

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
Wednesday, March 26, 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**

Council President Konopa led the pledge of allegiance to the flag.

**ROLL CALL**

Council Members Present: Sharon Konopa, Ralph Reid, Jr., Floyd Collins, Dick Olsen, Bessie Johnson, and Jeff Christman

Council Members Absent: Mayor Dan Bedore

**SCHEDULED BUSINESS**

Reopen Quasi-Judicial Public Hearing

SD-14-06, appealing the Planning Commission's approval of a Subdivision Tentative Plat for the Links Club Estates Subdivision.

Konopa explained that on Wednesday, January 23, the City Council held a public hearing regarding an appeal of the Planning Commission's approval of a Subdivision Tentative Plat that would divide a 3.77-acre parcel of land into 12 residential single-family lots (Links Club Estates Subdivision). The public hearing was closed and due to the lateness of the hour, continued discussion on the appeal was scheduled for a later meeting. At the February 27, 2008, Council meeting the Council decided to reopen the hearing to hear new information regarding the sanitary sewer system and the storm drainage system proposed for the subdivision. The applicant's testimony at tonight's meeting will be limited to new information about the sanitary sewer and storm drainage systems proposed for the subdivision. Responsive testimony will be limited to comments on the new information.

Konopa opened the Quasi-Judicial Public Hearing at 7:19 p.m. and explained that for all those wishing to testify, be aware that you must raise an issue with enough detail to afford the Council and parties an opportunity to respond to the issue if you later want to raise that issue on appeal to the Land Use Board of Appeals. Testimony and evidence must be related only to the sanitary sewer system or storm drainage system proposed for the subdivision. Testimony must be directed towards the approval standards or other criteria in the plan or development code which you believe apply to the decision. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the 120-day limit. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with enough detail to allow the local government or its designee to respond to the issue precludes an action for damages in Circuit Court.

Applicant's testimony

Dan Watson, K& D Engineering, representing the applicant, said the last time they were here there were concerns regarding storm drainage and the pump station. Previous concerns about the storm drains were that the project would discharge above the natural discharge area. They found a revised route that takes storm drainage north and discharges it in the public system in Country Club Lane. The system can accommodate drainage from the site. There are two low points on the subdivision property that would have to be drained. Tests show they will be able to infiltrate directly to the ground, and they will talk to the City's Public Works Department to work this out. That study has been submitted to the City. They relocated the pump station to resolve any noise concerns. Watson mentioned that the pumps would be small and submersible. They would have 24 hour, seven days a week monitoring. They are connected to the internet and are self monitoring. There is a battery back up in case of a power failure. He explained that drainage laterals would go to the public systems. They believe they have covered all the issues the Council had requested. They understood that the main concern was the discharge point for the storm drainage.

In favor

Jim Conser, 3439 NW Eagle View Drive, regarding the pump station, gave his experience with pump stations. He said they have alarms, the contractors take care of them, and his experience is that they have had no problem with them. He asked the Council to approve the development, if it meets the code.

Opponents

George Heilig, PO Box 456, Corvallis, representing Phyllis Vollstedt, said local ordinances don't permit this development because it lacks availability of utilities to the site. Private services outside your jurisdiction that are allowed to connect to public utility systems are not good planning. He has a copy of a letter from the City stating that there would be no more connections to the Country Club sewer system. There are no assurances that there would be an adequate fix, if it breaks. The Country Club is unable to agree to share their system because the 2-inch drain cannot hold that quantity of drainage. The new plans show a 7-foot easement over the Country Club property. They currently do not have an agreement with the Country Club. You have no assurance that this easement will be given. Benton County hasn't allowed them to build over their easements either. Regarding the storm water management, an 8-foot fill that manages a 100 year gully will create a dam. He mentioned that there wasn't adequate evidence that this number of units can be built on this property. He told the Council they should not build that many units and suggested they redesign the development because the property can't handle 12 units. He urged the Council not to approve the development.

Councilor Collins mentioned that he did review the written record regarding this issue and he viewed the video as well as studied the appropriate codes. He asked, if it is not 12 units how would the sanitary sewer be handled? Heilig answered that his understanding is the adjacent properties are on septic. He doesn't know if the land percolates. He believes the land on the east side has the integrity to support two or three units. That may be true of the west side of the gully too.

