

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
Wednesday, August 27, 2008  
7:15 p.m.

MINUTES

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE TO THE FLAG

Bedore led the pledge of allegiance to the flag.

ROLL CALL

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

Councilors absent: Jeff Christman

Bedore presented Fire Chief Kevin Kreitman and his wife Debbie with a Key to the City. Bedore said Kreitman was committed to the community and has been a great asset to the City of Albany. Bedore congratulated Kreitman on his new position as Fire Chief in Redding, California. Kreitman will be missed a great deal.

Kreitman thanked the Council and his staff. He said, the Albany Fire Department is outstanding and one of the reasons is because of the support from the Councils over the years. Kreitman said this has been one of the hardest decisions to make in his life, in part because of the staff he works with on a daily basis. It has been an honor and pleasure to serve the community for the last 27 years.

SCHEDULED BUSINESS

Continued Public Hearings

AN-01-08, annexation and zoning of approximately 30.15 acres south of Knox Butte Road and west of Scrael Hill Road.

Bedore said, next on tonight's agenda is a continued public hearing in the matter of annexation and zoning of approximately 30.15 acres south of Knox Butte Road. Bedore said, there have been some developments since the last meeting, which will be explained by the City Attorney.

City Attorney Jim Delapoer said, at the August 25 Work Session, the applicant's attorney, Don Kelly, asked the Council to consider reopening the public hearing, which the Council declined. Tonight, Kelly is asking for the Council to consider reopening the hearing again.

Delapoer explained the pros and cons of Kelly's proposal. If a person is dissatisfied with a land use decision, that person has the right to appeal the Council's decision to the Land Use Board of Appeals (LUBA). In this case, Delapoer is confident that the City would likely prevail; however every time we go to LUBA we spend a lot of time and money. Kelly has promised that if the public hearing is reopened, he will limit the hearing to ten minutes and he would make a commitment that the decision would be the Council's and that he would make no appeal. The benefit is that allowing ten minutes could mitigate the cost of an appeal. If the Council chooses this option, staff would have to prepare findings for approval or denial.

Kelly submitted for the record a map of the area; a water facility plan map; a sanitary sewer facility plan map; and a letter from Linn County Department of Health Services dated August 26, 2008 (see agenda file).

Councilor Ralph Reid asked, if we hear new evidence do we have to let the opponents speak too? Delapoer said, ordinarily we would, but there are no opponents for this case. He does not think there is risk to the City.

Bedore asked the Council to indicate by a showing of hands if the public hearing should be reopened. The majority of the Council, which included Reid, Councilor Floyd Collins and Councilor Sharon Konopa, did not wish to reopen the hearing. Delapoer said the request to reopen the hearing has been denied.

Bedore said, next on tonight's agenda is adoption of findings for denial and a final decision on an application to annex approximately 30.15 acres south of Knox Butte Road and west of Scrael Hill Road. The applicants are Sid and Cindy Miles. This is Albany case File AN-01-08. Following a public hearing on August 13, 2008, the Council made a tentative decision to deny the annexation application and directed staff to bring back findings to the next City Council meeting to support denial. The findings can be found on pages 1 and 2 of the agenda packet.

Bedore asked, does staff have any comments to make at this time? Staff did not.

Bedore asked, does any Councilor wish to discuss the findings? None did.

Bedore said, I will now entertain a motion. There is a motion on blue paper on the dais for adoption of the findings.

MOTION: Konopa moved that the City Council deny the application to annex approximately 28 acres south of Knox Butte Road and west of Scrael Hill Road (File AN-01-08); this motion is based on testimony at the August 13, 2008, public hearing and the City Council Findings Document presented by staff at the August 27, 2008, City Council meeting. Reid seconded the motion and it passed 4-1, with Councilor Bessie Johnson voting no.

Bedore said, within five days of the decision, the Community Development Director provides 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 LUBA by filing a notice of intent to appeal not later than 21 days after the decision becomes final.

MN-01-08 and LA-05-08, 1020 and 1110 Hill Street SE, appealing the Planning Commission's approval of Modification to a Non-Conforming Use to allow a change from industrial use to an automotive repair business.

