

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, January 9, 2008
7:15 p.m.

MINUTES

CALL TO ORDER

Council President Sharon Konopa called the meeting to order at 7:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Konopa led the pledge of allegiance to the flag.

ROLL CALL

Councilors present: Jeff Christman, Bessie Johnson, Dick Olsen, Dan Bedore, Ralph Reid, Jr., and Sharon Konopa

Council Members absent: Mayor Doug Killin

KEY TO THE CITY

Konopa suggested giving Mayor Doug Killin a Key to the City. The Council agreed.

Councilor Dan Bedore added that the Key would be in recognition of Killin's dedication to the City and for years of service in the community as well. Bedore personally thanked Killin for his appointment to the Planning Commission. Bedore would also like for the Council to find a more long-term and lasting tribute to honor Killin.

MOTION: Councilor Jeff Christman moved to present Mayor Doug Killin with a Key to the City. Councilor Ralph Reid seconded the motion and it passed 6-0.

SPECIAL PRESENTATION

Covie Quick, 35263 Riverside Drive, Albany, is a teacher at Calapooia Middle School. She introduced a team of students called the Calapooia Creators. This group is part of a group of Oregon students participating in the first Lego League. The challenge is to build robots from legos with a computer brain. The robot must complete several tasks.

Quick explained a second challenge was to research power and energy, and alternative forms, by choosing a public building and analyzing it for energy efficiency. The students chose City Hall, and toured it in December. Their suggestions for improved energy efficiency will be shared tonight. Quick said the students placed well in the local tournament in Corvallis and are advancing to the state tournament. Part of the requirement for the state tournament is to give a presentation about their findings. Quick thanked City employees for their wonderful assistance.

The Calapooia Creators are: Scotti Anderson, Seth Anundson, Zach Gillespie, Kevin Koos, Erick Lee, Logan Scofield, Coyote Stephens, Joel Stutzman, and Taylor Trout. The Calapooia Creators gave their presentation, as outlined in the agenda packet.

The Council thanked the group for their presentation.

City Manager Wes Hare will be sure to forward this information to the Building Maintenance Manager.

Quick said the students did a lot of internet research and found other costs. They will have the rest of the information in about a week and will send it to the City staff.

SCHEDULED BUSINESS

Communications

Accepting letter of resignation from Barbara Nichoetti from the Albany Arts Commission.

MOTION: Bedore moved to accept the letter of resignation from Barbara Nicoletti from the Albany Arts Commission. Christman seconded the motion and it passed 6-0.

Supporting sustainable management of Oregon's public forests.

Hare said the agenda packet includes the additional information the Council requested at the last meeting.

MOTION: Councilor Bessie Johnson moved to adopt the resolution to support sustainable management of Oregon's public forests and Reid seconded it.

Councilor Dick Olsen thinks this sustainable forest effort is really a license to cut down what is left of old growth forest. He does not support the motion.

Bedore said the sense he gets is that in the short-term there are consequences but in the long-term, they will be mitigated and over 100 years it will have a positive impact on forests. He supports the motion.

Christman is not sure he is any more informed than he was before with the addition of the new material in the agenda packet. "Sustainable management" is a term that can be applied to theories on both sides of the issue. He thinks that as a Council, they have spent too much time on this issue already and they should not have dealt with it in the first place. There are more pressing City issues that warrant this much time. He realizes sustainable forest management impacts Albany, but he does not think it is a priority and should have been at the bottom of the list.

Konopa doesn't support the motion. She said both sides were confusing but she prefers select cutting to clear cutting.

VOTE: A vote was taken on the motion and it passed 4-2, with Olsen and Konopa voting no, and was designated Resolution No. 5540.

Adoption of Findings and Final Decision

SD-05-07 and SP-14-07, appealing the Planning Commission's approval of a Subdivision Tentative Plat that would divide 24.2 acres of land into 78 residential single-family lots and two open space tracts (Thornton Lake Estates); and Site Plan Review to remove 21 trees from the property to construct the subdivision referenced above.

Konopa said, next on tonight's agenda is the adoption of findings and a final decision on SD-05-07 and SP-14-07, the proposed Thornton Lake Estates (TLE) subdivision. On December 12, the Council made a tentative decision to approve the applications and directed staff to bring back findings and conclusions to support approval.

Konopa said, staff has presented Council with two Supplemental Findings documents which provide findings, conclusions, and conditions in addition to the staff report to support the Council's decision. The Supplemental Findings document is on blue paper in the City Council agenda packet. A Second Supplemental findings document was placed on the dais tonight and is on yellow paper (see agenda file).

Konopa said, we will take a moment to review the proposed Supplemental Findings document now to see if they are satisfactory. She noted that there is a January 9, 2008, memo from Planning Manager Don Donovan with the Second Supplemental findings document regarding an additional condition of approval for TLE (see agenda file). Konopa said there is a proposed motion to approve with conditions on the dais on green paper for Council consideration (see agenda file).

A Notice of Decision was also on the dais (see agenda file).

Donovan explained that the first two conditions, which Council has had time to review, were to have the applicant build a fence around the water quality basin and to have the applicant sign a petition of waiver for future improvement on Highway 20, which would lengthen the right hand turn lane. When staff last reviewed this they found that they had not included a condition that requires the lots in the subdivision to meet the minimum lot depth requirement. There were findings in the Supplemental Findings that explain the depth requirement must be met, but the condition was not added to the document. We want to incorporate that condition and have done so in the Second Supplemental Findings document.

Donovan explained that staff also realized that it would be better to adopt the original subdivision plat that the City Council reviewed in October with the condition that the new lot depth requirement be met, rather than the revised plat (especially since the revised plat shows the roundabout option for the North Albany Road intersection and that's not what the Council approved). The motion on the green colored paper before the City Council reflects these revisions.

Reid asked, will there be a waiver of remonstrance for all the lots? Donovan said yes, those documents will be recorded and stay with each lot even if property ownership changes.

