

CITY OF ALBANY
CITY COUNCIL (WORK SESSION)
Municipal Court Room
Monday, May 11, 2009
4:00 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 4:04 p.m.

ROLL CALL

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

Councilors absent: None.

BUSINESS FROM THE PUBLIC

There was no business from the public.

GOAL 5 UPDATE

Planner III Heather Hansen gave an update on Goal 5. In 1997 Periodic Review started and inventories of wetlands and riparian corridors were completed in 2000. Wildlife habitat was a component of those inventories, but it was not assessed comprehensively. A seven member Natural Resource Advisory Committee was formed and met during 25 meetings over 18 months to develop recommendations. The co-authors presented their report at a joint meeting of the Planning Commission and City Council, at which staff was directed to proceed with drafting Comprehensive Plan and Development Code language.

Hansen said that in December 2003 the whole project was tabled in response to a property rights ballot, a takings case, and a senate bill for periodic review which interpreted that Goal 5 is not required. Staff has recently verified that Goal 5 is still required, and applied for a Department of Land Conservation & Development (DLCD) grant for the technical work since the previous product is now outdated. Albany received the DLCD grant and hired Pacific Habitat Services. They are nearly done with their report and will be presenting a summary on June 10, 2009. The grant expires June 30, 2009. This marks the end of the data collection phase.

The next step is to look at alternatives for implementing Goal 5. Part of the grant requirement is that the Council passes a resolution to have staff move forward with the implementation phase. Staff plans to discuss what the options are with the Council in July.

Konopa said there was discussion about reconnecting with the original task force. Hansen said staff has contacted most of them; many were still frustrated with how it ended the first time so chose not to get involved again, although they did ask staff to keep them apprised of the progress. They will be notified of the meeting dates.

Community Development Director Greg Byrne explained that the resolution is to accept the grant only; it does not involve giving further direction at this time. In retrospect, staff realized that part of the problem with Goal 5 the last time was that the Council did not give direction at the front end of the project. This time, Byrne said, we would like to involve the Council at the beginning. Staff would like guidance from the Council before we start drafting ordinances.

The next date Goal 5 will be discussed is June 10, 2009, and then again in July at a date to be determined.

Councilor Floyd Collins said, the buildable lands inventory is less than it was when we originally established the Urban Growth Boundary. He asked, if we move types of land around, when will we have to move the boundaries to include buildable lands? Collins said, wetlands used to be buildable, but not anymore. The rules have changed substantially and in some cases, require replacement properties.

Councilor Dick Olsen stressed the importance of having the task force members included in this new discussion. Hansen suggested sending them a formal invitation and the Council was agreeable.

CONVEYING LINN COUNTY CANAL PROPERTIES NEAR LEBANON TO THE CITY OF ALBANY

Public Works Director Diane Taniguchi Dennis introduced Special Projects Coordinator Claudia Zahorcak. Zahorcak's current role is to programmatically bring all the canal pieces together including operation, maintenance, permitting, capital projects, and right-of-way (ROW) needs.

Zahorcak said she has become aware of three properties owned by Linn County next to the canal which have become available. The three unimproved, open bank, properties are less than one acre total. Also there is a house under construction along the canal where berms are being cut down. An adjacent property owner wants to start cutting down berms as well.

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Collins asked, are there bridges in place? Zahorcak said there is just one private bridge in this area. The City is using the bridge for repair work with the permission of the owner.

CONSENSUS: The Council consensus was to agree with the future conveyance to the City of Albany of Linn County canal properties near Lebanon.

Councilor Bill Coburn arrived at 4:23 p.m.

Councilor Bessie Johnson asked, are there other small parcels along the canal that the county owns? Zahorcak said she can search for other county properties available for purchase. These three are technically outside the city boundaries.

City Manager Wes Hare noted that staff has spent a lot of time researching ownership along the canal.

City Councilor Ralph Reid publicly acknowledged Zahorcak's work, which has been fruitful yet stressful. Johnson agreed.

KINDER PARK POWER SERVICE EASEMENT

Parks & Recreation Director Ed Hodney said staff is prepared to ask Pacific Power to establish power service to Kinder Park. The City will need an easement to do that. Typically this request would come to the regular City Council meeting scheduled for Wednesday rather than a Work Session but Hodney believes that with the Council's approval today, the extra two days would allow for power to be connected much quicker. Pacific Power didn't give the City a contract until just last Tuesday. Hodney said, this is not an emergency; staff just wants to move as quickly as possible in order to gain two extra days.

Konopa said that the design of Oak Street has not been finalized. She asked, if we decide to preserve residential parking and have to give up ROW to do so, will this easement work? Hodney said the easement itself would be fine, although the power poles might need to be moved since the new service will be underground.