Bedore said, next on tonight's agenda is adoption of Supplemental Findings, Conclusions, Conditions, and a final decision on an appeal of the Planning Commission's approval of a Modification to a Non-Conforming Use to allow a change from an industrial use to an automotive repair business and a Property Line Adjustment that would transfer approximately .4 acres of land from Linn County Assessor's Map No. 11S-3W-7AC; Tax Lot 102 to Tax Lot 104. The applicant is Crabtree Automotive Incorporated. These are City of Albany case files MN-01-08 and LA-05-08.

Bedore said, on August 13, 2008, a public hearing was held on these applications. The Council heard new evidence that was not included in the staff report. Following the public hearing the Council made a Tentative Decision to approve with conditions the Modification to a Non-Conforming Use application and directed staff to bring back Supplemental Findings to the next City Council meeting. The Supplemental Findings can be found on pages 4 to 6 of the agenda packet.

Bedore asked, does staff have any comments to make at this time? Staff did not.

Bedore asked, does any Councilor wish to discuss the Supplemental Findings? None did.

Bedore said, I will now entertain a motion. There is a motion to consider on page 7 of the agenda packet.

MOTION: Konopa moved to approve with conditions the applications for the Modification to a Non-Conforming Use and the Property Line Adjustment for property located at 1020 and 1110 Hill Street SE (Files MN-01-08 and LA-05-08); this motion is based on findings and conclusions of the staff report, testimony presented at the public hearing, and the Supplemental Findings, Conclusions, and Conditions document presented by staff to the City Council at the August 27, 2008, meeting. Collins seconded the motion and it passed 5-0.

Bedore said, within five days of the decision, the Community Development Director provides 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 LUBA by filing a notice of intent to appeal not later than 21 days after the decision becomes final.

#### Quasi-Judicial Public Hearings

VC-02-08, vacating a portion of Linn Avenue NE between Alco Street and Burkhart Street, and adopting findings.

CU-06-08, conditional use application for Eades Park.

Bedore said, next on the agenda is a consolidated quasi-judicial public hearing regarding planning files: VC-02-08, Vacation of the portion of Linn Avenue right-of-way (ROW) between Alco Street and Burkhart Street NE, the applicant being City of Albany Parks and Recreation Department; and CU-06-08, Conditional Use to construct a neighborhood park (Eades Park) located north of Linn Avenue NE and east of Alco Street NE. Improvements include play equipment, bike and pedestrian paths, benches, and parking for bicycles and vehicles. The applicant is the City of Albany Parks and Recreation Department.

Bedore called the quasi-judicial public hearing to order at 7:29 p.m.

Bedore asked, do any members of the Council wish to abstain? None did.

Bedore asked, do any members of the Council wish to declare a conflict of interest or report any significant ex parte contact or a site visit?

Konopa declared that she attended a neighborhood meeting held at City Hall regarding this vacation.

Councilor Dick Olsen said he was at that meeting as well.

Bedore said, for all those wishing to testify, please 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 directed towards the approval standards that staff will describe or other criteria in the plan or development code which you believe apply to the decision. If additional documents or evidence are provided by any party, the City Council may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension to 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.

Bedore called for the staff report.

Community Development Director Greg Byrne asked if, procedurally, the two public hearings should be conducted separately. Infrastructure Analyst Mike Leopard explained that the first item is a vacation which has been approved by the Planning Commission so is before the Council tonight in ordinance form. The other is a conditional use permit which does not necessarily come before the Council but because the two are related, staff would like to present them at the same time. Delapoer said the two can be consolidated.

Leopard used a map to identify Linn Avenue. The area proposed for vacation is a section of Linn Avenue, between Alco Street and Burkhart Street. It is a 66-foot wide ROW that is currently unimproved and is not open to traffic. The ROW is covered by trees and other vegetation. This vacation request was initiated by the City Council at the request of the Parks Department. The City owns the parcel to the north of the ROW and is proposing to develop a small park on the site.