Johnson asked, if the grading is not done correctly and it leads to inadequate storm drainage, would the developer be held liable, or will the responsibility pass to the homeowner? Donovan said the Homeowners Association would be responsible for the maintenance of the storm drainage system. The City can also enter through an easement, if necessary, and then bill the Home Owner's Association. To the question of who is responsible if the grading was not done correctly, City Attorney Jim Delapoe said that if this street was constructed as part of the Street Improvement (SI) permit process by the developer and the engineer certified that the grade standards were met, but he was wrong, his malpractice insurance would come into play. He can

be sued by anyone that suffers adversely. Donovan added that this is not the last time staff will look at grading for the property; there will still be a grading permit required. The subdivision process is not designed to review the details of the grading.

Johnson asked, is the right-of-way (ROW) along North Albany Road for future road expansion? Donovan said it is a condition of approval to dedicate that ROW for future widening of North Albany Road.

MOTION: Johnson moved that the City Council approve with conditions the Subdivision Tentative Plat for Thornton Lake Estates that will divide 24.2 acres of land into 78 residential single-family lots and two open space tracts. The subdivision tentative plat that is being approved is the plat that was presented to the City Council at the October 10, 2007, public hearing with the tee intersection, subject to the conditions in the Staff Report, the Supplemental Findings, and the Second Supplemental Findings. The motion includes that the City Council approve with conditions the Site Plan Review that will allow the property owner to remove 21 trees from the property to construct the subdivision (Files SD-05-07 and SP-14-07). This motion is based on the findings and conclusions of the Staff Report, testimony presented at the public hearings, the Supplemental Findings, and the Second Supplemental Findings. Christman seconded the motion and it passed 4-2 with Olsen and Konopa voting no.

Konopa said that within five days of the decision, the Community Development Director will provide written notice of the decision to the applicant and any other parties entitled to notice. A decision of the City Council may be appealed to the Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal not later than 21 days after the decision becomes final.

Business from the public

Tom Cordier, 2240 Park Terrace Drive, spoke to the collection of refuse by Allied Waste Service (AWS). He said that as of 5:00 p.m. yesterday, the representative from AWS, Kevin Hines, refused to accept the idea of plastic bags being collected as a second waste stream at the same time glass and oil are collected. Therefore, Cordier is requesting that the Council deny the AWS rate increase request until that requirement is met. He believes the solution of having commingled waste in one large container, and plastic bags, oils, and glass in separate containers to be picked up at separate time, is a simple solution to the problem of plastic bags. After discussion at length, it appears to him that the issue is strictly AWS's unwillingness to do so. Cordier said there was no financial argument made. As he discussed with some Councilors, perhaps the definition of "plastic bag" should be explored. He had samples of bags from Target and Fred Meyer, as well as bags used by other industries such as bread bags used for initial packaging at Costco. His understanding is AWS refuses to commingle plastic bags and pick up separately. Cordier thinks the Council should deny their request to increase fees 9% for the comingled recycling service. He said, we also need to educate the public about what happens to plastic bags and why they need to be separated. He was told at the January 7, 2008, City Council work session that there is a market for this material, but instead we are putting them back into the landfills and avoiding the obvious solution.

Pat Ryan, 6615 Abraham Lane, submitted a letter to the Council (see agenda file). He got involved with AWS as a contractor disposing of demolition debris at the Coffin Butte landfill. AWS told him that he is too small of a vendor to deal with, that they only wanted to deal with firms that hauled in thousands of tons of debris. Previously when the Bun family owned the landfill, contractors would get superior rates for nominal disposal by local people. Fifty percent of the average disposal fee for a ton of debris was \$22 at the time. Others might be paying \$37 per ton. Ryan said he got into an argument with them over this and started to do his own research. He decided that as a contractor he didn't deserve a better rate, but he did start to study what was going on at AWS. When the letter he submitted was written, AWS was charging local people in the area of Benton County, Linn County, and Polk County a \$27 minimum disposal fee for 50 lbs up to half a ton, which included \$5.00 for an environmental fee. At that rate, if ten loads at 200 lbs each are dumped, AWS makes \$50 in environmental fees. Yet a hauler from Clark County, Washington, is charged \$5 for one ton. They started subsidizing their business at the landfill with the fee they charge local people. Ryan said he went to a Solid Waste Advisory Committee (SWAC) meeting in Benton County and got a financial statement from them leading to an increase in rates from Benton County. They were asking for a 9% rate increase yet had just 4.3% of an increase in costs. They claimed they were only getting a 1% increase in profit, though to him it seems it would be closer to 5% in profit. Ryan thinks they have done some things that misrepresent their position at the landfill. AWS says the landfill is increasing their rates so they have to raise rates as well, but the AWS is a subsidiary of the landfill. AWS controls garbage service in Benton County, Salem, Sweet Home, and Dallas. It seems they are buying up everyone in the area and getting a stranglehold on disposal fees.

Ryan said it impacts him because when he hauls debris, he may have a 25 yard trailer but is limited to one spot, about 30 feet, in a field to dump his load. Trucks, on the other hand, could be hauling up to 30 tons of debris and get 200 feet. He has to sit in line and wait, and gets charged twice as much. As far as he can see, they are using local people to subsidize them and now, they want a rate increase. In an article in both Albany and Corvallis newspapers, Brian May said that on Sundays they closed the landfill because it is too expensive to keep it open since they couldn't cover up the wet debris. But, Ryan pointed out, local people dump into dumpsters, not the landfill. A lot of what he hears from AWS is about how they are for the local people and only doing what they have to, to provide service. In February Ryan was on an island in the Bahamas and saw a yacht that cost \$25 million. It is parked there all year and only used for a two week fishing tournament, and is owned by the owner of AWS. Ryan said, if you have an organization that looks like a municipality, a large local

organization that has absolute and total control over how things are priced, they will use that absolute and total control to maximize their profit.

