

CITY OF ALBANY
CITY COUNCIL
SPECIAL SESSION
Council Chambers
Monday, September 28, 2009
4:00 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 4:00 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Konopa led the pledge allegiance to the flag.

ROLL CALL

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

Councilors absent: None.

SCHEDULED BUSINESS

Business from the Public

There was no business from the public.

Considering a new intergovernmental agreement (IGA) proposal from ODOT at Pacific Highway 99E improvements

City Manager Wes Hare said the City has been consulting with ODOT for 1.5 years on this project. At the September 23, 2009, Council meeting the Council rejected an ODOT proposal. Following the Council's rejection, staff met with ODOT to discuss alternatives that would address the specific concerns at Main Street and Pacific Boulevard. Hare then requested tonight's Council meeting. Time is urgent because ODOT plans to take this project to bid in the next week or two. ODOT became involved because crossovers at Main Street through Pacific Boulevard have resulted in the highest incident rate for t-bone accidents in the state of Oregon. This is a safety concern for Albany citizens.

Hare said if the Council can't reach an agreement on the scope of the project, ODOT will do the improvements within the ODOT right-of-way (ROW) only, which will consist of the restriping of Pacific Boulevard. Any money remaining would then be applied to overlays in the area. Hare noted that the money is specific to this area so it cannot be used elsewhere. ODOT's concern is that allowing traffic to make a right turn from Main Street onto Pacific Boulevard is enough of a safety concern that they do not feel justified in putting any more money into that portion of the project.

Hare said staff considered making Main Street a one-way, with approaches that look like a driveway into the business on the corner. After further consideration they realized that the disadvantage would be that it would not deter crossovers from Main Street through Pacific Boulevard. Using signage is not enough protection and would also complicate access to Randy Tripp's property on Sherman Street.

Hare said, he has been asked why the City shouldn't just accept ODOT's proposal for striping. He explained that doing so would mean the City would lose needed street improvements that ODOT was willing to pay for. If we do not make changes, the traffic crossovers from Main Street and Sherman Street likely will continue. There is potential liability for the City, if the City does not follow the ODOT proposal.

City Attorney Jim Delapoer noted that possible victims at this intersection fall into two categories: those who disregard signage and cause t-bone accidents; and those whose vehicles are hit. Victims in the second category could make a claim against the City, arguing that the City had the crash data, were aware of the problem, and did not take reasonable steps to resolve it. Delapoer did not offer an opinion on a traffic design, but he cautioned the Council that if the City does nothing, there could be litigation as a result of future accidents – especially given the press this project has received.

Hare said Transportation Systems Analyst Ron Irish has a design concept to present to the Council. Hare praised Irish for thinking outside of the box to find a solution.

Irish presented a map with the new design (see agenda file). He described that the access to Main Street is identical to what ODOT included in the proposal presented at the last Council meeting. Irish's idea is to have a portion of the City's ROW made available to Tripp as a trade for the loss of access to the property. The concept is to make the road two lanes with one lane northbound, and to make the west half of the ROW available to Tripp for other purposes, such as redevelopment through a vacation, or utilization by adjoining properties under an agreement with the City.

Irish said Tripp and his attorney, Roger Reid, have reviewed the sketch and agreed to it. It has also been presented to ODOT and they have accepted it.

Irish said that since ODOT's improvements would be the same under this new scenario, the agreement that was before the Council at the September 23, 2009, Council meeting, could be approved tonight, and then the other improvements could be made in the future.

Councilor Bessie Johnson asked, what kind of barrier would there be to prevent a right turn onto Pacific Boulevard? Irish said the curb and gutter in front of Tripp's property, which is currently being rented by Izzy's Limousine Pizza, would be extended.

Councilor Jeff Christman asked, who pays for changes to Main Street? Irish said that generally, when properties redevelop they pay for street improvements. In this case the use of the property is being exchanged for limited access and some ROW is being granted back, but who pays for improvements has not been decided and would be up to the Council. Christman clarified that the only difference between tonight's proposal and what the Council considered at the last meeting, is that the City is giving up ROW. Irish said yes; the property owner seems willing to accept the use of the extra land to offset the loss of access to his property.

Councilor Bill Coburn asked Hare to reiterate ODOT's position as he described in his opening comments. Hare said, ODOT would not accept a right-turn only on Pacific Boulevard as part of this project, since this is a safety project. They would not be willing to contribute to City streets for a project that would not improve the safety of Pacific Boulevard. Thus, they would limit their contribution to the scope of the project.