Leopard said there are currently no utilities within the area proposed for vacation. Properties to the south are served by a public sanitary sewer main that runs along their back lot lines. Public water lines exist in Alco Street and Burkhart Street. The Engineering Division has recommended that a public utility easement be retained over the entire vacation area in case future utilities need to be constructed. The Engineering Division also believes that it is very unlikely that a future street would ever be improved through this section of ROW.

The one transportation issue that will need to be accommodated pertains to possible future access for the middle lot along this section of Linn Avenue. Currently, the western two lots are developed as a single home site, under the same ownership. Access for this existing development comes from Alco Street. However in the future, these lots may be developed independently of each other, and the middle lot, Tax Lot 1303, may need a separate access. Staff is recommending that, as part of the proposed vacation, an access easement be retained over the portion of ROW reverting to Tax Lot 1300 for the benefit of Tax Lot 1303. This would ensure that Tax Lot 1303 has legal access rights to Alco Street, if needed in the future. The proposed development of the City park on the north will result in the construction of a sidewalk between Alco Street and Burkhart Street for pedestrian and bicycle safety. Leopard showed a map that illustrated the area to be vacated.

Leopard said the proposed neighborhood park is on a 1.8 acre City-owned parcel located north of Linn Avenue and east of Alco Street. The land is zoned RM. Park development is allowed on land with this zoning district subject to conditional use approval.

Neighborhood parks are typically small and intended for use by citizens located within a half mile of the park who can walk or bicycle to it. Before the Parks Department submitted this application for review, they held two neighborhood meetings to get input on how to design the park.

On August 11, 2008, the Planning Commission held a public hearing on this proposed park. They unanimously recommended approval with conditions.

Leopard said that normally an application of this type would come before the City Council only on appeal, but since it is concurrent with the street vacation of Linn Avenue on the south, we thought it might be confusing to some as to why the vacation went to Council and the park did not.

Leopard said this park is a replacement for a smaller park by the same name that was located at 375 Columbus Street NE. That park was closed in order to expand the City's sewer treatment plant. The park improvements are generally located in the southwest corner of the site. The plan shows play equipment, bike and pedestrian paths, benches, and parking for bicycles and vehicles. Picnic tables may also be provided. Parking is not typically provided with a neighborhood park, but in this area on-street parking is not readily available. Parking for five vehicles, including two disabled parking spaces, will be constructed in the public ROW on Alco Street to the west. Restrooms and water fountain facilities will not be provided. Pole lighting will be provided, but they will automatically turn off at night. A sign will be posted announcing the operating hours of dawn to dusk.

Leopard said that four trees will need to be removed, but their size and number do not trigger a tree felling permit or approval. Some additional vegetation, shrubs and trees, will be added to the property in appropriate

locations. For safety purposes they will be located in such a way that they will not create barriers to visibility into the park.

When the conditions listed in the staff report are met, this park development proposal will satisfy all of the six conditional use review criteria.

Leopard asked if there were any questions.

Collins thinks this lot was previously owned by Mr. Satterlee. For the benefit of the record, Collins said that he helped to negotiate for this property when he was on City staff in Public Works

Johnson asked what will be done for storm drainage on the site. Leopard said there will be minimal water on the site which will be handled by on site drainage.

Bedore asked, does anyone in the audience wish to speak in support of the applications? None did.

Bedore asked, does anyone in the audience wish to speak in opposition to the applications? None did.

Bedore asked, does anyone in the audience wish to speak who is neither in support or opposition of the applications? None did.

Bedore closed the public hearing at 7:40 p.m.

City Attorney Jim Delapoer read for the first time in title only, "AN ORDINANCE VACATING THAT PORTION OF LINN AVENUE NE BETWEEN ALCO STREET AND BURKHART STREET, IN ALBANY, OREGON; AND ADOPTING FINDINGS."

MOTION: Reid moved to have the ordinance read a second time in title only. Konopa seconded the motion and it passed 5-0.

Delapoer read the ordinance a second time in title only.

MOTION: Reid moved to adopt the ordinance to vacate the section of the Linn Avenue street right-of-way between Alco Street and Burkhart Street and Konopa seconded it. The motion passed 5-0 and was designated Ordinance No. 5702.

