companies do not offer liquor liability insurance plans.* Councilor Glassmire said the words "to the City" should be added to the end of the sentence. He said there was a proposal that the City buy liquor liability insurance and charge renters for the cost. Mr. Krieg said that would not be feasible.

The item was for information only.

2. Municipal Code Review: Chapter 5.01, "City Park Regulations" (Alcoholic Beverages in Parks)

Councilor Glassmire said the City has liability when alcohol is served as part of a park rental and it was seeking to limit that liability. After the meeting, in

consultation with staff, it was realized some miscommunication about the topic had occurred, so HSC will further discuss the matter at a future meeting.

Councilor Brauner understood concerns about alcohol use in City parks; however, he noted a group of churches rent Central Park for a Labor Day weekend joint service and wine is served as part of communion. He asked HSC to consider that in the context of the discussion.

The item was for information only.

Councilor Hirsch returned to the meeting at 8:42 pm.

3. Arts and Culture Advisory Board Annual Report

Councilors Glassmire and Beilstein, respectively, moved and seconded to accept the Arts and Culture Advisory Board Annual Report.

The motion passed unanimously.

B. Urban Services Committee – August 4, 2015

1. Corrections to USC minutes, if any

Councilor York provided clarification to her comment as shown on page 269 of the electronic Council meeting packet: *Chair York was reluctant to take action preliminary to a possible City climate action plan.* She said the sentence misstated what she was trying to say. She meant that she was not going to anticipate what might come out of a climate action plan to make a decision.

The item was for information only.

2. Corvallis Airport Farming Lease – Venell Farms

Councilor York said the Committee discussed flexibility for lease changes should there be a reason for the Council to make a regulatory change. Mr. Shepard added that the lease could be terminated if the City wished to change the use of the property or if there were concerns about farming practices on the land. He consulted with the City Attorney and confirmed the lease provided the City with the authority to modify or terminate it, should the City find doing so was in its best interests. Councilor Baker said a provision for alternative uses of the land was also contained in the lease.

Councilors York and Hogg, respectively, moved and seconded to approve the Corvallis Airport Farming Lease.

The motion passed unanimously.

3. Airport Advisory Board Annual Report

Councilor York said Airport Advisory Board Vice-Chair Zoller presented the report to the Committee and encouraged Councilors to tour the Airport if they had not already done so.

Councilors York and Hirsch, respectively, moved and seconded to accept the Airport Advisory Board Annual Report.

The motion passed unanimously.

4. Capital Improvement Program Advisory Board (CIPAB) Annual Report

Councilor York said CIPAB Chair Hutchens presented the report to the Committee and the Board recommended being re-classified as a Department Advisory Committee. USC members discussed how in the course of their work, CIPAB reached out to many different bodies, so there were other opportunities for public comment about capital improvements. Very little, if any public comment was received at CIPAB meetings, which were more of a place where different points of view were brought together.

Councilors York and Baker, respectively, moved and seconded to accept the Capital Improvement Program Advisory Board Annual Report.

Councilor Baker said the annual report mentioned that the proposed Tunison/Avery shared use path may need to be removed from consideration given logistical challenges. At the USC meeting, there was support for identifying alternative ways to get some type of multi-modal path in the area.

The motion passed unanimously.

Mr. Brewer read an ordinance amending Corvallis Municipal Code Chapter 1.16, "Boards and Commissions," as amended, repealing Section 1.16.285.

Councilor Bull said she was a liaison to the CIPAB when she was a Budget Commissioner. She agreed there had been very little public involvement; however, it was an important part of the budget, as very large expenditures are prioritized. She hoped more efforts would be made to encourage public involvement.

ORDINANCE 2015-14 passed unanimously.

C. Administrative Services Committee (ASC) – August 5, 2015

1. Corrections to ASC minutes, if any

There were no corrections. The item was for information only.

2. Budget Commission Annual Report

Councilor Brauner said Finance Director Brewer presented the report on behalf of the Budget Commission. He said as the Council looked to standardize the Annual

Report process, he would like the discussion to include how much Council wanted a representative from an Advisory Board or Commission to present the annual report.

Councilors Brauner and Hirsch, respectively, moved and seconded to accept the Budget Commission Annual Report.

The motion passed unanimously.

3. Economic Development Advisory Board (EDAB) Annual Report

Councilor Brauner said the EDAB Chair did not attend the meeting to present the annual report. While ASC believed the information contained in the report was valuable, they gave feedback that the next annual report should be more directed toward the activities of the EDAB itself.

Councilors Brauner and Hirsch, respectively, moved and seconded to accept the Economic Development Advisory Board Annual Report.

Councilor York assumed staff was coordinating with Advisory Board and Commission Chairs so they would be at Committee meetings to present the annual reports. She asked that if a Chair or Vice Chair could not attend, to have staff tell the Standing Committee Chair in advance so s/he could decide how to proceed. Councilor Brauner agreed that could also be included during the process review discussion. Councilor Hann said since the related discussion at the recent Council work session, he now had a better understanding of the role of the annual reports and would be a better Council liaison next year.

The motion passed unanimously.

4. Livability Code

Councilor Brauner said the August 5 meeting was devoted to receiving public comment. Language will be drafted into Code format, reviewed by the City Attorney's Office, and presented to ASC, most likely at its September 23 meeting.

In response to Councilor Bull's inquiry, Councilor Brauner believed the formatted draft would address some questions that had been raised, but not all of them, especially concerning the appeals process and landlord notification. He encouraged ASC members to share alternative language with staff in advance so it could be considered. He said no direction was given to make substantial changes to what had already been drafted.

In response to Councilor Hann's inquiry, Councilor Brauner said the current proposal included graduated enforcement so there was an opportunity to first correct deficiencies.

The item was for information only.

D. Other related matters

1. Second reading of an ordinance relating to creation and designation of Residential Parking Permit Districts, amending Corvallis Municipal Code Section 6.15.030, "Creation and Designation," as amended.

Mr. Brewer read the ordinance.

