

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
Wednesday, September 10, 2008  
Following ARA Agency Meeting

**MINUTES**

CALL TO ORDER

Mayor Bedore called the meeting to order at 7:28 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

SCHEDULED BUSINESS

Communication

Accepting a letter of resignation of Delia Guillen from the Human Relations Commission.

MOTION: Councilor Reid moved to accept the resignation of Delia Guillen from the Human Relations Commission and send a letter of thanks for her participation. Councilor Johnson seconded the motion and it passed 6-0.

Public Hearing

Adopting a supplemental budget for the 2008-2009 fiscal year, authorizing the purchase of property on Lochner Road from Chad Curry, and authorizing the City Manager to execute an agreement for conveyance of real property.

Bedore opened the public hearing at 7:29 p.m.

Parks & Recreation Director Ed Hodney explained that this project was originally budgeted in Fiscal Year 2007-2008 Parks & Recreation Fund (Park SDC Program). However, the acquisition did not take place as expected and the funds were not spent. Both resources and expenditures need to be increased in the Fiscal Year 2008-2009 Budget to accommodate the project. These adjustments will be made in the Parks SDC and the Parks Capital Improvements programs and are detailed in the resolution.

Keith Underdahl, 1055 19<sup>th</sup> Avenue SE, American Youth Soccer Organization (AYSO) Commissioner, spoke on the importance of this park. The condition of the current fields is a safety issue. Soccer is growing in Albany despite the limitations of available fields. He said it is an important purchase for the City.

No one else wished to speak.

Bedore closed the public hearing at 7:33 p.m.

Councilor Collins mentioned that the cost is a little over \$1.00 per square foot. He thinks it is a good buy.

MOTION: Reid moved to adopt the resolution adopting a supplemental budget for the 2008-2009 Fiscal Year; authorizing the purchase of property on Lochner Road from Chad Curry; and authorizing the City Manager to execute an agreement for conveyance of real property. Collins seconded the motion and it passed 6-0, and was designated Resolution No. 5655.

Business from the Public

There was none.

First Reading of an Ordinance

Amending Chapter 3.50 of the Albany Municipal Code (MCI WorldCom Network Services, Inc., franchise) by renewing the current agreement until September 11, 2013, and declaring an emergency.

City Attorney Jim Delapoer read for the first time in title only "AN ORDINANCE AMENDING CHAPTER 3.50 OF THE ALBANY MUNICIPAL CODE (MCI WORLDCOM NETWORK SERVICES,

INC., FRANCHISE) BY RENEWING THE CURRENT AGREEMENT UNTIL SEPTEMBER 11, 2013; AND DECLARING AN EMERGENCY.”

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

Delapoer read the ordinance for a second time in title only.

MOTION: Reid moved to adopt the ordinance. Johnson seconded the motion. There followed discussion about the possible legislative changes regarding telecommunications and cellular phones.

Councilor Christman was concerned about the five year length of the contract. He said that considering the possible legislation changes regarding telecommunications and cellular phones, he would like it to be a two-year term. City Manager Wes Hare doesn't believe the contract would be an impediment to the statewide changes proposed for franchise agreements. He believes the franchise wants as long a contract as possible, but staff can express the Council's concerns. There followed discussion regarding statewide proposals.

Councilor Olsen asked, if there is a change in state rules, does the City have to change our franchise agreements? Hare said probably, depending on what the changes are to the rules.

AMENDING MOTION: Christman moved to amend the original ordinance to reflect a three year contract rather than a five year contract, ending September 11, 2011. Johnson seconded the motion and it passed 5-1, with Reid voting no.

VOTE ON THE MAIN MOTION: A vote was taken on the main motion with the amendment and it passed 6-0 and was designated Ordinance No. 5703.

#### Adoption of Resolutions

SP-12-08 and AD-01-08, calling up the “SmartCentres Site Plan Review” and “Adjustment” applications staff decision.

Councilor Konopa said she would be abstaining from voting and refrain from discussion regarding this item. She believes and has voiced her opinion in the past that the business being brought in is a WalMart of which she is against supporting. She cannot have an unbiased opinion on this matter. She has a conflict of interest.

Olsen also wished to abstain citing that he too is convinced that WalMart is the business that this project is preparing for. He will abstain because of bias.

Delapoer explained that the law in Oregon on land use matters says that a Councilor is not required to vote. In Albany there is a Charter provision that requires four votes on any matter. What that means is that any Councilor who is abstaining because of a conflict of interest or a bias can do so, unless their vote is necessary to make up the four vote requirement; then they are allowed to requalify themselves, but should refrain from participating in the discussion in any manner.

Christman said, all we are doing is asking that the decision be presented to the Council. Delapoer said that is correct, and no user or business has been identified or provided to staff.

Collins asked, why isn't this going to the Planning Commission? Community Development Director Greg Byrne explained that over a year ago the Council resolved that whatever application came forward, they, the Council, wanted to hear it. The appeal would then go to the Land Use Board of Appeals. Today's action brings the matter before the Council.

