

**City of Milton-Freewater
City Council Minutes**

The Council of the City of Milton-Freewater met in regular session Monday, April 13, 2009 at 7:00 p.m. in the Albee Room of the Library.

The following members were present: Mayor Lewis Key, Councilors Orrin Lyon, Ed Chesnut, Brad Humbert and Steve Irving.

Councilor Anliker was absent due to being out of town.

Staff members present were: City Manager Linda Hall, Public Works Superintendent Dave Bradshaw, City Planner Gina Hartzheim, Finance Director Dave Richmond, Human Resource Officer Teresa Dutcher, Utility Billing Clerk Patsy Jensen, Accounting Supervisor Luke Billings and City Recorder Leanne Steadman.

Citizens present were: Marge Roff, Merle Sherman, Adam Sherman, Goral LaPorte, Matthew Jensen, Robert Jensen, Pat Thomson, Mike Onstot, Randy Madsen and Sam Hopkins-Hubbard.

Press members present were Melanie Hall of the Valley Herald and Samantha Bates of the East Oregonian.

CONSENT CALENDAR ITEMS:

The consent calendar items consisted of regular council meeting minutes from March 23, 2009 and accounts payable from March 18th through April 8th, 2009.

Councilor Chesnut made a motion to correct the minutes. The correction was under council announcements in the March 23, 2009 meeting when he spoke about the feasibility study of the enhanced water flow in the Walla Walla River. The correction would change the wording from “built on” to “filled by” Pine Creek flows. Councilor Irving seconded the motion which passed unanimously.

Councilor Chesnut motioned to approve the consent calendar items with the above amendment to the minutes of March 23, 2009. Councilor Irving seconded the motion which passed unanimously.

PRESENTATION:

**RECOGNITION – APRIL 2009 EMPLOYEE OF THE MONTH, PATSY JENSEN,
UTILITY BILLING CLERK**

Councilor Humbert presented the April 2009 Employee of the month award to Patsy Jensen. Patsy has been with the City’s Finance Department for almost eighteen (18) years. During that time she has served in many roles for the city; cashier, accounts receivable, accounting clerk, administrative services technician and she is currently the utility billing clerk. Patsy does a great job and accomplishes her tasks with accuracy, speed, thoroughness, and a calm, happy attitude. Councilor Humbert said her supervisor, Accounting Supervisor Luke Billings, said that “Patsy was able to defuse nearly every irate customer she has ever come into contact with. Her job, Utility Billing Clerk, affects every customer we have in the City. She is an awesome front line person to have. Her accuracy rate just couldn’t be beaten!” Councilor Humbert, on behalf of the rest of the council, presented Patsy with a one-hundred (100) dollar check to show their appreciation.

BUSINESS ITEMS:

**PUBLIC HEARING, FINDINGS OF FACT AND ORDINANCE NO. 951
COMPREHENSIVE PLAN MAP AMENDMENT FOR PROPERTY LOCATED AT
409 WARD, FROM INDUSTRIAL TO RESIDENTIAL**

Mayor Key opened and summarized the rules for a public hearing held for the purpose of amending the comprehensive plan map for property located at 409 Ward from Industrial to Residential. He then explained that the testimony given in the hearing should be centered around the criteria for amending the comprehensive plan map. He also explained failure to raise an issue with sufficient directness to afford the decision maker and the parties an opportunity to respond to the issue will prohibit an appeal to LUBA on that issue.

No member of the Council declared ex parte contact and no audience member challenged any Councilor's right to participate in the hearing.

City Manager Hall reported that the Council hearing was given according to state statute requirements; however notice requirements of the city code were not completed prior to the date of the hearing. The hearing was advertised on the web site, agenda mailings, three press packets, individual letters to surrounding property owners, and one legal notice published once in the Valley Herald, the city's newspaper of record. The City Code calls for two legal notices 20 days in advance of the Council hearing, and the notice was published only once. Manager Hall stated if anyone present objected to this notice, the hearing would be rescheduled and the hearing would be re-advertised accordingly. She stated if no one objected then staff was recommending the hearing go forward. No one objected so Council moved ahead with the hearing.

Manager Hall said there were three (3) written comments to enter into the record. The first letter was dated March 2, 2009 from Marge Roff of Roff Real Estate, Inc. who was in support of the amendment. The second letter was dated February 16, 2009 from Sam Tucker of Monahan, Grove & Tucker submitted on behalf of the property owner Zac Widmer, Estate of Dennis Widmer who was also in support of the amendment. The third letter was dated April 13, 2009 from Jeffrey Bruton of Stanfield Oregon; he is an adjacent property owner, who was in opposition of the amendment.

The Mayor then asked City Planner Gina Hartzheim to please present the staff report.