Collins asked staff to respond later as to whether the three plus acres could be subdivided into smaller lots with septic tanks. Civil Engineer III Gordon Steffensmeier responded that newly created parcels must be a minimum of five acres to be served by septic tanks.

Bruce Rummerfield, 325 Quarry Road, provided a letter to the Council (in agenda file) explaining dry wells. He emphasized that dry wells fill in unless they are constantly maintained. There are wells everywhere in the area. He feels dry wells are dangerous.

Bill Root, 2634 Valley View, read excerpts from the notice of public hearing that pertained to the sewer system, including review criteria that must be met for development to occur. He believes that not offering public services through the public sewer system does not meet the review criteria. He has had conversations with neighbors regarding failing septic tanks in the area. In rainy weather there have been failing septic tanks. He mentioned that he thinks a private sewer system is a violation of the City Charter. Root said, they shouldn't be allowed to develop until public utilities are provided to all residents in the area.

Phyllis Vollstedt, provided pictures of the 1964 flooding.

Deloris Haslem, 451 Quarry Road, said she is nervous about having a private pumping station. This project should wait until all can hook up to the public sewer.

Christine Baker, 320 NW Quarry, said development would be on the south side of property and she is concerned about the monitoring of the septic system. She asked, if there was a problem, who would be responsible for cleaning up?

Andy Cyrus, 435 Quarry Road, was concerned about dry wells. He said that heavy rain causes back up into his basement.

Ed Schultz, PO Box 667, lawyer for the applicant, said he would need copies of what has been handed out. He said the issues seem to be about whether these are public services. The City indicated acceptance of this proposal in 2005. They first received assurances that this system would be available from City staff. It is similar to what currently exists in other areas of Albany. The gated community has pumped up and into the system for several years. He said the agreement with the Country Club cannot be finalized without knowing the decision from the Council. What they have presented is an acceptable condition for this project. This pressurized system has been time tested; it is not new or radical. The same company that takes care of the Country Club will be taking care of this system. It is a gravity system that is pumped up. Funding will be in place to the Homeowners Association for continued maintenance. A flood similar to the 1964 flood can't occur because a retaining wall has been built and it would have to go up over the retaining wall. Also, dams have reduced a substantial amount of water that comes down river. He briefly discussed the sewer system. He added that concerns about what is not in the record, are unfounded.

Watson said that Benton County did review and comment on the application. It is not in the floodway, it is in the floodplain. Staff hired a study from someone from Portland and they concurred. Dry wells are necessary because they had to reroute the storm drainage. The Homeowners Association will be responsible for any clean up, fees associated with it, and any additional capital needed. The flood survey elevation was at 173 feet; the lowest in front of their property is 196. In respect to the 1964 flood and today's situation, dams and lakes installed after 1964 alter a repeat of the flood. They have complied with the City's Development Codes stated in previous presentations.

Councilor Johnson asked, what happened in the 1996 flood? Watson said that this property did not flood.

Johnson asked, what happens if the association dissolves? Schultz said there are legal requirements for them to stay in existence. They can't dissolve.

Johnson asked, if there is a system failure, is the respondent the same contractor as for the Country Club? Watson walked through the process for a 2:00 am breakage which involved double system controls, hook ups with multiple phones, monitoring, and system alerts.

Johnson asked, which gated community has a similar system? Watson said Cascade Heights.

Collins asked, does approval of private systems go through the Department of Environmental Quality (DEQ)? Watson said he wasn't sure but they can do it, if it is City policy.

Collins asked if they were contemplating needing a WCP DEQ) permit. Watson said they will explore that possibility.

Collins said, in one of your earlier presentations you said that you likely would have to increase the capacity of the line. Is it a two inch line and have you done the analysis? Watson said it is a three inch line and they have not done the analysis at this time. Collins said he noted that staff said they would likely limit the size of the line and not allow it to be upgraded. Watson said he sent a letter to staff and indicated his concern regarding that; he learned their concern was they didn't want to provide any additional capacity to the Country Club. A parallel line would take care of it.

Collins asked, has Federal Emergency Management Association (FEMA) recalculated the flood maps? Watson said they are from July 7, 1999, which were the most up to date maps available.

Collins asked about the dry wells and Watson said all were above the flood line.

Councilor Reid was concerned that the wet wells would drain into the neighborhood. Watson said the wet wells were situated so as not to drain off into the neighborhood. Water doesn't accumulate in that specific area. Reid said when flooding occurs such as the 1996, there is probably standing water in the area. The owners said their property was dry during that flood.

