

**CITY OF CORVALLIS
COUNCIL ACTION MINUTES**

February 6, 2012

SUMMARY OF DISCUSSION

Agenda Item	Information Only	Held for Further Review	Decisions/Recommendations
Consent Agenda Pages 68-69			
Item Removed from Consent Agenda 1. Consumers Power, Inc., Lease Agreement for Marys Peak Communications Site Page 69		February 21, 2012	
New Business 1. Benton County New and Emerging Tobacco Control Issues Pages 69-70			<ul style="list-style-type: none"> • Directed staff to work with BCHD and BOC on legislation for review by HSC <u>by consensus</u>
Mayor's Report 1. OSU Housing Project Support Letter Page 71	Yes		
Council Reports 1. EDC Discussions (Hervey) 2. Food Summit (Hervey, Raymond) 3. In-fill Development Proposal Review (Brown) 4. OSU Student Housing Projects (Raymond) 5. Dr. Martin Luther King, Jr., Park Project (Raymond) Pages 71-72	Yes Yes Yes Yes Yes		
Visitors' Propositions 1. Marys Peak Communications Site (Eckert) 2. Signs in Parking Strips (Epley) 3. Construction Truck Traffic on NW Harrison Boulevard (Epley) 4. Corvallis Area Move to Amend United States Constitutional Amendment (Epley, Bolger, Fletcher, R. Ozretich, B. Ozretich, Querk) Pages 72-78	Yes Yes Yes		<ul style="list-style-type: none"> • Forwarded advisory question to voters in November 2012 election <u>passed 7-1</u>
Staff Reports 1. Council Request Follow-Up Report – February 2, 2012 2. Prospective Petition Filing of Advisory Question Page 78	Yes		<i>(see Visitors' Propositions)</i>

Agenda Item	Information Only	Held for Further Review	Decisions/Recommendations
Item of ASC Meeting of January 18, 2012 1. Council Policy Review and Recommendation: CP 98-2.10, "Use of E-Mail by Mayor and City Council" Page 79			<ul style="list-style-type: none"> • Amended Policy <u>passed U</u>
New Business 1. Community Alliance for Diversity Contract Termination Page 79	Yes		
Executive Session 1. Labor Negotiations –AFSCME, IAFF, CPOA, CRCCA Page 80	Yes		

Glossary of Terms

AFSCME	American Federation of State, County, and Municipal Employees
ASC	Administrative Services Committee
BCHD	Benton County Health Department
BOC	(Benton County) Board of Commissioners
CPOA	Corvallis Police Officers Association
CRCCA	Corvallis Regional Communications Center Association
EDC	Economic Development Commission
HSC	Human Services Committee
IAFF	International Association of Firefighters
OSU	Oregon State University
U	Unanimous

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February 6, 2012

The regular meeting of the City Council of the City of Corvallis, Oregon, was called to order at 12:00 pm on February 6, 2012, in the Downtown Fire Station, 400 NW Harrison Boulevard, Corvallis, Oregon, with Mayor Manning presiding.

PLEDGE OF ALLEGIANCE

I. ROLL CALL

PRESENT: Mayor Manning, Councilors Hirsch, Hervey, Beilstein, Hogg, Brown, Traber, Brauner, Raymond

ABSENT: Councilor O'Brien (excused)

Mayor Manning directed Councilors' attention to items at their places, including her letter to the Oregon Joint Ways and Means Committee regarding an Oregon State University (OSU) student housing project (Attachment A) and excerpts from United States Supreme Court Justice Stevens' dissenting opinion in the *Citizens United vs. Federal Election Commission* case (Attachment B).

II. CONSENT AGENDA

Councilor Brauner requested removal from the Consent Agenda of item F regarding a lease agreement with Consumers Power, Inc., for a communications site on Marys Peak.

Councilors Brauner and Brown, respectively, moved and seconded to adopt the Consent Agenda as follows:

- A. Reading of Minutes
 - 1. City Council Meeting – January 17, 2012
 - 2. For Information and Filing (Draft minutes may return if changes are made by the Board or Commission)
 - a. Bicycle and Pedestrian Advisory Commission – January 6, 2012
 - b. Commission for Martin Luther King, Jr. – December 13, 2011, and January 4, 2012
 - c. Corvallis-Benton County Public Library Board – January 4, 2012
- B. Confirmation of Appointments to Boards, Commissions, and Committees (Board of Appeals - Fletcher; Committee for Citizen Involvement - Foster; Downtown Commission Parking Committee - Uerlings)
- C. Announcement of Vacancies on Boards, Commissions, and Committees (Citizens Advisory Commission on Civic Beautification and Urban Forestry - Ellis; Parks, Natural Areas, and Recreation Board - Williams)

- D. Announcement of Appointments on Boards and Commissions (Capital Improvement Program Commission - Carroll; Committee for Citizen Involvement - Demarest, Kilian, Parnon; Public Art Selection Commission - Laing)
- E. Schedule a public hearing for February 21, 2012, to consider an appeal of a Historic Resources Commission decision (HPP11-00033 – Johnson Carriage House)
- G. Schedule an Executive Session following the regular noon meeting under ORS 192.660(2)(d) (status of labor negotiations)

The motion passed unanimously.