City Planner Gina Hartzheim reported that this was the first of two public hearings for the same piece of property located at 409 Ward. The first hearing was to amend the comprehensive plan map amendment. The second hearing was to amend the zoning code map. The Planning Commission had held their public hearing on the matter to formulate a recommendation to the City Council and an initial public hearing was held on March 2, 2009 which was continue to April 6, 2009 for the final recommendation. The subject property currently contains an existing RV Park that was developed in 1998. The applicant had applied for the amendment and had just recently purchased the adjoining property known as the Train Station. She stated with the historically low occupancy rates coupled with questionable activities over the years had prompted the applicant to look at other options for the piece of property rather than the RV Park. The applicants' desire is to replace the RV Park with a four plex on the subject property and therefore applied for the amendment to the residential designation and to a R-3 on the zoning map. Staff's recommendation was to approve the amendment to the Planning Commission. Minutes of those meetings were included in the council meeting packet. At the time of the Planning Commission hearing there were two written comments that were in support of the amendment and no one spoke in opposition of the proposal and there were no written comments received that were in

opposition at that time. The Planning Commission was equally divided on the proposed amendment with three (3) commissioners in favor and three (3) commissioners being opposed. Commissioners in opposition indicated a concern over a controlled atmosphere storage facility which contained a two-hundred (200) gallon anhydrous ammonia tank. The commissioners that were in support of the proposal of the planned improvement to the area felt there were sufficient safe guards in place in regards to the anhydrous ammonia tank. The result of the split vote was that there was not a favorable recommendation received from the Planning Commission however, staff remained in favor of the proposal. At which time Ms. Hartzheim reviewed the same information as the City Manager did in regard to the hearing being published according to state statute requirements but not to full extent of the city code. She stated if anyone present objected to this, the hearing would be rescheduled and the hearing would be re-advertised accordingly. She stated if no one objected than the hearing could go forward. No one objected so she continued with her staff report. She reported that the subject property was currently mapped Industrial by the Milton-Freewater Comprehensive Plan Map and was zoned I-M, Industrial Manufacturing, by the city's zoning map. There presently were no structures or improvements on the property other than city utilities that had been extended into the property to serve the existing RV sites. The property was boarded by a combination of industrial, commercial, public lands and rail road right-of-way. There were a mix of uses that occur near the property a CA Storage facility, the old Train Depot that had been converted to a residence, two (2) vacant commercial buildings and one (1) vacant lot that bordered the subject property. With regard to the applicable comprehensive plan goals that would relate to the proposal, there were two different goals that would play a part. The first one being the Goal 9 Economy section and the other would be Goal 10 Housing section of the city code. Ms. Hartzheim felt the most important point would be in the economies section of the existing comprehensive plan that the current adopted commercial and industrial needs analysis stated that the city currently had a twenty-eight (28) acre surplus of industrial land. She stated coupled with the fact that the size of the subject property which was small (approximately seventeen-thousand (17,000) square feet) and the unusual configuration of the property, the parcel was not a highly sought after industrial site. The property is not bordered by a major highway and it would be difficult for truck travel to access the property. The Goal 10 Housing section mainly referenced the fact that the city only has one residential designation in the comprehensive plan, which was to allow an ease of re-zoning if this was needed on existing residential zoned land. A vast majority of the existing residential lands in the Urban Growth Boundary currently consisted of R-2 zoning. Ms. Hartzheim said staff remained in favor of the amendment and that the subject property was close to a fire station and the North Main Business District which would allow the residents to access businesses, a health care facility and banks that were close by. She stated this concluded the staff report.

PLANNING COMMISSION REPORT
April 7, 2009

APPLICANT: Goral LaPorte

ISSUE: Request for amendment to Comprehensive Plan map from industrial to residential on property located at 409 Ward Street

HEARING DATE: April 13, 2009

I. BACKGROUND

First, notice of this Council hearing was given according to state statute requirements, however notice requirements of our city code were not completed prior to this date. The meeting was advertised on our web site, agenda mailings, three press packets, individual letters to surrounding property owners, and one legal notice published once in the Valley Herald, our newspaper of record. The City Code calls for two legal notices 20 days in advance of the Council hearing, and we published only once. If anyone present objects to this, we will reschedule the hearing and re-advertise accordingly. If no one objects, we will go forward with the hearing.

Applicant has recently purchased the property adjacent to the subject property and has an offer to purchase the subject property. The current use of the property as an RV Park is not a viable use for the property with very low occupancy rates over the past several years, and in addition, has been the site of questionable activities. Applicant has filed the application for the proposed amendments to allow for potential development of apartments on the subject property. The Planning Commission held public hearings on the proposed amendment on March 2 and April 6, 2009. After testimony and deliberation totaling approximately two hours, the Planning Commission had a split vote, with three recommending approval of the amendment and three voting against the amendment.

II. SITE DESCRIPTION

The property is located off of N.E. 5th Avenue across from the Community Building. It is mapped "Industrial" by the Milton-Freewater Comprehensive Plan and zoned I-M, Industrial-Manufacturing, by the City's Zoning Map. There are presently no structures or improvements located on the property other than City utilities that have been extended to the property to serve the RV sites. The property is bordered by a combination of industrial, commercial and public lands zoning and also is bordered by the railroad right of way. Other structures nearby consist of a CA

Storage facility across the railroad tracks, the old train depot that has been converted to a residence, two vacant commercial buildings and a vacant lot.

III. APPLICABLE COMPREHENSIVE PLAN PROVISIONS

- A. Goal 9 Economy, excerpts
- B. Goal 10 Housing, Finding 10-A, Policy 10-A-1, Policy 10-A-3

A. Goal 9 Economy

Although there are not any policies relating specifically to industrial development in this chapter, Finding 9B states as follows: "In compliance with Goal 9, the City has completed a commercial and industrial lands needs analysis...This analysis demonstrates that that the City has a 28 acre surplus of industrial land...".

Discussion, Conclusion and Findings: The adopted needs analysis mentioned above clearly states the City has a surplus of industrially zoned property. In addition, the size of the subject property (approximately 17,000 sq. ft.) is not a size typically highly sought after for industrial use. Based upon the fact that the adopted needs analysis shows there is an excess of industrial lands, amending the industrial designation will not have an adverse effect on the industrial land supply.