ORDINANCE 2015-15 passed 7 to 1, with Councilor Baker opposing. Councilor Hogg recused himself from voting, as he did for the first reading of the ordinance.

2. A resolution accepting a grant for \$540,000 for the Airport Cargo Apron Access Road in the Airport Construction Fund

Mr. Brewer read the resolution.

Councilors Hirsch and Baker, respectively, moved and seconded to adopt the resolution.

RESOLUTION 2015-28 passed unanimously.

X. MAYOR, COUNCIL, AND STAFF REPORTS

A. Mayor's Reports

1. If I Were Mayor Contest – Recognition of Joel Lim

Mayor Traber recognized Mr. Lim as Corvallis' winner and the statewide runner-up in the If I Were Mayor contest. The item was for information only.

2. Council Goals Task Forces Chairs – August 11, 2015

Mayor Traber said the primary topics at the August 11 meeting were metrics and quality of life indicators, and the related overlap between Task Forces. The next meeting was anticipated for September 15. The item was for information only.

3. City/OSU Good Neighbor Day

Mayor Traber said the first Good Neighbor event was held in 2014. This year's event will coincide with Fall Festival and a neighborhood canvass event will be held on Sunday, September 27 from 1 pm to 3 pm. The canvass was an opportunity for OSU and City elected officials to visit neighborhoods around campus. The item was for information only.

4. Benton County Jail Measure

Mayor Traber noted that elected officials can take a position on ballot measures and he announced that he would publicly endorse the Benton County Jail bond measure. In response to his inquiry about whether Council wished to take a position on the matter, Councilor Hogg suggested that a representative from Benton County provide

a presentation to Council before the Council makes a decision; Councilors agreed. The item was for information only.

5. Other

Mayor Traber sent a letter to the Federal Communications Commission supporting expansion of Lifeline to include broadband. Lifeline is a government benefit program that provides discounts on monthly telephone service for eligible low-income subscribers to help ensure they can connect to communication networks, find jobs, access health care services, and call for help in an emergency. The item was for information only.

B. Council Reports

1. Climate Action Task Force (CATF)

Councilor Baker said CATF meetings were being scheduled for September.

2. Housing Development Task Force (HDTF)

Councilor Beilstein said the HDTF's timeline anticipated work leading up to June 2016 by which time they hoped the Council would decide what actions they would take regarding housing stock in Corvallis. He expressed concern about how housing needs connected to a sustainable budget and noted the need for economic support to produce a substantial change in housing stock.

Councilors Beilstein and Glassmire, respectively, moved and seconded to accept the Housing Development Task Force timeline and scope of work.

In response to Councilor Bull's inquiry, Councilor Beilstein said the HDTF would consider how other jurisdictions were funding low income housing.

The motion passed unanimously.

3. Sustainable Budget Task Force (SBTF)

Councilor Brauner said the SBTF discussed the Community Development Department's programs in the General Fund and housing programs. In response to Councilor Bull's inquiry, Councilor Brauner said Council Leadership was approached by the City of Albany about considering a local option gas tax. Albany was planning to place the item on the May 2016 ballot. Councilor Brauner said it was something to consider in the context of other revenue initiatives. He noted gas tax receipts could only be used for roads and said 23 cities in the State had a local gas tax. The item was for information only.

4. Vision and Action Plan Task Force (VAPTF)

Councilor York said members were being polled about a September meeting time to discuss steering committee membership. The item was for information only.

5. OSU-Related Plan Review Task Force

Councilor Hann said due to lack of a quorum, the previous meeting was canceled. The item was for information only.

6. Other Council Reports

Councilor York noted mobile home parks were an important component of meeting housing needs.

Councilor Hogg said the Police Department's new Community Livability Officers came to a recent Central Park Neighborhood Association meeting. Their goals include looking at neighborhood and community concerns regarding chronic, repeat criminal behavior. They act as a liaison between Corvallis residents, OSU, businesses, and the Police Department. They encouraged residents with concerns to call the Police Department's non-emergency phone number, 541-766-6911.

Councilor Baker said comments he received at the August 15 Government Comment Corner related to parking districts; livability code issues; the Climate Action Plan Task Force; painting sidewalk lines at railroad tracks, particularly at Sixth Street, to improve safety; and questions about why there is not a grocery store in South Corvallis.

Councilor York said Lyn Riverstone from the Linn-Benton Community College Board was scheduled to host the August 22 Government Comment Corner.

Councilor Brauner received an inquiry from a constituent regarding weed abatement notification times during fire season. Currently, the time frame is 90 days from when the first notice is given and when the vegetation is mowed. The constituent believed 90 days was too long and 30 days was more reasonable. Mr. Shepard agreed to follow up on the inquiry.

Councilor Hann inquired about an update on the Majestic Theatre; Mr. Shepard said a quarterly report was provided to the Administrative Services Committee on June 3.

Councilor Hann said his constituents provided feedback about the importance of maintaining City infrastructure and City parks, and being able to respond to requests timely. He cited an example where it took three years from when a complaint was filed to address eroding stream banks. Councilor Hann said staff did a good job; however, due to regulations and rules that were in place, it took a long time to resolve the issue. He hoped staff could come to Council when roadblocks were hampering their ability to address citizen concerns in a timely manner. He noted the importance of maintaining City infrastructure, including City parks, and he wanted to improve the City's commitment to funding those. A constituent inquired about a crosswalk at NW Arrowwood Circle and NW Aspen Street.

Councilor Bull complimented staff for the sidewalk repair work in her neighborhood and provided positive feedback about the Cloverland Park tennis program. She hoped more funding could be provided for the Parks and Recreation's Youth Park Corp program which employs youth to work on projects. She noted the email distributed earlier in the meeting (Attachment B) regarding parking spaces associated

with OSU's new Johnson Hall. If the project had been subject to the Interim Development Agreement (IDA), 170 parking spaces would have been required; however, the project application was submitted to the City before the IDA was signed. She said the comparison speaks well of the new IDA, but it also highlights the impact from the previous rules, as any lost parking, no matter how it is lost, affects the area around the campus.