III. ITEMS REMOVED FROM CONSENT AGENDA

- F. Authorization to enter into and for the City Manager to sign a lease agreement with Consumers Power, Inc., for a communications site on Marys Peak

Councilor Brauner noted that the Council received e-mails from citizens with questions regarding the lease agreement for a communications site on Marys Peak and whether the lease would affect other areas on the Peak.

City Attorney Fewel opined that the lease agreement was appropriate, but he would like more time to review the document and ensure that it would not violate a Federal law or requirement. The lease will return for Council consideration at the next meeting.

X. NEW BUSINESS

- A. Benton County new and emerging tobacco control issues

Benton County Health Promotion Specialist Hartstein conducted a PowerPoint presentation regarding existing and suggested legislation related to tobacco use, youth, and smoke-free workplace requirements. She emphasized the need for more education and enforcement of tobacco laws. She noted that Corvallis is a leader in tobacco use prevention, as demonstrated by legislation from 1997 to date, resulting in tobacco use in Benton County being among the lowest in Oregon. Tobacco-related illness is still the leading cause of death and disability in Benton County. New issues are emerging related to youth access to tobacco products, but they can be addressed through amendments to the current tobacco laws.

Ms. Hartstein explained hookah smoking, which is increasing, especially among youth and girls. Club-style hookah lounges are flourishing in Oregon. Contrary to common belief, hookah smoking is not safer than use of regular tobacco products. The 2011 Oregon Legislature attempted to correct a legal loophole that allowed hookah lounges. Existing lounges were "grandfathered" under the law and were not required to be located on stand-alone properties.

Ms. Hartstein said Benton County does not have a hookah lounge. A new tobacco retail store may open as a hookah lounge with a four-seat maximum capacity, or a "grandfathered"

certified tobacco retail store (hookah lounge) could re-locate to the Corvallis area. She cautioned that Corvallis is a prime location for a lounge because of Oregon State University. She noted that Eugene and other jurisdictions are considering closing their local retail store exemption, resulting in their hookah lounges possibly moving to another community, such as Corvallis. She urged the Council to address this legislation loophole soon, noting that no Benton County businesses would be impacted.

Ms. Hartstein said the City's 1997 tobacco retail license legislation is effective in preventing youth access to tobacco products; however, the legislation could be stronger. Through the 2010-2011 tobacco retail license inspection process, illegal tobacco sales to youth in Benton County were fewer than the county average in Oregon but not as few as the state average in the nation. No illegal sales occurred during the 2011-2012 inspection, but numerous sales occurred during the 2008-2009 inspection. A consistent enforcement tool is needed to reduce tobacco sales to minors. The inspections gather data but do not enforce sales laws.

Ms. Hartstein said a strong tobacco retail license system has four key elements, two of which exist in Corvallis. The City requires retailers to obtain a license and renew it annually and suspends and revokes licenses for violations. The City and County do not prohibit violation of any Federal, State, or local tobacco control law; the City and County only look at sales to minors and vendor-assisted sales. The State restriction on sales of single cigarettes is not enforced at the local level. The City charges \$35 for a license to sell tobacco products; the County charges \$6, which is not enough to cover the costs of regular enforcement. She suggested that the tobacco retail license legislation be strengthened and include the four key elements.

Ms. Hartstein explained electronic cigarettes (also known as e-cigarettes), which are unregulated, can be sold without age restrictions, and are not subject to the smoke-free workplace regulations. She suggested legislation to limit sales of e-cigarettes to adults only and restrict their use indoors.

Ms. Hartstein expressed hope that Benton County and the municipalities within the County can work together to strengthen tobacco-related legislation and make all legislation in the County consistent.

In response to Councilor Beilstein's inquiry, Ms. Hartstein said Tony's Smoke Shop operated as a hookah lounge during 2008. When the 2009 Indoor Clean Air Act became effective, hookah lounges and tobacco retail stores were not allowed to be attached to another business. The Shop ceased operating as a lounge but is "grandfathered" as a lounge and could apply to the State to be certified to operate as a lounge.

Councilor Beilstein asked that the Council instruct staff to work with the Benton County Health Department and Board of Commissioners to develop appropriate legislation for review by Human Services Committee. The Council indicated concurrence.

IV. UNFINISHED BUSINESS – None.

V. MAYOR, COUNCIL, AND STAFF REPORTS

A. Mayor's Reports

Mayor Manning referenced her letter to the Oregon Joint Ways and Means Committee, noting that it relates to the OSU/City Collaboration Project Steering Committee work. Last year OSU was unsuccessful in an attempt to obtain bonding authority from the State Legislature for a student housing project; another attempt will be made during the upcoming Legislative Session. OSU accepted her offer of a letter supporting the project, and OSU representatives will deliver the letter February 7.

Councilor Beilstein commented that former-Councilor Griffiths brought the issue to the attention of members of the Job's Addition and Chintimini Park Neighborhood Associations. Many Ward 5 residents are contacting the Legislature regarding the issue because the neighborhoods, along with others, are greatly impacted by OSU's student enrollment increase. Any effort to provide more on-campus student housing would benefit neighborhoods near OSU's campus.