Adoption of Resolutions

Amending the Albany-Millersburg Sanitary Sewer Service Agreement.

Utility Engineer Chip Ullstad introduced Forrest Reid, Millersburg City Attorney, and said the city of Millersburg is requesting Albany amend the 1996 Intergovernmental Agreement (IGA) for sewer service to allow discharge of industrial process wastewater from Peak Sun Silicon Corporation to the Wastewater Treatment Plant (WWTP). At the January 7, 2008, work session, Council authorized staff to present the resolution to the Millersburg City Council on January 8, 2008.

Ullstad said the Millersburg City Council unanimously adopted a resolution to amend the IGA as proposed, and asked him to convey their appreciation to the Albany City Council for Albany's assistance concerning this request.

As noted at Monday's work session, Ullstad said the 1996 agreement prohibits discharge of industrial wastewater from Millersburg customers. Albany and Millersburg Councils adopted an update to the 1996 agreement as part of a joint venture to expand the WWTP. The updated agreement allows Millersburg customers to discharge process wastewater to the WWTP subject to Albany's pretreatment requirements, but is not effective until the expanded WWTP becomes operational in approximately mid 2009.

Ullstad said Peak Sun is constructing a pilot process demonstration unit for production of electrical grade silicon that will be used to manufacture solar energy products. The discharge is expected to be approximately 10 gallons per minute of process wastewater, cooling blow down, and residential character wastewater from an office building. The process wastewater will be pretreated to meet all local, state, and federal industrial pretreatment requirements.

Ullstad said staff has drafted an amendment to the current IGA that allows discharge of industrial process wastewater from Millersburg. This addresses the current request and future requests that may be made before the new agreement takes effect. The proposed amendment is not specific to Peak Sun's discharge to minimize administrative costs in bringing this issue before both City Councils again and to avoid multiple reviews by the state Department of Environmental Quality (DEQ). The DEQ has reviewed the proposed amendment and indicated they will approve it upon adoption by both City Councils.

MOTION: Bedore moved to approve a resolution adopting an amendment to the IGA for sanitary sewer service between the City of Albany and the city of Millersburg and Johnson seconded it.

Reid asked, does the agreement that takes effect in 2009 buy Millersburg a portion of the WWTP's expanded capacity? Ullstad said yes, essentially ten percent. They are to make three cash payments and are sharing the debt service payment. The first cash payment was one million and was paid in November 2007.

Bedore asked, although this was designed for Peak Sun Silicone, can other industries take advantage of it as well? Ullstad said yes, other industries in Millersburg may discharge industrial process wastewater subject to meeting Albany's industrial pretreatment program requirements. He explained this is a stop-gap measure until the new agreement is effective. Bedore asked if there is anything in the 1996 agreement that allows Albany to take precedence over Millersburg for capacity. Ullstad explained the 1996 agreement does not include a provision for sharing capacity similar to the agreement to enter into a joint venture for expansion of the WWTP, or designate Albany as having higher priority for service than Millersburg.

Olsen asked, when will the WWTP be coming on line? Ullstad said Phase 1 was a huge project, to be completed in summer 2008. Phase 2 does not affect the capacity but the amount of solids produced, and should be done in mid 2009. The contractor is approximately three months ahead of schedule.

Councilor Jeff Christman asked, is it probable that the plant will be done before Peak Sun can come online? Ullstad said Peak Sun has not provided a start date for construction, but anticipates beginning to discharge about 90 days from when the construction is started. Consequently, if Peak Sun begins construction before May 2008, they may be discharging to the WWTP prior to completing the first phase of construction.

Forrest Reid, city attorney for Millersburg, said this is for the pilot plant. His understanding is this is for the pretreatment process of 10 gallons per minutes. If that proves viable they will start the second phase, which won't come online until 2009.

Ullstad said Albany will be getting a completed pretreatment application at the pretreatment staff review and part of a construction plan review when the pilot plant goes in.

VOTE: A vote was taken on the motion and it passed 6-0 and was designated Resolution No. 5541.

Supporting formation of a 4-H & Extension Service District.

Dan McGrath, 104 4th Street, said he represents Linn County Oregon State University (OSU) Extension Service. The Extension Service provides a variety of programs for youth, families, and the community, such as agricultural, forestry, and research. Several popular programs include: master gardener, master woodland manager, master food preserver, family and community leadership, and water shed steward. 4-H and the Extension Service are cooperatively funded. For every \$1 the county provides, the state and federal government put in \$4. Because of reduction in timber receipts, the Extension Service is in jeopardy of losing Linn County financial support. A campaign to form a service district is underway. The goal is put a service district on the November ballot and let the voters decide. In order to do so, they must deliver to the Linn County Clerk 8,700 valid signatures by March 31.

McGrath is asking the City to pass a resolution which would benefit citizens two ways: it would allow Albany citizens to vote and participate in the decision whether or not to form the district, and allow citizens to continue receiving services from the Extension Service should the district be formed.

McGrath said that 7 cents per \$1,000 assessed value would be the permanent maximum rate limit for the lifetime of the district. The district is not required to collect the full rate. By statute, the final budget authority would remain with Linn County. It is unlikely they would allow the district to charge the maximum amount because it is unnecessary for services at current levels. In the feasibility study, the worst case estimate was 5 cents per \$1,000 assessed value for the first year. The reason for the district is to provide financial stability. It would protect the future of extension services in Linn County. Sixteen other extension services in Oregon have established service districts. Some counties have gotten into financial problems and as a result have started charging the extension services for rent and utilities where in the past they were given as an in-kind contribution. More importantly than the possibility of future increases, is the future possibilities. The world is changing rapidly. McGrath asked, what if in the future there are economical development opportunities for Linn County communities? For example, in areas of renewable energy, related to bio-fuels; work force opportunities for Linn County due to changes in the global marketplace; or new partnerships between Linn County and the OSU School of Business or Engineering. This seven cent tax rate limit is designed to protect the partnership between the Extension Service and OSU and to protect future opportunities for youth, families, and the community.