Councilor Glassmire said there were some appearance issues his ward was trying to address. A motor home was parked in a prominent place and was causing concern to nearby residents. He was not certain what, if anything, could be done to address the concerns; however, it was an issue and he was trying to consider options. Mayor Traber recommended speaking to ASC members about how it could be related to the Livability Code.

C. Staff Reports

1. City/OSU Updates

Mr. Shepard highlighted four areas where the City and OSU were working together:

- * Community Relations Advisory Group – meets regularly and a progress report will be provided to HSC by Jonathan Stoll, OSU's Director of Corvallis Community Outreach.
- * Interim Development Agreement – The agreement is in place. Mr. Shepard viewed OSU's request to postpone discussion of the Valley Football Center proposal from the agenda as a positive sign that they were listening to the City and hopefully sensitive to the parking issue.
- * OSU-Related Plan Review Task Force – a review of the Comprehensive Plan is underway in preparation for submittal of OSU's District Plan.
- * Intergovernmental Agreement – Staff is working with OSU on a conceptual outline.

Councilor York said it was helpful to hear about the efforts together, as all related to the Council's goal concerning OSU/City Relations.

The item was for information only.

2. City Manager's Report – July 2015

The item was for information only.

3. Other

Mr. Shepard expressed concern with how the CCAT IGA was framed during Visitors' Propositions. He noted that Ms. Hunter was a 509J employee and the City needed to be careful about not getting between 509J and its employee. Ms. Hunter approached a City employee about the IGA and the employee referred her to the School District. There was no ill intent on the City's part. Mr. Shepard said Ms. Hunter had not reached out to him and he was under the impression she understood the general context of the IGA.

Mr. Shepard said the Federal HOME Investment Partnership program is reviewed annually and the City is compared with other funding recipients across Oregon. This year, Corvallis placed first in the state in how the City administers its program and was in the 96th percentile nationally. Mayor Traber recognized Interim Community Development Director Weiss for his good work.

In response to Councilor Glassmire's request, Councilor Brauner said information about the code compliance backlog was in a staff report that went to the Sustainable Budget Task Force and he offered to provide the data to Councilor Glassmire. Councilor Brauner recalled the backlog had been cut in half.

The items were for information only.

2. City Manager's Report – July 2015

The item was for information only.

XI. NEW BUSINESS – None

XII. PUBLIC HEARINGS – None

XIII. ADJOURNMENT

The meeting adjourned at 10:00 pm.

APPROVED:


MAYOR

ATTEST:


CITY RECORDER

Testimony for 8-17-15 council meeting

Mayor Traber and members of the council:

I am writing to comment on tonight's action involving CCAT and asking that you reconsider the proposed budget and intergovernmental agreement as proposed.

Corvallis-Albany Farmers' Markets is a 501(c)(6) nonprofit that operates outdoor farmers' markets in Corvallis and Albany and otherwise works to support farm direct marketing in our six-county area.

CAFM has been working toward establishing content on community cable channels in both of our cities.

In our increasingly fractionated information environment, it is important for nonprofits to adopt a multitude of communication channels. Some of these channels necessarily must come from sweat equity rather than from cash.

I also have a longer-term vision of how we could be involved in CCAT. Recently I learned of a radio show called Grow PDX, which is hosted by Weston Miller, an Extension agent. "**Grow PDX** is a show focusing on horticulture, urban gardening, community food systems and agriculture," according to its web page. We have enough people interested in these topics here to do a cable version of this show.

Or the show could be broadened to other sustainability topics. The Corvallis Sustainability Coalition has many sustainability teams that could report on projects on CCAT, in addition to current means of communication.

Appointing a council liaison is a positive step, but I am concerned that drastically cutting the budget now as CCAT is at this transition point will lead to failure rather than success.

CCAT needs this year to get a footing for a future without the funding it has had. Potential funders would look at council action blessing a huge cut and perhaps decide to put their funds elsewhere. Conversely, restoring the last year of the grant would send the right message and give CCAT a chance to attract other funding.

Community involvement is an important component of livability, and CCAT can be a viable channel for that involvement.

Thanks for the opportunity to comment!

Rebecca Landis
Corvallis-Albany Farmers' Markets
P.O. Box 2602
Corvallis, OR 97339

From: Barb Bull
Sent: Monday, August 17, 2015 2:39 PM
To: Holzworth, Carla
Subject: Fwd: BLI RFP and Johnson Hall Parking

Hi Carla, Will you please provide copies of Kent's email below for tonight's City Council meeting? Thank you, Barbara

----- Forwarded message -----

From: Weiss, Kent <Kent.Weiss@corvallisoregon.gov>
Date: Thu, Jul 23, 2015 at 8:57 AM
Subject: BLI RFP and Johnson Hall Parking
To: Barbara Bull
Cc: "Shepard, Mark" <Mark.Shepard@corvallisoregon.gov>

Good morning Barbara –

Following up on the two requests you e-mailed Monday and mentioned at Council that night, I am attaching a copy of the Request for Proposals that was developed by staff and the departmental advisory committee working on the BLI process:

I also asked Development Services staff to provide an estimate of the number of parking spaces OSU would have needed to provide if the Johnson Hall project had been brought in under the Interim Parking Development Agreement. Because permits were issued for that project prior to agreement execution, the team that negotiated the agreement understood that it would not be subject. Staff have reviewed building floor plans, and by doing hand scaling of habitable/non-habitable areas, have come up with an estimate. If this project had come in under the Interim Agreement we would have had additional information that would have allowed this number to be more precise.

Here is the estimate:

Parking Summary

- Number of required spaces based upon proposed habitable space = 53,212 sq. ft X .0012 = 64 spaces
- Number of spaces removed from the development site = 120 total spaces displaced, 14 spaces added on the development site = 106 vehicle spaces lost
- Total replacement parking if the proposal had been reviewed under the Interim Parking Development Agreement (required new parking + total displaced) = 170 vehicle parking spaces
- Johnson Hall is located within Sector C of the OSU Campus. Parking utilization was below the 90% threshold to require new parking facilities. The proposal retained 14 parking spaces at the site, with 11 of those spaces being ADA.

