

CITY OF ALBANY
CITY COUNCIL
Council Chambers
333 Broadalbin Street SW
Wednesday, January 27, 2010
7:15 p.m.

AGENDA

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE TO THE FLAG

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

SCHEDULED BUSINESS

Communication

Accepting Ron Bentley's resignation from the Public Safety Commission.

MOTION: Councilor Johnson moved to accept Ron Bentley's resignation from the Public Safety Commission. Councilor Coburn seconded the motion and it passed 6-0.

Public Hearings

Considering a supplemental budget.

Finance Director Stewart Taylor explained that staff was asking the Council to hold the public hearing and, provided there are no changes, to reaffirm the adoption of the resolution that was passed at the previous meeting. The resolution was adopted before holding the public hearing in error.

Konopa opened the public hearing at 7:17 p.m.

No one wished to speak.

Konopa closed the public hearing at 7:18 p.m.

MOTION: Councilor Collins moved to reaffirm Resolution No. 5873 establishing appropriation authority for the Wetlands Treatment Project. Councilor Reid seconded the motion and it passed 6-0.

Supporting an application to the Community Development Block Grant (CDBG) Program for a housing rehabilitation project.

Planner II Anne Catlin explained that funding for the CDBG Program comes from the US Department of Housing and Urban Development and the only eligible entities are cities and counties. The City can apply for these funds through the Oregon Housing and Community Services Department. The program focuses on assisting low and moderate income needs in the Albany area. The City applies for the funds and then passes them to the subgrantee. Specifically, tonight staff would like the Council to hear about any community projects eligible for the funds so Albany could apply on their behalf. Potential projects include regional housing rehabilitation of owner occupied low income housing, public works improvements, community public facilities, regional housing centers, etc. Community Housing Services, a division of Community Services Consortium (CSC), is a regional housing center and is here tonight to request funding. In 2009 the City received \$400,000 in CDBG funds for the Regional Housing Rehabilitation Program. The City mailed notice to agencies and heard from the Boys & Girls Club and Albany Area Habitat for Humanity about potential projects.

Councilor Christman asked, did the \$400,000 to the regional group require a City match? Catlin said no match. Christman said, the City puts its name on the grant but funding is distributed regionally.

Councilor Reid asked what the revolving loan fund balance was. Catlin explained that the rehabilitation of existing, owner-occupied houses are through no interest loans that are repaid when the property changes hands. Have already served eight and expect 10-12 more with current funds.

Tom Hatley, 532 SW Calapooia Street, representing CSC said the Regional Housing Rehab Program is administered through Community Housing Services. They have been running grants through this program

for 20 years. They expect to serve about 20 houses with deferred loans from the current grant. Typically it gives lower income homeowners an opportunity to fix substandard issues in their homes with licensed and bonded professionals. Loans are administered out of the CSC office. They get a couple of bids and follow the entire process to the final payment. The state requires collaboration and one of the entities is the lead applicant. Funds flow through the City or county and every jurisdiction has a representative on the policy committee. They had 46 loans in the past three years totaling around \$823,000. They currently have approximately \$2 million in the revolving loan fund portfolio. Turnover is down about five percent. They are hoping to apply for another \$400,000 through the CDBG Program. There has always been a lot of interest in the program.

Konopa opened the public hearing at 7:32 p.m.

Scott Schular, 303 Putnam Street, Brownsville, spoke on behalf of Albany Area Habitat for Humanity (AAHfH). They support the grant application. He explained that they are a licensed and bonded construction builder. Until last year their focus was on new homes for the low income and on the remodeling of homes that had been returned to their housing inventory. That has changed. They now have an owner occupied rehabilitation program as well, and have hired a construction manager to lead both programs. They want to be an active partner in the CDBG program and are ready to go to work.

No one else wished to speak.

Konopa closed the public hearing at 7:35 p.m.

Responding to a question, Catlin explained that the City is the grant applicant and the funds have to go to the regional housing center. AAHfH can be a contractor on their list. Homeowners can choose AAHfH as their contractor. The money wouldn't go directly to AAHfH; it goes to the property owner. AAHfH can bid on the project and be paid as a contractor.

