

1 location of a bike path on the public right-of-way near his property. Councilor Koeppe
2 declared that she attended that meeting also. Mayor Sloan declared that he attended a
3 meeting on May 27, 2015, regarding the process for annexation. Councilor Niemann
4 declared that he lives on property adjacent to the site, as well as having family relations
5 tied to the Lowther family. There were no requests to rebut any disclosures or non-
6 disclosures. Mayor Sloan read the order of testimony and declared a 4 minute limit for
7 testimony.
8

9 **Staff Report:** -- Mr. Minard reviewed the staff report Findings of Fact as presented in the
10 agenda packet. He noted that a meeting with ODOT subsequent to the Planning
11 Commission public hearing has resulted in them agreeing that an updated Traffic Impact
12 Analysis (TIA) could be delayed until after such time as the property might be annexed.
13 He reviewed the applicable criteria and staff findings. Councilor Edmonds requested
14 clarification about the discussion from the Planning Commission meeting regarding
15 improvements at 26th Street and Highway 20/34. Mr. Minard confirmed that analysis of
16 that intersection would be required in the TIA. He noted that staff recommends that the
17 TIA be updated and submitted as part of the property rezoning hearing should the
18 property be successfully annexed.
19

20 **Presentation of Applicant:**

21 **Butch Busse, Millersburg Land and Development LLC; and Read Stapleton, Land Use**
22 **Planner, DOWL** – Mr. Stapleton stated that staff did a good job of summarizing the
23 application and that this property has been planned for residential use within the Urban
24 Growth Boundary for many years. He stressed that the annexation request is only the
25 first step in the process. He noted that a zone change for the property would still need to
26 be applied for and the subdivision application would then need to be submitted, both
27 requiring additional public process and a thorough TIA. He stated that they expect this
28 development to take at least 10 years if not more to complete and estimated it would
29 take 2 to 3 years before the first homes come on line and impact water, sewer or school
30 systems. He noted system development charges will be paid and will help offset
31 improvements to city systems and the developer will make improvements to ensure that
32 conveyances and lines are adequate. He added that there is sufficient capacity in the
33 city's sewer treatment system.
34

35 Mr. Busse described upgrades to the infrastructure that will be put in place in the 17-unit
36 subdivision that they already have approval for. He showed the Council on the display
37 map where that subdivision is located alongside the Philomath Middle School and within
38 the city limits. He stated they will be installing upgraded lines in that subdivision that are
39 intended to extend into the proposed annexation area. Councilor Niemann questioned
40 how much in system development charges would anticipate being paid. Mr. Stapleton
41 explained those are adjusted annually by the City. Mr. Workman quoted the current SDC
42 rate and reviewed the annual increases based upon construction cost indicators to keep
43 up with inflation. Councilor Niemann questioned what the price range would be for
44 homes. Mr. Busse stated that the ideal is to offer different products that will create a
45 range of prices but the final cost can't be penciled out at this point in the project. He
46 stated that it is difficult to determine what prices will be three years from now depending
47 on the City's requirements, but the \$220,000 to \$320,000 estimated price is probably
48 pretty accurate. He stated that the project would be phased in with maybe 100 lots per
49 phase, depending on the market.
50

51 Mr. Busse explained that infrastructure would happen as the project progresses.
52 Councilor Niemann questioned how the developer would address water concerns. Mr.

1 Busse stated the City has positioned itself well and anticipated its needs well. He stated
2 that SDC's paid for by the developer would help go towards a water storage tower or
3 they would pay for it to ensure the storage capacity needed was there. Councilor
4 Niemann questioned the status of the intertie water purchase contract with Corvallis. Mr.
5 Workman stated the current contract runs through fiscal year 2017 and a renewal is in
6 negotiations. He described the current use of the intertie water and stated the City's goal
7 is to make it more of a primary source than backup.
8

9 Councilor Niemann stated that another major concern is traffic on Applegate Street. Mr.
10 Stapleton described the use of peak hour data to evaluate transportation issues. Mr.
11 Busse stated that the 2005 study did have recommendations and that growth in
12 Philomath has been minimal in the 10 years since then.
13

14 Councilor Niemann requested clarification on the process being proposed. Mr. Busse
15 confirmed that, upon successful annexation, they would work with ODOT to develop the
16 basis for the TIA and, upon completion, submit it with for the rezoning public hearing.
17 Councilor Niemann requested examples of other projects the developers have
18 completed. Mr. Busse stated they have a current project in Millersburg consisting of over
19 300 homes. He added that, as the developer, it is up to them to pay for development of
20 the land, including the cost of putting water and sewer lines in. He stated the Millersburg
21 project was begun just before the economic downturn and was able to proceed at a
22 slow pace. He stated they also did a 200-plus unit subdivision in Molalla. Councilor
23 Niemann recommended the developers provide summaries of those projects for the
24 voters.
25