Planning Manager Don Donovan said the review criteria, 120 day time limit, and the appeal process is the same whether it comes before the Council or the Planning Commission.

Collins said this is unusual for the Council to call something directly to them without going to the Planning Commission. There followed discussion regarding the process and appeals. Johnson noted that because of the zoning decision it is important enough for the Council to make this decision directly and not take it to the Planning Commission.

Delapoer cautioned the Council to follow through on their earlier decision to have this issue come before them.

MOTION: Johnson moved to adopt the resolution calling up the “SmartCentres Site Plan Review” and “Adjustment” applications staff decision. Christman seconded the motion and it passed 4-0, with Konopa and Olsen abstaining, and was designated Resolution No. 5656.

Providing for additional revenue and offsetting expenses in the Central Services Fund.

Finance Director Stewart Taylor explained that in scheduling BEST training to increase staff's skills in performance improvement, the City invited neighboring jurisdictions to join us. By increasing the number of students, the cost per student decreased. Albany's costs were already budgeted, and no action is required on those costs. The resolution provides for the receipt of the additional funding from the outside agencies now attending that were not contained in the original budget. The resolution also provides for the offsetting expense that will occur from those attendees.

MOTION: Reid moved to adopt the resolution providing for additional revenue and offsetting expenses in the Central Services Fund and include a vote of confidence from the Council on the BEST Process Improvement Initiative. Johnson seconded the motion and it passed 6-0, and was designated Resolution No 5657.

Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) August 13, 2008, City Council Meeting
- 2) Accepting easements from:
  - a) Carl Eckhold and Amber Eckhold. RES. NO. 5658
  - b) Daniel K. Watson and Andrea M. Watson. RES. NO. 5659
- 3) Accepting a right-of-way dedication from Gloria Rose Pruitt. RES. NO. 5660
- 4) Appointing City Manager Pro Tems. RES. NO. 5661
- 5) Approving a liquor license for Chasers Bar & Grill, LLC, 435 Second Avenue.

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

Report

SD-05-08, Thornton Lake Estates Subdivision LUBA remand.

Byrne explained that this item was remanded to the Council by the Land Use Board of Appeals (LUBA) because of a procedural error regarding Transportation Systems Analyst Ron Irish's testimony. Staff is recommending that the Council direct them to mail individual notices to those hearing participants entitled to notice informing them of the LUBA decision and inviting their written comments responsive to Irish's testimony. There would be an initial written comment period of seven days followed by a second seven day period, during which anyone can respond to comments received during the first seven day period. As required by state law, a final seven day period will be reserved for the applicant to respond. At the conclusion of this 21 day period, the record will close and staff will submit all of the material to the Council with staff comments and draft findings.

MOTION: Johnson moved to direct staff to reopen the record for written comment and proceed with the recommended procedure for conducting the remand proceedings required by the Land Use Board of Appeals decision on the Thornton Lake Estates Subdivision City Council approval, as presented in the memo for the September 10, 2008, City Council meeting. Reid seconded the motion and it passed 6-0.

BUSINESS FROM THE COUNCIL

Bedore mentioned that there would be a variety of commemorative events tomorrow, September 11, including one on the Linn County Courthouse steps.

Bedore said that he understood that the CALUTS Plan calls for something more attractive on the canal and he would like to see it move forward. Public Works Director Diane Taniguchi-Dennis said that staff is having internal discussions regarding the CALUTS Plan and finding a Project Manager. George Crandall was the original Project Manager and he may be available to return to the project.

Hare reported that staff has been continuing discussions regarding the railroad crossings on Water Avenue. Oregon Department of Transportation Rail's proposal is if the City agrees to close the Water Avenue crossings and two crossings east of Geary Street, ODOT Rail will pay for the safety improvements on Water Avenue. The proposal seems reasonable and he thinks the City should hold neighborhood meetings for the residents that will be affected. He is asking for Council direction if staff should go out to the neighborhoods to hold meetings. There followed a discussion regarding the railroad's responsibilities and the type of agreements the railroads are willing to concede to. Hare reminded the Council that this offer does address the City's immediate needs.

CONSENSUS: By consensus the Council directed staff to hold neighborhood meetings regarding the Oregon Department of Transportation Rail proposal.

The Council agreed to meet in Executive Session on Monday, October 6 regarding Periwinkle Creek litigation.

Albany City Council Regular Session  
Wednesday, September 10, 2008

The Council agreed to a Special Session with the Benton County Commissioners, on Tuesday, October 14.

**NEXT MEETING DATE**

The next Work Session of the City Council is scheduled for Monday, September 22, 2008, at 4:00 p.m., in the Municipal Court Room, at City Hall and the next Regular Session is scheduled for Wednesday, September 24, 2008, at 7:15 p.m., in the Council Chambers, at City Hall.

**ADJOURNMENT**

There being no other business, the meeting was adjourned at 8:30 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, CMC  
City Clerk

Stewart Taylor  
Finance Director