B. Goal 10 Housing

Finding 10-A: It is necessary and desirable that the opportunity to develop a full range of housing types at various price and rent levels be made available through the City's land use regulations.

Policy 10-A-3: Sufficient acreage for all needed housing types shall be provided by the R-1, R-2 and R-3 residential zones delineated in the Zoning Code. The Comprehensive Plan Map shall contain one residential land use designation to permit greatest flexibility in location of the R-3 zone.

Discussion and Findings: Applicant's request is for a Comprehensive Plan Map amendment to the residential designation mentioned in this policy, and in turn, an R-3 zoning designation. While there is currently a large amount of acreage with a residential designation within the Urban Growth Boundary, there is very little that is available land and readily developable as well.

IV. APPLICABLE CODE PROVISIONS

Chapter 12: Amendments

10-12-1: An amendment to the text of this Ordinance or to the Zoning Map may be initiated by the City Council, Planning Commission, or by application of a citizen.

Findings: The amendments were initiated by Goral LaPorte, as allowed by this section.

10-12-2: Amendments to the text of this Ordinance or to the Zoning Map shall be processed under terms of the Level IV procedure in Section 10-3-10.

Findings: The amendments were processed as a Level IV procedure.

10-12-3: In the Planning Commission report to the City Council, and in the City Council's action after review of the Planning Commission's report, the following standards shall be addressed:

- (A) The proposal is in conformance with all applicable provisions of the Comprehensive Plan text and map of land use designations.

Findings: As discussed above, the proposal conforms with applicable provisions of the Comprehensive Plan.

- (B) The proposal addresses a need which was improperly or inadequately addressed by the present ordinance text or map.

Findings: The proposed map change would satisfy the above criteria in a number of ways. First, as noted above, the City's most recent inventory of commercial and industrial lands reflected a surplus of 28 acres of industrial land. Two amendments have been completed subsequent to the adoption of the inventory that converted 9 acres from industrial to residential, which would still indicate a surplus of 19 acres. In addition, the adopted South Hill Neighborhood Master Plan assigned a Business Park designation on additional acreage at the south end of the urban growth boundary which allows industrial type uses, among other types of development. Although there is presently industrially zoned property located adjacent to the subject property, there is also a range of other uses that is also located adjacent and/or in the immediate vicinity. The small size of the lot, less than ½ acre, does not make it suitable for most industrial type uses. The current use of the property is more of a residential nature and a residential designation would be more in line with the existing use. The Planning Commission did not find by a majority vote that a residential designation was more appropriate than the current industrial designation.

10-12-4: The City Recorder shall maintain records of text and map amendments.

Findings: As part of City procedure, the appropriate records will be maintained.

IV. GENERAL COMMENT

The proposal would allow residential development to occur on a piece of property that is currently being used in a residential fashion, and would be an improvement to the area. Staff recommended approval of the amendment and three Planning Commissioners were in favor of the amendment.

VI. PLANNING COMMISSION RECOMMENDATION

The motion was made and seconded to deny the Comprehensive Plan Map amendment from Industrial to Residential. The motion did not pass as there was a tie vote. The consensus of the Planning Commission was that there would also be a tie vote on a motion to approve. As there was not a majority vote to recommend the amendment, there is not a recommendation to approve the amendment.

Mayor Key invited the applicant and all those in favor of the amendment to speak.

Marge Roff, 14 SW 9th Ave., approached the council and said she was the listing agent for the subject property representing the Widmer Estate and the selling agent representing Goral LaPorte. Ms. Roff presented a map to the City Council of the subject property. She said her Real Estate office represents and manages approximately one-hundred thirty-five to one-

hundred forty (135 to 140) rental units in Milton-Freewater. She said she had come a long way in her twenty (20) year experience in what was good and what was bad management. She said one of the things she had done in managing the existing RV Park was to clean up and rid the city of some unsavory activity that was taking place there when her office had taken over the management of the property. Mr. LaPorte had made an offer on the subject property looking at the entire property as something that he could benefit the community of Milton-Freewater by improving it and developing it and working towards creating a business entity that he could be proud of and that the city could be proud of. He had taken over what was the Night Train Building and was currently using it for office and residential purposes. Ms. Roff said in the twenty (20) some years she had been back in Milton-Freewater there had been some talk of how to stimulate activity in the north end of town. She said one of the items discussed was to have some residential close to the downtown business area. She felt the proposed project offered an opportunity to introduce some high quality living units close to downtown to actively increase commercial development of North Main Street. She said the subject property was across the street from the Community Building, a doctor's office and a bank. The vacant building in front of the subject property that used to be the radio station, Mr. LaPorte also had plans for that building providing the outcome of the RV Park. She said he had proposed business offices. She said the type of activities planned were slow growth and take time but felt they were important when talking about bringing residential area into a commercial area and stimulating the retail commercial activity. She said it may have been said that it is referred to as spot zoning because it's a change from industrial manufacturing to residential. She felt a nice four plex would fit very well in that mix. Mr. LaPorte had done a lot of research on the ammonia which had been voiced as a concern. She asked for a positive response to the application for a comprehensive zone change.