MOTION: Collins moved to adopt the resolution as presented and Reid seconded it. The motion passed 6-0 and was designated Res. No. 5769.

STORMWATER PRACTICES, PLANNING, AND FUTURE REGULATIONS

Assistant Public Works Director/City Engineer Mark Shepard said today's presentation is a team effort and will include updates from Assistant City Engineer Jeff Blaine, Water Quality Control Supervisor Chris Bailey, and Planning Manager Don Donovan.

Shepard said stormwater crosses multiple departments and impacts three of the four themes in the Strategic Plan: Healthy Economy, Great Neighborhoods, and Safe City. Stormwater regulations impact the Albany Municipal Code (AMC) and the Albany Development Code (ADC) among other City documents. Staff will set the stage and give an overview of what to expect in future discussions about Albany's stormwater.

Shepard used an overhead which gave a clear visual of the various inputs and outputs of Albany's stormwater (see agenda file).

There are multiple drivers bringing stormwater to the forefront: the NPDES MS4 permit, Willamette River Total Maximum Daily Load (TMDL), Development, and Stewardship. The filters for these drivers are: the ADC, the AMC, Design Standards, Fill Permits, Sewer/Water Master Plans, Erosion Prevention Sediment Control Program (EPSCP), and Standard Maintenance Practices. Finally, the two departments impacted will be Public Works (Engineering, Environmental Services, and Operations) and Community Development (Planning and Building). The goal is twofold: water quality and flood management. Shepard said all of the pieces are important in order to make this work.

Collins asked, are the NPDES and MS4 both state permits? Shepard said yes. Albany is a Phase 2 community; we have delayed a stormwater program for 15 years already. The drivers are state and federal regulations. Our population and location on the Willamette River are driving this as well.

Collins said it is important to explain to the community that a stormwater program is not the City's idea; it is required and we have already delayed as long as possible. It will have an economic impact but we don't have a choice.

Hare said, another issue is that there is an evolving standard for stormwater treatment with new emphasis on doing away with curbs and gutters, and using swales and non-pervious surfaces instead. We are dealing with a moving target in this complex picture of stormwater management.

Shepard referred to the table on page 2 of the staff report, which outlines the timeline and funding impact related to each issue. Staff is also seeking Council consensus about changes in the fill permit.

Donovan discussed Proposed Development Code Changes as outlined in the staff report.

Donovan said he represents the area of development related to stormwater. He said, one reason we need to work on the ADC is to establish engineering detail in stormwater drainage plans. A recent example of why we need to set standards is the recent Fabian Estates development which resulted in the Land Use Board of Appeals (LUBA) decision that the storm drain had to be approved by the City Engineer. Donovan assumes the Council would prefer not to look at the engineering details on a case by case basis but would rather have staff evaluate pipe sizes, slopes, etc. and establish a set of standards. Changes to the ADC require Planning Commission and City Council approval. Another ADC change would be to facilitate adequate review of the stormwater impact to neighboring properties.

Reid asked, would the changes include System Development Charges (SDCs)? Donovan said that would be the responsibility of Public Works. Public Works Director Diane Taniguchi Dennis described what each department would be responsible for.

Reid is concerned about covering the cost of the stormwater system maintenance. Taniguchi-Dennis said, typically a user fee is established. Reid asked, can existing facilities be attached to stormwater and be charged a service fee? Taniguchi-Dennis said that if there is additional capacity for growth it can be built in as part of the SDC-R, but the operation to maintain it would have to be a rate rather than a fee, similar to rates structures for water and sewer service. Operational costs would not be a SDC component. Reid is concerned about homes along creeks and assumes the cost will come back to those in the basin. Taniguchi-Dennis said that establishing user fees based on a particular basin would be highly complicated and is a divergence from what the Council set for water and sewer rates in the past. Discussion followed about rate structures and how the cities of Corvallis, Eugene, and Salem charge for stormwater.

Collins said it should be stressed to the community that many other cities have been charging for stormwater maintenance for 35 years already, and that it is being driven by state and federal regulations. It is not necessarily associated so much with our population size as it is with the fact that Albany discharges to the Willamette River.

Konopa likes the idea of identifying stormwater as a separate cost on utility bills in order to get customers acquainted with the new service, and then eventually increasing the rate. It would be an effective way to communicate with citizens.

Coburn said, it seems the City would be the biggest contributor based on our streets. Shepard clarified that stormwater includes runoff from roof tops, yards, sump pumps, etc. that are plumbed to the storm drain. We could do regional detention and treatments and may find it unnecessary to increase capacity. But, we will need to make water quality improvements. Our Stormwater Master Plan will help us to evaluate costs, plans, and strategies.