MOTION: Johnson moved to adopt the resolution in support of an application to the Community Development Block Grant Program for the purpose of continuing a Regional Housing Rehabilitation Program. Christman seconded the motion and it passed 6-0, and was designated Resolution No. 5880.

Amending AMC Title 12, Surface Water, to create the Erosion Prevention and Sediment Control Program and to establish permit fees for the program.

Assistant City Engineer Jeff Blaine explained that the program requirement comes from the City's approved implementation plan for the Willamette Basin Total Maximum Daily Load (TMDL) and a pending requirement that the City obtain a National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Phase II permit from the Oregon Department of Environmental Quality (DEQ). The ordinance amendments establish an Erosion Prevention and Sediment Control (EPSC) program, revise illicit discharge detection and elimination requirements, better define exceptions, and revise enforcement mechanisms. The proposed revisions are just one piece of a larger stormwater management program the City will need to implement in the near future to address stormwater quality requirements.

Blaine said staff has presented information on the proposed AMC Title 12 revisions and the EPSC program at Council Work Sessions, and through several public outreach activities. Following notification of this public hearing staff received one minor text request to change the word "may" on page 31 of the Council agenda, under 12.10.031(1) Permit exemptions to "shall". Staff agrees with the suggestion and asked Council to include it if they choose to move forward with the ordinance adoption. Blaine recognized Engineering Technician IV Kevin Hamilton for creating and developing information pieces for the Council and customers.

Blaine said how to fund this permit program is for Council consideration tonight as well. The basic question is whether the program should be self supporting through permit fees or if there is a broader community benefit that warrants funding from other areas. If so, where should that funding come from? The ability of permit fees to actually cover program costs is totally dependent on development in any given year. The ability to predict development activity can be tricky. Water, streets, and sewer funds would subsidize the program. The first resolution would adopt fees similar to the city of Corvallis but would not recover costs associated with the program. The second resolution includes fees that would recover costs associated with the program.

Blaine reviewed page 11 of the agenda for comparison of how other communities fund their programs. Blaine said staff is requesting for a minor text change to the ordinance; for the Council to adopt the ordinance; and for the Council to adopt one of the resolutions.

Olsen asked if car washing would be an issue. Water Quality Control Supervisor Chris Bailey said residential car washing was an exception and is allowed.

Coburn asked is this a mandatory program? Blaine said yes, it is a response to a federal requirement.

Coburn asked, is there some kind of time frame that the City has to adopt the program and implement it? Blaine said yes, the City agreed to a timeline and is at the end of the timeline.

Coburn asked, if the City doesn't adopt or implement a program, what happens? Public Works Director Diane Taniguchi-Dennis said the City would be in noncompliance. The City could be fined and other enforcements that escalate with time could be enacted.

Coburn asked, do other cities have these programs? Blaine said, all cities larger than us have a program and several of the smaller cities.

Coburn asked, would the program require hiring any new staff? Blaine replied that staff estimates it would require one FTE; staff is not requesting that right now. They intend to work with the Building Department to take advantage of their staff.

Coburn asked, is the fee structure based on square feet? Blaine said yes.

Collins said it is a mandate and comes to us with no operating funds. Blaine said that is correct. Collins said the City knew this was coming and we weren't required to be in compliance until now. Larger cities were the first. Compliance to this program would not be foreign to our local contracting community.

Johnson asked if there was going to be compliance instructions or training for people, so they understand the requirements. She was concerned about the fees. She prefers penalties for noncompliance.

Public Works Director Diane Taniguchi-Dennis said that is a policy decision for the Council. The Council could choose to have those people who use the service pay, or use other resources for the program, such as the Water or Sewer Fund, franchise fees, or the General Fund. The Council could pass a resolution to have the same fees as Corvallis, but will need to subsidize them in some way.

City Attorney Jim Delapoer cautioned the Council about using fines as a funding source.

Christman said the ordinance includes permit exemptions, basically three, saying that a property owner doesn't have to get a permit for those activities; yet item 2 says they still need to know the rules. He is concerned about the public knowing that these regulations are in place and enforcement being an issue. Taniguchi-Dennis said the City needs to be sensitive to the community. Enforcement for permit exempt enteritis will be on a complaint basis. They do not plan on doing heavy enforcement, but a lot of education.