B. Council Reports

Councilor Hervey reported that he met with the Economic Development Commission Chair and Vice Chair. He noted that he opposed the Commission's recommendation but agreed with much of the action plan. He will accept the Chair's invitation to speak to the Commission this spring.

Councilor Hervey said he attended the food summit at OSU, based upon his personal interest and the Council goal regarding access to healthy food. He was most interested in the Supplemental Nutrition Assistance Program (SNAP), formerly known as Food Stamps. He thanked City Associate Planner Richardson for participating in a panel discussion on Planning for Food Security – The Role of City, County, and Regional Governments. He noted the attendance of a leader in developing legislation to provide for local food security. He reported that 60 percent of the Farm Bill involves funding for nutrition programs. A case was made regarding the economic impact of people receiving SNAP support. Participation in SNAP and similar programs generates jobs for food production and sale, as well as revenues. During 2010, Benton County was eligible for \$21 million in Federal funds for nutrition assistance; the funds were not collected. Students and seniors are considered under-served population groups. A college student receiving work study qualifies for SNAP more easily than otherwise.

Councilor Brown recalled the Council's December 20, 2010, approval of staff reviewing an in-fill development proposal. He requested an update of the review.

Councilor Raymond reported receiving calls regarding the cumulative effect on Corvallis residents of additional student housing projects. She acknowledged that staff was unable to keep up with the code enforcement investigation requests related to the projects. She asked that this issue be considered by the OSU/City Collaboration Project Steering Committee. She added that Charlyn Ellis, who resides near the OSU campus, asked to be considered for membership on a Committee working group.

In response to Councilor Raymond's inquiry, Councilor Hervey suggested that Benton County be contacted regarding whether seniors, many of whom receive services through Meals on Wheels, could benefit from the agencies represented at the recent food summit.

Councilor Raymond reported that the Commission for Martin Luther King, Jr., is working on a project for Dr. Martin Luther King, Jr., Park and will ask residents for assistance.

VI. VISITORS' PROPOSITIONS

David Eckert thanked the Council for re-considering the Marys Peak communications tower matter. He said the issue involves a scenic botanical special interest area (SBSIA) designated by the United States Forest Service (USFS) many years ago. He opined that the SBSIA was established with good intentions but became "lost" among government activity. When the USFS Alsea branch closed, the SBSIA documentation was lost, and communication with other branch offices ceased, leading to the fencing issue when the law was not strictly followed. Various groups are working with the USFS to re-establish the SBSIA and were surprised to learn of the proposed communication tower. He did not know whether including the SBSIA in the lease agreement with Consumers Power, Inc., is a legal issue; however, he believed it was appropriate to notify the agreement parties of the SBSIA overlay and that those parties and the USFS work together to ensure maintenance of the SBSIA. He considered "environmental protection" a broad term, whereas the SBSIA has specific, simple precautions.

In response to Councilor Traber's inquiry, Mr. Eckert said the SBSIA is based upon the concept of unique plant communities. A particular plant may not be endangered. The SBSIA is focused on not introducing invasive weeds and seeds, including transfer via vehicle tires or dogs. Any construction must follow basic procedures to minimize impacts to the SBSIA.

Ed Epley referenced the City's sign and nuisance legislation. Following the sign legislation procedures, he submitted to the City an estimated 100 complaints during the last two years regarding signs in parking strips; however, many of the signs remain. Municipal Code Section 5.03.020, "Posting and Distribution of Handbills," provides examples of handbills. He interpreted from the Code that any item cited in the handbill definition that was placed within the parking strip would be prohibited. Municipal Code Section 5.03.020.060, "Removal of Unlawful Handbills," allows removal of unlawful handbills by any person. He was cited by Police Officers for removing unlawful handbills.

Mr. Epley expressed concern regarding construction truck traffic using NW Harrison Boulevard (Harrison) for a through-traffic route. He noted that Harrison is posted from NW Ninth Street to NW 53rd Street for no through truck traffic in excess of six tons. He said the section of Harrison west of NW 29th Street is heavily used by a truck every few minutes in conjunction with demolition of the Wilson Woods apartments. The truck is removing debris and delivering gravel. He said Police Officers will not cite the truck drivers, even though the drivers know the weight limit; the project contractor also knows the weight limit. He called Public Works Department staff regarding the truck traffic and was told the trucks were damaging the street, but it is scheduled for re-surfacing later this year as part of the Taylor Street Townhomes project.

Mr. Epley encouraged the Council to support the Move to Amend request for a United States Constitutional amendment.

Councilor Raymond asked staff how Police Officers can enforce the weight limit on City streets.

In response to Councilor Brown's inquiry, Mr. Epley said he would like the Council to enforce the truck traffic legislation and assign Parking Enforcement staff the responsibility of enforcing the prohibition of signs in parking strips.

In response to Councilor Hirsch's inquiry, Mr. Epley explained that, under the City's sign legislation, a person could be cited for destroying private property. Under the nuisance legislation, anyone can remove an unlawful sign.

Councilor Hirsch observed that the Municipal Code provisions regarding removing handbills conflict, and the conflict should be resolved.

Councilor Traber requested information regarding options for enforcing weight limits on streets.

