

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

MINUTES

CALL TO ORDER

Mayor Bedore called the meeting to order at 7:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Bedore led the pledge of allegiance to the flag.

ROLL CALL

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

PROCLAMATION

Arbor Week.

Bedore read the proclamation declaring the week of April 6-12, 2008, as Arbor Week in Albany.

Parks and Facilities Manager/City Forester Craig Carnagey explained the City of Albany Urban Forestry Program and provided a Power Point presentation (in the agenda file).

PRESENTATIONS

Accepting Tree City USA Award.

Jason Hazlitt, Oregon Department of Forestry, gave the Council a flag in recognition of the City of Albany as a Tree City USA. There are only 48 other communities in Oregon that received the designation. Albany received the distinction for planting over 300 trees, completing a comprehensive tree inventory, and having a heritage tree program. Bedore accepted the flag on behalf of the City.

Carnagey introduced the Tree Commission.

Hazlitt also recognized the Albany branch of Pacific Power with a "Tree Line USA" award. It recognizes the company's willingness to work with the community with tree planting along power lines. Pacific Power has also partnered with the City to make the Albany Tree Program a success.

Volunteer recognition (past Tree Commissioner).

Commission Chair Tom Krupicka presented an award and gift to Jay Neal for his contributions to the Tree Commission and Albany Tree Program.

SCHEDULED BUSINESS

Public Hearing

Establishing procedures for retrieving and reclaiming abandoned shopping carts.

Bedore opened the public hearing at 7:32 p.m.

Bedore clarified that with the new procedures, businesses would be fined only if they were notified and failed to retrieve their property.

Management Assistant/Public Information Officer Marilyn Smith explained that the state legislature passed legislation allowing local governments to deal with abandoned shopping carts. They are a nuisance, a public safety hazard, and an itinerant blight. The City Parks Department picks up around 300 carts a month on public property and more have been abandoned on private property.

City Attorney Jim Delapoer said this ordinance isn't intended to criminalize the store that has a cart stolen nor the store that fails to retrieve a cart. What it intends to do is provide a fine or recovery fee in the event the store doesn't come by in a reasonable amount of time to retrieve their cart. City Staff has been picking up carts all over the City and has not had the legal right to dispose of them. Under the new legislation they can. It is unfortunate that the legislature named the fee as a fine; it is more like a finder's or recovery fee. He asked the Council not to take action tonight. There is still more refining of the ordinance that staff would like to do.

Sean Miller, 40113 Gates School Road, Gates, representing the Northwest Grocery Association, said the State of Oregon bill went into effect January 1. It was Senate Bill 645 and characterized "blight" as grocery carts randomly dispersed in the community. They support the Council adopting the ordinance. The Northwest Grocery Association started a similar cart retrieval program. The grocery store is the victim when carts leave the property. They have a concern with the email address requirement the City is proposing. They believe it would be a violation of the Senate Bill. Their experience has been that email doesn't work. Grocery stores do not check their email in a timely manner and the 72 hour clock would be ticking. They have a program that offers a 1-800 number that could be used in which a live operator is available 24 hours a day and seven days a week to take calls regarding cart retrieval. He urged the removal of the email address requirement. Their only other concern is the charge of \$20 if a City employee returns a cart. But, they do support this ordinance.

Councilor Konopa talked about carts in creeks and parkways saying that the cost for the returning of carts by City employees is that it takes time that could be used for City business. Miller said they believe the City would have less and less of those types of circumstances as the ordinance becomes known. The City could report it and the grocery store could retrieve it or the City could return it out of courtesy to the business. He explained that there are cart retrieval businesses popping up.

Councilor Christman asked if City employees reporting it to the store or returning it as a courtesy was part of the ordinance as written tonight. Smith said it was not.

Councilor Collins asked what the replacement value of a cart was. Miller said \$100-\$300 per cart.

Councilor Reid asked, have stores in Albany signed up with your program? Miller said yes, some have. The program is set up so nonmembers of the grocery association can join.

Miller commented that part of the state law is that an ordinance needs to be passed in the City, so he encouraged the Council to consider this ordinance.

Councilor Johnson asked, will you force businesses to join your program? Miller said no, they would just set up the program to comply with the ordinance, if it is passed. If one retailer wants to do it on their own, they can.

Tom Krupicka, representing Tom's Garden Center, said he didn't receive information regarding this new ordinance. He was concerned about putting another burden on a small business owner. He would like to take this information back to the Albany Chamber of Commerce.

No one else wished to speak.

Bedore closed the public hearing at 8:02 p.m.

Delapoer suggested that Krupicka and others could contact staff for more information and suggestions.