Coburn asked why Main Street is critical to ODOT, since there is traffic weaving all along Pacific Boulevard and vehicles cross over using other streets too. Hare said ODOT views the weaving as interrelated and have already made concessions for the City by not insisting on the closure of Sherman Street and Main Street. They can accept a right-turn only from Main Street, but allowing traffic to exit at that point continues to create a safety issue. Irish said that ODOT's concern is that using signage only, or installing "porkchops", to discourage crossovers doesn't actually prevent drivers from physically attempting a crossover. Thus ODOT is willing to allow a right-turn onto Main Street, but are unwilling to allow a right-turn from Main Street onto Pacific Boulevard.

Coburn asked, how is crossing at Main Street different than crossing at Madison Street? Irish said there is a traffic signal at Hill Street which allows gaps in traffic whereas on Main Street, since it is further away, the gaps are too small. Coburn asked, if Oak Street is put through and signalized, would that eliminate the problem? Irish said yes, if the signal created enough gaps in traffic.

Coburn asked the status of installing four signs at the Sherman Street and Main Street intersections. Irish said the intersections are under ODOT's jurisdiction so any restriction to turning requires the approval of the state traffic engineer, even if it involves a local jurisdiction. ODOT will forward the proposed signage to the state traffic engineer. Irish said they anticipate approval.

Johnson asked if the City can provide an easement for the portion of land that Tripp will be allowed to use, rather than just giving it away. She is concerned that would set a precedent. Discussion followed.

Johnson asked, who pays for the driveways? Irish discussed several options. He noted the City already had the problem, independent of the proposed ODOT improvements.

Delapoer said that in the Council's decision tonight, they cannot commit to vacating a portion of the road because it is a public process requiring a public hearing. The Council can, however, provide use of the ROW through an encroachment permit. Encroachment also involves a separate legal process but does not require a public hearing.

Councilor Floyd Collins is concerned that if a signal is put in at Oak Street in the future, they may want to reverse the traffic flow. The City should retain the ROW on the west side of Main Street for that purpose.

Roger Reid, 135 SW 5th Street, Albany, wished to speak. Reid represents Tripp. He thanked Hare, Irish, and the Public Works Director for meeting with him and his client. Reid says he and his client realize there is a problem and they want to resolve it. They have been citizens of Albany for many years. They have concerns about Irish's plan but think the concept is workable and it is better than the other proposal. They are willing to sit down and work out a street design. They would like fee-simple title for the property that is taken out of the west side of Main Street. To Collins comment about a signal at Oak Street in the future and the possible change in traffic flow, Reid said they would be willing to do a vacation and would convey the property back. They want to be able to develop it. The City would be protected with a vacation. Regarding the sidewalks, curb, gutter, and paving on the vacated portion, Reid believes ODOT should pay for it and also foresees that the City should make amends for a portion. After all, his client has agreed to give up his right to access Pacific Boulevard. The current tenant rents from month to month. If Tripp loses Izzy's Limousine as a tenant, they do not know who will be next so they need to maintain the right to access Pacific Boulevard; but, Reid explained, they are willing to compromise with reasonable access north onto Main Street.

Roger Reid said he and Tripp believe that ODOT should pay for improvements from Pacific Boulevard to 7thAvenue. He also wants reasonable driveways into Tripp's property. He thinks this can be negotiated.

Roger Reid said he wants some assurance that if he and Tripp agree to this concept, that the Council will cooperate when they work out sidewalks, etc., to try to preserve the value of the property. He also thinks there should be signs on 7th Avenue and Main Street to direct drivers to Hill Street. He said they want to be protected from losing their investment. They can live with this concept, and want cooperation from the Council in return. He thinks that citizens should not have to pay for improvements to Main Street.

Christman recalled that at the last Council meeting, Roger Reid explained his client's concern was that if the access from Pacific Boulevard was cut off, then it wasn't a matter of if, but when, Izzy's Limousine would go out of business. Reid said, yes. Christman asked, so then how does this new design change that, since access will still be lost? Reid said he thinks Tripp may be reducing the rent to accommodate the tenant. Christman said, but the basic concept does not change the impact to the business, which is Tripp's complaint. Reid said yes, that is true, but they think this is the least invasive alternative.

Roger Reid said he hopes they can work out who will pay for what. In the future if Tripp sells the property, he can get more money for the extra land, which makes up for the loss of potential as a result of losing the access.