26 Councilor Edmonds noted that testimony has shown concerns about what can and
27 cannot be done about the intersection of 26th Street and Highway 20/34. He added
28 there are also concerns about Chapel Drive with truck traffic and safety. Mr. Stapleton
29 stated it is important to provide connectivity within the project and create a strong system
30 of trails and sidewalks that will provide alternatives to Chapel Drive. He stated that the
31 TIA submittal for the zone change process would result in additional recommendations
32 that can be implemented. There was discussion about the intersection of Bellfountain
33 Road and Plymouth Drive also needing to be considered for improvements. Mr. Busse
34 stated that the additional public process of the zone change and subdivision phases will
35 provide opportunities for public input on street alignments within the development.
36

37 **Presentation of Proponents:**

38 Chris Nusbaum, Philomath, OR – Mr. Nusbaum stated support of the project and
39 concerns for lack of affordable housing. He noted that houses are being demolished and
40 replaced by duplexes and triplexes, similar to what is being seen in Corvallis. He stated
41 that the school system is in a state of declining enrollment and the current facilities are
42 designed for growth. He stated that the city has done an excellent job of planning for
43 water supply and future growth. He noted that people vote on different issues for
44 different reasons and had concerns that those reasons may have changed since the last
45 time this annexation was considered in 2006.
46

47 **Presentation of Opponents:**

48 Mark Dorr, Philomath, OR – Mr. Dorr pointed out where his house is alongside Newton
49 Creek. He stated concerns about the location of a bike path near the creek which is a
50 FEMA designated flood zone. He stated his opposition to the annexation. He described
51 multiple objections to the location of a bike path alongside the creek on either side. He

1 stated concerns about beavers building dams that could create flooding. (Testimony:
2 Supplemental Agenda Item #6.2)

3
4 Mark Weiss, Philomath, OR – Mr. Weiss stated he is a retired career councilor. He
5 stated that young adults are concerned about jobs and the city should be making plans
6 to create more jobs. He stated this property should be used to make food and not build
7 homes. He questioned the honesty of anyone who would use the population figures that
8 were stated and felt that 4 people per household should be used. He stated concerns
9 about buying water from Corvallis and had concerns about water scarcity. He had
10 concerns about the general nature of the development plan and lack of traffic analysis.

11
12 Terri Weiss, Philomath, OR – Ms. Weiss questioned the population estimate and felt that
13 a real figure of four people per home should be used with two cars per house. She
14 stated concerns about having to live next to ten years of construction noise and traffic.
15 She stated concerns about property values if there is construction going on nearby. She
16 suggested putting houses on the property that was recently considered for the jail.

17
18 May Dasch, Philomath, OR – Ms. Dasch stated her opposition to the annexation due to
19 negative impacts of population growth. She stated concerns about water availability from
20 the city's different sources. (Testimony: Supplemental Agenda Item #6.2)

21
22 Merle Meredith, Philomath, OR – Mr. Meredith stated that most of his points of concern
23 have been covered. He stated the number of lots for 119 acres seems extreme and
24 believes the density is too high. He stated he would like to see information from the
25 developer's other projects.

26
27 Rana Foster, Corvallis, OR – Ms. Foster stated concerns about staff reports and
28 materials being available electronically. (Testimony: Supplemental Agenda Item #6.2)

29
30 Marion Dark, Philomath, OR – Ms. Dark stated that the developers are going to make a
31 lot of money and the city coffers will be increased; however, she had concerns about
32 ongoing maintenance for the increased infrastructure. She stated the community will get
33 pollution and traffic increases will make South 30th Street dangerous. She had concerns
34 about increased crime. She stated that college students coming out of school will not be
35 able to afford these houses. She questioned if this annexation would apply just for these
36 developers or if it would apply to any subsequent developers.

37
38 Aubrey Perin, Philomath, OR – Ms. Perin stated she would like to see the traffic study
39 completed before annexation.

40
41 **Presentations of Neutral Parties, including Governmental Bodies:**

42 Kyle Lackey, Philomath, OR – Mr. Lackey questioned if the water line shown on the
43 conceptual plan is to be paid for by the developer or the citizens. He questioned if the
44 17-unit subdivision is included in the annexation.

