

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, December 17, 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 (via speaker phone), Bessie Johnson, and Jeff Christman

SCHEDULED BUSINESS

Legislative Public Hearing

DC-03-08/HI-11-08, amending Albany Development Code to add 78 additional properties to the Monteith National Register Historic District.

Bedore opened the Legislative Public Hearing at 7:17 p.m.

Planner II Anne Catlin delivered a Power Point presentation (in agenda file) and explained the changes to the Monteith District. She said there was no testimony at the Landmarks Advisory Commission hearing and no correspondence from the citizens in the boundary area. Currently it is hard to tell where the boundaries are. These changes would correct that and amend the Monteith Historic District boundaries to include 78 resources and officially designate them on the Local Historic Inventory. Staff took time to ensure there was support for pursuing the changes. There has been little to no opposition. Staff has received phone calls from people in the proposed area that wanted to be in the district. Catlin explained the review criteria as presented in the agenda memo.

No one else wished to testify.

Bedore closed the Legislative Public Hearing at 7:25 p.m.

City Attorney Jim Delapoer read for the first time in title only "AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE AND ZONING MAP, BY AMENDING THE DEVELOPMENT CODE TEXT RELATING TO THE HISTORIC DISTRICT BOUNDARY MAPS (FILE DC-03-08)."

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

Delapoer read the ordinance as second time in title only.

MOTION: Reid moved to adopt the ordinance. Councilor Konopa seconded the motion and it passed 6-0 and was designated Ordinance No. 5707.

Bedore said that 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.

Final Decision

SD-07-07, Fabian Estates, LUBA remand of City approval of a Subdivision Tentative Plat that would divide a 4.52-acre parcel of land into 11 residential single-family lots.

Planning Manager Don Donovan explained that there was some confusion regarding the tree felling. Staff believes that the applicants thought it was for any size tree. He explained the additional condition of the felling of a maximum of up to three trees over eight inches. Staff believes that is what the Council wanted. He suggested the Council adopt the condition as shown on the green paper on the dais (in agenda file) and include a condition regarding the eight inch trees because of the additional finding that, "there is evidence in the record that the area along the existing drainage way located along the west boundary of the Fabian Estates property is an important area of vegetation and wildlife habitat."

COUNCILOR EXCUSED: Councilor Olsen hung up from the meeting because of a poor phone connection.

MOTION: Councilor Christman moved to approve with conditions, the Subdivision Tentative Plat that will divide a 4.52-acre parcel of land into 11 residential single-family lots (Fabian Estates). This City Council approval is an affirmation of the Council's December 12, 2007, decision to approve that was appealed to LUBA and remanded to the City (LUBA No. 2007-262). The motion is based on the staff report dated November 5, 2008, the Supplemental Findings dated December 10, 2008, testimony presented at the public hearings, and the amending motion. Councilor Johnson seconded the motion.

There followed discussion regarding trees.

AMENDING MOTION: Reid moved to approve the additional finding and that prior to construction of the approved storm drainage system, the developer of the Fabian Estates subdivision must submit to the City's Public Works Department documentation of the existing ground elevations, trees, and other vegetation in the area of proposed storm drainage construction. The area must be restored to the pre-construction condition after construction of the storm drainage system. The conditions to be documented and restored are limited to ground elevations, trees, and other vegetation. All trees in the construction zone must be protected except for those trees approved to be removed by a Site Plan review and tree felling application. This motion makes clear that "trees" as referred to in the conditions references only trees over eight inches in diameter. Collins seconded the motion and it passed 5-0.

VOTE ON ORIGINAL MOTION: A vote was taken on the original motion and it passed 5-0.

Amending the fee schedule for certain building division fees.

MOTION: Collins moved to adopt the resolution amending the fee schedule for certain building division fees and repealing Resolution No. 4534. Christman seconded the motion.

Reid doesn't think the resolution sufficiently supports the current department.

Collins said sustaining the department is not impacting any tax monies currently. The Council will face issues regarding supporting the department during the budget process.

Reid believes they won't be able to present a balanced budget for the 2009-2010 Fiscal Year.