Bill O'Bryan is the General Manager for National Frozen Foods (NFF). The Extension Service is important to their business. He agrees with McGrath that the Council should consider passing the resolution so voters can participate in the Linn County Extension Service District decision. Albany's economic center is one of the ten most productive agricultural centers of the world. We grow grass seed, vegetable seed, beans, corn, peas, and other crops. The Extension Service definitely contributes to the health of Albany's economy. The contribution NFF makes to the community in wages, services, and taxes is \$5-6 million to Linn County alone. The service that the Extension Service provides to growers is important for education, research, and science. When growers have problems with crop disease or pest management, they do not have chemists or others to consult with but they can ask the Extension Service for advice. The Extension Service also has a commercial agricultural program and NFF has benefited directly from them through sustainability programs they have made part of their business practice. The Extension Service has also been involved in a stewardship program which has been responsive and productive to the farming environment.

O'Bryan said the health of the agricultural community is important to Albany. The Extension Service is one of the areas where folks get exposure to agriculture, especially with the farm base shrinking. O'Bryan said that 1-4 jobs in Albany are related to food processing or secondary wood products and 4 of the top 15 employers are associated with these two. O'Bryan supports approval of this resolution.

Dan Walters, 175 West H Street, represents DLF International Seeds of Halsey and is the current President of Oregon Seed Trade Association. He too supports the Linn County Extension Service for its importance to the agriculture community in Albany and Linn County. He said the Extension Service provides a vital role both in providing basic research and in disseminating current production information to area producers. Growers in Oregon and in Linn County tend to be well educated and are quick to adapt new methods and incorporate promising research into their operations. The Extension Service provides an interface for that information and progress. Grass and legume seed ranks Oregon's third most valuable agricultural commodity and Linn County is chief among the production areas. Each time he drives south on I-5 he passes the sign that says, "Welcome to Linn County, Grass Seed Capital of the World." He said, it really is true. Each year, farmgate revenues for annual and perennial rye grass, tall fescue, orchard grass, bent grass, and white clover add more than \$150 million to the economy of Linn County and Albany. Grass seed growers and their families and many people from supporting industries spend much of their money right here, in Albany. Even if they live in one of Linn County's smaller towns, they are likely to come to Albany to buy pickups, cars, furniture for their homes, and dinner and a movie on Friday night. Grass seed is an important crop in Oregon, and on a national scale it is very much a specialty crop. Grass seed does not compete with major crops for private research dollars. OSU and the Extension Service provide a vital role in providing basic research to support more efficient, more sustainable farming methods.

McGrath said that research and information provided by the Extension Service goes beyond the economy. For example, economic information and training is another large part of their service. Growers can use enterprise budgets developed and updated by the Extension Service as templates to help evaluate their own operations and

cost of production for each of their crops. Linn County plays a key role in cooperating with farmers and private industry to coordinate public and private research to benefit area farmers. Most importantly, they are most effective in disseminating that information in a way that allows practical, on-farm application. Seed companies in Linn County also benefit. His company ships seed all over the world. The Extension Service personnel provide a service by inspecting the seeds and hanging tags, which allows his company to meet the requirements of that program in order to ship seed worldwide. This service ties local area growers to the global economy. Agriculture is big business in Linn County. It provides jobs for families and is a major source of vigor for the economy. He urged the Council to approve the resolution to get this decision into the hands of area voters.

Joe Alvernaz, 3874 Azalea, explained that 4-H and the Extension Service are not separate organizations; if you lose one, you lose both. Most people connect 4-H with kids and their cattle at the county fair, but that is not what the organization is really about. The real focus of 4-H is its co-educational aspects. In addition to the livestock program which is probably the most well known, 4-H has a guide dog puppy program, veterinarian science program, family and consumer science program, art, and a very successful natural science and hard science program. The 4-H Extension Service was very much involved in a science camp recently held at OSU and attended by kids from all over the west coast. The horticultural engineering programs are very important. There is also a very important community involvement aspect. Alvernaz said that when he was in 4-H he participated in small, yet important projects such as food drives. A recent study in October showed that of students from fourth to ninth grade over a four year period who were involved extracurricular activities, those involved in youth development programs such as 4-H, Boys & Girls Clubs, and Boy Scouts and Girl Scouts showed a much higher retention indicator for community involvement in the future. These programs resulted in more community involvement than sports or other activities. This is a reflection on the people in the audience tonight who support this; they are civically involved.

Sudie Lamb, 37477 Highway 228, Brownsville, is President of the Linn County Extension Association (LCEA). She said about 22 years ago the Extension got into problems and lost agencies and facilities. A group got together, and that is how the LCEA became a functioning group. One of the main functions of the membership, which happens to be more than 600 currently, is to publish the monthly Update magazine. It is delivered with the *Democrat-Herald* to educate the public about what the Extension Service does. Lamb spoke with McGrath and with the timber situation such as it is and declining revenues, they decided to go for a service district. With Council approval, they will start the petition. Hopefully they will get enough signatures to present it to the voters.

Mark Azevedo, 1210 Skyline Drive, said his job is in research with the US Department of Agriculture in conjunction with OSU. They are the basic research folks behind the Extension Service and he agrees it is critical to maintain the Extension Service. It is critical that the Extension Service component remains in place, to take the academic side of research and make it useable and applicable to the end user whether they are the grass grower, company, forester, or engineer. He is very much in favor of any kind of maintenance of the Extension Service.

Shawn Ewing, 927 12th Avenue, has questions about the service district. He is concerned that anytime an entity seeks more money, they usually have to provide an income statement and balance sheet to show where they are lacking in goods and services. Since this is part of a marketing strategy to create a service district, he encouraged them to provide these documents so that those who do not live in town, and therefore may not be directly influenced by the agricultural community around us, or the influx of people from out of state that may not be familiar with it, can see the importance of it.