MOTION: Collins moved to approve with conditions the Conditional Use application to construct a neighborhood park on property located at the northeast the northeast corner of Alco Street and Linn Avenue NE. Johnson seconded the motion and it passed 5-0.

Bedore said, within five days of the decision the Community Development Director provides written notice of the decision to the applicant and any other parties entitles to notice. A decision of the City Council may be appealed to the Land Use Board of Appeals by filing a Notice of Intent to Appeal not later than 21 days after the decision becomes final.

#### Business From the Public

Dick Owen, 810 Cox Street, said he saw a picture in the paper of Bedore helping a 77 year old man clean up his yard. Owen said he was given a false summons for ORS 153.045 and 153.0990 for a Class A misdemeanor for moss he had on his car. He asked, can you imagine being charged for a licensed car that is drivable but has moss on the back window? It was winter and all his hoses were in the garage. It only took him 10 minutes to hose it off. Owen said to Bedore, if you can help that 77 year old man then maybe you can help me by coming with me to the Police Department to straighten this out. Bedore said, if we can put this to rest once and for all, then he will take him up on his request.

#### Adoption of Resolutions

Authorizing the special procurement of geographic information system (GIS) application development services.

MOTION: Reid moved to approve the resolution authorizing the special procurement of Geographic Information System application development services and Collins seconded it. The motion passed 5-0 and was designated Resolution No. 5644.

Authorizing the purchase of real property on Lochner Road from Chad Curry, appropriating funds, and authorizing the City Manager to execute an agreement for conveyance of real property.

Staff explained that this agenda item has been postponed to the next meeting because this action requires a public hearing.

Approving an extended property tax abatement agreement waiving employment requirements on a short-term investment of at least \$25 million in an Oregon Enterprise Zone, between the City of Albany, a cosponsor of the South Santiam Enterprise Zone, and Wah Chang.

MOTION: Konopa moved to approve the resolution and Collins seconded it. The motion passed 5-0 and was designated Resolution No. 5645.

Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) July 21, 2008, Work Session
  - b) July 23, 2008, City Council Meeting
  - c) July 28, 2008, City Council Work Session
- 2) Accepting the 2008-2009 Linn County Special Transportation Program grant funding agreement for Albany Call-A-Ride, Albany Transit System, and Linn-Benton Loop Transit System. RES. NO. 5646
- 3) Authorizing the City of Albany to accept a grant award from Pacific Power, provided as part of the Blue Sky Grant Program. RES. NO. 5647
- 4) Authorizing participation in the Oregon Main Street Program. RES. NO. 5648
- 5) Accepting a local government grant from the Oregon Cascades West Council of Governments, Senior and Disability Services, to provide aquatic fitness classes for older adults. RES. NO. 5649
- 6) Accepting a local government grant from the Oregon Cascades West Council of Governments, Senior and Disability Services, to provide personal fitness prescriptions for older adults. RES. NO. 5650
- 7) Authorizing the Mayor to sign a new lease agreement with the Oregon Department of Transportation for Tadena Landing Park.
- 8) Accepting two slope and public utilities easements from Mary Morris, Trustee of the Evelyn F. Brandis Family Charitable Trust #1 and Charitable Trust #2; John S. Brandis, Jr.; Trinity O. Lind; fka Gail Brandis Jacob, Gail Brandis Yarborough, and Gail Brandis Coleman; Susan B. Decker; and Timberhill Corporation:
  - a) Brandis Avenue and Somerset Avenue. RES. NO. 5651
  - b) Brandis Avenue and Knox Butte Road. RES. NO. 5652
- 9) Accepting a slope and public utilities easement from the Greater Albany Public School District. RES. NO. 5653

Bedore said staff has informed him that the Resolution for Item 3) had some minor errors so it has been replaced (see agenda file). Councilor copies are on the dais.

MOTION: Konopa moved to approve the Consent Calendar with items 4) and 7) removed for discussion, and with the revised resolution on the dais to replace the resolution in the agenda packet for item 3). Reid seconded the motion and it passed 5-0.