Konopa opened the public hearing at 8:10 p.m.

John Robinson, 2500 Del Rio Court SE, a General Contractor, said in 2008 his business was down 38%. He feels they are being hit with additional costs right and left. Bonding requirements have changed and there is a cumulative effect with all the additional permits. Costs are passed down to the customer, which affects affordability. He asked, where is the baseline? How often are measurements taken to assure compliance after the fact? Are there provisions for properties that don't have storm drains? Why are agriculture and the Fire Department exempted? How are other cities getting away without having this program? He was concerned about having to hire a specialist to develop his compliance plan and all the costs after the permit fees that get tacked on.

Mike Quinn, 4455 Sunset Ridge Drive, said it is a great program, except for the fees. He asked, why is there a fee associated with this program? He believes it could be done with existing personnel and absorbed into the City. Regarding the 5,000 square foot building lot, it needs to be identified as more than the minimum disturbed area that requires a permit. He said many contractors practice this erosion control already and there are other City permits that cover inspection. He doesn't believe a position needs to be created to do this. He asked, why does Albany have to comply and a city like Bend doesn't? He asked about control of the erosion that is going into the Calapooia River. He believes that the water that gets to the Willamette River is much cleaner. Quinn mentioned that contractors have been given notice of a 40% building fee increase as well. He also said he has asked for a Building Task Force. Quinn thinks the proposed program is too complex. He believes they should emulate the city of Keizer's proposal. He thinks staff could do the program with no permit costs.

Collins said that having dealt with the DEQ, he knows there is a long standing argument regarding run off from agricultural and forestry lands. The issue is that they are exempt from federal law, so arguments are falling on deaf ears at the state and federal level.

No one else wished to speak.

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

Taniguchi-Dennis commented that Albany is under pressure to comply because it sits on the banks of the Willamette River and the Willamette River has a TMDL, whereas Bend has separate issues. The baseline is

linked to water quality levels. The stormwater system goes directly to the river by pipes and ditches. This program controls discharge directly into creeks and rivers. Regarding exemptions, firefighting is considered a severe emergency and was considered a reasonable exemption. The home agriculture exception was the result of being sensitive to home gardeners.

Blaine commented regarding having a specialists approve a plan; they only come in on major land disturbing activities – like a subdivision. Most single family residential projects would be classified as a minor land disturbing activity and the owner or some other non professional could do the plan. The manual referenced is not a document of regulations, only a resource. For comparison purposes the 5,000 lot reference was for a disturbed area. If less area was disturbed the fee would be lower.

Taniguchi-Dennis said the City is sensitive to small contractors.

City Attorney Jim Delapoer read for the first time in title only “AN ORDINANCE AMENDING AMC TITLE 12, SURFACE WATER, TO COMPLY WITH FEDERAL AND STATE REGULATIONS REGARDING WATER QUALITY; AND DECLARING AN EMERGENCY.”

MOTION: Collins moved to have the ordinance read a second time in title only. Christman seconded the motion and it passed 6-0.

Delapoer read the ordinance for a second time in title only.

MOTION: Christman moved to adopt the ordinance with the amending language of “shall” replacing “may” in 12.40.031 (1) on page 19 of 29 of the ordinance. Coburn seconded the motion.

Christman said he doesn’t want to approve the program if it isn’t fully funded.

Delapoer suggested amending the motion to include one of the resolutions with fees.

Johnson asked, where is the expense coming from for the fees? Taniguchi-Dennis said there are expenses associated with issuing permits and field inspections. Those expenses are in Engineering Services, paid by the fees that go to the Street Fund Administration budget.

Johnson asked, how does the amount for the fees get figured? Taniguchi-Dennis said there would only be one fee per plan. Johnson thinks the amount is too much. She believes the City can get by using existing employees. She suggested doubling up the duties.

Olsen said he knows it is a state-mandated program, but at this time building activity is at a low. He is getting the impression that some contractors are just barely surviving. Can the City put it off for a while? Taniguchi-Dennis said they would like the Council to adopt the ordinance tonight so that the City is in compliance. Council could choose to adopt the fee resolution later.

There followed discussion regarding the state of construction in Albany.