Mr. Fewel said the issue of trucks exceeding weight limits on streets is a traffic violation, and the driver is the party to be cited. The truck driver's responsibility cannot be passed to the project contractor.

Councilor Beilstein surmised that the contractor must submit a project plan to the City, explaining, among other details, how construction debris or materials would be transported. If the contractor does not follow the submitted plan, the violation is a code enforcement matter.

In response to Councilor Beilstein's inquiry, Mr. Epley said Municipal Code Section 5.03.020.060 states "Any handbill or advertisement prohibited by this Section may be taken down, moved, or destroyed by anyone." Municipal Code Section 5.03.020 defines "advertisement" as "A public notice or announcement that is not a "Sign" as defined and regulated by the Land Development Code" and defines "handbill" as "Any notice, placard, poster, showbill, dodger, circular, pamphlet, booklet, letter, folder, sheet, sticker, or banner, that is not a "Sign" as defined and regulated by the Land Development Code." Councilor Beilstein noted that a "placard or poster" could be considered a "sign." He thought it was reasonable for Parking Enforcement staff to enforce the sign legislation in parking strips, and he asked that staff investigate the suggestion and that Urban Services Committee review the staff analysis.

Councilor Hogg noted that the construction trucks were affecting City streets and were traveling through neighborhoods, impacting the residents' quality of life.

Mr. Epley said the Taylor Street Townhomes contractor told him that Harrison was the most fuel-efficient route for their drivers to use to move materials.

Ralph Bolger read written testimony regarding the Corvallis Area Move to Amend (CAMA) affiliate of the national organization Move to Amend (Attachment C).

Geoff Fletcher cares about the quality of life in Corvallis. He asked the Council to allow an advisory question on the November ballot regarding the impact of organized money on the local democratic decision-making process. He referenced recent news stories about the impact of large amounts of money on the nation's democratic process. Individuals without lawyers, lobbyists, and vast amounts of money feel their votes do not matter. The recent United States Supreme Court decision in the

Citizens United vs. Federal Election Commission case and multi-national trade treaties give corporations unlimited, anonymous financial powers, along with inalienable real-people rights that put the nation's democratic ideals beyond the reach of average citizens. Foreign corporations can pay to have laws passed that surpass anything Corvallis citizens democratically decide. He opined that Corvallis residents should be given an opportunity to say that they value and deserve a fair democracy and that no group should be able to monopolize citizens' rights and protections.

Rachel Ozretich read portions of Attachment B, excerpts from United States Supreme Court Justice Stevens' dissenting opinion in the *Citizens United vs. Federal Election Commission* case. She noted that the Court's decision vote was five to four.

Bob Ozretich is one of the chief petitioners on an advisory question submitted to the City for the November election. The chief petitioners represent the CAMA organization. Ballot measures denying corporate personhood and money as speech passed in Boulder, Colorado; Missoula, Montana; and Madison, Wisconsin. City Council resolutions in Portland, Oregon; Las Angeles, California; and New York City, New York, were adopted supporting language to amend the United States Constitution as suggested by the national Move to Amend organization. The organization members believe the issues of corporate personhood and money as speech are the basis for the current generation's concern about their future. He referenced three 1971 advisory questions presented to Corvallis voters and subsequent legislation regarding advisory questions for voters. He said the City required that advisory question petitioners "substantially" follow the State's initiative ballot measure process, including collecting voter signatures equal to 15 percent of the votes cast in the last mayoral election. If the advisory question petitioners meet initial procedural requirements and the Council approves the measure for the ballot, the Council has the discretion of charging a "necessary and appropriate fee" to defray election costs. He questioned whether corporate chief petitioners would also be charged to place measures on the ballot. He surmised that most of the costs associated with the advisory question could be avoided if the Council forwarded the advisory question to the ballot with the explanatory statement, including section 2 of the petition.

Councilor Hervey asked whether the CAMA organization was asking that the City Council forward the advisory question to the ballot, noting that the organization would lose some control over wording of the measure components.

Mr. Ozretich repeated that the organization would like the Council to forward the advisory question directly to the ballot with the City's explanatory statement, including section 2 of the petition, which CAMA believes is an essential part of the petition. Section 2 states that the City will convey to elected representatives the language within the section. He said the ballot title would directly address section 2 of the petition; therefore, section 2 must be included on the ballot.

Councilor Traber inquired why CAMA was pursuing a petition, rather than first asking the Council to convey to elected representatives the essence of the advisory question.

Mr. Ozretich responded that amending the United States Constitution would require a lot of time and effort, along with education of the nation's voters. A resolution from the Council would not have as much effect as engaging community voters.