Goral LaPorte, 56053 N. Fork Walla Walla River Road, approached the council and said he had a statement by the Environmental Protection Agency (EPA) who had taken over the control of the ammonia problem in the whole United States. He then passed out a page that had information regarding ammonia to the city council. He quoted, "that EPA stresses that although mishandling of ammonia can cause harm, there is no cause for undue alarm about its presence in the community". He felt the size and shape of the subject property connected to the train station, which he already owned, would allow him to have additional parking for when he does a business out of the train station and it would also clean up the type of trailers and people that have been moving into the RV Park. He said people that go into the RV Park do not pay rent and he felt have dealt drugs at that location. Mr. LaPorte felt with a manager onsite in a four plex it would help control it a lot better.

Mike Onstot, 112 NE 2nd, approached council and said he was one of the larger property owners near the subject property. He felt the existing RV Park had been a location for drugs and has been a real problem. Mr. Onstot said he had talked to all his neighbors on 2nd Street and no one seemed to have a problem with what Mr. LaPorte was proposing to do. The piece of industrial property is land locked with the rail road and felt it really was of no use. He said he heard on the news that morning that Oregon had ten (10) percent unemployment and he heard right before he came to the meeting it was up to twelve (12) percent. He said if Mr. LaPorte wanted to spend some money in the valley then he really wanted him to be able to do that.

Mayor Key invited all those in opposition to the amendment to speak, no one spoke.

Mayor Key then asked if council wished to ask any questions.

Councilor Chesnut asked for clarification on the two different maps supplied to council. The aerial map from staff included the radio station property and the map from Ms. Roff only included the RV Park.

Ms. Roff said her map showed the subject property.

Ms. Hartzheim said the aerial map did include the radio station but the amendment did not include that piece of property and that there were two separate tax lots there.

Councilor Lyon said he was bringing forward a citizen concern of whom could not be in attendance at the meeting. The concern was raised to him and Councilor Humbert. Scott Cockburn owner of Cockburn Distributing who owns property adjacent to the subject property had concerns on whether the proposed amendment would affect his ability to expand his business.

Manager Hall asked if Mr. Cockburn indicated which direction he would wish to expand because if he wished to expand towards the subject property he would be too close to the rail road tracks.

Councilor Lyon said he didn't know what direction and his question could have been just in general.

Councilor Humbert said Mr. Cockburn voiced concerns to him of having a residential zone next to his industrial use and if that would have a conflict with him down the road that if he chose to expand or wanted to do something with his industrial use would he be shut down as a business owner because of that residential zone being so close.

Manager Hall said that each individual request for zoning change, expansion or building permit was considered on a case by case basis and studied. She said certainly there was no guarantee for any situation but with that said clearly Mr. Cockburn had been in business there with no complaints that she was aware of in her sixteen (16) years with the City. She said his business does incur some traffic but she felt it was considered quiet traffic, and she would not anticipate any conflict. If by chance there would be, the Cockburn business was there first and would be given precedent.

Councilor Lyon said Mr. Cockburn had some other concerns of increased traffic at night, he had tankers that came in at night to refuel his tanks and would the vapors be a problem.

Manager Hall felt there was a good buffer zone in place already for not only noise but also trespassing, dust and odor as well.

Councilor Lyon asked where the public property was located that was mentioned.

Ms. Hartzheim said that was the Community Building and Fire Station.

Public Works Superintendent Dave Bradshaw pointed out that there was an existing house inhabited that was a lot closer to Mr. Cockburn's business than what the proposed four plex would be.

Councilor Humbert said he understood that Mr. LaPorte wanted to turn the old radio station into office buildings. He said there was eleven-thousand four-hundred (11,400) square feet taken up with the radio station property so that would leave eleven-thousand three-hundred

(11,300) square feet. He asked how big the structure would be with the proposed improvement.

Mr. LaPorte said it was forty-seven by fifty-two (47x52), which would be two-thousand (2,000) square feet on the bottom and the same on the top.

Councilor Humbert said that would leave approximately eight-thousand (8,000) square feet for landscaping and parking. He asked if the parking would service both the four plex and the office buildings.

Mr. LaPorte said the office building had its own parking and he had thirty-three (33) spaces available at the train station.

Councilor Humbert asked what the plans were for Ward Street as far as improvement since it was proposed to be used as an access street.

Mr. LaPorte said that Ward Street ran just to the subject property pass the radio station.

Councilor Humbert asked if he intended to use Ward Street as an access street to the four plex.

Mr. LaPorte said yes it would be used as an access and that it would be paved to the four plex.

Councilor Humbert confirmed Ward Street would be improved.

Mr. LaPorte replied yes.

Councilor Chesnut said he remembered not too long ago, discussions of vacating a portion of Ward Street, and asked if that was on the subject property.

Ms. Hartzheim stated a portion of Ward Street adjacent to the subject property had been vacated.

Manager Hall asked where Ward Street ended.

Councilor Humbert replied at the end of the Radio Station property.

Mayor Key said the map from Ms. Roff showed Ward Street dead ending against the subject property.

Mayor Key declared the hearing to be closed and asked what the direction of the council was.

Councilor Chesnut asked for clarification from staff regarding the aerial map and what type of zoning was around the subject property.

Ms. Hartzheim reported there was industrial, public commercial retail and commercial. The home that was close to Cockburn Distributing was grandfathered as industrial manufacturing.

Councilor Chesnut referred to the opposition letter in regards to it stating the proposed change was "spot zoning". Councilor Chesnut said spot zoning may be the only way to handle what history had dealt. He felt an industrial use for the subject property would be hard to find. He was not in favor of waiting for someone to want to use it.

