

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
Wednesday, August 12, 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

Guest Councilor Bill Root 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

Guest Councilor: Bill Root (A Guest Councilor is nominated by a Councilor who will be absent from a meeting and approved by the Council. The Guest Councilor can participate in discussion, but does not have a vote.)

PROCLAMATIONS

Everybody's Neighborhood Day

Mayor Konopa read a proclamation declaring Monday, August 31, 2009, as *Everybody's Neighborhood Day* (in agenda file).

Association for Motorcyclists of Oregon Day

Mayor Konopa read a proclamation declaring Saturday, September 19, 2009, as *Association for Motorcyclists of Oregon Day* (in agenda file).

SCHEDULED BUSINESS

Business from the Public

Byron Hendricks, 1220 20<sup>th</sup> Street, Salem, spoke regarding Chapter 11.060 of the Albany Development Code (ADC). He asked the Council to consider a definition of a tentative subdivision approval extension process and include a process in the Code. He believes that Albany is the only city in Oregon without an extension process. He said it is important to recognize the economic changes that have happened with the recession and how it has affected construction.

Councilor Christman asked, how are these types of suggestions going to be dealt with? Planning Director Greg Byrne said that staff intended to bring this issue back to the Council later this evening. This section is not part of those that the Council will be considering tonight.

Mark Grenz, Multi/Tech Engineering Services, Inc, 1155 13<sup>th</sup> Street, Salem, said that currently there is no extension process in the ADC. He provided a letter (in agenda file) to the Council that included new proposed language. Language in the letter is similar to the one that is used in the city of Salem. Salem is considering extending their tentative subdivision approvals from two to three years, with two extensions, because of the difficulty of finding property that isn't wrapped up in some sort of financial problem. He believes the City will see a lot of land use applications that are going to expire, and the Code needs an extension.

Christman asked, are there any projects that have expired recently or closed? Byrne said Hendricks has one that will probably expire in November.

Councilor Olsen asked, are there reasons for not wanting to allow extensions? Byrne said yes. Changes are coming in both Community Development and Public Works that will affect planned communities and some individual properties. Approvals applied before the changes are generally not bound by the new changes.

Olsen asked, if I had a one year extension on a project and the rules changed, would my project have to change? Byrne answered that it would depend on what the Council would want to include as a part of policy. If the change is significant enough, the Council could decide to apply the changes.

City Attorney Jim Delapoer said it is not simple. Whether a Code change is significant is up for discussion. If the Council wants to act on this, they need to direct staff to bring this forward.

Christman would like to see staff, with this one issue at least, take a look at options and bring something back to the Council before Hendricks' approval expires. Byrne surmised that it would take at least two months to bring this forward.

Delapoer was concerned about it taking longer than two months.

Root suggested not making a change. He said the economy is driving this change and the economy is in an unusual situation.

Councilor Reid said this is similar to the water extension outside of the City. Staff has been asked by one councilor to see if it can be put in by the November deadline.

There followed more discussion.

MOTION: Councilor Coburn moved to direct staff to review Development Code Chapter 11.060 as it relates to extensions of subdivisions and bring a recommendation to the Council. Councilor Johnson seconded the motion.

Coburn asked, would it take more time to grant an extension and go through that process or would it be longer to spend time going through the approval process again? Byrne said it depends on the language of the extension.

Johnson said it sounds like other cities have extensions. Because the economy has slowed, there may be many reasons for subdivisions not being able to meet their time line. An extension would recognize the current state of construction.

Byrne mentioned that with extensions, as new laws are passed the new laws do not apply to those projects with extensions; with the proposal presented, it could be as long as seven years.

Olsen asked, when an applicant has to go through the process again, do they have to pay fees again? Byrne said yes.

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

Jo Rae Perkins, 1033 Maple Street, commented on the petition signature gathering incident at Monteith Park last Thursday. She thanked the City for allowing signature solicitation in the park. She also wanted to encourage the Council to review the federal health plan, read the entire plan, and feels they would not want to support it. It is a volatile topic. She doesn't believe it is prudent for the Council to discuss this issue.

Edith Orner, 2054 54<sup>th</sup> Avenue SE, representing a health care reform group, spoke in support of health care reform. Neither of the resolutions on the agenda were what they brought forward to the Council. The one they had asked the Council to consider was to support a broad study of options for health care reform. It included single payer options. She said local support of health care reform makes a difference. They would encourage the Council to support one of the resolutions on the agenda.

#### Adoption of Ordinance

Levying a charge under the provisions of Chapter 10.16 of the Albany Municipal Code for an in-lieu-of assessment for interceptor sewer for property described as Tax Lot 1600 of Parcel 10S-04W-25, and declaring an emergency.

MOTION: Johnson moved to adopt the ordinance levying a charge under the provision of Chapter 10.16 of the Albany Municipal Code for an in-lieu-of assessment for interceptor sewer for property described as Tax Lot 1600 of Parcel 10S-04W-25, and declaring an emergency. Christman seconded the motion and it passed 5-0, and was declared Ordinance No. 5719.