Coburn asked, is there something the users can do to reduce rates? Taniguchi-Dennis said that some communities make allowances for rain gardens, which are small detention basins. We have found that they do dramatically reduce discharge; but Albany's soil is hydric soil rich. We have lots of clay so it would make it more difficult. There are ways to offset it, but it will require some research. Another "green" solution being used by communities are impervious sidewalks, but Albany's soil may not be conducive to that.

Blaine discussed proposed fill permit changes as outlined in the staff report.

Changes to fill permit requirements would come back to the Council as revisions to the AMC. The changes are not a result of regulations, but rather from the concerns raised by citizens during different types of development activities such as subdivisions, and fill or excavation activities related to development of a single large lot. These changes would allow citizens more opportunity to comment on fill activities and would give the City more authority to act on violations. Fill cannot be a criteria in land use decisions. Blaine said a concern the development community might have would be the extra time it would take for the public comment period when it gets to the construction plan review phase. Blaine thinks that the fill permitting process could be initiated at the same time as the land use review, so that all public comment could happen at the same time and would not cause a delay to the project.

Collins noted that much of Albany's drainage issues occur outside the Urban Growth Boundary, so it would be useful if they had similar fill regulations as the City.

Konopa asked, will staff make site visits to verify topography during site plan review? Blaine said yes, staff does that already during the land use review and again during the engineering plan review process. Staff also follows the activities through construction to make certain they are consistent with the approved plans. Staff's goal is to identify issues early and deal with them proactively. We have been doing it this way for a few years and it seems to have worked successfully.

The fill permit process provides opportunity for neighbors to comment on activities that may impact their property. Neighbors within 360 feet are notified of the project by mail.

Staff will bring revised fill permit information in the future.

Blaine discussed the Stormwater Master Planning and SDCs as outlined in the staff report.

Blaine said the City's existing plan was done in 1988 and didn't include an analysis of North Albany. A master plan specific to North Albany was started in 1992 but not completed. Master plans are generally completed in 10-year cycles. Since the current plan is outdated it is difficult for staff to respond to development questions. Staff needs a

master plan level of analysis to understand all the inter-related parts of the basins and how they respond to rain events. Staff began data collection last summer. A hydraulic model has been started. Data collection is continuing this summer and analysis of the existing system should begin soon. Future policy and planning discussions with the public and the Council will be required.

Blaine said currently there are no stormwater SDCs. Before a stormwater SDC can be established, a viable project list must be adopted. Staff can produce a viable project list following the completion of the Stormwater Master Plan.

Blaine discussed Stormwater Quality Requirements as outlined in the staff report.

Blaine said that the City hasn't yet adopted water quality standards for new developments. However, water quality facilities were sometimes voluntarily constructed by developers to satisfy neighbors. Now, the City is faced with regulatory requirements to consider water quality and incorporate these facilities in our private and public development projects. Public Works and Community Development staff will work together to define what they think are acceptable water quality options for Albany and to identify ADC implications such as additional ROW necessary for bioswales.

Bailey discussed Regulatory Requirements as outlined in the staff report.

The Federal Clean Water Act is the source of the regulations. We are already dealing with two 1200 Z permits, one for the Airport and one for the Wastewater Treatment Plant. The TDML permits dictate what Albany must do for every pollutant in every river that exceeds the federal maximum. For Albany it is related to bacteria, temperature, and mercury, and is reported annually. Recently Albany and some other cities were specifically called out because we are on the cusp of being permitted under the MS4 Phase II program. Bailey said Albany is now required to do the six water control measures as outlined in the staff report.

Bailey said the MS 4 Phase 2 permits did not give specific numerical limits initially; rather, Albany will set up our own benchmarks which we are then required to meet. An annual report includes education, outreach, and enforcement. It is time consuming and full compliance will be required for Albany by 2012.

Coburn asked, what is the source of the mercury? Bailey said most is attached to sediment that is in runoff. Mercury is toxic to fish and travels up the food chain. There are mercury mines in the southern part of the valley.

Taniguchi-Dennis added that the Department of Environmental Quality (DEQ) regulates point source discharges into the Willamette River. They will soon require Albany to also include monitoring and controlling non point-source pollution within our community. If we can have much of this in place by 2012, we will be ahead of the game. We are being proactive now to build a good system and keep cost down, although it will still be an expensive program.