Watson provided a map regarding the elevation and sites of dry wells and drainage. He said they want to come to agreement with the neighbors.

Reid asked, at what point did they receive the Council's permission to use the Country Club's system? Schultz said it was April or May of 2005.

Councilor Christman said in the minutes of November 2004, he can see that the Council was agreeable to have them work with staff, and then a year later a letter came from staff, dated November 2005, saying they would approve the proposal of the Packard's proposed subdivision. But, there is nothing in the information in front of him that it came to Council for actual approval. Schultz said it was their understanding that they were to work with the City staff and not bring it back to Council.

Konopa said, the letter that you received from the City said the discharge would be to the Country Club line or to the public system at Quarry Road. Schultz said, that is correct; utilize the existing line or a separate line to the City's system. The City's concern was not adding any capacity to the Country Club at that time. Watson said they are comfortable with that condition.

Collins said the November minutes state, "It may be that the present owners of Country Club Lane may not want to connect to this line. Bryant suggested that the Packard's meet with staff and bring the issue back to Council at a future work session. The Council was agreeable to have Mr. Schultz, Mr. Watson, and the Packard's work with staff." He said for the record he finds nothing that indicates a return to the Council for authorization. Schultz said there was never a Council meeting. He added they would not have moved forward for two years at a cost of \$200,000, if they didn't feel it would be approved.

Public Works Director Diane Taniguchi-Dennis said that at that time it was represented that the existing forcemain had adequate capacity for the Packard's to connect to the line. They do have some information about other developments that have pump stations.

Civil Engineer III Gordon Steffensmeier said there has been a pump station in place for 12 years at Cascade Heights and they have heard of no problems. Taniguchi-Dennis said that particular development was allowed with a pump station because it was an appropriate sewer basin and the sewer line was too high to service the property by gravity.

Steffensmeier said there is a pump station near the Home Depot. The City approved it before the sewer was built to serve the area with the understanding that the pump station would be eliminated when the public sewer became available. It has been there for around 30 years. There are pumps stations at the mobile home park as well. They were allowed because a gravity sewer system wasn't available. Once a

gravity system is installed, they will hook up. In the case of the Packard's, a Springhill interceptor is probably far off.

Schultz mentioned, in regards to the cul-de-sac, that public safety vehicles will go all the way through and will have access off of Quarry Road. There is a street connection to the west.

Planning Manager Don Donovan said they received two letters from the Daskalos family and a letter from Steve Morse.

Konopa closed the hearing at 8:48 p.m.

#### Deliberation

Christman asked, where does the existing sewer connect into the public sewer? Steffensmeier gave the route saying it is more or less in front of the Doug and Emily Killin house on Quarry Road.

Collins said that North Albany has two primary drainage basins, the North Albany Road basin and the Springhill basin. The Springhill sewer basin wasn't going to be built unless it was development driven or there was a health hazard. He personally knows of two other properties that would want a private sewer system if this one goes through. Therefore, from a public sewer policy position, he doesn't think it is timely to approve because it isn't a public sewer. He also spoke to the transportation issue and believes the North Albany Local Roads Plan and the Comprehensive Plan should both be completed before approving this development.

MOTION: Collins moved that the City Council tentatively deny the application for the Links Club Estates subdivision and direct staff to prepare findings to support denial. The findings for denial will be presented for consideration at the next Council meeting. He said this motion is based on testimony presented at the public hearing. Olsen seconded the motion and said it is dangerous to go down Quarry Road, on to a busy Springhill Road, and back on to Country Club Road.

Johnson doesn't agree. She feels the applicant had thought they had the right to move forward, and therefore the City would be remiss to deny it now because negotiations took four years.

Olsen mentioned that the minutes from 2004 said they are willing to build Country Club Road to City standards and extend it. The Council gave their okay under those circumstances.

Konopa said she feels for the applicants, but thinks other surrounding properties would want to do the same thing. They would have a workable development if they had fewer homes, street connectivity, and were not impacting a part of the floodplain.

Christman disagrees with the idea that if there were fewer homes it could be workable. He is concerned about having a private sewer system. He said that the Council needs to take a look at helping the development by building the infrastructure. He said there is no reason this project should have taken four years to get to this point. Money has to be found to make fixes.

Reid believes it would open a "Pandora's Box" and the Council should be prepared for Local Improvement Districts (LID) to put in a sewer system. The area can only handle so much waste.