Leo Querk offered an alternative viewpoint to the CAMA petition. He explained that the CAMA petition addresses a major issue from a United States Supreme Court decision involving corporate

personhood and the overwhelming influence of money in American politics. He opined that elected politicians appear to focus their efforts toward the legislative desires of campaign finance donors, which equates to corruption. The CAMA petition addresses that issue and is comprehensive. However, he believes the CAMA petition would not stop the numerous election campaign advertisements on television and radio, some of which could be considered slanderous. A magazine recently estimated that two-thirds of campaign funds are invested in television advertisements, which include slogans and "sound bites" but no information regarding issues. He would prefer a United States Constitutional amendment that is less comprehensive, simpler, and an effective first step toward reducing the influence of money in politics. His amendment would repeal any existing First Amendment freedom of speech protection for election campaign advertisements on television, radio, and large stationary signs (e.g., billboards). He agrees with the CAMA petition proposal to repeal freedom of speech for corporations and any existing idea that money equals free speech. His amendment would also declare a prohibition of the advertisements he mentioned. He noted that ratification of his amendment immediately would mean two-thirds of the funds in political action committees (PACs), Super PACs, 501(c)4 non-profit organizations, and individual campaign funds must be invested elsewhere. Future candidates would not need to raise as much campaign funding, reducing the influence of money in politics.

Councilor Hervey inquired how the CAMA petition section 2 would fit into a ballot initiative and the impacts on the Benton County Elections Office.

Assistant to City Manager/City Recorder Louie said Benton County Records and Elections Manager Morales is preparing a cost estimate, which she will share with the chief petitioners and the Council. An advisory question ballot measure includes a caption, a question, and a summary; each component has a word limit. Inclusion of the CAMA petition section 2 would be dependent upon what the City Attorney's Office provides in terms of the measure components.

Mr. Fewel said Benton County would probably ask the City to request a fee from the chief petitioners to reimburse the County for election costs; however, the City would not be obligated to do so. Ordinance 71-48 allows the City to request election cost reimbursement from advisory question submitters. He believes the Council would have discretion to request a cost reimbursement from the chief petitioners.

Mr. Fewel explained that a ballot measure is comprised of a 10-word caption, a 20-word question, and a 175-word summary. According to Ordinance 71-48, an advisory question is to be processed substantially like an initiative petition, with the Council having some flexibility; and the Council has the discretion of requesting cost reimbursement from the chief petitioners. He explained that his office would, based upon the submitted petition, prepare a ballot measure caption, question, and summary, complying substantially with the State's initiative measure requirements. The chief petitioners could challenge the language via a Circuit Court review. If the Council initiated the ballot measure, the language could also be challenged in Circuit Court.

Mr. Fewel confirmed for Councilor Traber that the Council can forward the advisory question ballot measure to voters without requiring the chief petitioners to collect signatures. He does not know the County's view of that action but believes the County would be required to accept the measure. Because Ordinance 71-48 allows the Council to request election cost reimbursement from petition submitters, he expects that the County will request such action.

Councilor Traber noted that the only procedural step that might involve additional costs was signature verification.

Ms. Louie said she did not know what the additional costs for the advisory question measure might be. The City will have an election in November. Under normal circumstances, the County pays the election costs. Ordinance 71-48 allows the City to request cost reimbursement. She hopes to know the potential costs soon.

Councilor Hirsch asked the CAMA chief petitioners if they asked the Council to submit the ballot measure so they would not need to gather signatures. Mr. Ozretich responded, "no."

Councilor Hirsch expressed support for the advisory question petition and said he would have introduced a similar resolution. He noted extensive community support for the CAMA's objective. He believes signature gathering should occur to get information into the community.

Councilor Traber expressed support for the Council forwarding the advisory question to the voters. He believes the Council should support the CAMA chief petitioners in any way possible.

Councilor Beilstein opined that CAMA was only asking whether the Council would waive asking CAMA to reimburse the County for election costs, which are unknown. He believes the CAMA chief petitioners were speaking to the Council now to inform the Council of their progress through the election process. He recalled that, during 2006, telecommunications corporations paid people to gather signatures on a referendum petition and then paid for advertisements. A citizen PAC raised a small percentage of the funds donated by the corporations. There are no City or State laws to prevent a similar situation, but such laws would be deemed unconstitutional under the United States Supreme Court ruling previously cited. He considers the issue important and believes it should be forwarded to voters. He opined that it would be better to forward the issue to voters, rather than the Council adopting a resolution.

Councilors Beilstein and Traber, respectively, moved and seconded to forward the Corvallis Area Move to Amend United States Constitutional Amendment advisory question to the voters for the November 2012 election and to ask staff to perform the work that would be required of them, whether the measure was an initiative or an advisory question.

Councilor Beilstein noted that the City Attorney would need to write a ballot title, whether the measure is an initiative or an advisory question. Failure of the motion would require CAMA to gather petition signatures, which would be an educational process for citizens. He opined that CAMA could sufficiently educate Corvallis voters without devoting resources to the petition process.

In response to Councilor Hervey's inquiry, Mr. Ozretich stated that, whether CAMA obtains petition signatures or the Council forwards the advisory question directly to voters, CAMA would engage voters in discussions regarding the measure. He acknowledged that it would be easier for CAMA if it did not need to gather petition signatures, so it could focus on campaigning about the measure and educating voters. Not needing to have more than 2,600 signatures validated would eliminate some labor costs for the Benton County Elections Division. He noted that Council candidates are charged \$25 for a half-page listing and must gather 20 valid petition signatures. He opined that the hours of validating signatures would be the source of any costs the County might ask to be

reimbursed. He believes it would be easier for everyone involved if the Council refers the advisory question directly to the ballot, provided that the explanatory statement includes the specific language of section 2 of the CAMA petition.