Blaine noted that erosion prevention and sediment control is an important piece to mitigate the runoff. There are Best Management Practices (BMP) that address control measures to prevent erosion from wind and rain, and then runoff from rain leaving the site. Albany has done some of this but an area we need to expand further is regulation for single family resident (SFR) construction. Our lack of developed standards and enforcement ability has caused us to fall behind the standards, although we have tried working individually with builders when we can. The goal is to work collaboratively with building permit activity. Conceptually, the process for permitting has been identified and work has begun on documentation. Review of the internal process will be next, followed by public outreach this summer. The program should be complete in October 2009.

Coburn noted that the traffic in and out of the construction site for a new credit union on Pacific Boulevard is tracking mud onto Burkhart Street. He asked if the City has any enforcement options. Blaine said there are federal regulations, and this program will help to build those into the structure. Coburn asked for staff to visit the construction site.

Collins said, insisting on compliance would be adding to the cost of building in a competitive market, but builders need to be held to these standards anyway. Blaine said they are already aware of the standards because staff often hears the comment that they didn't think those rules were enforced in Albany. The goal is for builders to know they must follow the standards in Albany as well.

Environmental Services Manager Herb Hoffer said that a 1200c permit is required for construction greater than one acre. This is required by the state and we also have prohibitions in the AMC. We do have tools already; the enforcement piece can be addressed with some rewording in the AMC.

Taniguchi-Dennis summarized that the goal for the stormwater program is to move from reactive to proactive.

COUNCILOR COMMENTS

Councilor Jeff Christman said he has a scheduling conflict on June 8, 2009, the same work session that the Hearing Officer position is scheduled for. He asked if that item can be moved to another date. The Council agreed.

Regarding the street sweeping program, Coburn wants information about the schedule, number of sweepers, and number of employees performing the service. Staff said that information is on the City's website.

Olsen asked why there are jackhammers taking out the corners at 6th Avenue and Broadalbin Street. Staff replied that the sidewalks are being redone to be in compliance with American Disability Act (ADA) standards. Also 6th Avenue was scheduled to be overlaid and as part of that project, the curbs will be brought up to ADA compliance. Collins said, there is a new electronic measuring device that measures for exact ADA requirements. Staff said that the City's sidewalk design specifications have been changed to 1.5 percent to be in compliance. Collins noted that the Building Department is willing to come out and measure sidewalks at construction sites before the concrete is poured.

Konopa said that Linn County Commissioner Will Tucker provided her with a copy of the agreement between the City and Linn County for the Expo Center. Konopa said Tucker referred to a section that said Linn County agrees to provide short-term marketing, and that is the reason Tucker feels marketing is now the City's responsibility. Konopa asked for the Council's permission to respond on their behalf that the Council disagrees with Tucker's interpretation. Hare said he has had several contacts on this issue from the Linn County Board members and others in the community. Hare said Tucker has already turned in a grant application and is expected to attend the next meeting of the Budget Committee. The Council recalled that the Albany Visitor Association (AVA) asked for excess transient room tax revenue two years ago to fund a position which would specifically market the Expo Center; so the City has already made a substantial contribution. Discussion followed.

Reid said that a few years ago he asked Linn County to evaluate having a transient room tax on the county level, and they chose not to. They were running \$400,000 out of the General Fund to support the Expo Center. At that time, they had large timber tax receipts. Reid said he also suggested they submit a request to market the Expo instead of AVA marketing for them. His point is, that Linn County has had opportunities to make their presentations but they failed to step up. Now that the County is financially challenged, they are seeking relief from the City. Reid said, it is too late; they had their chance and didn't take it. He was on the Fair Board at one time and it was eventually changed to the Expo Board.

Christman said that he is currently on the Expo Advisory Board. For about two years the Board did not meet at all because of lack of leadership. They did meet three weeks ago for the first time in two years, and did review the bi-laws and schedule future meetings. Christman said this is a new group of people and at the meeting they discussed the need for the Expo Center to be self-sufficient. Discussion followed.

Reid commented that in recent years the rapport with the Linn County Commissioners has improved.

CITY MANAGER REPORT

Hare just attended the National Summit on Childhood Obesity and facilitated a session at their request. Albany has been recognized for its partnership with the school district and their joint effort for the Safe Routes to School project and their collaboration in the permitting and construction of the new school on Knox Butte, as well as Olsen's efforts to keep Central School open. Hare said that a key point made at the conference was that at a time when we have literally shut down a country over the swine flu epidemic which has a fairly limited scope, we have ignored the epidemic of childhood obesity which costs more lives and much more money.

ADJOURNMENT

There being no other business, the Work Session adjourned at 6:32 p.m.

Respectfully submitted,

Mary A. Dibble, MMC
Deputy City Clerk

Reviewed by,

Stewart Taylor
Finance Director