Johnson asked, if the City is going to put a priority on building a sewer, why can't this development be put in place now and hook up when the sewer is built? She doesn't think it is right to say no, we are not going to do it.

Collins said if the City were to form a LID now it would take three to four years to get the project going. The sewer decisions made before were because of health hazards in the area.

Johnson asked, why should we punish them? The City has other pump stations around the community.

VOTE: A vote was taken on the motion and it passed 5-1, with Johnson voting no.

#### Business from the Public

Mark Azevedo, 1210 NW Skyline Drive, said that at the last Council meeting there was talk about maintaining an inventory of acreages in Albany. He is hoping that the community will have a conversation regarding what is appropriate for Albany rather than what is appropriate for a city on the Interstate-5 corridor. He also asked the Council to include the community when there are discussions regarding big box retail stores.

Second Reading of Ordinance

CP-01-08, adopting text amendments to Economic Development Background Summary of the Albany Comprehensive Plan's Chapter 3 and adopting the 2007 Economic Opportunities Analysis Update as a background report to the Comprehensive Plan and declaring an emergency.

City Attorney Jim Delapoer read for the second time in title only "AN ORDINANCE ADOPTING TEXT AMENDMENTS TO THE ECONOMIC DEVELOPMENT BACKGROUND SUMMARY OF THE ALBANY COMPREHENSIVE PLAN'S CHAPTER 3 AND ADOPTING THE 2007 ECONOMIC OPPORTUNITIES ANALYSIS UPDATE AS A BACKGROUND REPORT TO THE COMPREHENSIVE PLAN AND DECLARING AN EMERGENCY."

MOTION: Johnson moved to adopt the ordinance. Christman seconded the motion.

Collins noted that the analysis was based on policies in the Comprehensive Plan (Comp Plan). He would support reviewing the Comp Plan.

Olsen was concerned that the document seemed to pass through the Council very quickly without much public comment.

Konopa thinks this is the ugliest land use planning she has seen and is embarrassed by it. She said Eco Northwest said they made an error before in the analysis, so how do we know they aren't making one now. She wished it would have come to them after the citywide survey.

MOTION: Reid moved to table the motion to the next City Council meeting in which the full Council was present. Christman seconded the motion and it passed 5-1, with Johnson voting no.

Johnson didn't understand what Konopa's embarrassment was. Konopa said she wants to support the existing businesses and believes that when the City allows a 50-acre commercial site in a policy, it is harder to deny large development. She feels the community doesn't want large developments.

Johnson said the City has a lot of small sites already. We only have one 50-acre site. This subject needs some serious dialogue.

Christman said this analysis doesn't deal with retail development only. It talks about industrial and manufacturing, not just retail. The dialogue from the public will happen.

Reid said the document is not just dealing with commercial property. There are people in the community concerned about finding family wage jobs and bringing them to this community. Without land to put something on, we will have few family wage jobs. Our major employers now are the government, hospitals, and schools.

Adoption of Resolutions

Supporting development of the Linn County ten-year plan to address homelessness.

This issue was discussed and voted on at the Monday, March 24, 2008, City Council Work Session.

Naming Doug Killin Friendship Park.

MOTION: Collins moved to adopt the resolution naming the Doug Killin Friendship Park. Johnson seconded the motion and it passed 6-0, and was designated Resolution No. 5581.

Approving a deadly physical force plan for Linn and Benton Counties.

Police Chief Edward Boyd explained that this policy meets the 2007 state legislation requirements. It basically pertains to the aftermath when deadly force is used. Although the counties were required to create the policy, the City of Albany is required to be a part of and included in both Linn and Benton County's plans. The Albany Police Department participated in the creation of the policy and it is virtually the same for both counties. He said Albany had a policy dealing with deadly force and this one is only to change how the City deals with community outreach. Boyd reviewed the six minimum required elements of each policy as reported on the memo in the agenda.

MOTION: Johnson moved to adopt the resolution approving a deadly physical force plan for Linn and Benton Counties and repealing Resolution No. 4212. Reid seconded the motion and it passed 6-0, and was designated Resolution No. 5582.

Directing an Engineer's Report and a Financial Investigation Report be prepared for construction of sanitary sewer, water main, storm system, and full street improvements on property located between Somerset Drive and Knox Butte Road.

