

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, May 13, 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., Dick Olsen, Bill Coburn, and Bessie Johnson
Councilors absent: Floyd Collins

PROCLAMATION

Public Works Week.

Konopa read the proclamation proclaiming the week of May 17 to May 23, 2009, as Public Works Week.

SCHEDULED BUSINESS

Communication

Accepting a report from the Human Relations Commission.

C. Jeffery Evans provided the Human Relations Commission annual report to the Council (in agenda file). He gave a brief history of the Commission and explained its mission on diversity and mental illness in the City.

Councilor Coburn said that on page 5 of the report the first item states that Director David Shaw says that the goals of diversity have been met. But items 3, 4, and 5 seem to contradict that statement. Evans said the City's goal is to mirror the current demographic. There were different perceptions within the Commission regarding that issue. They did look to the future. There may be problems in the future with private sector competition, baby boomer retirements, and finding qualified candidates.

Coburn questions what the paragraphs on page 8 of the report mean. He doesn't believe recommendations about Police profiling were part of the Commission's mission.

Councilor Johnson said that the Commission was exceeding its mission under AMC 2.25.040. She believes the report doesn't accurately reflect what the Commission was created to do. She doesn't believe the racial profiling and hiring practices information should be in the report as that wasn't the Commission's mission to give such recommendations.

Evans said they are defining their roles. They have had positive events, but in order to bring people together they need to identify the issues and validate their concerns. Sometimes they need to straddle the fence. They have heard complaints. The recommendation is that "hiring" should be planning for a change in demographics.

Councilor Christman said he was in agreement with Coburn and Johnson. He was originally against the Commission because it wasn't clear what they should do. He is concerned about the report's emphasis on Police profiling.

Councilor Olsen related an incident about a ticket that he received for not having his seat belt on. When he went to pay the fine, he was the only non person of color in line. He complemented the report.

Evans said if you have a substantial portion of the community who feel there is an issue, then there is an issue. There is a need to help those people solve that issue. He doesn't believe that validating someone's concerns is saying it is taking place. He doesn't think the report says that they believe the Police are profiling. He would ask the Council to provide more specific direction in what they want the Commission to do.

City Manager Wes Hare said that since the inception of the Commission, it has organized two communitywide events. During meetings two issues were raised. One individual came with the profiling issue and the Police Chief handled it well; with data showing that it doesn't occur here. The City is not afraid to bring these issues out into the public forum. As far as hiring minorities, the City has a policy and an affirmative action mission. The minor standard is to meet the demographics of the community as they

are now and the City is doing that. Unfortunately, attention is drawn to the controversial. Most of the meetings were very mundane.

Councilor Reid asked the Commission to highlight the community events they provide in their report next year. The Commission should stress bringing people together.

Evans was unsure if the Commission could actually sponsor events. He said they have been struggling with what their function is. If the Council feels they are going in the wrong direction, he asked them to provide more specific direction. But, they are walking a fine line. They cannot provide events to bring the community together if they do not know what in the community is pulling people apart.

City Attorney Jim Delapoer recommended that the Commission could receive the complaints such as these and then recommend responses to the concerns. Any proposal would need four votes to pass and there is not a uniformity of opinion on the Council regarding these issues. When receiving a complaint bring it to the Council with a "this is how it could be investigated or responded to" statement.

Konopa thanked Evans and the Commission for the report and coming to the meeting. Evans introduced Commission members Jodi Nelson and Nancy Greenman.

Business from the Public

Nina Barton, 823 Walnut, SW, feels there are noise and livability issues regarding Bailey's Bar & Grill. She said they are no longer servicing clientele just in the neighborhood. They have clients come from outside the neighborhood and there is too much noise at night. She is tired of complaining. She believes the neighborhood is dealing with unreasonable conditions. At first the Bar wasn't a problem, but after one year and growth, they can hear loud bar noise from the customers. They feel they are being held hostage in their own home. The indoor/outdoor patio noise cannot be controlled. It is 194 feet from Bailey's front door to a residence's front door in the neighborhood. She believes there needs to be a site review of the property. There shouldn't be a "bar" between two residential neighborhoods. There is also a traffic impact in the evenings along with a parking issue. Zoning is ES which is "light-commercial" and was suppose to serve the nearby residents. It is having a negative impact on the neighborhood. It is no longer family friendly. She believes it is diminishing home values and asked the Council to delay Bailey's liquor license. She provided a petition asking the Council to investigate the noise complaint.