Community Development Director Greg Byrne said staff is scheduling a meeting in January, at a work session, to provide the Council with more information and discussion regarding financial support of the Building Department.

Johnson said she doesn't support the idea of losing any staff.

Christman agrees that the issue needs to be dealt with in the context of budgeting for the next fiscal year.

VOTE: A vote was taken on the motion and it passed 4-1, with Reid voting no, and was designated Resolution No. 5715.

Business from the Public

Mike Quinn, 4455 Sunset Ridge Drive, said he received a letter from the City denying his request to be on a City Commission because he isn't a resident. He believes that although he doesn't live within the city limits, he is considered a resident as that word is defined by the dictionary. If not, he believes the Municipal Code and City Commission rules should be changed to reflect that members must live within the boundaries of the City and not just state that a member must be a resident of the City. The Code clearly requires that the Council be within the city limits, but not Commission members. He believes he is a resident of the City of Albany.

City Attorney Jim Delapoer said that City of Albany Resolution No. 5678 states that Commission "...appointees shall be residents of the City of Albany." The common meaning within this resolution is that the appointee is someone that lives within the City limits.

Quinn said the Council should change the wording.

Mark Azevedo, 1210 Skyline Drive, said he doesn't always agree with the Council's decisions, but wished them luck with the upcoming year.

First Reading of Ordinances

Amending Albany Municipal Code Title 10.06 to comply with federal regulations regarding the industrial pretreatment program and declaring an emergency.

City Attorney Jim Delapoer read for the first time in title only “AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE TITLE 10.06 TO COMPLY WITH FEDERAL REGULATIONS REGARDING THE INDUSTRIAL PRETREATMENT PROGRAM, AND DECLARING AN EMERGENCY.”

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

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

MOTION: Reid moved to adopt the ordinance. Konopa seconded the motion and it passed 5-0, and was designated Ordinance No. 5708.

Repealing Ordinance No. 5424, Albany Municipal Code Chapter 5.14 concerning taxicabs; and declaring an emergency.

City Attorney Jim Delapoer read for the first time in title only “AN ORDINANCE REPEALING ORDINANCE NO. 5424, ALBANY MUNICIPAL CODE CHAPTER 5.14 CONCERNING TAXICABS; AND DECLARING AN EMERGENCY.”

Joel Fosdick, 521 SE Madison Street, Apt. B, said the City should have regulations for taxi cabs. Neither the state, nor the county regulates taxicabs. The City regulation is similar to code enforcement as it is a consumer protection. When a citizen sends their 89 year old mother or 16 year old daughter in a taxicab, they know that taxicab is insured. They will know the driver is not some fly-by-night person who came to town and set up a taxicab business because Albany had no business license requirement. Other cities such as Portland, Salem, Eugene, Corvallis, and Lebanon all have some sort of regulation. It would be wrong to remove this protection. Yes, it does take staff time. The City isn't losing any money on this and it may be preventing people from getting hurt.

Collins asked, under current regulations a taxi company must file with the Secretary of State's office; does that put it under other regulations concerning the drivers? Fosdick said the City of Albany requires a copy of that filing along with insurance information. It is a filing with the Corporation Division of the state for the name of the business. There are no other regulations. He added that sometimes they are asked to cooperate with the Police Department to identify other taxis and taxicab drivers.

Christman asked, does the City do any kind of follow up? Finance Director Stewart Taylor said currently there is no follow up. That is one of the reasons for this recommendation. The City does no back ground checks nor checking of driver licenses. The current ordinance doesn't address passenger safety.

Delapoer said his department is not burdened by the regulations, but he would recommend that the City get in the regulation business or get out of it. He believes this ordinance gives the impression to the public of a level of protection that is not being done. He believes if the City chose to regulate more stringently, there would be substantial enforcement costs. Staff's concern is that they are simply providing a license based on liability insurance coverage.

Jill Petreny, 2120 SE Main Street, with Pacific Cab, said the insurance company will not insure the business, if they have a criminal record. They will not give taxi insurance. That is some protection.

Taylor said the insurance certificate does have an expiration date and there is a renewal requirement.