#### Second Reading of Ordinance

DC-02-09, considering proposed amendments to the Albany Development Code regarding Articles 1, 2, 9, 11, and 12.

City Attorney Jim Delapoer read for a second 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 RELATED TO THE EXPIRATION OF HISTORIC REVIEW APPROVALS, LAND USE APPLICATION CONTENTS, VARIANCE AND ADJUSTMENT REVIEW CRITERIA, ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS TO BE IN COMPLIANCE WITH OTHER CODES AND LAWS, ADOPTING FINDINGS, AND DECLARING AN EMERGENCY (FILE DC-02-09)."

MOTION: Coburn moved to adopt the ordinance. Christman seconded the motion.

Olsen commented that starting on page 47 of the agenda there is discussion regarding public improvements, some of which are approved by Planning staff and some by the Hearings Board. He is concerned about those that come to the Council, acting as the Hearings Board. He used Sanitary Sewer, page 63, as an example because sanitary sewer and storm drainage in North Albany have been an issue before the Council in the recent past. He asked if the Engineering staff or the Planning staff would be making a decision on the "feasibility" of a preliminary sewer plan for a development. He said he was using this as an example of an issue coming to the Council for their determination if something is appropriate. Public Works Director Diane Taniguchi-Dennis said this language is to determine and clarify what level of detail is necessary. In the example that Olsen was using there were gaps of information provided by the development engineer for the subdivision that resulted in that subdivision being approved without adequately addressing the fill of a drainage furrow.

Olsen asked if at some point staff brings a plan to the Planning Commission. Byrne and Taniguchi-Dennis explained the process. Olsen said he was concerned about the public not having a chance to comment. Byrne and Dennis reassured the Council that public input happens before the Planning Commission and when the Council is acting as the Hearings Board.

There continued to be discussion regarding the role of the Land Use Board of Appeals (LUBA) and the Fabian Estates project. Byrne explained that part of the problem with the LUBA decision was that LUBA interpreted requirements for a "plan" differently than staff.

Olsen said his main concern was for neighbors to be able to bring information forward that could influence a decision.

Coburn asked, how does Article 1, Section 1.080 (1), page 12 of the agenda, relate to approval of a tentative subdivision? Byrne said the land use approval and the subdivision approval work together.

Planning Manager Don Donovan agreed, saying there is another section in Article 11 and the two work together.

VOTE: A vote was taken on the motion and it passed 5-0, and was designated Ordinance No. 5720.

#### First Reading of Ordinance

Levying assessments against property specifically benefited by sewer and water connections and the assessment of sewer, water, parks, and transportation System Development Charges for property described as Tax Lot 4700 of Parcel 11S-03W-17AA and site address 2479 Bain Court SE, and declaring an emergency.

City Attorney Jim Delapoer read for the first time in title only "AN ORDINANCE LEVYING ASSESSMENTS AGAINST PROPERTY SPECIFICALLY BENEFITED BY SEWER AND WATER CONNECTIONS AND THE ASSESSMENT OF SEWER, WATER, PARKS, AND TRANSPORTATION SYSTEM DEVELOPMENT CHARGES FOR PROPERTY DESCRIBED AS TAX LOT 4700 OF PARCEL 11S-03W-17AA AND SITE ADDRESS 2479 BAIN COURT SE, AND DECLARING AN EMERGENCY."

MOTION: Reid moved to have the ordinance read a second time in title only. Coburn seconded the motion and it passed 5-0.

Delapoer read the ordinance a second time in title only.

MOTION: Coburn moved to adopt the ordinance. Christman seconded the motion and it passed 5-0, and was designated Ordinance No. 5721.

#### Adoption of Resolutions

Konopa suggested that the first two resolutions be discussed together. The Council agreed.

Encouraging comprehensive national health care reform.  
Supporting the Administration's health care reform principles.

Root said that Councilor Collins called him and said that he would be in favor of the Council having a full debate on this issue. He would be in favor of the first resolution, encouraging national health care reform, but not the other resolution.

Christman was concerned that he or other Council members haven't read the Federal bill. He said a lot of rumors are not true, but he doesn't like what he has read so far. He is not in favor of either resolution.

Olsen said there are two or three proposed bills, but no overall proposal. These resolutions ask the Congress to do something about health care. Most people cannot afford health care. He gave examples of stories he heard while running for office.

Coburn said he doesn't believe this is a City issue. He agrees there are several bills circulating. He is not in favor of the City passing one of these resolutions.

Johnson believes that something needs to be done and thinks the first resolution is pretty generic. It lets Congress know that they support some sort of change.

There continued to be discussion about the resolutions.

Johnson moved to table the discussion on these resolutions to the next Council meeting. The motion died for lack of a second.

No action taken on the resolutions.

Adopting an intergovernmental agreement for Call-a-Ride Paratransit service between the City of Albany and Linn County.

MOTION: Coburn moved to adopt the resolution adopting an intergovernmental agreement for Call-A-Ride Paratransit service between the City of Albany and Linn County. Reid seconded the motion and it passed 5-0, and was designated Resolution No. 5818.