Konopa pointed out that there was information from the Extension Service about their funding at the Monday work session.

Christman asked, will the actual budget oversight be with Linn County? McGrath said yes; ORS 451.484 states that the budget authority remains with the county. Christman asked, so this could be addressed during the county's budget session meetings? McGrath said yes.

Johnson asked, will the revenue be in a separate line item that cannot be used by programs other than the Extension Service? McGrath said yes, it will be separate.

MOTION: Bedore moved to approve a resolution supporting formation of a 4-H & Extension Service District and Johnson seconded it.

Reid said earlier in the Council meeting, we talked about sustainable forests which predicated this because of lack of timber harvest. He thinks it is abhorrent that most of the money supporting this type of program comes from Washington DC, and yet they have no concept of this. They come once or twice, maybe, in their lifetime, if at all. Sustainable forests must be looked at, addressed, and maintained. He is in total support of this resolution.

VOTE: A vote was taken on the motion and it passed 6-0 and was designated Resolution No. 5542.

Establishing rates for the collection of refuse inside the Albany city limits.

Kevin Hines, 5125 Alpine Drive, is the Operations Manager for Allied Waste of Albany-Lebanon. He said Allied Waste Service (AWS) is the parent company. He gave some history of the company. They acquired Waste Control Systems in January 2000. At that time, Waste Control Systems owned Albany Lebanon Sanitation, Corvallis Disposal, Dallas, Capital Recycling in Salem, a couple of transfer stations, and the landfill. Our relationship with the landfill is the same now as it was then, in that they are run completely separate but they have been our sister company for about 30 years. He cannot speak to the rates at the landfill, but he can speak to the current rate AWS is paying. AWS pays \$30.50 a ton for disposal at the landfill, which is 14 miles from their facility. There are other landfills in Oregon and their per-ton rates and distances are as follows: Hillsboro is \$39.05 at 90 miles away; McMinnville is \$30.40 at 52 miles away; Eugene is \$65.00 at 48 miles away. Hines said it makes sense to go to go to this landfill, given their rate and travel costs.

Regarding plastic bags, Hines said he appreciates the concerns. The issue is being able to contain the bags within the recycling trucks, because they are so lightweight they will blow out. Source separating bags and containing them in the truck is difficult to do. There is no other collection company that picks up curbside, source separated. The facility they are transporting to will not allow plastic bags in the commingled material, because of problems they cause. Hines said that doesn't mean that someday plastic bags can't be added in, but currently they can not. Some other options for recycling include customers taking them to the public recycle depot. They have separate bins for plastic, shrink wrap, and bubble wrap. The depot will bail them and ship them to the processor. The plastic must be bundled though; they cannot be loose. There are stores that take them back, such as Fred Meyer. The best alternative is to use the reusable nylon bags available in many stores for shopping. AWS can take paper, junk mail, newspaper, magazines, cardboard, paperboard, tin cans, container glass, plastics, and jars and tubs which are five lbs or less, curbside. With the new comingling program they have added aseptic containers, milk cartons, pots and pans which are 18" or less, and rigid nursery pots 4" or larger. AWS is excited about this new automated program because it is much cleaner, more convenient, and should increase recycling recovery by about ten percent. The cities of Lebanon and Millersburg passed the rate increase.

Reid said, according to the financial statement that was provided at the work session, AWS' labor is going up 3.5 to 4 percent and administrative costs are increasing 20 percent. Hines explained that from 2006-07 there were two positions that were vacant for 4-6 months. They are filled now, so the increase reflects that. The financial statements were the actual, not budgeted.

Konopa hopes they find a resolution to the plastic bags issue. She suggested that AWS at least remind customers of the locations for plastic bag recycling. Hines said they have a full-time Recycle Coordinator who will be promoting those locations with flyers. Konopa also suggested they put signs on their new trucks.

Christman asked, do any other waste disposal services pick up plastic bags curbside? Hines said he has not found any in Oregon that do curbside collection. Eugene started to take them curbside but had so many problems with bags jamming the processing equipment, that they had to discontinue the program.

Christman said, so it is not that there is no market for the bags, but rather because they are lightweight and fly around whether they are in a truck, or curbside, or in the processing equipment. Hines said that is correct. Also, they are not accepted in the commingled recycling material because they jam the processing machines. Discussion followed. Christman encouraged AWS to continue working towards a solution. Hines said they will continue to work with the processor to that end.

Johnson thinks that for as large as AWS is, and its sister-relationship with the landfill, that there must be some solution. Sending plastic to the landfill is not environmentally healthy.

Delapoer said, the City's relationship with AWS is complicated and is governed by ordinances as well as a contract. There are many aspects. The relationship is intended, as opposed to regular competition, to allow an economy of scale by providing an exclusive franchise, or monopoly, to a single provider. The concept is better regulation and better economy of scale if there is one franchise doing the work. Also, historically garbage collection service was a governmental service. When the shift went to privatization, governments maintain some measure of control with their ordinances. Our franchise renews automatically for an ongoing five year term which leads to a long term relationship. The Council does have a good deal of discretion not only in establishing rates but also cooperative control with the franchisee to put emphasis on recycling. For example, the Council can require certain recycling programs that are consistent with recycling and reuse programs that the City of Albany has authority to adopt from time to time. On the other hand, Delapoer said, the franchisee is entitled to a reasonable rate of return. To the extent that we impose franchise requirements on the franchisee that add to their cost of doing business, they are entitled to require of us that rates be adjusted to reflect that. Delapoer said the Council does have the flexibility to do more than just grant or deny the rate increase. For example, they could grant the request for a shorter term, or require they come back with a progress report. They can impose such reasonable conditions that are necessary to promote the recycling goals, which are a big part of the franchise agreement. Reducing the waste stream is a common goal.