Reid said for item 4) he would like to see the boundaries expanded to include 4<sup>th</sup> Avenue.

Rick Rodgers, 1530 Broadway Street, is the Executive Director of the Albany Downtown Association. He said that getting the application ready for the Oregon Main Street Program has been quite a process. Albany is a perfect candidate for the Program. This is an opportunity for Albany to get information from other Main Street communities. Regarding Reid's suggestion to expand the boundaries, Rodgers said they were told to keep it as small as possible. He originally wanted to include the entire Economic Improvement District but the Program administrators said to limit the boundary to the commercial downtown district. Rodgers worked with the City's Economic Development and Planning staff to determine the boundary. In order to enlarge the district they would need to amend the application.

Reid is concerned that parking be provided on 4<sup>th</sup> Avenue.

Bedore suggested that the Council direct staff to make an effort to increase the boundary but to not mandate the expansion, if the time constraints and application criteria prove to be prohibitive.

MOTION: Reid moved to adopt item 4) as presented and Konopa seconded it. The motion failed 3-2 with Collins and Olsen voting no.

Collins said he supports the idea but thinks that inclusion of a potential parking structure is valuable. He thinks the motion should include the condition to attempt expansion, so long as the project and application is not delayed.

MOTION: Collins moved to adopt item 4) with the condition to attempt to expand the boundaries to include 4<sup>th</sup> Avenue between Baker Street and Washington Street. Johnson seconded the motion and it passed 5-0.

Regarding item 7), Reid wants to know why the lease was allowed to expire. Parks & Recreation Director Ed Hodney said the state told the City that the lease was about to expire and that they would send a new one. As soon as staff got the new lease it was scheduled for the first possible agenda, which is today. Reid said this lease lapsing is an example of why we need a Property Manager.

MOTION: Reid moved to authorize the Mayor to sign a new lease agreement with the Oregon Department of Transportation for Tadena Landing Park. Konopa seconded it and the motion passed 5-0.

## Appointment

### Appointing Kim Whitley to the Human Relations Commission.

Johnson said Kim Whitley is very excited to be a part of this Commission and will be an asset to the group.

MOTION: Konopa moved to appoint Kim Whitley to the Human Relations Commission. Reid seconded the motion and it passed 5-0.

## Reports

### Hydropower project – change order request.

Public Works Director Diane Taniguchi-Dennis said this report is an update on the project and a request for a change order. The project is 90 percent complete. An engineering team from China came to install the turbine generator and two engineering students from Oregon State University acted as interpreters. The plan is to start using the hydropower in late October or early November.

Taniguchi-Dennis said four issues have caused an increase in project costs: Pacific Power interconnection components; significant erosion on the bank of Calapooia River where the turbine discharges requiring concrete bank stabilization; concrete repairs to the forebay, an 80-year-old hydraulic structure requiring significant structural repair; and finally, installation of a canal intake trash barrier. Details are in the staff report.

Taniguchi-Dennis said the net cost is \$2.1 million, which is about \$34,000 above previous estimates. The plant will produce on average 2.8 million kilowatt hours per year, generating revenues of \$204,400 annually for an estimated net profit of \$69,000 annually.

Olsen asked, was the cost for Pacific Power's interconnection components more than was anticipated? Taniguchi Dennis said yes; the connection next to the substation was more complicated than they assumed it would be.

Collins said that given the overall cost of this project and dealing with a ninety year-old structure on the edge of a river, the costs associated with this change order is nominal.

MOTION: Johnson moved to approve a change order for \$296,600 to CF Malm Engineering. Reid seconded the motion and it passed 5-0.

### Discussion of a property manager staff position.

City Manager Wes Hare introduced Interim Will Norris, an undergraduate from the University of Oregon. Norris investigated the City's leases and properties. Hare said he did a great job.

Norris said for his research he contacted other Oregon cities to learn how they manage property, met with Albany City staff, reviewed the City's property holdings and leases, and used the internet to research property managers in local government. He concluded that it would take 250-1,000 hours of staff time annually for property management activities, which would not warrant a full-time Property Manager position.