45
46 Ben Folgate, Philomath, OR – Mr. Folgate questioned who is representing the city as
47 engineer. He stated concerns about the Neabeack Hill development and unstable land
48 and the lack of oversight. He stated he wanted to ensure that quality roads are built.

49
50 Steve Cyr, Philomath, OR – Mr. Cyr stated he will be building a home in Philomath. He
51 had questions about the number of lots per acre.

1 **Rebuttal by Applicant – Limited to Issues Raised by Opponents:**

2 Read Stapleton and Mike Agee – Mr. Stapleton clarified that 119 acres is the net
3 buildable area. Mr. Agee clarified that most of the questions and concerns expressed are
4 addressed during the zone change and subdivision processes after annexation. He
5 stated there have been concerns expressed about conditions that exist today that can be
6 addressed during the subsequent processes. He stated the details of a development are
7 typically addressed after annexation. He stated that consultants will work with people
8 living in the area to address bike path locations.
9

10 Mr. Agee stated the build-out will be based on economic factors. Mr. Brewer reviewed
11 the options for leaving the record open.
12

13 **MOTION:** Councilor Edmonds moved, Councilor Koeppe second, to keep the record
14 open for seven days until 5:00 p.m. on July 18, with the developer rebuttal due by 5:00
15 p.m. on July 25. Motion APPROVED 6-0.
16

17 The Council will meet on July 25, 2016, at 7:00 p.m. to address the application. Mayor
18 Sloan declared a recess at 8:33 p.m. The Council reconvened at 8:38 p.m.
19

20 **6.3 File Number PC16-04, Applicant: Skirvin Farms LLC, Application Type:**
21 **Annexation, Location: 402 S 13th Street (12-6-12C #200 & 500 and 12-6-12CB**
22 **#3901 and 4200)** -- Mayor Sloan declared the public hearing open at 8:38 p.m. He read
23 the rules for testimony. Mayor Sloan requested any ex-parte contact, site visits, bias or
24 conflicts of interest. Site visits during last weekend's Frolic & Rodeo were generally
25 noted. There were no requests to rebut any disclosures or non-disclosures. Mayor Sloan
26 read the order of testimony and declared a five minute limit for testimony.
27

28 **Staff Report:** -- Mr. Minard reviewed the staff report as presented in the agenda packet.
29 Councilor Edmonds suggested that if this is intended to create the long-term retention of
30 the rodeo grounds that it be worded to address that, rather than evaluating it based on
31 the residential use. Mr. Minard clarified that the City's Charter amendment requires that
32 an application be evaluated at the maximum possible density. Councilor Niemann
33 questioned where the 7,000 square foot per lot figure came from. Mr. Minard stated that
34 is the minimum city standard in the Philomath Municipal Code for R-1 residential use.
35

36 **Presentation of Applicant:**

37 Marlyn Weaver, Agent for Applicant – Mr. Weaver stated he has been charged by the
38 Skirvins to work out details with the City and the Rodeo Association. He stated it is
39 easier to resolve all the issues with the various parties if the property is within the City.
40 He stated there is a desire to extend City water and sewer to the truck shop property. He
41 stated the success of the rodeo and frolic has been a cooperative effort between the
42 City, the Frolic Association and Skirvin Farms for many years.
43

44 Councilor Niemann questioned what the next anticipated step is if annexation is
45 successful. Mr. Weaver stated he anticipates developing a framework proposal.
46

47 **Presentation of Proponents:**

48 Jeff Lamb, Blodgett, OR – Mr. Lamb stated this application is to try to find a formula that
49 makes it possible for the rodeo to stay. He stated that the Skirvin's word can be trusted.
50 He requested that the Council forward the request to the voters.
51

52 **Presentation of Opponents:**

1 None.

2
3 **Presentations of Neutral Parties, including Governmental Bodies:**

4 None.

5
6 **Rebuttal by Applicant – Limited to Issues Raised by Opponents:**

7 None.

8
9 Mayor Sloan questioned if there were any requests to leave the record open. Seeing
10 none, he closed the public hearing at 9:04 p.m. The applicant waived the 7-day period to
11 submit final written comments.

12
13 **Discussion and Decision:**

14 Mr. Minard clarified that the rodeo would come in as a non-conforming pre-existing use
15 with all legal rights. Councilor Edmonds suggested future planning consider the value of
16 the existing use of the rodeo grounds. Councilor Edmonds questioned if two annexation
17 requests are analyzed by staff as a whole or if they are reviewed in isolation. Mr. Minard
18 stated they are considered in isolation; but if the City does not have infrastructure
19 capacity, moratoriums can be declared. Mr. Workman described the planning that
20 has to be completed after a successful annexation.