Olsen said customers could stuff one empty plastic bag with other plastic bags so that it is full, tie it off, and it would not blow away. AWS could require that bags be recycled in that manner. He intends to vote no on the

increase because of the bags, and because of the 14 percent increase in cost for the landfill. We have no leverage and he cannot justify approval.

Delapoer cautioned that the Council should not make a decision about their rates based on what another vendor charges. The landfill rates are regulated by Benton County and if the Council thinks they are too permissive in some of their practices, the Council should direct the comments to them.

Hare said we do have the authority to make certain requirements, but bear in mind that they are our service provider and we are dependent on them. Staff will do as the Council requests and review practices, bring back alternative service models, etc, including to research the feasibility of municipal garbage service if the Council so directs.

Johnson suggested that AWS come back in six months with a solution.

Delapoer said that if the Council likes the service AWS is contemplating for the comingling recycling, they should consider that it will require a large capital outlay. If the Council does not give assurance that this rate is approved it is difficult for the vendor to proceed with the program. The Council could approve the rate now and get the program in effect, then ask them to return in six months with more information with the expectation that by the next annual program, they will have a solution. That solution may cost the customer extra, but the Council would be in a position to review it. However, the Council cannot require them to solve a problem that they have no solution to. All you can do is ask them to look into it.

Christman thinks the Council should approve the rates and then ask for an update in six months on the comingling project and look for other cities, wherever they are, that are successfully recycling plastic bags.

Cordier asked to speak again. He came from private industry, Wah Chang, and one of his responsibilities was waste management and environmental issues. At one point in their relationship with the landfill, they were not doing a good job of segregating zirconium to keep it out. They got a phone call from the landfill that there was a fire and it was tracked back to Wah Chang material that was improperly disposed of. Cordier said they solved the problem that very day. He said, we didn't give ourselves six months. This is not rocket science. AWS is already handling glass and oil at curbside, so they can put plastic into a bin that has a lid on it, and take it to the station to be baled. The fact that we continue to hear AWS's reluctance suggests to him that they just don't want to do it. His understanding is that the trucks are already on order, so the capital has already been outlaid, and this rate increase is extra. He thinks it is crazy that it will take six months to do a study to figure out how to get a lid on a bin or a truck.

Ryan asked to speak again. In response to Delapoer's comments about Benton County regulating the landfill costs, he explained that in 1996 Benton County estimated a \$1.85 gross ton fee to charge the landfill. That fee has not gone up in 12 years yet the landfill has doubled their rates in same the timeframe. It is not reflective of what the county charges them. They are creating more than twice the income. The last rate he was quoted from Capital City was \$23 a ton for them to pick up debris at a job site for him. He thinks there is something disingenuousness here. At the same time, AWS should not say their sister company can manipulate rates that drive their rates up, when they have not provided a reasonable explanation for why the landfill rates have increased.

Reid asked, have we been participating in SWAC meetings? Hare said, not to his knowledge. Reid suggested that as the second largest city in Benton County that we should become apprised of those negotiations.

Bedore said that the rate of return on the Performa provided by AWS at the Monday work session did not seem out of line to him. Certainly there is a solution to the bags, along with a corresponding price tag for the solution. AWS's proposal did not include additional requirements that we add to the recycling stream, so while it is a concern, he doesn't think it is necessarily on the table as a part of this proposal. There are other alternatives as well. Consumers can get a paper bag in most places, or they can shop at places where they provide paper as opposed to plastic, or consumers can by a reusable bag, or use a back pack. He said he would like to make someone else responsible for the choices he makes that make his life more difficult, but if he were to have too many plastic bags in his kitchen, it is because at the grocery counter when they asked "paper or plastic", he chose plastic. Someone has to take responsibility for the things that cause the problems that they are trying to solve.

MOTION: Bedore moved to approve the resolution. Christman seconded the motion with an amendment to ask AWS to come back in six months with a review of the recycling program, including comingling and solutions to plastic bag recycling, and a review of the financial situation such as average rate increases and rates from the landfill.

Bedore does not consider the landfill to be part of his motion, because AWS has no control over what the landfill charges.

WITHDRAWAL: Bedore withdrew his motion.

MOTION: Christman moved to approve a resolution establishing rates for collection of refuse inside the Albany city limits and repealing Resolution No. 5299; and to have Allied Waste Services provide in six months

a review of the commingling recycle program, solutions to plastic bag recycling, a review of finances, and information about the cost of the landfill, and Johnson seconded it. The motion passed 4-2, with Reid and Olsen voting no, and was designated Resolution No. 5543.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) November 14, 2007, City Council Meeting
 - b) December 3, 2007, City Council Work Session
 - c) December 5, 2007, City Council and Greater Albany School Board Joint Meeting
 - d) December 10, 2007, City Council Meeting
- 2) Accepting a Ready to Read Grant from the Oregon State Library for collection development, programs, and materials at both libraries. RES. NO. 5544
- 3) Appointing the Finance Director as Budget Officer for the City of Albany. RES. NO. 5545

MOTION: Christman moved to adopt the Consent Calendar as presented. Johnson seconded it and it passed 6-0.

Award of Contracts

WTP-07-02, Vine Street Water Treatment Plant Chlorine Improvements.

Christman noted that even with these changes, the Water Treatment Plant will still come in under budget.

MOTION: Johnson moved to approve a construction contract increase to MPP Piping in the amount of \$25,000 for the Vine Street Water Treatment Plant Chlorine Improvements. Christman seconded the motion and it passed 6-0.

Temporary extension of courier service contract.

Hare said staff is in the process of writing a Request For Proposal for courier services, but in the interim is asking Council approval of an extension of the contract with the current vendor.

Johnson asked why the contract was from March to December, which is less than a year. Finance Director Stewart Taylor explained that there was a period of time when there was not a contract in place.