In response to Councilor Brauner's inquiry, Mr. Fewel explained that, if the Council chose to forward the advisory question directly to voters, the measure would become a Council-initiated measure. Staff, including his office, will develop the ballot title but needs specific direction from the Council. He expressed uncertainty regarding Mr. Ozretich's request that section 2 of the CAMA petition be included in the ballot title, noting that the ballot title must be unbiased.

Deputy City Attorney Brewer explained that Ordinance 71-48 allows the Council to edit a ballot title of an advisory question, even though that would not be allowed for a citizen-based initiative or referendum petition. The editing would occur before signatures could be gathered. Under either scenario discussed, the City Attorney's Office will draft the ballot title.

Councilor Brauner noted that the Council will review the ballot title, whether it is for an advisory question or a citizen-based initiative petition.

Mr. Brewer added that an unbiased explanatory statement must also be prepared, regardless the origin or nature of the petition. The Council would have discretion to amend an advisory question explanatory statement. Ordinance 71-48 is very broad, granting the Council extensive discretion.

Councilor Brauner observed that the Council will be involved in the election process, regardless how the advisory question gets to the ballot. Therefore, he opined that it would be "cleaner" for the Council to place the issue on the ballot.

In response to Councilor Hervey's inquiry, Mr. Brewer said the explanatory statement must be neutral and explain the effects of the measure. The Council will have little discretion to edit the explanatory statement of a Council-based initiative petition.

Councilor Hervey observed that he was being asked to support a grass-roots organization working to protect participatory democracy and reclaim a "level playing field" for local small businesses, honor the actions of a previous City Council in approving Ordinance 71-48, and save funds by not requiring signature verification.

Councilor Hogg said he was uncomfortable voting on a motion for a ballot title that has not been written. He noted that the advisory question would also impact the amounts unions can spend in elections, so the issue should be investigated in greater detail. He also believes it is better for CAMA to gather petition signatures, noting that Council candidates are required to speak with people and get petition signatures to be named on the ballot. He will oppose the motion.

Councilor Raymond expressed support for CAMA and the intent of making political campaign funding clear and placing limits on election spending. She expressed concern that CAMA initially planned to gather petition signatures but now asked the Council to forward the advisory question directly to voters. She noted that election costs are not yet known. She would support the Council sending a supportive letter to legislative representatives. She does not know whether the Council's support of the CAMA petition would achieve CAMA's objectives, as the ballot title must be a neutral statement without implication of support.

Councilor Hervey clarified that, even if CAMA gathers petition signatures, the City Attorney must prepare a ballot title that complies with State and City laws.

In response to Councilor Brown's inquiry, Ms. Louie explained that there would be no need for CAMA to gather signatures if the Council forwards the advisory question directly to the ballot. She encouraged the CAMA chief petitioners to withdraw their petition if the Council forwards the advisory question to voters. The process that substantially complies with an initiative process requires the chief petitioners to submit forms, gather signatures, and have the City Attorney prepare a ballot title for publication. If the Council refers a measure directly to the ballot, staff will pursue the ballot title process, with a Council Standing Committee reviewing the ballot title, advising staff, her office publishing the ballot title, and the chief petitioners or citizens possibly challenging the ballot title.

City Manager Patterson questioned whether the government getting involved in the petition process was considered "grass roots."

Councilor Beilstein noted that, regardless whether the Council or CAMA submits the petition, the Council will have responsibility for reviewing and approving the ballot title. Additionally, the CAMA chief petitioners can challenge the City-prepared ballot title. The Council ultimately decides what goes on a ballot for an advisory question.

The motion passed seven to one, with Councilor Hogg opposed.

V. MAYOR, COUNCIL, AND STAFF REPORTS – Continued

C. Staff Reports

1. Council Request Follow-up Report – February 2, 2012

Mr. Patterson offered to answer any questions regarding the Report.

Councilor Beilstein said the person who asked about stop signs at SW Ninth Street (Ninth) and SW Washington Avenue (Washington) was hoping the City would create an all-way stop, but staff recommended that only one direction of traffic stop. The person agreed that requiring southbound traffic on Ninth to stop would probably help, but vehicles parked along Washington west of Ninth obstruct vision for southbound drivers on Ninth. He asked staff to consider restricting parking near the intersection.

2. Prospective Petition Filing of Advisory Question

This issue was addressed as part of Visitors' Propositions.

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

A. Human Services Committee – None.

B. Administrative Services Committee – January 18, 2012

1. Council Policy Review and Recommendation: CP 98-2.10, "Use of E-Mail by Mayor and City Council"

Councilors Hirsch and Traber, respectively, moved and seconded to amend Council Policy CP 98-2.10, "Use of E-mail by Mayor and City Council," as recommended by the Committee and staff. The motion passed unanimously.

C. Urban Services Committee – None.

VII. PUBLIC HEARINGS – None.

X. NEW BUSINESS – Continued

B. Community Alliance for Diversity contract termination

Mr. Patterson reported that he met with Community Alliance for Diversity (CAD) staff, who indicated that they could no longer provide services under the City's contract. Therefore, CAD requested to terminate the contract.