Please let me know if you have questions or would like additional information.

Kent
Kent Weiss, Interim Director
Community Development Department
Manager, Housing & Neighborhood Services Division
City of Corvallis, Oregon
(541) 766-6555

ATTACHMENT B
Page 334-b



BOARD OF COMMISSIONERS
205 NW Fifth Street
P.O. Box 3020
Corvallis, OR 97339-3020
(541) 766-6800
FAX (541) 766-6893

NEWS RELEASE

August 13, 2015

For further information, contact:

Rick Osborn, Public Information Officer, Benton County Board of Commissioners
(541) 766-6082, rick.osborn@co.benton.or.us

Commissioners put jail bond on November ballot

CORVALLIS, Ore. – The Benton County Board of Commissioners voted 3-0 to put a measure on the ballot asking voters to fund a new jail. The ballot measure will appear on the November Special Election ballot.

“The measure we placed on the November ballot is a necessary step for the protection of our deputies and the community,” Benton County Board Chairman Jay Dixon said. “This new jail will hold dangerous offenders behind bars and focus on correcting behavior by treating the underlying issues of addiction and mental health.”

If approved by voters, the new 110-bed jail would replace the existing 40-bed facility in downtown Corvallis. The Corvallis facility has become increasingly costly to maintain and staff due to inefficient design and continued plumbing, electrical and structural problems. The new facility would have sufficient space to house all offenders in Benton County, without the need for renting beds in other counties. The new jail would offer additional safety and health protections for officers. Inmates would have space for mental health and addiction treatment programs that help end the cycle of criminal behavior.

The Board of Commissioners also reached an agreement with a Philomath area landowner to purchase a former mill site in an area zoned for heavy industrial use near the railroad tracks on 19th Street near Philomath. Sale of the property is contingent upon bond passage and other factors.

The ballot measure would allow the county to issue up to \$25 million in bonds to be repaid over a period not to exceed 21 years. The bond is estimated to cost around 26 cents per thousand of assessed property tax value. The county estimates the average Benton County property owner would pay about \$4.54 per month.

The estimated \$1.7 million for purchasing the property in Philomath and demolishing the current jail – which is attached to the Benton County Courthouse on the north side of that structure – will be covered with existing county funds.

###

See: newbentoncountyjail.com

ATTACHMENT C

Page 334-c

Testimony to City Council
August 17, 2015

Hello, my name is Debi Friedlander. I'm a Real Estate Broker at Windermere Willamette Valley, and the Corvallis Sustainability Coalition Housing Action Team Leader.

My team is currently working with CCAT on a video project, which we feel will be an important tool for communicating the complexities in the lives of families facing housing insecurity, in a way that will touch people's hearts and encourage community involvement in solutions.

I urge you not to accept the proposed changes to the Intergovernmental Agreement, which would slash CCATs funding and make it much more difficult for us to communicate our message in a meaningful way.

Thank you.

Comments provided to City Council 8/17/15

"My name is Yancy Simon Faulkner. Thank you all so much for your service and your time. I'm a Corvallis resident, a video producer, photographer, event host, licensed reverend, director, a Jack of All Trades. I own TWO small media companies based right here in Corvallis. Yancy Simon LLC, and Hopstories for any of you who enjoy craft beer.

I produce documentaries, music videos, commercials, events, short films, and content for the Craft Beer industry. We have recently been mentioned online in Time Magazine, the Washington Post and OPB to name a few. I have a short film being featured next week on OPB's Oregon Lens. I worked in special education for 5 years and used video almost every day as a teaching tool. I've been working in TV, event, video and film since I was 14 years old.

As a conservative estimate, I have worked with Non Profits and private organizations to raise and distribute roughly 100 *million* dollars **using video** and other media. I've helped homeless youth, kids who've lost their parents, food banks, the American Red Cross, a Facebook data center, city and county services, Boys and Girls Club of America and colleges at Oregon State University tell their story and have their message heard **using video**.

Our entire modern world gets its business done through smart TVs, computers and Smart Phones which all directly deliver succinct and powerful messages **using video**. It's the simple truth: print and type media is being overtaken **by video**.

I wouldn't be making my living in this industry if it weren't for resources like CCAT. CCAT gives people *without* my skill set the ability to participate in and produce content to tell and **SHARE** their stories. Stories which make our community stronger and more interesting, which would never appear anywhere else.

Every single one of you consumes content on Facebook, Youtube and television. You support causes, you innovate, you live a less impactful and greener life, you learn to speak new languages and change the world, all because of 1 minute videos about climate change or your carbon footprint or what's really in our food.

At CCAT, you can create testimonial videos, documentaries, live art-event-and-musical performances, or a gardening show, and learn how to edit and distribute it all. CCAT can help community members create content about local topics which matter to us – biking, climate, fire protection or, brewing culture and tourism...

Allowing this resource to slip away WILL impact us all negatively and we'll never be able to rebuild what would be lost. We won't be able to start this up from scratch in 3 years when video is even more of a *required* medium of communication. You're filming this right now (point to camera)!

I stand behind CCAT and will do all I can to ensure we all have access to this communication resource and I am passionate about continuing to support it in the future. I hope the Council and the Mayor will think long and hard about how to avoid taking any actions that would make it more difficult for CCAT to fulfill its important role in the quality of life in Corvallis.

Thank you so much for listening to me and don't forget to watch "Debbe Cornitius - Sculptor" on OPB next Tuesday at 10pm."