Councilor Chesnut then motioned to adopt the Findings of Fact and Conclusions of Law supporting the amendment to the Comprehensive Plan Map designation on the property described in Umatilla County Assessor's Map, 5N3502AD, Tax Lot 11300 be amended from industrial to residential. Councilor Irving seconded the motion and a roll call vote was taken: Councilor Chesnut, yea, Councilor Lyon, nay, Councilor Humbert, nay, Councilor Irving, yea. The vote resulted in a tie therefore Mayor Key's vote was needed to break the tie. Mayor Key voted yea. The motion passed by majority.

Councilor Chesnut motioned that Ordinance No. 951 be introduced by title only and full reading waived. Councilor Irving seconded the motion which passed unanimously. The City Manager then read the ordinance by title. The council then introduced the first reading of Ordinance #951, Ordinance Amending the Comprehensive Plan Map of the City of Milton-Freewater.

PUBLIC HEARING, FINDINGS OF FACT AND ORDINANCE NO. 952 AMENDING ZONING MAP FOR PROPERTY LOCATED AT 409 WARD, FROM I-M TO R-3

Mayor Key said the public hearing rules stated earlier would remain in effect. The hearing was held for the purpose of gaining citizen input regarding the proposed amendment to the zoning code map for property located at 409 Ward from I-M (Industrial Manufacturing) to R-3 (Residential).

No member of the Council declared ex parte contact and no audience member challenged any Councilor's right to participate in the hearing.

City Manager Hall reported that the Council hearing was given according to state statute requirements; however notice requirements of the city code were not completed prior to the date of the hearing. The hearing was advertised on the web site, agenda mailings, three press packets, individual letters to surrounding property owners, and one legal notice published once in the Valley Herald, the city's newspaper of record. The City Code calls for two legal notices 20 days in advance of the Council hearing, and the notice was published once. Manager Hall stated if anyone present objected to this notice, the hearing would be rescheduled and the hearing would be re-advertised accordingly. She stated if no one objected then the hearing could go forward. No one objected, and the hearing continued.

Manager Hall said there were three (3) written comments to enter into the record and they were the same as previously mentioned in the prior hearing. Letters from Marge Roff, Sam Tucker submitted on behalf of the property owner Zac Widmer, Estate of Dennis Widmer both letters were in support of the amendment. The third letter was from Jeffrey Bruton of Stanfield Oregon, who was in opposition of the amendment.

The Mayor then asked City Planner Gina Hartzheim to please present the staff report.

Ms. Hartzheim reported the hearing related to the establishment of a zoning designation on the same subject property as the previous hearing, 409 Ward Street. The applicant had requested that an R-3 designation be applied to the subject property based on the fact that this was the only current residential zone that allowed multifamily housing as an outright use. She asked for her comments in the previous hearing to be incorporated by reference along with the applicable criteria from the comprehensive plan. The council does have the discretion to assign an R-1, R-3, or R-3 designation to the subject property. She reviewed the Planning Commission hearing results of the split vote therefore there was not a majority recommendation for the amendment however staff remained in support of the amendment to the R-3 designation.

At which time Ms. Hartzheim stated she would like to incorporate the staff report submitted to council by reference.

PLANNING COMMISSION REPORT
April 7, 2009

APPLICANT: Goral LaPorte

ISSUE: Request for amendment to the Zoning Map from I-M to R-3 on property located at 409 Ward Street

HEARING DATE: April 13, 2009

I. BACKGROUND

First, notice of this Council hearing was given according to state statute requirements, however notice requirements of our city code were not completed prior to this date. The meeting was advertised on our web site, agenda mailings, three press packets, individual letters to surrounding property owners, and one legal notice published once in the Valley Herald, our newspaper of record. The City Code calls for two legal notices 20 days in advance of the Council hearing, and we published only once. If anyone present objects to this, we will reschedule the hearing and re-advertise accordingly. If no one objects, we will go forward with the hearing.

Applicant has recently purchased the property adjacent to the subject property and has an offer to purchase the subject property. The current use of the property as an RV Park is not a viable use for the property with very low occupancy rates over the past several years, and in addition, has been the site of questionable activities. Applicant has filed the application for the proposed amendment to allow for potential development of a four plex on the subject property. The Planning Commission held a public hearing on the proposed amendment on April 6, 2009. The Planning Commission had a split vote, with three voting to recommend approval of the application and three voting to recommend denial of the application

V. SITE DESCRIPTION

The property is located off of N.E. 5th Avenue across from the Community Building. It is mapped "Industrial" by the Milton-Freewater Comprehensive Plan Map and zoned I-M, Industrial-Manufacturing, by the City's Zoning Map. It currently contains an RV Park that was developed in 1998. There are presently no structures or improvements located on the property other than City utilities that have been extended to the property to serve the RV sites. The property is bordered by a combination of industrial, commercial and public lands zoning and also is bordered by the railroad right of way. Other structures nearby consist of a CA Storage facility across the railroad tracks, the old train depot that has been converted to a residence, two vacant commercial buildings and a vacant lot.

VI. APPLICABLE COMPREHENSIVE PLAN PROVISIONS

C. Goal 9 Economy, excerpts

D. Goal 10 Housing, Finding 10-A, Policy 10-A-1, Policy 10-A-3

A. Goal 9 Economy

Although there are not any policies relating specifically to industrial development in this chapter, Finding 9B states as follows: "In compliance with Goal 9, the City has completed a commercial and industrial lands needs analysis...This analysis demonstrates that that the City has a 28 acre surplus of industrial land...".