Councilor Beilstein noted that the Council could formally accept the letter; however, the contract allows CAD to terminate the contract with 30 days' notice. Therefore, no Council action is needed. He served as Council Liaison to CAD during 1999-2000, when it re-organized and received extensive support from OSU, the City, Benton County, and Linn-Benton Community College and had an annual budget of \$16,000; he considered the group very effective. Much of the functions envisioned for CAD were assumed by its partner agencies, making CAD less relevant. Financial support dwindled to only OSU being a financial sponsor. He expects CAD to continue operating. He expressed concern that Corvallis will not have an ombudsperson after the CAD contract terminates, but CAD had only one ombudsperson contact during the past year.

Councilor Raymond, as Council Liaison to CAD, noted that CAD was formed in 1993 and served as a host and catalyst for diversity and inclusion in the community. CAD hosted many events in the community and provided valuable services through the ombudsperson position. She noted some of CAD's recent events and projects. She inquired whether the Police Department and other City agencies provide the services CAD previously provided.

Mr. Patterson responded that the City is in a period of collaboration and can investigate working with OSU's ombudsperson.

Mayor Manning read a statement, based upon changes in Oregon laws regarding executive sessions. The statement indicated that only representatives of the news media, designated staff, and other Council-designated persons were allowed to attend the executive session. News media representatives were directed not to report on any executive session discussions, except to state the general subject of the discussion, as previously announced. No decisions would be made during the executive session. She reminded Council members and staff that the confidential executive session discussions belong to the Council as a body and

should only be disclosed if the Council, as a body, approves disclosure. She suggested that any Council or staff member who may not be able to maintain the Council's confidences should leave the meeting room.

The Council entered executive session at 1:50 pm.

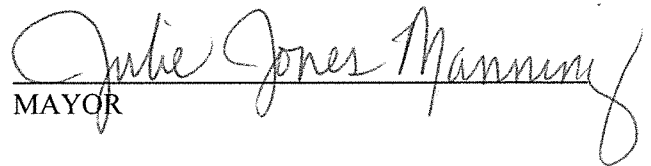
Assistant City Manager Volmert briefed the Council regarding the status of labor negotiations with American Federation of State, County, and Municipal Employees; International Association of Firefighters; Corvallis Police Officers Association; and Corvallis Regional Communications Center Association.

(Councilor Brown left the meeting at 2:15 pm.)

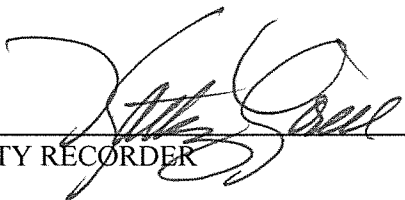
XI. ADJOURNMENT

The meeting was adjourned at 2:25 pm.

APPROVED:


MAYOR

ATTEST:


CITY RECORDER



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February 6, 2012

Senator Richard Devlin, Co-Chair
Representative Peter Buckley, Co-Chair
Representative Dennis Richardson, Co-Chair
Joint Ways and Means Committee
900 Court Street, NE
Salem, OR 97301

Dear Co-Chairs Devlin, Buckley, and Richardson:

As Mayor of the City of Corvallis, I wholeheartedly support the proposed new student residence hall on the campus of Oregon State University.

Last fall OSU and the City of Corvallis embarked on a multi-year collaborative effort to address the impacts of recent and projected future enrollment growth on the community and the livability of Corvallis. We are jointly and actively pursuing both near- and long-term strategies to address traffic, parking, housing, and other issues that are affecting both the neighborhoods near campus and the community beyond. As part of this effort, there is clear agreement across the spectrum: we need more on-campus housing. Currently, 80 percent of OSU students live off-campus. The result is a rental housing availability of less than one percent, along with the related issues of parking, traffic, and the lack of housing options for non-student renters.

We all deeply appreciate the value that OSU brings to Corvallis and the larger community and state. Enabling OSU to build on-campus housing will help address ongoing and future community concerns without involving any additional investment of public funds.

I urge your approval of OSU's ability to finance a new residence hall on campus over the next biennium.

Sincerely,

Julie Jones Manning
Mayor, City of Corvallis

- cc: Members of the Ways and Means Committee
- Senator Betsy Johnson, Co-Vice Chair
 - Representative Bill Garrard, Co-Vice Chair
 - Representative Nancy Nathanson, Co-Vice Chair
 - Senator Alan C Bates
 - Senator Chris Edwards
 - Senator Fred Girod
 - Senator Rod Monroe
 - Senator David Nelson
 - Senator Chuck Thomsen
 - Senator Joanne Verger
 - Senator Doug Whitsett

- Senator Jackie Winters
- Representative E. Terry Beyer
- Representative Jean Cowan
- Representative Tim Freeman
- Representative Betty Komp
- Representative Mike McLane
- Representative Mary Nolan
- Representative Tobias Read
- Representative Greg Smith
- Representative Kim Thatcher
- Representative Gene Whisnant

0011

Excerpts from Justice Stevens' Dissenting Opinion in the *Citizens United* Decision
(Also dissenting were Justice Ginsburg, Justice Breyer, and Justice Sotomayor, 2010)

“...The conceit that corporations must be treated identically to natural persons in the political sphere is not only inaccurate but also inadequate to justify the Court's disposition of this case....