Hare commented that the City has been providing services in the building department with less people for several months and some staff will be cut in the upcoming budget. Services will be short changed.

Collins said the City needs to be in compliance; we entered into a legal agreement. There are numerous fees that they will be considering in the coming years as they work towards compliance with state and federal requirements. He would like to adopt one of the resolutions and postpone implementation of it to July 1, 2010. In the interim, use a cost accounting program to keep tract of actual costs for the program and provide the information as part of a reconsideration package to the Council. The Council will then have something rational to draw on as the budget is created for the next fiscal year.

AMENDING MOTION: Christman moved to amend the original motion to include adopting Resolution Option 2 and make the fee effective July 1. Collins seconded the motion.

Coburn suggested that staff implement the program, track the costs, and then adopt a fee package. There followed a discussion of how fees were estimated.

WITHDRAWAL: Christman withdrew his amending motion and the seconder concurred.

VOTE: A vote was taken on the original motion and it passed 5-1, with Christman voting no, and was designated Ordinance No. 5727.

MOTION: Collins moved to adopt the fee Resolution Option 2 and modified language stating in the 4th recital “shall be established to cover all program costs”. Olsen seconded the motion.

There followed more discussion regarding the program costs and the need for more information.

WITHDRAWAL: Collins withdrew his motion and the seconder concurred.

MOTION: Coburn moved to table to the next City Council Work Session any decision about fees until staff can bring additional information. Olsen seconded the motion and it failed 3-4, with Christman, Reid, Johnson, and Konopa voting no.

Konopa said the Council previously gave staff direction to bring back the options before them.

MOTION: Olsen moved to adopt Resolution Option 1, have staff track costs, re-evaluate fees for full cost recovery, and have Council reconsider by July 1, 2010. Coburn seconded the motion and it passed 4-3, with Christman, Reid, and Johnson voting no.

Business from the Public

Dennis Banta, 2907 21st Avenue, said he submitted a letter for the Council regarding concerns at Game Time Bar & Grill (in agenda file).

Michael Quinn, 4455 Sunset Ridge, asked why the Affordable Housing Task Force hasn't been implemented. He also requested a Building Department Task Force. He complained that the Building Department used to have an open door, but no longer does.

Konopa responded that it is not the right time for the Affordable Housing Task Force. She and the Council will get to it.

Hare said if he has any concerns with management, Quinn should see him.

Konopa asked Quinn to set an appointment with her to talk.

Second Reading of Ordinance

DC-03-09, 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 land use approvals, modifications to approved plans, increasing notice areas for land use applications, refining definitions for restaurants and bars, adopting findings, and declaring an emergency.

City Attorney Jim Delapoe read for the 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 LAND USE APPROVALS, MODIFICATIONS TO APPROVED PLANS, INCREASING NOTICE AREAS FOR LAND USE APPLICATIONS, REFINING DEFINITIONS FOR RESTAURANTS AND BARS, ADOPTING FINDINGS, AND DECLARING AN EMERGENCY."

MOTION: Olsen moved to adopt the Ordinance with the amendment to the staff report as shown on the revised Exhibit A. Coburn seconded the motion.

Christman clarified that Mr. Banta's changes would require a hearing only in the Elm Street district but a hearing could be requested in the other districts for a bar or restaurant. Catlin said the Director of the department could schedule it as well.

VOTE: A vote was taken on the original motion and it passed 5-1, with Christman voting no, and was designated Ordinance No. 5728.

Adoption of Consent Calendar

- 1) Accepting a mini-grant from the Alliance for Community Traffic Safety for the Albany Police Annual Bicycle Safety Rodeo. RES. NO. 5882
- 2) Approving a liquor license for Valentino's Pizzeria, 641 Hickory Street NW.
- 3) Approving contract renewal for Municipal Court Judge for calendar year 2010.
- 4) Appointing Municipal Court Judge Pro Tems. RES. NO. 5883
- 5) Accepting the state of Oregon Department of Environmental Quality 2009 solid waste/recycling/household hazardous waste grant to improve recycling efforts at events. RES. NO. 5884
- 6) Accepting the following easements:
 - a) Oregon Freeze Dry. RES. NO. 5885
 - b) Leroy Laack Trust. RES. NO. 5886

Coburn moved to adopt the Consent Calendar as presented. Christman seconded the motion and it passed 6-0.