21
22 **MOTION:** Councilor Leonard moved, Councilor Koetz second, the City Council
23 1) Adopt the Findings of Fact as presented in this staff report and upon the evidence and
24 discussions presented at the public hearing and that the City Manager be directed to
25 place this annexation request as presented in File No. PC16-04 on the November 2016
26 ballot; and
27 2) If the annexation is approved by the Philomath voters, the City will conduct the proper
28 hearings to rezone the subject property from County Rural Residential to Low Density
29 Residential (R-1).

30
31 Motion APPROVED 6-0 (Yes: Edmonds, Koeppe, Koetz, Leonard, Niemann and Sloan;
32 No: None.)

33
34 Mr. Brewer announced this is a final decision of the City Council with appeal rights to the
35 Land Use Board of Appeals.

36
37 **6.4 File Number PC16-02, Applicant: City of Philomath, Application Type –**
38 **Zoning Code Amendment – Chapter 18.10 regarding Jail or Correction Facility --**

39 Mayor Sloan declared the public hearing open at 9:14 p.m. He read the rules for
40 testimony. Mayor Sloan requested any ex-parte contact, site visits, bias or conflicts of
41 interest. None were declared. There were no requests to rebut any disclosures or non-
42 disclosures. Mayor Sloan read the order of testimony.

43
44 **Staff Report:** -- Mr. Minard reviewed the staff report as presented in the agenda packet.
45 Councilor Edmonds questioned if there would be unintended consequences of adding
46 this language. Mr. Minard stated there's a potential that something that might have been
47 allowed in another situation wouldn't be because of this language.

48
49 **Presentation of Proponents:** None.

50
51 **Presentation of Opponents:** None.

1 **Presentations of Neutral Parties, including Governmental Bodies:** None.

2
3 **Rebuttal by Applicant – Limited to Issues Raised by Opponents:** None.

4
5 Mayor Sloan questioned if there were any requests to leave the record open. Seeing
6 none, he closed the public hearing at 9:21 p.m. The applicant waived the right to submit
7 final arguments.

8
9 **Discussion and Decision:**

10 Mayor Sloan commended staff for sitting down with the petitioners to come up with a
11 solution that avoided an election. Mr. Workman thanked the petitioners for being willing
12 to work with the City to find a mutually acceptable solution.

13
14 **MOTION:** Councilor Niemann moved, Councilor Edmonds second, the City Council
15 accept the findings of fact as presented and direct the City Manager to prepare the
16 appropriate amending ordinance to be presented to the City Council for consideration
17 and action. Motion APPROVED 6-0 (Yes: Edmonds, Koeppe, Koetz, Leonard, Niemann
18 and Sloan; No: None.)

19
20 *(Mr. Minard left at 9:25 p.m.)*

21
22 **7. NEW BUSINESS**

23 **7.1 League of Oregon Cities legislative priorities** – Mr. Workman reviewed the
24 four choices that received the most support from staff and members of the Council.

25
26 **MOTION:** Councilor Edmonds moved, Councilor Koeppe second, to direct staff to submit
27 the proposed ballot to the LOC Policy Committee. Motion APPROVED 6-0 (Yes:
28 Edmonds, Koeppe, Koetz, Leonard, Niemann and Sloan; No: None.)

29
30 **8. RESOLUTIONS / ORDINANCES**

31 **8.1 Ordinance #809 Amending PMC 9.20 regarding criminal marijuana**
32 **violations – First Reading** – Mr. Brewer read the proposed ordinance twice by title. It
33 was noted that all of the ordinances and the resolution related to marijuana were
34 reviewed at the June 25 City Council meeting.

35
36 **ROLL CALL VOTE:** Yes: Edmonds, Koeppe, Koetz, Leonard, Niemann and Sloan; No:
37 None. Ordinance approved 6-0 with emergency clause effective July 12, 2016.

38
39 **8.2 Ordinance #810 Amending PMC 5.40 regarding time, place and manner**
40 **restrictions for marijuana facilities -- First Reading** – Mr. Brewer read the proposed
41 ordinance twice by title.

42
43 **ROLL CALL VOTE:** Yes: Edmonds, Koeppe, Koetz, Leonard, Niemann and Sloan; No:
44 None. Ordinance approved 6-0 with emergency clause effective July 12, 2016.

45
46 **8.3 Ordinance #811 Adopting PMC 5.70 regarding taxing marijuana sales --**
47 **First Reading** – Mr. Brewer read the proposed ordinance twice by title. Mr. Workman
48 recommended an effective date of January 1, 2017. Mr. Brewer concurred that this
49 would match the State effective dates.