MOTION: Johnson moved to approve a temporary extension to the current agreement with Valley Merchant Police on a month-by-month basis until the Courier Services Request for Proposal package is prepared and awarded. Christman seconded the motion and it passed 6-0.

Personnel request

Approving the reclassification of two of the six Community Service Officer positions to Community Education Specialists.

Police Chief Ed Boyd said that in July 2003, the police Code Enforcement Specialist and the Community Policing Specialist positions were combined into one classification called Community Service Officer. At the time it was thought that combining the positions would allow for cross-training and would provide a larger pool for customer service. However, experience has shown that these two positions actually have two very different skill sets. During the hiring process, it is very difficult to find applicants that qualify for all the skill sets we currently require. The skills are different, and generally an applicant with one skill set is not gifted in, or even interested in, the other skill set or job duties.

Boyd said the proposed position descriptions are in the agenda packet. Boyd worked closely with the union in making these changes and they are supportive. The proposed job descriptions have been reviewed and approved by the Human Resource Director. Human resources did a salary survey and found that similar jobs in other cities are divided into two separate positions. Also, the Community Education Specialist Position warrants a three percent wage increase because of the increased education requirements. Boyd said the police budget can accommodate this wage increase.

Johnson commended Boyd for being willing to come to the Council and explain the situation.

MOTION: Bedore moved to authorize the reclassification of two of the six existing Community Service Officer positions to Community Education Specialists. Reid seconded the motion and it passed 6-0.

Appointments

City Boards, Commissions, and Committees.

Konopa said there is a staff memo on the dais dated January 9, 2008, with Revised Appointments to City Boards, Committees, and Commissions (see agenda file) as follows:

Albany Arts Commission

Glenda Fleming (Mayor's appointment to fill vacant position that expires December 31, 2008)

Albany Budget Committee

Doug Moore (Councilor Olsen's reappointment)

City Tree Commission

Mark Azevedo (Mayor's new appointment)

David Smith (Mayor's appointment to fill vacant position that expires December 31, 2008)

Human Relations Commission

Jodi Nelson (Councilor Bedore's reappointment)

Hospital Facility Authority

Bill Coburn (Mayor's new appointment)

Planning Commission

Paul Davis (Councilor Reid's reappointment)

Loretta (Lolly Gibbs) (Councilor Johnson's appointment to fill vacant position that expires December 31, 2010)

Public Safety Commission

Lee Swanson (Mayor & Council appointment; Rural Fire District representative)

Mike Martin (Councilor Bedore's appointment to fill vacant position that expires December 31, 2008)

MOTION: Johnson moved to accept the appointments to City Boards, Commissions, and Committees. Bedore seconded the motion and it passed 6-0.

Audit Committee.

There was no discussion on this item.

MOTION: Christman moved to appoint Sue Folden and Sharon Konopa to the Audit Committee. Bedore seconded the motion and it passed 6-0.

Reports

City Charter revisions update.

Olsen asked why the reading of an ordinance a second time in title only with a unanimous decision of the Council is being changed. Delapoer said they are proposing to change that section because that process was intended for emergency circumstances. Many years ago we passed an ongoing resolution that said that "business necessity", i.e. not needlessly delaying business, was declared an emergency sufficient to invoke the charter right to read ordinances a second time in title only. Some could argue that that was not what the charter was envisioning. When the City had fewer ordinances it made sense to read the ordinance in its entirety, as most ordinances were simpler and shorter. Now, it makes sense to bring the charter into unison with what is normal practice. It is very important, in Delapoer's opinion, to bring the Charter in line with the normal practice. When they depart from the charter, or declare an emergency simply for business convenience, the City is vulnerable.

Public Information Officer/Management Assistant Marilyn Smith read the proposed language: "An ordinance, before being adopted, shall be read in an open Council meeting, in title only and may then be read a second time in title only. The ordinance could then be adopted in a single meeting by unanimous vote of all Councilors present." Delapoer said it would still require a unanimous vote to have a second reading. Discussion followed.

Bedore would like to see the Charter be gender-neutral. Delapoer said it is staffs' intention to change all gender references. They may have missed some but will be sure to catch them all in the final draft.

Delapoer said the Council should consider how to get this information to the public. Smith believes there is a public hearing on this issue scheduled and *City Bridges* will run an article. The Charter revisions are housekeeping issues and are not substantive.

MOTION: Johnson moved to direct staff to take the steps necessary to put the City Charter revisions on the May 2008 ballot. Bedore seconded the motion and it passed 6-0.

Community attitude survey update.

Smith said that quotes came in much higher than anticipated and were for telephone surveys only, not for mail surveys, which is what staff requested. They made good arguments for each type of survey. The city of Silverton survey is three times what we budgeted. The vendor said that those with cell phones are not statistically significant because they tend to be young single men who statistically do not vote. The 40 percent return on the mail survey, according to the Silverton City Manager, is because those surveyed were offered cash and merchandise as incentives to reply. The cash and merchandise were received as donations from local businesses. Corvallis, on the other hand, has a hard time getting mailed surveys turned back in. It takes several notices and there are fewer that respond. Discussion followed.

Hare said, there is a technology to polling and standards that determine a statistically valid technique. The issue is that we budgeted only \$5,000. Our options are to spend more now, or wait until the next budget to dedicate more funds.

If or when we proceed, Smith thinks it is valuable to establish a regular schedule for surveys so that there is a standard way of measuring public opinion, or benchmarking.

Konopa thinks written surveys are better than phone surveys because written provides more thoughtful answers. Smith said for phone surveys, a notification is mailed out to tell citizens that the call is coming, and at what time. The mail surveys go to about 2,500 homes to achieve a statistically valid sampling of about 400.

Smith said in the last survey, we had a non random element polled by providing different color surveys at different public buildings. They were tabulated but were not included in the survey calculations so as not to skew the number.