Konopa said she remembers quite a few meetings over this ordinance. She understands that the City could possibly have more regulations. Delapoer said before this ordinance, the City did have more regulation, but wasn't enforcing them.

Johnson feels the City needs to have regulations and thinks that small insurance protection is worth it. She supports the ordinance.

City Manager Wes Hare said there is a certain amount of responsibility required by our ordinance, but the City doesn't want to give the impression that we are providing more regulation than we actually are.

Reid asked, how many hours are spent by staff on taxicabs? Taylor said those staff members are not in his department, they are in Parks & Recreation. He doesn't know the number of hours.

Reid would like to know the hourly obligations, because as long as the insurance companies are requiring a Department of Motor Vehicle check, there is some protection. If we get into the taxi business, that would require including the Police Department. He would consider looking at more stringent regulations.

Collins said the insurance requirement at least assures vehicle safety, which is one case for public protection. He would support a stiffer ordinance.

Johnson asked if the taxicab companies were regulated by the state in any way.

Kyle Reese, 8106 Jefferson Avenue, said he has been in the taxi business since 1990. The City used to regulate more stringently. The state doesn't regulate for cabs that carry five passengers or less. Insurance companies fax the City of Albany if an insurance lapses or a payment gets skipped on a vehicle. Once the City is notified, they are supposed to notify the Police Department, who then stops the vehicle. This was the intent of the City sticker.

Konopa also agrees with Collins and would like this brought to a work session. She agrees that there needs to be a certain level of regulation.

CONSENSUS: There was Council consensus to have the ordinance come to a Council Work Session for a report and review.

Adoption of Resolutions

Adopting City of Albany Financial policies.

This item was postponed to a joint meeting with the Budget Committee on January 26, 2009.

Responding to Comcast's notice and authorizing the City Manager to commence franchise renewal negotiations with Comcast.

Taylor explained that this resolution brings the City in compliance with the Federal Communication Act.

MOTION: Reid moved to adopt the resolution responding to Comcast's notice and authorizing the City Manager to commence franchise renewal negotiations with Comcast. Collins seconded the motion and it passed 5-0, and was designated Resolution No. 5716.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) November 12, 2008, City Council Meeting
- 2) Authorizing the City of Albany Parks & Recreation Department to apply for an NRPA Achieve Healthy Communities Grant from the National Recreation and Park Association. RES. NO. 5717
- 3) Authorizing the City of Albany Parks & Recreation Department to apply for a Recreation Trails Program Grant. RES. NO. 5718
- 4) Initiating the vacation of Willamette Avenue NE.
- 5) Authorizing the Fire Department to accept \$11,859 from the 2008 State Homeland Security Grant Program. RES. NO. 5719
- 6) Authorizing the Fire Department to accept \$91,155 from the 2008 State Homeland Security Grant Program. RES. NO. 5720

MOTION: Konopa moved to adopt the Consent Calendar as presented. Reid seconded the motion and it passed 5-0.

BUSINESS FROM THE COUNCIL

Collins suggested the Council consider a policy for a "Visiting Councilor" similar to the policy in Salem. The "Visiting Councilor" could participate in discussion, but not vote.

Christman asked staff to schedule a discussion regarding a "Hearings Officer."

Taylor said the Council would receive financial policies, financial trends, and a five-year forecast at the January 26, 2009, Joint Work Session with the Budget Committee.

Council and staff thanked Mayor Dan Bedore for his term of office and encouraged him to continue to participate in City governance.

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

The Regular Session was recessed into Executive Session at 8:32 p.m.

Albany City Council Regular Session
Wednesday, December 17, 2008

RECONVENE

The Regular Session reconvened at 10:01 p.m.

NEXT MEETING DATE

The next City Council Work Session is scheduled for Monday, January 12, 2009, at 4:00 p.m., in the Municipal Court Room. The next Regular Session is scheduled for Wednesday, January 14, 2009, at 7:15 p.m., in the City Council Chambers.

ADJOURNMENT

There being no other business, the meeting was adjourned at 10:02 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, CMC
City Clerk

Stewart Taylor
Finance Director