Testimony to City Council
August 17, 2015

Hello, I'm Mike Blair, my address is _____ in the Avery-Helm historical district. My wife and I are champions for historic structures, and maintaining and enhancing the historic integrity of Corvallis' wonderful houses and buildings. Some of the past things I've done in this regard include donating the engineering required to solve the sanitary sewer problem at the Whiteside Theatre-the fundamental requirement by the City before they could begin restoring the building. Julie and I improved our "significantly contributing" historic house with a seismic retrofit and other improvements. We were recently approved by your Commission to remove a degraded historic garage, and replace it. The application was 163 pages, and required 3 months to prepare. Part of the application required a multi-page essay relating the history of the garage and district, and how the garage removal would not negatively impact the Avery-Helm District. I am here today to present the case of how the proposed Mega-Homeless Shelter on 4th Street, on the border of the Avery-Helm District, will negatively impact the Historic Integrity of the district.

The residents in the Avery-Helm Historic District have experienced significant negative impacts over the past several years, especially during winter months when the temporary shelter has been open. The proposed Permanent Shelter more than doubles the existing beds (90) and will provide up to 180 meals, 3 times per day, while allowing the use of alcohol and drugs prior to entering their building. We feel that this will have an extremely negative impact on both the historical integrity of the Avery-Helm neighborhood, and property values.

We understand this Commission does not have the authority to approve or disapprove the proposed Shelter and Program. However, according to the City Municipal Code 1.16.325.5, their charge as a Commission includes the ability to "advise and assist Council, the Planning Commission, and the Community Development Director in matters pertaining to historic and cultural resource preservation."

We would like for the HRC to take up this important matter and advise the Council of the negative effects the proposed shelter would have on our neighborhood, including:

- Lower Property Values
- Lower Tax Bases
- Littering, Drunken and Drug induced behavior, fighting, theft, urinating, defecating on private property, and general property devaluation.

I'm here today to ask you, the City Council, to please request the HRC to study this critical issue with the same scrutiny that they place on homeowners of historic homes when applying for permission to maintain and improve their buildings, as set forth in the Land Development Code. Please allow them to weigh in on this important issue for the sake of preserving our neighborhood's historic integrity. **PLEASE DO NOT TURN A BLIND EYE!** Thank you.

City Council Testimony – Amy Hunter
August 17, 2015

My name is Amy Hunter and I am the Station Manager for CCAT TV. I am here again for the third time to address the council regarding the future of public access television in Corvallis. And although I am a school district employee, I am not here as a representative of 509J.

I am here today to shine a light on a process of governance that has willfully kept CCAT management and the public it serves in the dark. Public Access TV exists to give a voice to the community, however small that voice may be. My job as station manager and the mission of CCAT TV is to serve the public by assisting them with training and equipment. Only the community members, volunteers and myself understand how CCAT operates and its' value to the community. And yet, I and by extension, the public have not been notified, consulted or included in any way in the planning for the future of the station.

After my initial testimony in June 2015, requesting a 90 day review period to discuss the proposed move to Crescent Valley High School, contact with City staff was halted. After repeated attempts via email and phone, I was finally told that the City would no longer be handling any of the operations of CCAT and that I should contact 509J. Any questions regarding the budget or funding would be forwarded to the appropriate person at Public Works. There has no communication from City staff since this time. I was also informed that The City was going to withhold capital funds from the 2014-2015 budget which had already been allocated and approved.

I then contacted 509J to set up a meeting to discuss CCAT's operations and future. At that meeting on June 29, 2015 I was notified that the intergovernmental agreement between The City of Corvallis and 509J would be renewed without changes for one year until June 2016. Operations at Corvallis High School would continue until that time with the possibility that CHS might need the classroom space during some portions of the day, with the intent that this time would give CCAT management roughly one year to find a new location and create a business plan to find operational funding

At this meeting between 509J and CCAT staff and volunteer, there was significant discussion regarding better communication between 509J and CCAT staff. And yet CCAT staff was never notified that 509J and The City were negotiating changes to the current IGA, nor that they came to an agreement, nor that the new agreement severely cut the capital budget. Had one of our volunteers not looked at tonight's council docket, this agreement would have never seen the light of day by me or any other community member.

What I don't understand is the lack of transparency and lack of inclusion of CCAT staff, volunteers and community members who watch the station, in the process of governance. Our community has a great opportunity to continue to use the Comcast funding to produce programs by and for the people of Corvallis. Even on a small scale, it is a resource all communities need to ensure that everyone has a voice on the public "airwaves".

This new IGA not only reduces operational funding but it severely reduces capital funding for future equipment purchases. As we all know, technology evolves at a rapid pace and becomes outdated quickly. CCAT needs this capital to continue to support the technology needs of the public.

Furthermore, reducing capital funding cripples CCAT's ability to attract new partners. In order to stay in operation, CCAT has to find a new location and new operational funding. And just as 509J benefitted from the relationship with The City and the Comcast funding, so too would a new partner be motivated by the same incentive of significant capital revenue.

My request is that the Council not accept the proposed IGA and create a committee of CCAT staff, community members, a City Council staff member and a City of Corvallis staff member to find a solution to CCAT's future in a manner that is transparent and democratic.

Thank you.