Civil Engineer II Jeff Woodward said this property is for the Greater Albany Public Schools (GAPS) new school site. The Brandis Village site which was involved in the area has been postponed. But, there was still a need for infrastructure for the new school. He reviewed improvements that would be needed and explained locations of the sanitary sewer, water line, and storm sewer from Knox Butte Road to Somerset Drive. The street will be built after all other infrastructure is in place. They have received petition and waivers from all properties involved. Water and sewer could be remonstrated. Woodward said forming a LID will require getting some permits. If the Council decides not to do a LID, the school district would need some other way of funding for the infrastructure.

Johnson asked, how many properties are involved? Woodward said four properties.

Johnson asked, if the petition and waivers were for street and storm drain construction, would remonstrances delay the project? Delapoe explained that the resolution authorizes the possibility of doing two LIDs instead of just one. Remonstrances would delay the project for six months. He reviewed the steps and public hearing requirements for remonstrances.

Johnson asked, can the school open in 2009 with all that needs to be done? Woodward said permitting may take a while to get through, but they believe they can.

Olsen asked what kind of street would be going by the school. Woodward said it would be a collector street. They are prepared to run busses on it.

Olsen objected to the curvature of the street. He would prefer a straighter street.

Konopa asked, will the design come back to the Council for approval? Woodward said yes.

MOTION: Collins moved to adopt the resolution directing an Engineer's Report and a Financial Investigation Report be prepared for construction of sanitary sewer, water main, storm system, and full street improvements on property located between Somerset Drive and Knox Butte Road. Reid seconded the motion and it passed 6-0, and was designated Resolution No. 5583.

Adopting the Water Avenue Streetscape Plan.

City Manager Wes Hare said staff has had some internal discussions regarding the Oregon Department of Transportation (ODOT) Rail. The City is in the process of filing a lawsuit to assert the City's franchise rights on Water Avenue. He added that there are no resources identified to implement this plan immediately.

P.E. Civil Engineer II Chris Cerklewski said this plan accounts for the presence of the railroad, but there is no commitment at this time.

Collins asked, were affected property owners at the meeting? Cerklewski said yes and other public. He said there is no funding source identified to construct street improvements along Water Avenue. The plan was developed to allow potential development to know the scope and approximate costs of street improvements. Possible sources of funding include the Central Albany Revitalization Area, a general obligation bond, a LID, or state and federal grant funding. They are not expecting the property owners to pay.

MOTION: Collins moved to approve the resolution adopting the Water Avenue Streetscape Plan. Reid seconded the motion and it passed 6-0, and was designated Resolution No. 5584.

Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) January 28, 2008, City Council Work Session
  - b) February 11, 2008, City Council Work Session
- 2) Authorizing the Fire Department to apply for funds not to exceed \$175,000 through the U.S. Department of Homeland Security Assistance to Firefighters Grant for the purpose of purchasing structural firefighting personal protective equipment and associated supplies. RES. NO. 5585
- 3) Authorizing the City of Albany to submit a grant application for a Pacific Power Blue Sky Fund Award. RES. NO. 5586
- 4) Accepting a warranty deed transferring ownership of three tracts of land containing drainage ways from Hayden Homes, LLC. RES. NO. 5587

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

Report

Approving West Thornton Lake Drive right-of-way acquisition.

Collins said he is a member of the congregation of the North Albany Community Church and a member of the committee that negotiated transfer of the property to the City. Unless directed by the City Attorney that his vote is necessary, he will not vote or participate in discussion on this subject.

Cerklewski said there were some issues about impact to the church property. The church had plans to expand. Finally, the City and church came to an equitable resolution.

Reid mentioned that he doesn't like the original plan that brought the intersection at that juncture.

Cerklewski said the design will come back to the Council.

MOTION: Christman moved to approve the purchase price of \$139,500 for the West Thornton Lake Drive right-of-way acquisition. Johnson seconded the motion and it passed 4-1, with Reid voting no and Collins abstaining.

BUSINESS FROM THE COUNCIL

Collins commented on the School District removing trees at Fairmount School. He encouraged people to contact the school staff.

NEXT MEETING DATE

The next City Council Work Session is scheduled for Monday, April 7, 2008, at 4:00 p.m.

The next City Council Regular Session is scheduled for Wednesday, April 9, 2008, at 4:00 p.m.

ADJOURNMENT

There being no other business, the meeting was adjourned at 10:12 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, CMC  
City Clerk

John Stahl  
Assistant Finance Director