Albany does not have an inventory of highly marketable lands to either liquidate or manage. There are several parcels which would need to be subdivided or sold with easements, have irregular shapes, or have other obstacles that limit their applicability. Currently responsibility for and knowledge of properties is widely dispersed throughout the City, so a thorough organization would be very useful; however, it would be a one-time project rather than a full-time position.

Norris said he created a database of the properties and has transferred it to the City's Geographic Information Services (GIS) database. He will be meeting with Finance and other staff to see if the data base is useful for their needs and how it can be maintained in the future.

The City has 31, leases, 28 which are at the Airport. A market survey of aviation rates indicates that Albany leases are below market rates. Albany does not enforce late fees, does not charge interest, and its chronic delinquent accounts are not sent to collections. Closer oversight and negotiations of the leases would be useful but would not likely offset the cost of a staff position.

Norris explained that if the City were to employ a Property Manager in the future, other duties could include forecasting future property needs and pursuing purchases; using property management as a development tool by working with urban renewal and exercising eminent domain to condemn blighted properties; and other ways to actively manage development. Disadvantages are that this would be a change of policy and could be politically controversial. Also, under the current system staff has the necessary flexibility for negotiation that would not be available if property management were centralized. Staff has project-specific knowledge so they know when and where mediations should apply. Purchase decisions can be made quickly.

Norris said that in conclusion, the continuation of current property management at the City would not necessitate a full time position, though the position may be useful in the future if the City chose to use it as a tool to further development. There may be other staffing needs that have not been addressed and supersede the need for this position. Also, adding these responsibilities to other current staffing duties that are complimentary and could create a hybrid position.

Johnson asked, could a hybrid position be created to include leases? Norris said he did not consider that for Albany, although by example Springfield uses their Property Manager position to administer business and liquor licenses as well.

Collins said that in other cities the City Recorder uses a ticker file or a database to track those leases, and brings it to the attention of the responsible department when the lease is ready to expire. If this new database is functioning properly and someone is assigned to it, that would be at least be a step in the right direction.

Reid said he thought there was a house on Jefferson Street owned by the City but not listed in Norris' materials. Norris said we do own three parcels by the overpass but they do not have structures on them.

Reid asked, how much below market are our airport leases? Norris will forward the market survey with that information to the Council.

HEART Board of Directors' annual report.

The Council had no questions for Captain Ben Atchley. They thanked him for the memo and said it was a job well-done.

**BUSINESS FROM THE COUNCIL**

Olsen said he is sorry to see Kreitman leave Albany but he knows it is a good opportunity for him.

Collins would like staff to respond to the article about street sweeping in the *Democrat-Herald*. Hare said, the City recognizes that street sweeping is an ongoing need, so we have equipment available to use if necessary. There is an employee on light duty who is driving the sweeper while we evaluate if we should contract it out or do it in-house for the long-term. Staff needs to evaluate which option is the best value. Staff will provide a report to the Council in October about the result of the evaluation. Collins is concerned that the final direction be a conscious choice and not just a default decision.

Olsen said we should let the community know that grass, leaves, and other debris do not belong in the streets.

Konopa thanked Kreitman and his wife for their service in the community. They will be missed.

Hare said that the League of Oregon Cities is asking for a voting delegate for the upcoming conference. The consensus was to have Bedore be the voting delegate.

**RECESS TO EXECUTIVE SESSION TO DISCUSS CURRENT LITIGATION OR LITIGATION LIKELY TO BE FILED IN ACCORDANCE WITH ORS 192.660 (2)(h)**

Delapoer explained there was no longer a need for an Executive Session so it was not held.

**NEXT MEETING DATES:**

The next Work Session is Monday, September 8, 2008 and the next Regular Session is Wednesday, September 10, 2008.

**ADJOURNMENT**

There being no other business, the meeting was adjourned at 8:29 p.m.

Respectfully submitted,

Reviewed by,

Mary A. Dibble, CMC  
Deputy City Clerk

Stewart Taylor  
Finance Director