Smith said she will contact the firms that responded so far, as well as others to see what the cost of a mail survey would be. The last survey was in 2003 and focused on ballot measures. Smith will bring the information back to the Council.

BUSINESS FROM THE COUNCIL

Hare said Mayor Doug Killin submitted a letter of resignation with a date of January 10, 2008.

Reid proposed that the Council consider looking for the Mayor's replacement. Discussion followed.

Reid proposed that the Council appoint Bedore as Mayor starting on Friday. Olsen thinks it is inappropriate to appoint a new Mayor before Killin's resignation is effective.

Delapoer said legally, the Council can make an appointment effective on a future date. Discussion followed.

Johnson thinks they should appoint the Mayor from the current Council and then fill the Councilor vacancy. Konopa feels it should be a Councilor with longevity with the Council, and it should be a Councilor that was voted into the position, such as Olsen, Reid, or herself. Discussion followed. Olsen and Reid were not interested, but Konopa said she would be interested if the Council wanted her to fill the Mayor position.

Christman thinks a Mayor should be appointed soon, as there are many upcoming events and projects in 2008. The Council has functioned well as a body without the Mayor in the short-term and has not had situations where the Mayor was needed to break a tie-vote, but that could change. He said the Council should not prolong the process. It should be done in a very timely manner. He thinks if it waits until the next Council meeting, there should at least be something definitive to vote on at that meeting.

Delapoer suggested that if a Mayor is appointed from the Council, it will be even more important to fill the Council vacancy quickly. With only five Councilors to vote, the Council may have difficulty getting four votes to pass or fail motions. For example, land use issues have 120 day clocks. Time is of the essence to have a full Council. Discussion followed.

CONSENSUS: There was consensus of the Council to make an appointment for the Mayor position from the current Council and to set a process and a deadline to fill the Councilor vacancy at the January 23, 2008, City Council Meeting; and that the effective appointment date for the Mayor coincide with the appointment date of the Councilor.

Christman passed out a draft Resolution establishing time limitations for public hearings before the Albany City Council (see agenda file). This will help with the local process of hearings and land use issues. He is not looking for action tonight but wants this item to be put on a future agenda along with a discussion on time limits for public hearings. He would like staff and Delapoer to give information about a hearings officer at one work session, and then allow discussion at the next work session. Christman believes it is frustrating to go through land use hearings when the Council receives hundreds of pages of documents the night of the hearing, and is expected to review them and make a decision. Having time limits would not stop that, but time limits would help citizens, developers, and the Council come to quicker decisions.

Olsen does not think we should have a hearings officer. The Councilors are elected officials and it is our responsibility to listen to the public. He does not want to start limiting public comment.

Christman said he is not advocating for a hearings officer yet, but he does want to hear the information to make a decision if a hearings officer would be good for Albany. In his estimation, between the Planning Commission and the Council, there was over 60 hours spent on the TLE process. For the Planning Commission and the Council, those were hours that could have been spent finding solutions for issues that were brought up during the TLE review. For example, the Council could have used that time to talk about the development of North Albany Road. The Council has not been spending their time wisely with the way the land use hearings have been working.

Delapoer said he advocates for a hearings officer. He agrees with Christman about the time issues, but beyond that a hearings officer may be able to make a better decision based on the criteria. The Council has been very divided and those who ultimately lose may feel that a hearings officer was objective. Councilors are not lawyers. To expect a lay body to bring the same judicial structure to a proceeding that an attorney can, is not possible. A hearings officer would be neutral and could produce a better quality decision. The Council could still veto the hearing's officer with four votes. With a hearings officer the Council would be more assured that the decisions would be criteria-driven, objective decisions.

Hare said, we should ask ourselves, how we can assure we get the best information, and the best citizen involvement? A good process will allow that. Currently the process is unwieldy and discourages the public from getting involved. Hare gets complaints that folks show up for Council meetings, but the hearing goes so long that often the only ones left are the ones that can afford to stay the latest. Hearings officers are successfully used in other jurisdictions in Oregon. The Council could still preserve their role.

Olsen sees the Council akin to a jury and the hearings officer as more of a judge. He prefers the system we currently use.

Further discussion of a hearings officer will come to a future work session.

Olsen asked, have we made progress getting the railroad property cleaned up by RCM homes? Hare said Economic Development Director Dick Ebbert told him the railroad agreed and that it is just a matter of waiting on documents. However, that has been their promise for months now. Hare's understanding is that they have taken steps to comply with the Notice and Order. Hare said it is not likely RCM Homes will pull out of the project since they are receiving Central Albany Revitalization Agency (CARA) funding. Discussion followed.

Johnson suggested that when there are Council agenda items that involve a staff report, that we move those items up on the agenda so that staff does not have to stay so late. She is concerned about paying overtime for late meetings. Hare said that Department Heads do not get overtime because they are on salary. Other staff are eligible for overtime however. The problem is that we would not want the public to think that their time is not as valuable as staff time by allowing staff agenda items to take place before items for public input. Hare said we do try to show consideration for staff who have very short reports by scheduling them early in the agenda, and Department Heads are not required to attend if they do not have an item on the agenda.

Hare said the City received notice to the local taxing district about designation of a rural renewable energy development zone. He directed the Council to the letter from Albany-Millersburg Oregon Economic Development Corporation (see agenda file). Linn County Commissioners will have a hearing on February 13, 2008, at 9:45 a.m. to decide if they will participate in the renewable development zone. This zone is similar to an enterprise zone but is specifically targeted to renewable energy in the county.

NEXT MEETING DATES: Regular Session, January 23, 2008 and Work Session, January 28, 2008

ADJOURNMENT

There being no other business, the meeting was adjourned at 10:30 p.m.

Respectfully submitted,

Mary A. Dibble, CMC
Deputy City Clerk

Reviewed by,

Stewart Taylor
Finance Director