Establishing parking restrictions within the Bridle Springs Subdivision.

Transportation Systems Analyst Ron Irish said that staff contacted residents, a screen copy of the map was sent to them, and they explained the narrow streets and the current parking conditions. They received seven responses, with only two opposed to restricting the parking. They also spoke with the Homeowners Association.

MOTION: Coburn moved to adopt the resolution establishing parking restrictions within the Bridle Springs Subdivision. Johnson seconded the motion and it passed 5-0, and was designated Resolution No. 5819.

Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) June 22, 2009, Work Session.
  - b) July 8, 2009, City Council.
  - c) August 3, 2009, City Council Executive Session and Work Session.
- 2) Applying for a state of Oregon Department of Environmental Quality 2009 Solid Waste/Recycling/Household Hazardous Waste Grant to improve recycling efforts at events. RES. NO. 5820
- 3) Accepting easements and right-of-way dedication deeds from:
  - a) William and Kathryn McKinley, variable width access easement. RES. NO. 5821
  - b) Layne and Kimberly Westberg, 18-foot wide right-of way dedication. RES. NO. 5822
  - c) Layne and Kimberly Westberg, 15-foot wide slope easement. RES. NO. 5823
  - d) Gary and Patricia Davenport, variable width right-of-way dedication. RES. NO. 5824
  - e) Gary and Patricia Davenport, 10-foot wide utility easement. RES. NO. 5825
  - f) Riverside Cemetery Association, 20-foot wide sanitary sewer easement. RES. NO. 5826
  - g) 1901 13<sup>th</sup> Avenue, LLC, sanitary sewer easement. RES. NO. 5827
  - h) 1901 13<sup>th</sup> Avenue, LLC, 20-foot wide sewer easement. RES. NO. 5828
  - i) Jean Leone Lovell Trust, 20-foot wide sewer easement. RES. NO. 5829
  - j) Samaritan Albany General Hospital, 20-foot wide sewer easement. RES. NO. 5830
- 4) Authorizing the City Manager to sign an intergovernmental agreement with the Oregon Department of Transportation (ODOT) for safety improvements along Highway 99E.
- 5) Appropriating a special purpose grant of \$19,000 from the Oregon Community Foundation for the Library. RES. NO. 5831

City Manager Wes Hare explained that ODOT asked to have item 4) removed from the agenda. Staff will bring it to the Work Session on August 24, 2009.

MOTION: Christman moved to adopt the Consent Calendar with item 4) removed. Coburn seconded the motion and it passed 5-0.

Approval of Change Order

ST-09-06-A, ADA ramp updates and sidewalk infill, approving a construction contract increase to D&D Concrete & Utilities Inc., in excess of ten percent.

Coburn asked, how long ago was the work completed? Civil Engineer III Chris Cerklewski said it was completed in mid June. The City has paid them as much as possible up to the 10 percent.

MOTION: Coburn moved to approve a construction contract increase to D&D Concrete & Utilities, Inc. in the amount of \$29,466 for additional work. Reid seconded the motion and it passed 5-0.

BUSINESS FROM THE COUNCIL

Discussing the City's participation in the National League of Cities Transportation Committee

Reid explained that he was able to reduce his expenses associated with going to the two meetings in Washington DC. He mentioned that at the meetings he would be working with new authorizations for local transportation issues.

There followed discussion on how representation on these committees benefits the City in securing funding for transportation and utility projects.

MOTION: Coburn moved to approve travel expenses for Councilor Reid. Johnson seconded the motion and it passed 5-0.

Other business from the Council

Christman said that at the original Work Session that included the ODOT agreement, there was discussion about getting a map that showed all the projects going on in the area, including potential projects. He would like staff to bring something like that as part of the discussion on August 24<sup>th</sup>.

Christman mentioned that at the end of Geary Street, part of the Federal stimulus money was used to construct an Americans with Disabilities Act (ADA) ramp to cross the street. Going north after using that ramp crossing, the sidewalk stops. Going south after using that ramp crossing, there is another ramp very close. He thinks the City should be aware of where the ramps are being placed. Dennis said that they are continually looking at conductivity and sidewalk in-fill, and will take a look at that area.

Root wanted to thank Collins for allowing him to sit-in for him. He now has more respect for what the Council has to do.

Olsen asked if there was a change of policy regarding allowing signatures to be gathered during the concerts in the park. Hare said there was a change of policy. Signatures can be gathered and Parks & Recreation personnel can ask people to leave because of disruptions

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

The Regular Session was recessed into an Executive Session at 9:28 p.m.

RECONVENE

The Regular Session was reconvened at 10:20 p.m.

NEXT MEETING DATE

The next Work Sessions of the City Council are scheduled for Monday, August 17, 2009, at 4:00 p.m., and Monday, August 24, 2009, at 4:00 p.m., in the Municipal Court Room of City Hall. The next Regular Session of the City Council is scheduled for Wednesday, August 26, 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 10:21 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, MMC  
City Clerk

Stewart Taylor  
Finance Director