Testimony from John Friedlander
August 17, 2015 City Council meeting

- **Federal law regarding PEG funding gives communities the right to strike a balance between funding of Public, Education, Government and I-Net programming and system operations, and the IGA is where the balance is defined.** However, the proposed agreement was negotiated by unelected members of city staff and the school district. This means that only two of the three entities with a direct financial interest in the result had any influence over the outcome – and the Public’s interest was excluded – despite the fact that CCAT broadcasts far more content than both other channels combined. CCAT has spoken to the Council and the Mayor repeatedly since May about the need for public input in the development of a new agreement. Despite this, CCAT management or volunteers were never included, consulted or even notified about ongoing negotiations. CCAT management was not afforded even the courtesy of being informed that a new agreement had been signed and would be presented to the Council for approval. The bottom line is that CCAT and the public is not being dealt with in good faith, and the balance of resources proposed is not equitable.
- **The IGA as proposed is not an operations plan, it’s a shutdown plan.** Sections 4.5, 4.6, 4.15, 6.2, and 6.4 of the IGA and Bullet 2 in staff’s cover letter make it very clear that the ultimate goals of the city and school district negotiators were to find a way to expel the Public media function from school property as soon as possible, and to shift funding from services that directly benefit the public to budget lines that more directly benefit government operations.
- **The appointment of Joel Hirsch as Council Liaison to CCAT is welcome, but will be meaningless if the IGA is approved as written.** The IGA enables the City and 509J to act arbitrarily at any time to make CCAT operations functionally impossible despite the time remaining before existing operations funding expire and the agreement terminates.
- **I respectfully request the Council to reject the proposed IGA, and ask Councillor Hirsch to set the first goal of his Liaison role as modifying the IGA so that it encourages success, not failure.** This will have no effect on the approved Fiscal Year 2015/16 budget. We already have a list of suggestions to make, and will be happy to participate in prompt, productive, positive discussions about how to create a better platform on which CCAT can continue to provide community media production and distribution services going forward.

August 17, 2015

Seth J. King
sking@perkinscoie.com
D. +1.503.727.2024
F. +1.503.346.2024

VIA HAND DELIVERY

Mayor Biff Traber and Corvallis City Council
City Hall
501 SW Madison Ave.
PO Box 1083
Corvallis, OR 97339-1083

**Re: Consideration of Campus Crest Remand from Land Use Board of Appeals
City File Nos. CPA11-00002, ZDC11-00005, PLD13-00003, and SUB13-00001
Request for Recusal by Councilor Barbara Bull**

Dear Mayor Traber and Corvallis City Councilors:

This office represents Campus Crest Communities (“Applicant”), the applicant, in its request for approval of comprehensive plan map and zoning map amendments, development plans, and a land division (“Applications”) for approximately 95 acres of property located north of NW Harrison Boulevard in the western portion of the City. The City Council is scheduled to consider the Applications (City File Nos. CPA11-00002, ZDC11-00005, PLD13-00003, and SUB13-00001) on remand from the Land Use Board of Appeals (“LUBA”) on August 17, 2015.

This letter respectfully requests that Councilor Barbara Bull recuse herself from participating in the City Council’s consideration of this matter because she has demonstrated “actual bias” against the Applications. Applicant is an affected party and has the right to make this request. This letter and its attachments concern a procedural issue and may be accepted into the record.

- 1. Under state and local law, Applicant is entitled to a decision made by an impartial decision-maker.**

The Applications are quasi-judicial land use applications. As a result, the City Council is required to follow specific procedures under local and state law when reviewing and deciding upon the Applications, including that the City Council members must be

impartial and not prejudge an application. *See Fasano v. Board of County Commissioners*, 264 Or 574, 588, 507 P2d 23 (1973).

The City has incorporated this requirement into its City Charter and Land Development Code. The City Charter prohibits elected officials from acting when they have a conflict of interest. *See City Charter, Section 14(b)*. The City has defined a “conflict of interest” in the land use context as any instance where a member of a decision-making body “has determined that participation in the hearing and decision cannot be impartial.” LDC 1.1.60. In the event a biased hearing body member does not voluntarily disqualify him/herself from participating, an affected party may challenge that member’s impartiality. LDC 2.0.50.06.d.

2. A decision-maker demonstrates “actual bias” and cannot participate in the decision if the decision-maker testifies for or against an application earlier in the proceedings.

A decision-maker is not impartial if the decision-maker, in earlier proceedings, testified for or against the same application. *Wal-Mart Stores, Inc. v. City of Hood River*, ___ Or LUBA ___ (LUBA No. 2013-009, May 21, 2013) (slip op. at 13). LUBA reached this conclusion because it was not reasonable to conclude that a decision-maker would be able to testify on the merits of the application and yet remain unbiased:

“* * * [W]here the decision-maker participated as an advocate in his or her personal capacity in the very case that person is now being asked to decide, which is the case here, it is inappropriate for the former advocate to step forward and participate on the same panel he or she advocated a position before. * * * A reasonable person would simply not believe that an individual could go through the time and effort of preparing and presenting opposition to an application for land use approval, and then abandon his or her role as an advocate and make an unbiased decision on that same application.”

Wal-Mart Stores, Inc., ___ Or LUBA at ___ (slip op. at 14). Likewise, the Oregon Court of Appeals recently held that “actual bias” cannot be based upon a general “political predisposition,” but is established “where prejudgment has been alleged, by explicit statements, pledges, or commitments that the elected local official has prejudged the

specific matter before the tribunal.” *Columbia Riverkeeper v. Clatsop County*, 267 Or App 578, 609-610, 341 P3d 790 (2014).

3. Councilor Bull is biased and should not participate in this matter due to her testimony, earlier in the proceedings, against the Applications.

Applicant respectfully requests that Councilor Bull recuse herself in this matter because she testified against the Applications to both the Planning Commission and City Council.

First, she testified in opposition to the Applications before the Planning Commission on September 4, 2013. See meeting minutes set forth in Exhibit 1 (“She suggested that the proposed changes should not be made without a more comprehensive look. She doesn’t think there is a demonstrated public need in this case.”).

Second, Councilor Bull testified both orally and in writing to the City Council in opposition to the Applications on February 18, 2014. See meeting minutes set forth in Exhibit 2 (“She expressed concerns about the recent decision to amend the Comprehensive Plan.”) and letter in opposition in Exhibit 3 (“I believe your decision to approve an amendment to the comprehensive plan was in error but I do not blame the city councilors for the error. City councilors were told that the criteria were met, that advantages outweigh disadvantages, and that they should approve the amendment. I believe these statements are in error.”).

By submitting testimony in the earlier proceedings in opposition to the Applications, Councilor Bull has not simply shown a “political predisposition,” to use the terminology of the Court of Appeals in *Columbia Riverkeeper*. Rather, she has demonstrated “actual bias” by submitting testimony earlier in the proceedings relating to this “specific matter,” i.e. the Applications. As a result, Councilor Bull is actually biased against the Applications. She cannot “unring the bell.” Like the city council member in the *Wal-Mart Stores, Inc.* decision, she cannot retract her comments in opposition to the Applications and regain her impartiality.