50
51 **ROLL CALL VOTE:** Yes: Edmonds, Koeppe, Koetz, Leonard, Niemann and Sloan; No:
52 None. Ordinance approved 6-0 subject to approval by Philomath electorate.

1
2 **8.4 Resolution 16-09 Referring Ordinance #811 to Philomath electorate – Mr.**
3 Brewer explained that a taxing ordinance such as #811 is required to be voted on by the
4 electorate.

5
6 **MOTION:** Councilor Koeppe moved, Councilor Niemann second, the City Council
7 approve Resolution 16-09 approving referral to the electors of the city of Philomath the
8 question of imposing a tax on the sale of marijuana items by a marijuana retailer within
9 the city. Motion APPROVED 6-0 (Yes: Edmonds, Koeppe, Koetz, Leonard, Niemann and
10 Sloan; No: None.)

11
12 **9. VISITORS/PETITIONS**

13 **9.1** None.

14
15 **10. COUNCIL REPORTS**

16 **10.1 Councilor Niemann** extended sympathies to the communities in the United
17 States that have recently lost law enforcement officers. He thanked the Police
18 Department for their work. Councilor Niemann congratulated all the athletes that
19 competed in the Olympic Trials in Eugene last week. He thanked the Lions Club for all
20 their work selling fireworks and flapjacks to raise funds. He noted that July 21 is Music in
21 the Park and July 23 is the Benton County Museum's Family Fun Day.

22
23 **10.2 Councilor Edmonds** congratulated Mr. Workman as Frolic & Rodeo President
24 and Vice President Jacob Coons for changes to the layout of the rodeo. He
25 congratulated the Chamber of Commerce on the success of the car show and added
26 that Philomath has worked to create events that attract people from out of town. He
27 echoed the comments regarding the Police Department.

28
29 **10.3 Councilor Leonard** stated the Frolic fireworks were outstanding.

30
31 **11. STAFF REPORTS**

32 **11.1 City Manager – Mr. Workman** thanked the Council for their support of his efforts
33 as Frolic & Rodeo President. He thanked the community members who donate valuable
34 time to make the rodeo a success. He announced that the City had successfully been
35 awarded the grant from Oregon State Parks to construct the new North 11th Street Park.
36 He stated it was the number 3 project of those that were awarded. He stated that
37 construction may be delayed until next summer to allow time to develop final plans and
38 gather donations.

39
40 Councilor Koeppe questioned the status of the Nectar Creek Brewery project. Mr.
41 Workman stated the project is still slated but has been delayed. He stated the owners
42 are in good communication with the City. He stated the Dollar General project is moving
43 forward. Chief Rueben described training that the Police Department will be able to
44 conduct in the old Wing Sing building prior to demolition.

45
46 Councilor Edmonds questioned the status of the Callahan property cleanup. Chief
47 Rueben updated the status of the court case. He stated there is progress and the City
48 Attorney is working with Mr. Callahan's attorney.

49
50 Councilor Niemann questioned the status of the school pool issue. Mr. Workman stated
51 he has had recent meetings with the School Superintendent. He stated that she

1 understands that the City has just approved a new budget and there is no funding
2 available in that budget.

3
4 Councilor Edmonds questioned the status of the environmental reports on the old gas
5 station purchase. Mr. Workman stated that an offer based on the cleanup expense has
6 been submitted to the sellers' realtor.

7
8 **11.2 Public Works Operations Supervisor** – No report.

9
10 **11.3 City Recorder** – Ms. Post reported on two emails recently received in support of
11 the Police Department and reported that a new piece of artwork has been installed. She
12 thanked Public Works for their efforts to install the art before the parade.

13
14 **11.4 Finance Director** – Excused.

15
16 **11.5 Chief of Police** – Chief Rueben thanked everyone for the kind words and said
17 that a number of calls and emails have been received. He stated that officers will be
18 patrolling in pairs for the time being as a safety measure. He reminded Councilors that
19 they are welcome to call anytime they want a status update.

20
21 **11.6 City Attorney** – No report.

22
23 **12. INFORMATION & CORRESPONDENCE**

24 **12.1 June 2016 Website Report** – No comment.

25
26 **13. ADJOURNMENT**

27 **13.1 Adjournment** – Seeing no further business, Mayor Sloan adjourned the meeting
28 at 9:55 p.m.

29
30 SIGNED:
31 Rocky Sloan, Mayor

ATTEST:
Ruth Post, MMC, City Recorder