

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
Wednesday, March 11, 2009  
7:15 p.m.

**MINUTES**

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Konopa led the pledge of allegiance to the flag.

ROLL CALL

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

SPECIAL PRESENTATION

Parks & Recreation Department receiving awards from the Oregon Festivals & Events Association.

Scott Ingalls, Ingalls & Associates, said that several of Albany's festivals, events and volunteers were recognized for being outstanding at the recent Northwest Festivals and Events Conference in the state of Washington. Albany competed with cities in both states for the Ovations Awards. He presented the awards. The River Rhythms Concert series held each summer at Monteith Riverpark received the best festival or event award with a budget under \$150,000; The Procession of the Species was picked as Oregon's best new festival for 2008; The Albany Parks & Recreation Department's sports program won the most innovative marketing piece or campaign; The Northwest Art and Air Festival received the award for best music program with a festival; ATI Wah Chang was named sponsor of the year; and Charlie Eads, the owner and general manager of KGAL/KSHO Radio in Lebanon, was the volunteer of the year.

SCHEDULED BUSINESS

Communication

Approving the Albany Farmers' Market request to use the City Hall parking lot for the 2009 market season on 32 consecutive Saturdays starting April 18 and ending November 21.

City Manager Wes Hare explained the value of the market at that location.

MOTION: Councilor Christman moved to approve the Albany Farmers' Market request to use the City Hall parking lot for the 2009 market season on 32 consecutive Saturdays starting April 18 and ending November 21. Councilor Collins seconded the motion and it passed 6-0.

Public Hearings

Determining the assessments against properties specifically benefited by the removal or cutting of noxious weeds and vegetation pursuant to the provisions of the Albany Municipal Code Sections 7.84.160-7.84.180, providing for the docketing of assessments of City liens, and declaring an emergency.

Konopa opened the public hearing at 7:38 p.m.

Staff Report

Fire Marshal Michael Trabue said that there are four properties that the City cannot recover costs on and will need to have liens put on them.

No one else wished to speak.

Konopa closed the public hearing at 7:39 p.m.

City Attorney Jim Delapoer read for the first time in title only "AN ORDINANCE DETERMINING THE ASSESSMENTS AGAINST PROPERTIES SPECIFICALLY BENEFITED BY THE REMOVAL OR CUTTING OF NOXIOUS WEEDS AND VEGETATION."

MOTION: Councilor Reid moved to have the ordinance read again in title only. Christman 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. Chrisman seconded the motion and it passed 6-0 and was designated Ordinance No. 5711.

Amending the fee schedule for certain Building Division fees.

Konopa opened the hearing at 7:40 p.m.

Staff Report

Building Official Manager Melanie Adams presented a Power Point explaining the history of fee changes and the requested change (in agenda file).

Hare mentioned that just two years ago the Building Department had considered buying the building they are currently going to vacate. Also, the department has cut some positions.

Community Development Director Greg Byrne reviewed some commercial building activities that the Building Department is involved in, saying that the department still has plenty of work. He reviewed other reductions already implemented in the department.

Christman asked, is the revenue estimate generated from a 20% increase in fees based on today's activity? Will this increase generate the monies needed to cover your expenses? Byrne answered that the increase will generate about \$100,000 for the next fiscal year but they will need additional reductions in spending and services to cover expenses.

Christman asked, is the 20% increase distributed evenly between commercial and single family? Byrne said it is a flat increase across the board on each of the permit types, as Council requested.

Collins asked, is it possible to have a split increase? Adams said whatever the Council feels is appropriate they can implement, but it would be challenging to accomplish this in the near future because of the use of the Permit Tracking program and the need to program calculations into the data base.

Public Testimony

Bill Root, 2634 NW Valley View, was concerned about the timing of the increases. He feels it sends the wrong message to the public.

Tony Nova, 1886 Bloom Lane, said that in the last 15 years he has supported fee increases, but in the current economic situation it is impossible to support an increase. He praised the Building Department, but said it is the wrong time and sends the wrong message that the City is not concerned about the housing market in Albany. There are a lot of people being laid off in the private sector and it is possible that the City needs to make those decisions too. He has heard from people more about this raise in fees than any other increase in the past. Linn County put a moratorium on their fees and he suggested the City consider a local stimulus package by putting a moratorium on System Development Charges (SDC) for six months. If SDCs were reduced or eliminated for a period of time, he doesn't believe anyone would be opposed to a Building Department fee increase. He suggested the moratorium be on residential only.