Ron Grice, 690 Shannon Drive, said he only heard about this complaint this afternoon. They opened in April of 2008 and went through rapid growth. He explained his first encounter with the noise issue and the things they did to respond to it. He wants to be neighborhood friendly. They have a game plan to close the patio at 10:00 p.m. to reduce noise, arranged parking with surrounding businesses, and are willing to compromise on any other complaints from the neighborhood. The liquor license at that establishment is for five years. Though there are issues, he has had less than a week to address them. He is willing to work with the Council to do whatever needs to be done. The patio structure has been reviewed by the City's Building Department. When the City redid Elm Street, they took away all parking to put in a bicycle lane. Parking has been an issue ever since.

Konopa asked if he was willing to have the Council hold over approval of the liquor license for two weeks and have the City Manager work with him and the neighbors.

Hare explained that City liquor license approval is nominal at best. The Oregon Liquor Control Commission (OLCC) makes the decision and the City provides a recommendation.

Grice explained that the Bartons are a special case because of the location of their home. He would argue against postponement as it could jeopardize his lottery license.

Johnson doesn't see any reason to delay because it is an issue between neighbors. She said it sounds like the neighbor should have gone to the source and worked with them for a solution. She said Grice is willing to work with the Bartons so she doesn't see any reason to postpone the license.

Olsen said he believes they are staying open later than the Tom Cat used to stay open. Grice said they will be changing their hours to closing at midnight during the week. Olsen commented that the parking issue is one reason he was against putting in the bicycle lane.

There followed discussion regarding zoning and conditional use.

Coburn sympathizes with the Bartons but complimented Grice on his willingness to work with the neighbors. He thinks the two parties should work on it. He is opposed to postponing the liquor license.

Grice suggested the City stripe parking spots on Elm Street, which would allow for more parking.

Cory Barton, 823 Walnut, SW, was concerned about future situations after the Grices no longer own the business. He believes before the ES designation, because of zoning, a full liquor license had been turned

down to Café Med. They only had beer and wine. He wants a change in the zoning. He was told a Conditional Use permit had been unintentionally omitted. If done in error by the City, no one wins. He thinks a bar wasn't allowed before.

Community Development Director Greg Byrne said that zoning was changed in 2003. There was also a change in definition of restaurant and bar.

Delapoer said it is not a City function to grant or not grant a liquor license. That is the jurisdiction of OLCC. He suggested the Council direct staff to look into the issue or direct staff to mediate the issue.

Christman asked, what happens if we do not make a recommendation? Delapoer said that basically the City gives up its opportunity to comment.

Grice explained that in 1997 when Café Med opened up the requirements were different. When they were granted their liquor license, it centered on the food being offered. The food requirement is different for a full liquor license.

Ms. Barton feels the impact to the neighborhood is too great for them to continue to operate as a bar.

The Council directed staff to meet with the Grices and the Bartons to mediate a possible solution.

Adoption of Resolutions

Authorizing an increase in revenues and expenditures in the Grants Fund for the establishment of Kinder Park.

MOTION: Coburn moved to adopt the resolution authorizing an increase in revenues and expenditures in the grants for the establishment of Kinder Park. Christman seconded the motion and it passed 5-0, and was designated Resolution No. 5770.

Allowing nonelected individuals to serve as guest Councilors when an elected Councilor is absent.

There was Council discussion regarding the number of times a guest Councilor could attend, wording regarding number of guest Councilors at a specific meeting, and the limits of equal representation.

Delapoer recommend the language, "May not participate in quasi-judicial land use proceedings." be added as a bullet to the resolution.

MOTION: Coburn moved to adopt the resolution allowing non elected individuals to serve as guest Councilors when an elected Councilor is absent, with the added language as suggested by the City Attorney. Johnson seconded the motion and it passed 5-0, and was designated Resolution No. 5771.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) March 25, 2009, City Council Meeting.
 - b) April 8, 2009, City Council Meeting.
 - c) April 13, 2009, City Council Work Session.
 - d) April 20, 2009, City Council Work Session.
 - e) April 22, 2009, City Council Meeting.
- 2) Authorizing the City of Albany to apply for a U.S. Department of Energy for an Energy Efficiency and Conservation Block Grant. RES. NO. 5772
- 3) Authorizing the Albany Police Department to apply for Byrne Memorial Justice Assistance Grant funds under Federal Application Number 2009-F8597-OR-SB. RES. NO. 5773
- 4) Accepting an easement from Keller Development Company, Inc. RES. NO. 5774
- 5) Approving annual liquor licenses.
- 6) Authorizing the Fire Department to apply for funds not to exceed \$100,000 through the U.S. Department of Homeland Security Assistance to Firefighters Grant to purchase a new brush/attack firefighting vehicle. RES. NO. 5775

Christman asked for item 5) to be pulled for discussion.

MOTION: Coburn moved to adopt the Consent Calendar with item 5) removed for discussion. Reid seconded the motion and it passed 5-0.

Regarding Item 5) Christman wanted to clarify that it was his understanding that staff will clarify zoning changes in the area, work with the business and the residents to see if there are any kind of solutions, and bring some kind of report back to the Council.