For these reasons, Applicant requests that Councilor Bull abstain from participating or voting as a member of the City Council in this matter.

4. If Councilor Bull participates in this matter, it will prejudice Applicant's rights to a full and fair proceeding.

If Councilor Bull does not abstain, or is not disqualified, from participating in these proceedings, it will constitute a procedural error that prejudices Applicant's substantial rights to a full and fair proceeding. Further, the City will be unable to correct the error because there is no subsequent opportunity for a *de novo* hearing at the local level. The City's procedural error will be grounds for LUBA to reverse or remand the City's final decision back to the City Council for further action. ORS 197.835(9)(a)(B).

5. Conclusion.

Applicant is mindful of the significant time, energy, and thoughtfulness that City Council members give to their duties. As a result, Applicant does not make this request lightly. Applicant must ensure that it receives the fair proceeding that it is entitled to under state and local law.

Please place a copy of this letter in the official record of these proceedings. Thank you for your consideration of this request.

Very truly yours,



Seth J. King

SJK

Encls.

cc: Jim Brewer (via hand delivery) (w/encls.)
Client (via hand delivery) (w/encls.)

as proof of need; but do not take into account online students and the boom of student housing construction that has taken place. He thinks the strategy of submitting their documents all at once was designed to prevent an effective review and City staff appears to have rubberstamped the entire set of proposals. He said the citizens of Corvallis don't want or need this zone change. He has submitted a petition with signatures of over 300 citizens who do not want the zone change. (Petition is available in City Archives for this land use application) He urged the Commission to read all of the testimony submitted and to deny the application.

B.K. Kumar said that he previously distributed information which includes a photo of someone from Campus Crest soliciting on OSU campus. He cited Comprehensive Plan 9.2.5 and stated that the proposed location for high density student housing is nowhere close to essential services and transit. He said the proposal does not respect community values for a comprehensive neighborhood. Regarding the issue of demonstrated public need for the change, the current zoning would allow for 221 residential lots with probably two cars per home. It is hard to say that this impact would be identical to 900 students, most of whom would have cars. He urged the Commission to look at the math behind the traffic studies to see if it is accurate based on student behaviors. He said that it is inaccurate and misleading to rebrand OSU student housing as multifamily housing, but this is done throughout the application. OSU student housing is a narrow subset of family housing. He reviewed a table in his written testimony in which he identifies disadvantages of the proposal in addition to those identified in the staff report. His written testimony also has a summary page that speaks to the traffic impacts and the applicant's faulty calculations.

Barbara Bull said that she has spent time in recent years studying the City's planning efforts out of concern for development and possible impacts. She said that we do comprehensive planning, recognizing that it doesn't make sense to look at development one lot at a time. The community was very involved in developing the Comprehensive Plan and the process included making choices and balances to determine where it makes sense to have density and recognizing how development works with the transportation system and infrastructure. She suggested that the proposed changes should not be made without a more comprehensive look. She doesn't think there is a demonstrated public need in this case. It could just as easily be said that there is a demonstrated need for single family housing. If the development were to be placed halfway between the University and a grocery store, there would be fewer vehicle trips. She suggested that it is time to update the Comprehensive Plan. An updated Buildable Lands Inventory and Transportation Plan would also help to guide a comprehensive process.

Martha Fraundorf said that she has submitted written testimony. (**Attachment C**) She said the proposed apartments average three bedrooms each; nationally, only 8.4 percent of apartments have three bedrooms. Estimating traffic and other impacts from an average apartment building does not work for the proposed development. The Florida Department of Transportation (FDOT) recently conducted a study of 18 student apartment complexes containing three to four individually rented bedrooms and concluded that daily trips by dwelling unit are twice that of the ITE standards used in the applicant's analysis. She has recalculated the estimates using the FDOT rates, as detailed in her written testimony. The Campus Crest analysis shows 1,968 trips per day; the FDOT rates show 3,721 trips per day. The development would put more cars on the road than the maximum possible under the existing zone. These results contradict the claim that there would be no significant increase in traffic and suggest the development is not compatible in terms of traffic. In her written testimony, she used the applicant's questionable trip distribution estimates to more accurately estimate the impact on individual streets and recalculate some volume to capacity ratios. She

should not be included. She noted the proposed multi-use path has to cross Circle, but there is no traffic calming there, so it will be dangerous. She emphasized it must be kept as a slow traffic area.

Edward Epley said he worked on development of the Comprehensive Plan many years ago. The community's intent was to integrate neighborhoods with people of all ages. They did not want areas concentrated for older people and separate areas focused on students. He said a large group of students would create a concentrated disruption for traffic to the Harding District and North Campus areas. He said Corvallis needs to decrease its footprint in the future.

Be Davison Herrea expressed concerns as a resident in the Witham Hill and Circle areas. She noted the amount of trash from homeless camps left in the area and asked about the policy for removal of rubbish on privately owned open space land. She suggested the Council require a three to five year financial guarantee from the applicant to ensure the rubbish is cleared from the property. When that period of time has expired, the funds could be released as described in COA #4 and LDC 4.2.20. She also inquired what plans were in place to prevent more homeless camps from developing on the property and the time line for removal of such camps. She asked about sidewalk maintenance, noting it is already a problem, and inquired what provisions were in place to ensure new sidewalks would be maintained.

Barbara Gladstone said she voted for the annexation because it was billed for low density, affordable housing. She expressed concern about 900 students living in an area without supervision and wondered how the Police Department viewed the situation. She asked what controls will be written into the good neighbor agreements and who would pay for monitoring those agreements and addressing any problems that arise.

Martha Fraundorf read from a prepared statement (Attachment I). Her concerns related to storm water drainage in the area, especially the applicant's proposed series of vegetative swales. Due to the compacted nature of the soil in the area, proper drainage may be an issue. She supported Ms. Johnson's earlier testimony on the matter, questioned whether the remaining land would be protected from future development, and asked that the record be held open.