Discussion, Conclusion and Findings: The current adopted needs analysis mentioned above clearly states the City has a surplus of industrially zoned property. In addition, the size of the subject property (approximately 17,000 sq. ft.) is not a size typically highly sought after for industrial use. Based upon the fact that the adopted needs analysis shows there is an excess of industrial lands, amending the industrial designation will not have an adverse effect on the industrial land supply. The Planning Commission did find that based on the current inventory there could be considered to be a surplus of industrial land.

B. Goal 10 Housing

Finding 10-A: It is necessary and desirable that the opportunity to develop a full range of housing types at various price and rent levels be made available through the City's land use regulations.

Policy 10-A-3: Sufficient acreage for all needed housing types shall be provided by the R-1, R-2 and R-3 residential zones delineated in the Zoning Code. The Comprehensive Plan Map shall contain one residential land use designation to permit greatest flexibility in location of the R-3 zone.

Discussion and Findings: Applicant's request is for a Zoning Map amendment to R-3. While there is currently a large amount of acreage with a residential designation within the Urban Growth Boundary, there is very little that is available land and readily developable as well. In addition, applicant's zoning map amendment request to the R-3 designation allows a wide range of housing choices, and specifically apartments. A letter from Roff Real Estate was entered into the record. Roff Real Estate manages a large amount of rentals and in that capacity Marge Roff noted that there is great need for rental property in the City.

IV. APPLICABLE CODE PROVISIONS

Chapter 12: Amendments

10-12-1: An amendment to the text of this Ordinance or to the Zoning Map may be initiated by the City Council, Planning Commission, or by application of a citizen.

Findings: The amendment was initiated by Goral LaPorte, as allowed by this section.

10-12-2: Amendments to the text of this Ordinance or to the Zoning Map shall be processed under terms of the Level IV procedure in Section 10-3-10.

Findings: The amendments are being processed as a Level IV procedure.

10-12-3: In the Planning Commission report to the City Council, and in the City Council's action after review of the Planning Commission's report, the following standards shall be addressed:

- (A) The proposal is in conformance with all applicable provisions of the Comprehensive Plan text and map of land use designations.

Findings: As discussed above, the proposal conforms with applicable provisions of the Comprehensive Plan.

- (B) The proposal addresses a need which was improperly or inadequately addressed by the present ordinance text or map.

Findings: The proposed map change would satisfy the above criteria in a number of ways. First, as noted above, the City's most recent inventory of commercial and industrial lands reflected a surplus of 28 acres of industrial land. Two amendments have been completed subsequent to the adoption of the inventory that converted 9 acres from industrial to residential, which would still indicate a surplus of 19 acres. In addition, the adopted South Hill Neighborhood Master Plan assigned a Business Park designation on additional acreage at the south end of the urban growth boundary which allows industrial type uses, among other types of development. Although there is presently industrially zoned property located adjacent to the subject property, there is also a range of other uses that is also located adjacent and/or in the immediate vicinity. The small size of the lot, less than ½ acre, does not make it suitable for most industrial type uses. The current use of the property, which has existed for over 10 years, is of a residential nature. The Planning Commission did not find by a majority vote that a R-3 designation was more appropriate than the current I-M designation.

10-12-4: The City Recorder shall maintain records of text and map amendments.

Findings: As part of City procedure, the appropriate records will be maintained.

VII. GENERAL COMMENT

The proposal would allow residential development to occur on a piece of property that is currently being used in a residential fashion, and would be an improvement to the area. The R-3 zone is the only zone that would allow for multi-family type development outright. Staff recommended approval of the amendment and three Planning Commissioners were in favor of the amendment.

V. PLANNING COMMISSION RECOMMENDATION

The motion was made and seconded to recommend the zone change from I-M to R-3 in the event the City Council amended the Comprehensive Plan Map from Industrial to Residential. The motion did not pass as there was a tie vote. As there was not a majority vote to recommend the amendment, there is not a recommendation to approve the amendment.

Mayor Key invited the applicant and all those in favor of the amendment to speak.

Marge Roff, 14 SW 9th Ave., approached the council and said she was the listing agent for the subject property representing the Widmer Estate and the selling agent representing Goral LaPorte. She said she and the applicant were asking for R-3 zoning to allow a multi-family complex built in and near the north business district of Milton-Freewater. Ms. Roff said this type of improvement had been asked for in the many meetings she had attended regarding zoning and growth of the community. She felt with the rail road dividing the properties north and south of the area this was a good use. If Mr. Cockburn were to grow and expand his business she felt he would more than likely expand to the south rather than to the north. She once again asked for the approval of the amendment to the zone change.

Goral LaPorte, 56053 N. Fork Walla Walla River Road, approached the council and said he was the land owner to the west and he would like to see the subject property be cleaned up and a four plex built there.

Mayor Key invited all those in opposition to the amendment to speak. No one spoke.

Mayor Key then asked if council wished to ask any questions. No council member asked any questions.

Mayor Key declared the hearing to be closed and asked what the direction of the council was.

Councilor Chesnut motioned to adopt the Findings of Fact and Conclusions of Law supporting the amendment to the Zoning Code Map to amend from I-M to R-3. Councilor Irving seconded the motion and a roll call vote was taken: Councilor Chesnut, yea, Councilor Lyon, nay, Councilor Humbert, nay, Councilor Irving, yea. The vote resulted in a tie therefore Mayor Key's vote was needed to break the tie. Mayor Key voted yea. The motion passed by majority.

