

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
Monday, November 24, 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**

Association of Motorcyclists of Oregon Day.

Bedore read a proclamation declaring December 7, 2008, as the Association of Motorcyclists of Oregon Day.

**SCHEDULED BUSINESS**

Review of Written Testimony

SD-05-07, Thornton Lake Estates Subdivision, Land Use Board of Appeals remand of City approval of a Subdivision Tentative Plat that would divide 24.20 acres of land into 78 residential single-family lots and two open space tracts.

Bedore explained that this was a review of written testimony in response to the LUBA remand of City approval of Subdivision Tentative Plat that would divide 24.20 acres of land into 78 residential single-family lots and two open space tracts, file SD-05-07, the proposed Thornton Lake Estates subdivision.

Councilor Collins said he had reviewed the entire record.

Planning Manager Don Donovan said the memo in the agenda covers where the City is currently. He reviewed some background and summarized previous testimony. He said there was no additional testimony tonight.

Councilor Konopa said she didn't support this project in the past and still believes the traffic study is an issue.

Councilor Johnson said after reviewing the written testimony, she didn't find anything in it to change her decision.

**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 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 as adopted in the City Council's January 9, 2008, decision. This motion also 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). The City Council's approval of these applications is an affirmation of its January 9, 2008, approval decision that was appealed to LUBA and remanded to correct procedural error (LUBA No. 2008-020). 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, all as adopted by the Council's January 9, 2008, decision, as well as the Third Supplemental Findings hereby adopted. Councilor Christman seconded the motion.

Councilor Reid had a concern about the petition and waiver condition and would prefer a bond of some kind be placed on the property. City Attorney Jim Delapoer said that the problem with a bond is that they continue for many years and premiums must be paid annually.

Collins said the applicant is responsible for an additional queuing distance of 100 feet on the turning movement, equal to four cars. The existing queuing lane is 245 feet. It needs to be 600, which requires an additional 355 feet. At 100 feet, the applicant is then roughly responsible for 100/355 times the cost of the

project. If the City had an estimate now or in the future, which was approved by the Public Works Director or the City Engineer, that percentage could be applied as cash and put in a reserve. It would do away with the petition and waiver and eliminates the issues surrounding a bond. In the future the City would have the option of forming an assessment district and use that money to pay for their proportionate share.

Donovan said his only concern is that there is supposed to be a calculation of rough proportionality and he doesn't know if it is in the record. Collins said it is in the record as submitted by the applicant and the opponent. He quoted sections from the record. Collins said he believes the additional queuing distance would add to the capacity calculation of the intersection and resolve the concerns at the intersection.

Konopa said the neighborhood concern was at North Albany Road and the subdivision, not at Highway 20.

Collins said from the materials that he read the issues were: 1) The attorneys' procedural questions regarding LUBA. 2) The turning movement at North Albany Road at the entrance to the subdivision (the appellant has readjusted their data and they agree with the applicants now). 3) There is agreement that the traffic accident data that was in the record is accurate information. 4) The question of if the improvement is sufficient to mitigate the capacity question at the intersection would be mitigated with the additional footage.

AMENDING MOTION: Collins moved to amend the motion regarding the condition in the staff report calling for a petition and waiver for the improvement, to instead substitute having the applicant be required to provide funds prior to final subdivision plat improvement as indicated by the formula that Councilor Collins discussed. Christman seconded the motion.

Councilor Olsen asked, how long is a tentative plat approval good? Donovan said a tentative plat approval is good for three years.

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

VOTE: a vote was taken on the main motion and it passed 4-3, with Bedore voting yes, Councilors Reid, Johnson, and Christman voting yes, and Councilors Konopa, Collins, and Olsen voting no.

Bedore 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 by filing a Notice of Intent to Appeal not later than 21 days after the decision becomes final.

#### Business from the Public

No one wished to speak.

#### Adoption of Resolution

Approving exemption from the competitive bidding process for the purchase of library shelving from an existing general services alliance cooperative contract with Technical Furniture Systems, Inc.

Finance Director Stewart Taylor explained that the City initially wanted to piggy-back on another government contract to achieve the same pricing under the cooperative purchasing method. Oregon law requires that the contract that the City would piggy-back on should go through a competitive bid process. It turns out the one chosen hadn't gone through a competitive bidding process; it went through a disaster recovery process. The new resolution changes it to a special procurement method of purchase. It enables the City to use the same pricing offered by the same vendors, just changes the method of purchase.

MOTION: Collins moved to adopt the resolution approving a special procurement method to acquire Library furnishings for the Library project and authorize the City Manager to negotiate and award contracts for shelving, panels, and furniture. Johnson seconded the motion.

Delapoer said he wanted to make it clear that this was a special circumstance. It does not promote favoritism, is below retail, and there was an emergency "time" need.

VOTE: A vote was taken on the motion and it passed 6-0 and was designated Resolution No. 5706.

#### Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) October 6, 2008, City Council Work Session
  - b) October 20, 2008, City Council Work Session
- 2) Setting forth the compensation and reimbursement policy for the Mayor and City Council and repealing Resolution No. 3328. RES. NO. 5707
- 3) Stating intent to apply sustainability principles in the City of Albany. RES. NO. 5708

- 4) Authorizing the Parks & Recreation Department to apply for a grant from PacifiCorp Foundation for general operating support of the 2009 River Rhythms Concert Series and the 2009 Northwest Art & Air Festival and authorizing the Parks & Recreation Director to sign the application. RES. NO. 5709
- 5) Accepting the abstract of votes regarding the ballots cast in the state of Oregon general election held Tuesday, November 4, 2008, regarding candidates for City of Albany offices. RES. NO. 5710
- 6) Approving an additional capital expenditure from the Police Department.
- 7) Approving a liquor license for Grocery Outlet, Inc., 1950 14<sup>th</sup> Avenue SE.
- 8) Accepting the Bulletproof Vest Partnership Grant from the U.S. Department of Justice that reimburses jurisdictions up to 50 percent of replacement expenses for bulletproof vest. RES. NO. 5711
- 9) Accepting an easement from Robert K. and Elizabeth K. Alexander. RES. NO. 5712

Christman asked to pull item 3) for discussion.

MOTION: Konopa moved to adopt the Consent Calendar with item 3) removed for discussion and replacing item 5) with the updated resolution on the dais. Christman seconded the motion and it passed 6-0.

Christman reviewed some questions about specific language in the resolution.

MOTION: Christman moved to approve item 3). Reid seconded the motion and it passed 6-0.

#### Award of Bid

##### WL-09-03, Ninth Avenue and 24<sup>th</sup> Avenue Water Line Replacement.

Public Works Director Diane Taniguchi-Dennis said that the City received a bid protest because the low bidder didn't include their corporate seal. Staff believes this to be a minor irregularity and they are asking the Council to waive the minor bid irregularity and award the bid. Delapoe said the City traditionally waives minor irregularities.

MOTION: Konopa moved to waive a minor bid irregularity and award the contract in the amount of \$77,439 to the low bidder, Kamph Construction Company, Inc, of McMinnville, Oregon. Collins seconded the motion and it passed 6-0.

#### Report

##### Deciding whether to accept an offer by Oregon Department of Transportation (ODOT) Rail to fund crossing improvements on Water Avenue in return for closure of other at-grade crossings in Albany.

Transportation Systems Analyst Ron Irish explained that staff held a neighborhood meeting. At the meeting everyone liked the idea of closures and there were discussions about which ones.

Reid doesn't want to give away crossings.

City Manager Wes Hare said the proposal was made in response to the Wheel House project. There are four crossings that are being closed and in return improvements will be made at Main Street and Jackson Street. ODOT Rail had concerns about the franchise with Burlington Northern. There are alternative routes in the neighborhoods where the crossings would be closed. If the Council chooses not to do this, Hare said staff will be back to square one regarding who has to pay for developments. The benefits appear to outweigh the costs.

Olsen asked, will they be open to pedestrians? Irish said yes.

More discussion followed.

MOTION: Collins moved to accept an offer by ODOT Rail to fund crossing improvements on Water Avenue in return for closure of Chicago Street and Burkhart Street or Columbus Street (to be decided later). Konopa seconded the motion and it passed, 4-2, with Reid and Olsen voting no.

#### BUSINESS FROM THE COUNCIL

Public Works Director Diane Taniguchi-Dennis said staff will have a full accounting of costs regarding the leaf pick up program to the Council.

Olsen asked if Allied Waste would be willing to reduce charges now that fuel costs are lower. He would like staff to look into the possibility.

Bedore said he would be out of town December 3-8.

Albany City Council Regular Session  
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Hare explained that the new Library colors were chosen by the architect and a fair amount has already been spent. Considering the amount of interest in the community, if the Council feels it needs to be changed, Hare suggested to leave the color decision to the anonymous donor.

There was Council consensus to defer to the anonymous donor as to the colors for the outside of the new Library.

Delapoer said that given that PepsiCo is not coming and they were the prime indicator for moving forward on the 53<sup>rd</sup> Avenue project, he is suggesting the Council terminate the project and not move forward. No urban renewal district is necessary. There is no need for modifications to the urban renewal plan and terms regarding the settlement with Granada Land Company are no longer an issue.

MOTION: Konopa moved to authorize the City Manager to enter into a settlement agreement with Workers for a Livable Oregon and Granada Land Company which will require the City to terminate the Urban Renewal project in return for a dismissal of the appeals. Reid seconded the motion.

Hare said this takes away justification to form the district with Pepsi moving out.

VOTE: A vote was taken on the motion and it passed 6-0.

Hare mentioned that the City didn't get "burned" on the PepsiCo project because of the Council holding their position and the good work done by Delapoer. The City will come out ahead.

Johnson thanked Hare and Delapoer for their work on the project.

RECESS INTO EXECUTIVE SESSION TO DISCUSS REAL PROPERTY TRANSACTIONS AND TO DISCUSS CURRENT LITIGATION OR LITIGATION LIKELY TO BE FILED IN ACCORDANCE WITH ORS 192.660 (2)(e) and (h)

The Regular Session was recessed into Executive Session at 8:30 p.m.

RECONVENE

The Regular Session was reconvened at 9:30 p.m.

There was direction from the Council to have a staff report regarding the current YMCA site brought to a City Council Work Session.

NEXT MEETING DATE

The next Regular Session is scheduled for Monday, December 8, 2008, at 7:15 p.m.

ADJOURNMENT

There being no other business, the meeting was adjourned at 9:37 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, CMC  
City Clerk

Stewart Taylor  
Finance Director