Smith commented that staff sent information to 30 businesses regarding the ordinance. She said the Police Department has attempted to cite people with carts taken off the businesses property, but the stores would not prosecute.

Konopa said there is a problem in Albany. She would like to see staff continue to refine the ordinance.

It was Council consensus to have staff continue with refining the ordinance and bring it back to the Council for adoption.

Business from the Public

Steve Boyd, 296 Sunny Lane NW, spoke regarding the new library building. He distributed information to the Council regarding the best roofing available. He said the Council should keep their options open so as not to have to replace the roof prematurely. Protection against water damage and fire damage is critical in a library building. He said the currently proposed roofing has a history of degrading and failed the time test for fire proofing. His company is 67 years old and local in Albany. He discussed consequential damage saying a place with sensitive documents should have more protection. He mentioned that he would be willing to volunteer on a panel that would make recommendations that could save the City money in the long run.

Findings for Denial

SD-14-06, Link Club Estates, adopting Findings for Denial and making a decision regarding an appeal of the Planning Commission's decision to approve a Subdivision Tentative Plat that would divide a 3.77-acre parcel of land into 12 residential single-family lots.

Bedore explained that the City Council held public hearings on January 23 and March 26, 2008, on 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 (Link Club Estates Subdivision). At the March 26 City Council meeting, the Council made a tentative decision to deny the application and directed staff to write findings for denial. Findings for Denial were included in the agenda packet. Bedore said the applicant's attorney submitted a letter withdrawing the application on April 4, 2008. The applicant has a right to take this action and this withdrawal means that as of April 4, the subdivision application was no longer pending. Withdrawing the application does not preclude the applicant from resubmitting the same application or a revised application at a later date, but neither does a denial. The practical effect is the same. No further Council action is required.

Johnson said in her opinion, the Council didn't listen to the Planning Commission regarding this issue and she wanted it to be in the record that she would have supported them.

Councilor Olsen said he wanted to approve the Findings for Denial because he wanted to make it clear the Council disapproved of the subdivision.

Delapoer said the Council doesn't have anything to act on. There is no application. It is not to the Council's benefit to approve the Findings for Denial. From the standing of those that prevailed, the opponents to the subdivision, if the application is withdrawn the issue is dead and there is no right to appeal. On the other hand if the City took the position that they can't withdraw and the Council denies it, then in 21 days they could appeal to the Land Use Board of Appeals. The entire process could be adjudicated again. He believes the Council has taken the correct path.

First Reading of Ordinance

Levying an assessment against property specifically benefited by water connections and the assessment of water system development charges for property described as Tax Lot 701 of Parcel 11S-04W-24 and site address 4522 Pacific Boulevard SW, and declaring an emergency.

City Attorney Jim Delapoer read for the first time in title only "AN ORDINANCE LEVYING AN ASSESSMENT AGAINST PROPERTY SPECIFICALLY BENEFITED BY WATER CONNECTIONS AND THE ASSESSMENT OF WATER SYSTEM DEVELOPMENT CHARGES FOR PROPERTY DESCRIBED AS TAX LOT 701 OF PARCEL 11S-04W-24 AND SITE ADDRESS 4522 PACIFIC BOULEVARD SW, AND DECLARING AN EMERGENCY."

MOTION: Reid moved to have the ordinance read a second time in title only. Christman seconded the motion and it passed 6-0.

Delapoer read the ordinance a second time in title only.

MOTION: Reid moved to adopt the ordinance. Christman seconded the motion and it passed 6-0, and was designated Ordinance No. 5690.

Second Reading of Ordinance

CP-01-08, 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.

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: Collins moved to adopt the ordinance. Johnson seconded the motion and it passed 4-2, with Konopa and Olsen voting no, and was designated Ordinance No. 5691.

Bedore explained that within five days of the City Council's final action on this application, the Community Development Director will provide written notice of the decision to any parties entitled to a notice. A City Council decision can be appealed to the Oregon Land Use Board of Appeals if a person with standing files a Notice of Intent to Appeal.

Adoption of Resolutions

Accepting a proposal from Davidson Fixed Income Management for investment advisory services.

MOTION: Reid moved to adopt the resolution accepting a proposal from Davidson Fixed Income Management for investment advisory services. Konopa seconded the motion and it passed 6-0, and was designated Resolution No. 5588.

Authorizing an increase in revenues and expenditures in the Parks & Recreation Fund.

MOTION: Reid moved to adopt the resolution authorizing an increase in revenues and expenditures in the Parks & Recreation Fund. Konopa seconded the motion and it passed 6-0, and was designated Resolution No. 5589.