Councilor Chesnut motioned that Ordinance No. 952 be introduced by title only and full reading waived. Councilor Irving seconded the motion which passed unanimously. The City Manager then read the ordinance by title. The council then introduced the first reading of Ordinance #952, Ordinance Amending the Zoning Map of the City of Milton-Freewater.

RESOLUTION NO. 2119 AUTHORIZING SIGNATURE TO ODOT GRANT AGREEMENT TO RECEIVE FUNDS TO INSTALL THREE (3) NEW BUS SHELTERS

Human Resource Officer Teresa Dutcher reported that the city had applied for and received notification of a grant award in the amount of nineteen-thousand eight-hundred dollars (\$19,800) for the general ridership bus program to install three (3) new bus shelters. The grant was from the American Recovery and Reinvestment Act (ARRA) through the Oregon Department of Transportation (ODOT). The grant required no matching funds. The shelters would be installed on the corner of NE 12th and Main Street, NW 8th and Main Street, and NE 5th by the Community Building. There were specific guidelines for this grant which specifically had to be for capital projects and they had to be project ready. They must also be tied to job creation and constructed from outside sources.

Manager Hall commended Ms. Dutcher on all her hard work on obtaining the grant and how difficult that type of grant was to apply for.

Mayor Key asked if the shelters would be prefabricated.

Ms. Dutcher said yes, they would be prefabricated but there were other specifications for them as far as the base construction.

Mayor Key asked if that would be completed by the city crew.

Mr. Bradshaw said no, the requirement of the grant is that it is constructed from outside sources.

Councilor Chesnut said if the construction must be performed from outside sources would there be a competitive bid process.

Ms. Dutcher said yes there would be once the shelters were received and they had the additional specifications.

Councilor Chesnut motion to adopt Resolution No. 2119, Resolution Authorizing Signature to ODOT Grant Agreement No. 25609, an Agreement Between ODOT – Public Transit Division and the City of Milton-Freewater for 5311 ARRA Funds to Provide Capital Facilities in Reimbursable Grant Funds up to \$19,800. Councilor Irving seconded the motion which passed unanimously.

REVIEW OF CITY'S INVESTMENT POLICY

Finance Director Dave Richmond reported that the city updated its investment policy and council approved it on May 9, 2005. In the policy it states that it must be reviewed annually. He reviewed some of the policy's objectives as being safety, liquidity and rate of return. Mr. Richmond gave an overview of where the money was invested and what the balance was for each account. Staff's recommendation was to leave the policy as is with no amendments.

Manager Hall commended Mr. Richmond for the great job he does in monitoring these accounts and suggesting changes to her.

Councilor Chesnut motioned to approve the City's investment policy as is with no amendments. Councilor Lyon seconded the motion which passed unanimously.

RESOLUTION NO. 2120, DESIGNATING PARTIES RESPONSIBLE TO SERVE IN THE ROLES OF INVESTMENT MANAGER AND INVESTMENT CONTROLLER AS PER CITY'S INVESTMENT POLICY

Mr. Richmond explained the City's investment policy specifies designation of responsible parties to serve in the roles of investment manager and investment controller. Staff's recommendation was for the Finance Director to serve as the investment manager and the City Manager would serve as the investment controller. The city also has an investment advisor which was not part of the policy who was Don Leek of Vision Capital.

Councilor Humbert motioned to adopt Resolution No. 2120, Resolution Designating parties Responsible to Serve in the roles of Investment Manager and Investment Controller as per the City's Investment Policy. Councilor Chesnut seconded the motion which passed unanimously.

RESOLUTION NO. 2121 WRITING OFF UNCOLLECTIBLE DEBTS

Mr. Richmond reported that each year the city removes from its books accounts that have been determined to be uncollectible. All feasible attempts to collect these accounts have been pursued. The accounts have either been at the Collection Bureau for more than one year, with no commitment to pay, the balances are under twenty dollars (\$20), a bankruptcy had been granted or a death had occurred. Mr. Richmond said the total amount of requested write offs were twenty three-thousand eight hundred fifteen dollars and fifty cents (\$23,815.50). That amount was the lowest that it had been in the past four (4) years. He said it would have been even lower had there not been an accounts receivable in the amount of four-thousand dollars (\$4,000) for a car hit pole accident that did not get paid. Mr. Richmond accredited the low write off amount to the council that approved to increase utility deposits required for bad credit customers.

Councilor Irving motioned to adopt Resolution No. 2121, Resolution Authorizing the Finance Department to Write Off Uncollectible Accounts. Councilor Humbert seconded the motion which passed unanimously.

RESOLUTION NO. 2122 ACCEPT FUNDS DUE TO UNFORESEEN REVENUES

Mr. Richmond reported that during the course of the budget year unforeseen circumstances occur that were not know at the time of preparing the budget. He said there have been some additional revenues that needed to be accounted for in the budget. Mr. Richmond explained the revenues were from grants, motel/hotel transient tax implementation, electric utility infrastructure fee and a contract to review the utility system for efficiency.

Councilor Humbert motioned to adopt Resolution No. 2122, Resolution to Accept Funds Due to Unforeseen Revenues. Councilor Chesnut seconded the motion which passed unanimously.

BID AWARD – USED LANDFILL COMPACTOR

Public Works Superintendent Dave Bradshaw reported that in 2007 Council had asked staff to explore the feasibility of acquiring a compactor and scraper for the landfill. A scraper had been purchased and staff was now suggesting the purchase of a 1994 CATERPILLAR 816B Landfill Compactor from Marcel Equipment Limited from Ontario Canada.