“...In the context of election to public office, the distinction between corporate and human speakers is significant. Although they make enormous contributions to our society, corporations are not actually members of it. They cannot vote or run for office. Because they may be managed and controlled by nonresidents, their interests may conflict in fundamental respects with the interests of eligible voters. The financial resources, legal structure, and instrumental orientation of corporations raise legitimate concerns about their role in the electoral process. Our lawmakers have a compelling constitutional basis, if not also a democratic duty, to take measures designed to guard against the potentially deleterious effects of corporate spending in local and national races.

“The majority's approach to corporate electioneering marks a dramatic break from our past. Congress has placed special limitations on campaign spending by corporations ever since the passage of the Tillman Act in 1907, ch. 420, 34 Stat. 864. We have unanimously concluded that this "reflects a permissible assessment of the dangers posed by those entities to the electoral process," *FEC v. National Right to Work Comm.*, 459 U. S. 197, 209 (1982) (NRWC), and have accepted the "legislative judgment that the special characteristics of the corporate structure require particularly careful regulation," *id.*, at 209–210....

“...The Court's ruling threatens to undermine the integrity of elected institutions across the Nation. The path it has taken to reach its outcome will, I fear, do damage to this institution....

“...Their [*the majority's*] conclusion that the societal interest in avoiding corruption and the appearance of corruption does not provide an adequate justification for regulating corporate expenditures on candidate elections relies on an incorrect description of that interest, along with a failure to acknowledge the relevance of established facts and the considered judgments of state and federal legislatures over many decades.

“In a democratic society, the longstanding consensus on the need to limit corporate campaign spending should outweigh the wooden application of judge-made rules. The majority's rejection of this principle "elevate[s] corporations to a level of deference which has not been seen at least since the days when substantive due process was regularly used to invalidate regulatory legislation thought to unfairly impinge upon established economic interests." *Bellotti*, 435 U. S., at 817, n. 13 (White, J., dissenting). At bottom, the Court's opinion is thus a rejection of the common sense of the American people, who have recognized a need to prevent corporations from undermining selfgovernment [*sic*] since the founding, and who have fought against the distinctive corrupting potential of corporate electioneering since the days of Theodore Roosevelt. It is a strange time to repudiate that common sense. While American democracy is imperfect, few outside the majority of this Court would have thought its flaws included a dearth of corporate money in politics.”

Good afternoon, Mayor Manning and Counselors.

My name is Ralph (Bart) Bolger. I live
in Corvallis.

I come to you today as a member of the Corvallis Area Move to Amend, an affiliate of the national organization, Move to Amend.¹

We support the passage and ratification of a U.S. constitutional amendment which aims to reverse the effects of the January 2010 Supreme Court decision, Citizens United vs. Federal Election Commission.

In this ruling, the Court held that money spent on election campaigns is a form of speech and that corporations and other artificial entities enjoy first amendment free speech protections. Therefore, certain forms of campaign spending may not be regulated at any level of government.

This has resulted in an increasing flood of campaign advertising which may or may not inform voters of the facts. Monied interests now have the ability to monopolize the microphone, drowning out the voices of common citizens. And let me hasten to add that these monied interests may be corporations, labor unions or even non-profits. To be ethically consistent, you must address all of them.

In addition, the notion of what has been termed "corporate personhood" has been dramatically fortified by the Citizens United decision, thus giving corporations and other groups protections under both the first amendment (free speech) and the 14th amendment equal protection clause. The framers certainly intended these protections be conveyed only to natural persons.

While all of this money in politics certainly has national implications, one might ask just what effect will be felt in Corvallis. Two things come to mind:

First, local independent businesses and small-scale citizen groups do not have sufficient resources to indulge in the high-stakes "pay-to-play" game

¹ www.movetoamend.org

2/6/12

that is taking over our elections. This is a quote from a recent article published by the American Independent Business Alliance: "Small businesses increasingly recognize they lose out when large corporations are permitted to translate their wealth into political power that yields tax loopholes, subsidies and other preferential treatment."²

Second, there is the affect on Corvallis voter participation in elections. One of my colleagues will address this issue in a moment.

So why do we need a constitutional amendment? Very simply, now that the Supreme Court has ruled on money as speech and corporate personhood, any legislative remedy would be ruled unconstitutional. Now, there are several proposed constitutional amendments floating around Congress at the moment, including one introduced by Congressman Kurt Schrader. Some are better than others. Some contain gaping loopholes. Our group is not endorsing any of the current amendments, just the rationale behind them. We are working to build a movement, a truly grassroots effort.

You have in your packets for today's meeting our suggested wording for a petition we intend to circulate once the ballot title is approved. It contains the declarations that money is not speech and the protections afforded by the U.S. Constitution are rights intended for natural persons only.

We have a broad base of support for this movement. It is national, it is local and it is growing very rapidly. People are tired of seeing our democracy corrupted by groups that can afford to buy influence and stream the loudest possible message over our airwaves.

Finally, this is not about party politics. It is about movement, grassroots politics. We do not feel the labels of liberal or conservative apply. Perhaps that is why our numbers are growing so rapidly.

I thank you for your time.

² Website: <http://www.amiba.net/news/2011-media/montana-rejects-cuvfec>