Reports

Receiving Code Enforcement Team Second Quarter Report for Fiscal Year 2009-2010.

Management Assistant/Public Information Officer Marilyn Smith said cases continue to be resolved and closed. Coburn asked, what is the ratio of closed to open? Smith will bring back information about how many cases have been closed since the inception of the program. Smith answered questions about specific cases.

Accepting the audit report and management letter for the audit of the City's financial statements and procedures for Fiscal Year ending June 30, 2009.

Christman, Chair of the Council Audit Committee, thanked committee members for participating. He said the Committee received the Audit report from Boldt, Carlisle & Smith, LLC, the City's audit firm. He said the City's financial statements received a "clean audit."

Taylor said that in anticipation of retirements, the Finance Department has been reorganizing duties and Senior Accountant Mike Murzynsky was the main author of the 2009 Comprehensive Annual Financial Report (CAFR), which is the most significant financial reporting tool.

MOTION: Olsen moved to accept the audit report and management letter for the audit of the City's financial statements and procedures for Fiscal Year ending June 30, 2009. Johnson seconded the motion and it passed 6-0.

Appointments

City Boards, Commissions, Committees.

MOTION: Johnson moved to approve the following appointments to City Committees and Commissions:

Albany Budget Committee

Bruce Peters, Ward II (Councilor Coburn's new appointment to fill vacant position for term that expires December 31, 2010)

Traffic Safety Commission

Chuck Kratch (Mayor's new appointment)

Cascades West Area Commission on Transportation (CWACT)

Ralph Reid, Jr. (Mayor's reappointment)
(primary; term expires 12-31-11)

Ron Irish (Mayor's reappointment)
(alternate; term expires 12-31-11)

Coburn seconded the motion and it passed 6-0.

Council Audit Committee.

MOTION: Coburn moved to reappoint Budget Committee Chair Sue Folden and Mayor Sharon Konopa to the Audit Committee. Johnson seconded the motion and it passed 6-0.

Hospital Facility Authority.

MOTION: Olsen moved to appoint Councilor Bill Coburn as the Council Representative to the Hospital Facility Authority. Johnson seconded the motion and it passed 6-0.

BUSINESS FROM THE COUNCIL

Olsen provided copies of an article regarding remuddling (misguided remodeling) to the City Council saying it exemplifies the results of no regulations in historical areas (in agenda file).

Collins reported that he met with Community Development Director Greg Byrne and Planner III Heather Hansen regarding flood plain maps. He said the established sea level for the City and the Willamette Valley was from data accumulated in 1929. New data has been accumulated and it has established a new sea level differently. He said he was concerned about cost problems for constituents and City staff.

Collins praised the ODOT open house regarding the transportation projects.

Konopa said she and Hare had been asked to look at economic development in a more regional atmosphere and have attended a regional economic meeting. So far their meetings have been informational. She will be reporting regularly to the Council any decisions or updates that occur.

Albany City Council Regular Session
Wednesday, January 27, 2010

Hare reported that he and the Mayor met with a group that used to be the Oregon Economic Development and Community Development Department, now known as Business Oregon, the economic development section of the state. The meeting was headed by Senator Morse. They talked about the use of the International Paper (IP) site in Millersburg. IP is actively committed to finding an appropriate use for the site and they have had several inquiries for possible uses. It is still possible that the site is useful and could generate jobs.

Delapoer reminded the Council that they would be holding a special Executive Session on Tuesday, February 2, 2010, between 5:00 p.m. and 7:00 p.m.

The Council session for Monday, March 8, 2010, has been canceled.

NEXT MEETING DATE

The next City Council Work Session is scheduled for Monday, February 8, 2010, at 4:00 p.m., in the Municipal Court Room, at City Hall.

The next City Council Regular Session is scheduled for Wednesday, February 10, 2010, at 7:15 p.m., in the City Council Chambers, at City Hall.

ADJOURNMENT

There being no other business, the meeting was adjourned at 10:15 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, MMC
City Clerk

Stewart Taylor
Finance Director