Councilor Coburn asked, do you think the raise is warranted but just bad timing? Nova feels it is bad timing and if they have already used their "rainy day fund", other cut-backs should be considered.

Collins asked, if there was a moratorium on SDCs, how would that impact inventory out there already? Nova said it makes new construction homes more affordable. Remodels and new additions are also required to pay SDCs. He is talking mainly about custom homes, not subdivisions.

John Robinson, 2500 Del Rio Court SE, a small General Contractor, said he has met with the Mayor and Mr. Byrne, and is still opposed to the raise in fees. He suggested that the Building Department consider stronger enforcement in collection of current fees already on the books, like water heater replacement fees. He asked the Council to consider a regional approach to building inspection; the counties and cities could pool services. The Linn County waiver of fees for two months can stimulate the economy. He also liked the idea of eliminating the SDCs on infills. He said he wants to offer suggestions and everyone will need to consider out-of-the-box solutions. Raising the fees will not solve the problem.

Michael Quinn, 4455 Sunset Ridge Drive, was concerned that the reserve had been used already. He doesn't believe that a 20% increase in fees will be sufficient and the department will be asking the Council for more. He too supports the SDC moratorium. He said he is one of a very few building affordable housing in Albany and the City should be supporting that type of building. He also suggested the City use local builders for projects being considered from the federal stimulus package.

No one else wished to speak.

Konopa closed the hearing at 8:33 p.m.

Collins asked, what effect will putting a moratorium on SDCs have? Public Works Director Diane Taniguchi-Dennis said if the Council makes a policy decision to not collect SDCs, then rates will have to support the entire debt service. It could work for a short period of time, if you want to stimulate the economy. It is a policy decision.

There followed a discussion regarding SDC fee and Economic Development fee policies, and the process required to make changes.

Councilor Johnson said hindsight is 20/20. In her opinion, now is not the right time to raise the fees. She would like staff to get the Building Department the money they need to complete this budget year, and then take the discussion to the Budget Committee. She asked, does it have to be a fee based department? She believes they have done everything they can do, but she can't support raising the fees.

City Attorney Jim Delapoer cautioned the Council to keep the discussion regarding SDCs to outside this public hearing.

Christman wants the fee changes to be part of the budget process.

Hare said there has been an issue in the department for some time and the department has been creative in maintaining service levels. When you have less money coming in, you try to correct the problem. If the City puts off raising fees, they will have to do something more dramatic, such as lay-offs, later.

Councilor Olsen doesn't want to see lay-offs. He asked, if there is a slowdown in building how are they all working? Hare said the slowdown is in residential building. Olsen suggested going on a reduced work week. Byrne said they considered a shortened work week, but would still have to pay benefits, which is a major expense.

Konopa said the City's fees are lower when compared to other cities.

Reid asked, how much will the department be short to continue to the end of this budget year? What would happen if the department laid off all but two inspectors? Adams said this year they are okay but expect to end the fiscal year with little to no reserves. If they drop any inspectors, they will have a reduction in services.

There followed a discussion regarding the reserves. They are doing better this budget year than projected, in large part because of reductions made in the department.

Reid moved to adopt the resolution with a start date of July 1. The motion died for lack of a second.

Collins agrees with having the fee discussion as part of the budget process. He asked staff to bring the proposal back to the Budget Committee during the budget process, with the General Fund underwriting the reserve for the end of this budget year at a rate to comply with current budget policy.

Hare said the General Fund will be under stress to comply with that. We are deluding ourselves to think the General Fund can solve the Building Department's problems.

Johnson said she understood that other departments may have to cut back as well.

Christman said it will depend on the level of service the Council is willing to fund and the community can accept. He gave the Parks Department as an example of exemplary service. Is the Building Department more important than the Parks Department? These are choices that the Council will have to make.

No action was taken on this item.

#### Business from the Public

Michael Quinn, 3455 Sunset Ridge Drive, suggested that permit costs be in ratio to valuation of the property. Values have gone down.

#### First Reading of Ordinances

##### Amending Albany Municipal Code Section 7.98.220 and declaring an emergency.

City Attorney Jim Delapoer read for the first time in title only "AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE SECTION 7.98.220 AND DECLARING AN EMERGENCY."