Councilor Lyon said he noticed in the additional quotes that were obtained there were a lot older machines but for more money than the suggested one to purchase. He asked why that was.

Mr. Bradshaw said most the older machines were through a brokerage and have had some kind of re-fabrication done to them.

Councilor Chesnut asked if by purchasing the compactor would that extend the life of the landfill.

Mr. Bradshaw said it should extend each cell's life some because they wouldn't have to dig as often due to the compactor pushing the garbage down into the dirt rather than just smashing it therefore it taking up less space.

Councilor Humbert motioned to approve the purchase of a 1994 CATERPILLAR 816B Landfill Compactor from Marcel Equipment Limited; for an amount not to exceed sixty three-thousand five hundred dollars (\$63,500). Councilor Irving seconded the motion which passed unanimously.

Manager Hall commended Mr. Bradshaw for the great job he had done researching the equipment to make sure it was the right one for the city and at a good price. She also said he had been successful in obtaining one hundred forty one-thousand dollars (\$141,000) of stimulus money that would be used to preserve and maintain the street system.

The city council took a recess at 8:20 p.m. and reconvened at 8:23 p.m.

INTERVIEW TO FILL WARD 3 CITY COUNCIL VACANCY, APPLICANT – SAM HOPKINS-HUBBARD

Sam Hopkins-Hubbard, 120 S. Andrea, had been the only applicant to apply for the Ward 3 vacancy on City Council. Council felt it important to interview him publicly. Council members took turns asking Mr. Hopkins-Hubbard questions.

After the interview, Councilor Humbert said he felt Mr. Hopkins-Hubbard would make a good fit to the council. He felt he did not come with any personal agendas or any plan to tip the city upside down and shake the sack.

Councilor Chesnut said of what he had seen Mr. Hopkins-Hubbard involved in terms of civic support had all been positive and he was impressed that he would want to go to the level of no deed goes unpunished and still willing to volunteer on the council.

Councilor Lyon motion to appoint Sam Hopkins-Hubbard to fill the City Council Ward 3 vacancy. Councilor Humbert seconded the motion which passed unanimously.

OPPORTUNITY FOR CITIZENS TO APPROACH THE COUNCIL WITH ISSUES NOT ON THIS AGENDA

Merle Sherman, 716 Pierce – said the Federal Wildlife had been in town and in the last week he had not seen any turkeys in his yard and said that they had been relocated. He had not noticed any on the golf course either. He went up to Dry Creek last Sunday and noticed there were seventeen (17) tom turkeys and he wasn't sure how many hens there were.

MANAGER'S REPORT

Manager Hall reported the new city visitor guides were available. She said it was a very difficult project and was very pleased with how they turned out. There had been positive feedback from the visitors guide as well as the first edition of the city newsletter. She reported that she would be on vacation April 14th – 20th, 2009. The floodplain meeting was scheduled for April 15th which she would be out of town for but felt it would be very well

represented by Mayor Key, Council President Lyon and city staff. She had a consultant call her and offer to come to the floodplain community meeting free of charge. Her services provide help in the mitigation process for cities to appeal the floodplain process and mapping. Manager Hall reported that one hundred forty one-thousand dollars (\$141,000) for street overlays from the stimulus package the city would be receiving. She also reported that the city received notification of a grant award of two hundred seventy five-thousand dollars (\$275,000) for the Residential Rehabilitation Community Development Block Grant.

Councilor Humbert said the visitors guide was very good.

Merle Sherman, 716 Pierce – said while he was traveling to a golf tournament he was driving through the Columbia Gorge and noticed how green and beautiful it was then he came upon the view of all the windmills and felt they destroyed the view of that part of the Gorge. He said there was a Blue Mountain Alliance meeting at the Community Building April 14th, 2009 at 7:00 p.m.

COUNCIL ANNOUNCEMENTS

Councilor Chesnut said he was also very impressed with the visitors guide. He said on occasion he looked at the city website and felt it was improving. He also announced there would be a meeting at the Community Building April 14th, 2009 at 7:00 p.m. regarding wind farms on the Blue Mountains and said there could possibly be some new information.

Councilor Irving said he wrote to the state senators and representatives opposing the proposal to close the Milton-Freewater Nation Guard Armory. He encouraged citizens to do the same.

Councilor Chesnut announced there was still a need for a council representative to volunteer on the board of the Walla Walla Watershed Council. He said it could be discussed at the next council meeting since there would be a new councilmember to see if there was any interest in serving. Councilor Chesnut said if there was no one interested then he would be willing to be the representative since he already attended the meetings.

Mayor Key announced the League of Oregon Cities runs a contest each year, “If I Were Mayor...”. He said he took the information to all the schools and encouraged them to participate in the contest. He suggested that the local winner could win something similar to an iPod. The state winner wins a laptop computer.

There being no further business, at 8:45 p.m. council adjourned to a City Council executive session pursuant to Oregon Revised Statue (ORS) 192.660(1)(d) to conduct deliberations with persons designated by the governing body to carry on labor negotiations. Mayor Key informed the representatives of the news media that they shall not be allowed to attend the session pursuant to ORS 192.660(2)(4).

Council adjourned from executive session to open session at 9:12 p.m.

Councilor Humbert motioned to ratify the IBEW Local Union #125 outside unit contract. Councilor Irving seconded the motion which passed unanimously.

There being no further business, council adjourned at 9:13 p.m.

Lewis S. Key, Mayor