Barbara Bull read from a prepared statement (Attachment J). She expressed concerns about the recent decision to amend the Comprehensive Plan and said she perceives that staff does not seek out or welcome public or Council input. Her written testimony included suggestions to disprove her perception, including informing Councilors about any option for a moratorium on development that may be available through ORS 197.505 while an updated Transportation Plan is developed.

Larry Weymath said the open space included wetland with a lot of scrub land. He asked where student recreation space would be provided for the development's 900 tenants. He noted COA #14 includes a proposed multi-use path that would connect to Arnold Park. He opined if no recreation space is provided within the development area, students will congregate in Arnold Park, which would effectively destroy it as a family park. He asked that the easement connecting the path to the park not be included as part of the development plan. Regarding COA #45, Mr. Weymath said conducting a transportation impact study within one year of certification of occupancy would be too soon. He

Barbara Bull
City Council Meeting
February 18, 2014

I believe your recent decision to approve an amendment to the comprehensive plan was in error but I do not blame the city councilors for the error. City councilors were told that the criteria were met, that advantages outweigh disadvantages, and that they should approve the amendment. I believe these statements are in error.

Decisions about where to grow and how to grow and how dense are supposed to be part of a comprehensive planning process. A community vision is supposed to guide an extensive data collection and development process in which inventories are conducted, sophisticated forecasts of population, employment, and demand for land (commercial, industrial, and residential) are made to support a community decision about how much and where and which kind of development will occur. Based partially on where the infrastructure (streets, water, sewer) is and can be extended.

Anyone who wishes to amend the comprehensive plan wishes to develop land in a way that is not consistent with the community decision about how that land should appropriately be developed. It is therefore appropriate that that applicant should demonstrate to the community in which it proposes to build, that the development is a superior way to meet the community vision than what was previously decided.

The problem is that, when the city was confronted with a shrinking high-tech employer and increasing university growth, it was the position of staff that the current comprehensive plan was adequate to serve the growth, and advised that community work groups could be used to tweak things as needed. In fact, as staff now seems to understand, the current comprehensive plan is and was inadequate and out-of-date (an often-sited reason for needing to amend it). It is based on a buildable lands inventory that staff itself has been recommending be updated for over five years, and a transportation plan whose update has finally been approved for funding.

As a result, you have received an abundance of speculation about how much growth has occurred, will occur, and what that means about current development questions. You have untrained volunteer members of workgroups spending their free time conducting inventories, surveys, and parking studies. You have a large number of well-intentioned people doing their best to assemble data to inform community decisions. None of it is adequate to demonstrate that anyone has a better idea about how to develop this community than what was decided when a comprehensive planning effort was undertaken by the community. That is not the fault of any particular developer. I don't blame the city councilors. Nor do I blame OSU, I believe OSU is doing it's job for it's students and is participating in good faith in a process provided by the City. I think it was clearly a failure on the part of the City to plan.

ATTACHMENT J
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In Planning Commission and City Council meetings that I attended and viewed I did not hear a convincing argument that the proposed development was a superior plan for the particular site than that which was already in place. I did hear staff suggest on more than one occasion that there are much worse places for the type of development proposed (meaning that better places were not planned for, and that worse places were provided for by an outdated comprehensive plan). Staff commentary therein suggesting that rather than reaching a decision based on what was appropriate for the site in question, decision makers should fear what other things might be proposed in case of denial. (Though, presumably, any other proposal could go forward regardless of the outcome of the decision before them.) I did hear Commissioners and Councilors concerned that they develop an appropriate argument for their decision to protect them from the legal system.

In this case, Council was asked to make a decision based on their judgment about whether their community's plan should be improved in a way that is consistent with the existing plan, and demonstrably advantageous to the community. In the absence of adequate current data, it appears the council instead decided to approve something that they hoped would reduce the many consequences our community is experiencing due to a failure to plan.

City Council is elected to oversee the implementation of the vision; they appoint Planning Commissioners to do make technical decisions/recommendations. City Council hires a city manager to manage the implementation of council direction in the form of policies and initiatives/goals. Staff provides technical expertise and informs decision makers about options, empowering them to lead in the direction they were elected to lead, informing them about the ways the vision can be achieved. Staff is authorized to make administrative decisions on applications (in the case of land use) using clear and objective criteria in the code. City council votes on legislative and quasi-judicial decisions that are either more generally applied or require judgment about the wishes of the community. This is how the world is supposed to work.

Contrary to the role described above, it is my experience that Corvallis staff does not seek out or welcome public or even Council input. The staff we have treats both citizens and Councilors as an obstacle to performing their job rather than a guide as to how it should be done. Maybe this is just my perception. Perhaps I can be proved wrong on this point.

I have observed staff uninterested in engaging in appropriate long-range planning as described above. Active participation in a public budgeting process has been consistently discouraged in ways I would be happy to describe. The Committee for Citizen Involvement has always been restricted to the narrowest interpretation of its charge. Many current staff actions appear intended to thwart goals about housing, public participation, and vision, and protect actions recommended by other activities from Council scrutiny rather than empowering citizens and councilors to work toward the community they desire.

I would love to have my perception of staff proved wrong. I would be genuinely pleased to learn that we have a staff that would consider actions such as the following.

- Host an open house in advance of the scheduled budget meetings at which staff explains the budget itself, the process for developing the proposed budget, and opportunities to participate in the process. Consider collecting feedback from citizens who take the time to show up.
- Provide budget commissioners with a charge other than the single vote required by state law. Involve them in policy decisions or use them as a technical resource. Empower them by providing hard copies of meeting materials if desired, access to the internet during meetings by default, and a clear guide describing how requests for information should be made, and how motions should be brought to the group and when.
- Inform councilors about any option for some sort of a moratorium on development that might be available to the city via ORS 197.505 to protect it from harm while an updated transportation plan is developed