MOTION: Reid moved to have the ordinance read a second time in title only. Olsen 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. Olsen seconded the motion.

Delapoer explained that if this language had been included in the Code, it would have helped in the Fabian Estates prosecution because they said they didn't know they were violating the Municipal Code since they had acquired a state permit. That excuse will not be acceptable with this amending language.

VOTE: A vote was taken on the motion and it passed 4-3, with Christman, Coburn, and Johnson voting no. The ordinance was designated Ordinance No. 5712.

Amending Albany Municipal Code Chapters 1.04 and 1.05, General Penalty and Infractions Procedures.

Delapoer read for the first time in title only "AN ORDINANCE AMENDING MUNICIPAL CODE CHAPTERS 1.04 AND 1.05, GENERAL PENALTY AND INFRACTIONS PROCEDURES."

Delapoer explained that the ordinance changes the term used to describe offenses for a civil violation. When the City's ordinance was originally written, the term in common usage was "infraction"; the term is now "violation." They mean the same thing. Both are civil offenses which can result in a fine but no possibility of jail or criminal conviction. The violation penalty has not been increased since at least 1990, and \$500 is no longer a sufficient deterrent in many cases. Increasing the maximum fine for a violation to \$1,000 does not require the Judge to impose a fine at this level; it simply gives the Judge the discretion to do so. Increasing the maximum fine for a violation will likely increase the number of cases the City chooses to prosecute as violations rather than misdemeanors. The advantage to bringing a prosecution as a violation is that the City can avoid the cost of court-appointed counsel and a jury trial. In addition, the prosecution's proof burden is reduced from proof "beyond a reasonable doubt" to a mere "preponderance of the evidence."

MOTION: Reid moved to have the ordinance read a second time in title only. Coburn 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. Olsen seconded the motion and it passed 6-0, and was designated Ordinance No. 5713.

Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) February 11, 2009, City Council Meeting
  - b) February 16, 2009, Joint Meeting with GAPS School Board
  - c) February 23, 2009, City Council Work Session
  - d) February 25, 2009, City Council Meeting
- 2) Adopting the City of Albany Risk Management Policy. RES. NO. 5755

MOTION: Reid moved to adopt the Consent Calendar with item 1a) removed for discussion. The motion was seconded and it passed 6-0.

MOTION: Reid moved to adopt 1a) of the Consent Calendar with the spelling correction. The motion was seconded and it passed 6-0.

Award of Bid

WL-09-04, Fifth and Sixth Avenue Area Water Line.

MOTION: Coburn moved to award the contract for WL-09-04, Fifth and Sixth Avenue Area Water Line, in the amount of \$339,450 to the low bidder, Pacific Excavation, Inc. of Springfield, Oregon. Christman seconded the motion and it passed 6-0.

Personnel Request

Reclassifying recreation positions in the Parks & Recreation Department.

Hodney explained that a survey was conducted upon the employees' request and the results were this reclassification. The Human Resources Department supports the request. The Parks & Recreation Department may actually see budget savings because of no longer needing to pay overtime.

MOTION: Christman moved to approve the reclassification of three positions, two Recreation Program Specialists positions to Recreation Coordinators and one Recreation Coordinator position to Recreation Programs Supervisor. Johnson seconded the motion and it passed 6-0.

Albany City Council Regular Session  
Wednesday, March 11, 2009

BUSINESS FROM THE COUNCIL

Christman mentioned that despite the state and national economy, locally there is money to loan.

Reid mentioned that he would be attending the National League of Cities conference in Washington DC.

PAST BUSINESS

MOTION: Reid moved that the ending terms for the new members of the Hospital Facility Authority Board be staggered in the order they were appointed on February 11, 2009. The motion was seconded and passed 6-0.

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

The Regular Session was recessed into an Executive Session at 9:58 p.m.

RECONVENE

The Regular Session was reconvened at 10:34 p.m.

NEXT MEETING DATE

The next City Council Work Session is scheduled for Monday, March 16, 2009, at 4:00 p.m. The next City Council Regular Session is scheduled for Wednesday, March 25, 2009, at 7:15 p.m.

ADJOURNMENT

There being no other business, the meeting was adjourned at 10:34 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, MMC  
City Clerk

Stewart Taylor  
Finance Director