Delapoer said that what Roger Reid is suggesting is like a "gentleman's agreement" to the outcome of a quasi judicial process. He said, the Council cannot do that. The item before the Council tonight is the ODOT proposal in the form of an intergovernmental agreement (IGA). He clarified that the Council needs neither Reid nor Tripp's consent to approve the IGA. He explained further that with a vacation of a street in the public ROW, the property goes back equally to both sides. He said, the City doesn't have experience with this so they will have to consider how it would work. Also, an encroachment permit that can be revoked at anytime is not binding.

Roger Reid said he agrees with Delapoer's assessment of a "gentleman's agreement". He said, but since Tripp is making concessions, ODOT should as well.

Councilor Dick Olsen believes Pacific Boulevard has changed from a thriving area to a wasteland. This proposal will add to its decline. He also has a problem with vacating half of a street. He intends to vote no.

Randy Tripp, 2601 Umatilla Street, Albany, wished to speak. In response to Christman's question about the sustainability of Izzy's Limousine, Tripp explained that his tenant bought the franchise for \$200,000. He works long hours and has his family working there too, yet is barely hanging on. Tripp agreed to loan him the money for the franchise and the tenant will pay him back over a longer period of time, thus reducing his payments to less than half of what they were. Tripp also reduced the rent 20 percent. Tripp said he doesn't want to lose this tenant; they have been there for 20 years. He agrees that there is no change to access between the plan introduced at the last Council meeting and the plan being proposed tonight, but by reducing his tenant's payments he hopes the business will continue to operate.

Coburn asked how wide Main Street is and if it can accommodate delivery trucks turning off Pacific Boulevard onto Main Street. Irish said it lacks curb and gutter on the west side. He thinks it is about 40 feet. Coburn asked, if part of the street is vacated, what is the remaining width? Irish said the one-way portion of the street would probably be about 14-16 feet, and the two way portion would be between 24 and 26 feet wide. Irish described the changes to the parking lot and landscape for Izzy's Limousine and for the house behind the business.

Collins said there is a major safety concern at Sherman Street and Main Street and it is incumbent on the Council to find the least obtrusive solution for businesses. If the Council can accept the proposed plan as an alternative for the next several years, then he is in favor of it. But he wants to retain the ROW on Main Street while allowing businesses to use it under an encroachment permit. He wants to save the ROW for possible future use.

Roger Reid said that in order to get this matter settled, his client, Tripp, is willing to accept the encroachment permit.

Christman is concerned that Roger Reid has asked for consideration of who pays for improvements, but the Council can't decide any of that. The only thing before the Council tonight is the IGA with ODOT. Irish suggested that the Council direct staff to develop a conceptual street plan for this area in order to provide some assurance to the property owners of the Council's intentions and to serve as a guideline for conditions, should any properties redevelop.

MOTION: Councilor Ralph Reid moved to authorize the City Manager to finalize the IGA with ODOT for Pacific Boulevard (which includes the right-turn-only from Main Street onto Pacific Boulevard and improvements related to Sherman Street). Johnson seconded the motion.

Coburn said he is opposed to the motion. He thinks the City should be able to put in signs and consider the results. He thinks this design will have unintended consequences.

VOTE: A vote was taken and the motion passed 4-2, with Olsen and Coburn voting no.

Hare suggested that staff return with a proposal including two basic principles: that Roger Reid and Tripp negotiated in good faith; and to recognize that the Council is interested in granting use of the property. The proposal would also include a schedule and several options for improvements.

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Councilor Ralph Reid wants ODOT to provide an accessibility study from Hill Street to I-5 so the City can assess what to do in the future. He said ODOT should be able to tell the City what to expect. Hare said staff will also ask ODOT to participate financially towards the improvements to Main Street. Olsen suggested that rather than asking them to participate, they may be more successful if staff presents ODOT with a plan for participation instead.

BUSINESS FROM THE COUNCIL

Johnson noted that the Senior Center was awarded \$10,000 from Red Canoe Credit Union by getting the most votes from the community. Johnson congratulated Recreation Programs Manager Katie Nooshazar for her hard work encouraging the community to cast their votes for the Senior Center.

NEXT MEETING DATES: Work Session, October 12, 2009
 Regular Session, October 14, 2009

ADJOURNMENT

There being no other business, the meeting was adjourned at 5:18 p.m.

Respectfully submitted,

Mary A. Dibble, MMC
Deputy City Clerk

Reviewed by,

Stewart Taylor
Finance Director

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