MOTION: Christman moved to adopt item 5). Johnson seconded the motion and it passed 5-0.

Award of Bids

WTP-09-02, Vine Street Chemical Building Seismic Upgrades and Operator Room Remodel.

MOTION: Coburn moved to award the Vine Street Chemical Building Seismic Upgrades and Operator Room Remodel, WTP-09-02, contract in the amount of \$215,040 to Baldwin General Contracting, Inc., of Albany, Oregon. Reid seconded the motion and it passed 5-0.

WL-09-02, Fourth Avenue Area Water Line.

MOTION: Coburn moved to award the Fourth Avenue Area Water Line, WL-0-02, contract in the amount of \$293,058 to Tetra Tech Construction Services Inc., of Cornelius, Oregon. Reid seconded the motion and it passed 5-0.

Report

ST-07-03, 53rd Avenue Roadway and Bridge Improvements.

Assistant Public Works director/City Engineer Mark Shepard explained that when Gatorade notified the City that they were not going to locate their planned plant in Albany in accordance with the Development Agreement they had entered into, the design for the roadway and bridge was more than 95 percent complete. Staff believes that it would be a good investment to complete the design, obtain the required permits, and acquire some of the right-of-way needed for the project. Four property owners that the City must acquire right-of-way from had completed appraisals and started negotiations with the City. Completing acquisition of these properties would assist in making the project ready for bidding should funding become available for the project and remove uncertainty for these property owners. The larger areas of property required for right-of-way from Mr. Epping and Wilt/Plemmons will be acquired at the time that the project moves forward with identified funding. In order to be eligible for federal funding, projects must meet significant regulatory and permitting requirements outlined by the federal government. Many of these requirements are above and beyond requirements that local or state funded projects are required to meet. Staff believes that it would be a good investment to perform the additional work required to make this project eligible for federal funding. This will provide an additional avenue for potential alternative funding for this project.

Johnson agrees and believes the City should finish as much as possible in case funding becomes available.

Olsen asked if funding for these completions would come from the Transportation System Development Charges (SDC) Fund. Shepard said a portion of the project is eligible for SDC funding. Olsen was concerned that this was the best use of SDC funds.

Olsen asked, are we going to be required to close Ellingson Road? Shepard said yes, the City has a crossing order from the Oregon Department of Transportation (ODOT) requiring the Ellingson Road railroad crossing to be closed.

Olsen asked, how long do the permits last? Shepard said there are two permits, the wetland permit is for five years and the other has no deadline.

Olsen said he was concerned about the possibility that the recession will continue and nothing will happen with the road. Shepard said there is some risk.

Reid asked about the "tracks" bridge requirement. Shepard said the bridge spans the Union Pacific right-of-way and should accommodate whatever Union Pacific puts in their right-of-way. Reid feels Union Pacific should be paying more than the five percent. There is a precedent for it. Shepard said, we can try.

MOTION: Coburn moved to authorize completing the project design, permitting, a small property right-of-way acquisition, and that the investment be made to make this project eligible for federal funding. Johnson seconded the motion.

Reid believes that Albany has been lacking in having sites available in order to move quickly forward. He supports the motion.

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

BUSINESS FROM THE COUNCIL

Reid will be absent at the Wednesday, May 27, 2009, Regular Session of the City Council.

Hare said the Safe Routes to School Committee has been working with the school district regarding Oak Elementary School and the elimination of one of the bus routes to create of a safe path to school. The collaboration has been very successful so far.

Reid asked if the temporary fence on 36th.Avenue was up. Public Information Officer/Management Assistant Marilyn Smith said it has been up for a week. Johnson commented that there some issues regarding students jumping the fence, but the neighborhood felt those would be resolved.

Police Chief Ed Boyd discussed a site being considered for a new Police Station. He explained that the site includes buildings currently occupied by Weyerhaeuser Corporation, located on Pacific Boulevard. The ingress and egress for Police cars isn't the best but is workable. The location is good, seismic issues aren't a problem, and there is lots of room for future expansion. The site contains approximately 7.21 acres.

RECESS INTO EXECUTIVE SESSION TO DISCUSS NEGOTIATIONS FOR REAL PROPERTY TRANSACTIONS IN ACCORDANCE WITH ORS 192.660 (2)(e)

The Regular Session was recessed into an Executive Session at 9:40 p.m.

RECONVENE

The Regular Session was reconvened at 10:07 p.m.

NEXT MEETING DATE

The next Regular Session of the City Council is scheduled for Wednesday, May 27, 2009, at 7:15 p.m., in the City Council Chambers, of City Hall.

ADJOURNMENT

There being no other business, the meeting was adjourned at 10:07 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, MMC
City Clerk

Stewart Taylor
Finance Director