Setting a public hearing for the purpose of considering a downtown voluntary Economic Improvement District.

MOTION: Reid moved to adopt the resolution setting a public hearing for the purpose of considering a downtown voluntary Economic Improvement District. Konopa seconded the motion and it passed 6-0, and was designated Resolution No. 5590.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) February 13, 2008, City Council Meeting
 - b) February 27, 2008, City Council Meeting
 - c) March 3, 2008, City Council Work Session
- 2) Approving the Urban Forestry Management Plan.

Bedore said that staff has requested to have item 2) removed from the Consent Calendar.

MOTION: Konopa moved to adopt the Consent Calendar with item 2) removed. Reid seconded the motion and it passed 6-0.

Award of Bid

WL-08-02, 9th, 10th, 15th, and Park Terrace water line.

Public Works Director Diane Taniguchi-Dennis said that there has been no significant inflation to construction costs in the past year. In fact, this low bidder was below the engineer's estimate of the cost for the project.

MOTION: Reid moved to award the contract in the amount of \$343,941.00 to the low bidder, Kamph Construction Company, Inc., of McMinnville, Oregon. Christman seconded the motion and it passed 6-0.

BUSINESS FROM THE COUNCIL

Johnson commented that she would like to see a BMX Bike Park next to the City Skate Park. There was a Parks & Recreation Commission meeting in March to discuss this possibility. Around 60 young people and interested parties were at the meeting. They included people willing to raise money for the project and be included in the design of the park. They were able to get leadership and volunteers. It was exciting to be there. They also talked about graffiti and safety issues.

Olsen said he went to a meeting on Oxford Houses in his neighborhood. He thinks it is a wonderful program for those who participate, but not for the neighborhood. He was concerned that City staff seemed unconcerned about the issue. He thinks a conditional use permit is needed for these types of housing. They are a nuisance. He objects to positioning them next to family houses. He was disappointed with City staff.

Johnson asked, is there anything we can do? Delapoer said there are several different concerns. The Council could change the ordinance structure to require a conditional use permit; but, the federal Fair Housing Act guarantees them a place in the community. It would be very difficult to deny them a home. The City could have occupancy limits in homes but it would have to be applied equally, such as to large families. There are not very many options. Our current ordinance treats an Oxford House as a single family unit. They do look for houses close to services they would need and that generally is in a downtown area.

City Manager Wes Hare explained that his response at the meeting was to say that the City was limited in what they could do. It doesn't mean the Council can't change the ordinance. They could, but whether they should, is a Council discussion.

Olsen said he got the impression that staff didn't care. He believes the historical district will be in shambles, if they continue to site these types of houses in the area.

Konopa asked, can the Council require a neighborhood meeting before occupancy? Delapoer said he would check. He cautioned the Council that there are federal fair housing laws. They have to be treated the same as a single large family. The City may be able to take the role of providing information to the neighborhood, or could look for ways to improve communication.

Johnson asked, how can the federal government consider Oxford House members as disabled when they are treated similar to a halfway house? Delapoer said the key elements are that they are recovering alcoholics or recovering drug abusers. It is a federal classification and therefore, they are considered disabled.

Hare said the Mayor is representing the City on a task force to get notification procedures in place when such a house as this comes to the community. The Oxford House is different because they believe they are like a single family.

Johnson asked, do they notify the neighbors? Hare said there is an effort for voluntary cooperative notification by neighbors and the Oxford House.

Collins would like staff to come back with ways to address some of the issues. He wants to hear more options.

The Council consensus was to set a work session for this issue.

Konopa provided an Allied Waste brochure regarding recycle carts (in agenda file).

Bedore said he attended a sustainability meeting in Albany and felt it was encouraging.

Bedore has received a letter from Dave Beckham, an attorney in town, complimenting the City on storm and sanitary sewer disconnects (in agenda file).

Bedore was encouraged by the meeting last night regarding the Oxford House. He hopes that the issues can be resolved person to person. It is about being good neighbors. He is concerned that the Council not discount the rights of other people.

Olsen disagreed with him saying that because they aren't buying a house, he doesn't consider them a good neighbor.

Hare said he will miss the May 14, 2008, Council meeting.

NEXT MEETING DATE

The next Work Session of the City Council is scheduled for April 21, 2008, at 4:00 p.m., in the Municipal Court Chambers, and the next Regular Session is scheduled for April 23, 2008, at 7:15 p.m., in the Council Chambers, at City Hall.

ADJOURNMENT

There being no other business, the meeting was adjourned at 9:10 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, CMC
City Clerk

Stewart Taylor
Finance Director