

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
Wednesday, March 10, 2010  
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/SPECIAL PRESENTATION

The Linn Benton Young Marines posted the colors, led the pledge of allegiance to the flag, and sang the national anthem. Mayor Konopa thanked the Young Marines for their presentation.

ROLL CALL

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

SCHEDULED BUSINESS

Continued Public Hearing

ST-09-03, Oak Street Local Improvement District.

Konopa said that there have been some changes to the agenda.

City Manager Wes Hare said that the public hearing scheduled for tonight has taken a turn within the last few days. He said that there was a recognition that the proposal submitted to the Council was probably not going to be acceptable to the City. Hare said that there have been discussions between staff and representatives of Lowe's and they have requested additional time to come up with a new proposal. Hare said that there is still a very strong possibility that an agreement will be able to be reached. Lowe's has asked for six weeks to come back with a different proposal.

Jerry Basinger, 1006 SE Grand Avenue, Suite 300, Portland, on behalf of Lowe's, said that they are trying to find a way to accomplish the City's objectives, make the project happen, and that all of the affected property owners in the area of the Lowe's development are satisfied. He said that they came up with an agreement which would be the extension of Oak Street, the improvements along Oak Street, and to do it in a way that all of the parties would be satisfied. Basinger said that when they saw the staff report, they realized they weren't there yet. He said that they are working together to be able to come back in a few weeks with a plan that will be acceptable for the City, Lowe's, and all affected property owners. Hare said that the deal that is currently being worked on would not involve assessments against property owners beyond the Lowe's frontage.

Councilor Olsen asked, if it doesn't involve those property owners does it mean that the street isn't going to be improved south of the Lowe's property? Hare said that would still be a Council decision, but the proposal that will come back probably will not include an immediate proposal to fully improve the frontage beyond the Lowe's property.

Councilor Johnson said that she is glad that Lowe's is working on this further to try to come up with something that will be acceptable and beneficial to all. She said that she thinks it is a project that will benefit the City.

City Attorney Jim Delapoer recommended that the matter be tabled. He said that the public hearing should be opened and then immediately recessed into the first meeting in May. Olsen asked if the public will be able to make comments at that meeting. Delapoer said yes.

Konopa opened the public hearing.

MOTION: Reid moved to postpone the continued Public Hearing until Wednesday, May 12, 2010. Johnson seconded the motion and it passed 6-0.

Business from the Public

No one wished to speak.

Adoption of Resolutions

Authorizing the City Manager and Department Directors to enter into short-term leases.

Delapoer said that opportunities sometimes present themselves where the City can take advantage of vacancies in commercial space for City facilities that are necessary on a short-term basis. An example is

Parks & Recreation has a need for space from time to time at the mall. The mall may have a short-term vacancy that they are willing to provide at very favorable rates but they require the ability to be able to terminate the lease. He said that this resolution will authorize the City Manager and the affected Department Director to enter into short-term leases that do not exceed 180 days without Council direction if the expenditure has been budgeted for and that a report to the Council will be made following the lease. Delapoer said that if the City Council is comfortable with this, he would recommend approving this resolution.

Konopa asked, has the City leased space at the Heritage Mall before? Parks & Recreation Director Ed Hodney said that the City has leased space at the Mall before. He gave an example of being able to use a 1,200-square foot space in exchange for providing advertising to the entity that provided the space.

Reid asked, will you be notifying the Council before you move in? Hodney said that they will bring it to the Council first, but there are times when they need to act immediately so that they can get the deal. Reid said that the immediacy doesn't seem to be necessary in this economy.

Councilor Christman asked if there is anything in the resolution that will keep it from being a repeating short-term lease. He said that if that is the case it would seem that the department would need a permanent space.

Olsen said that he appreciates that they brought this to the City Council.

MOTION: Councilor Collins moved to approve the resolution authorizing the City Manager and Department Directors to enter into short-term leases. Reid seconded the motion and it passed 6-0 and was designated Resolution No. 5895.

Waiving competitive bidding, establishing a class special procurement contract, and awarding a special procurement contract for Task Force Tips brand fire hose nozzles and accessories to L.N. Curtis & Sons.

Fire Chief John Bradner said that the memo is pretty self-explanatory. He said that once the class special procurement process is approved, there will be no need to go through the process in the future. Bradner said that this is the only company they can get the nozzles through.

Reid asked if he had been in contact with this company to see when the nozzles may be going out of style. Bradner said that they have a whole array of products to purchase from.

Reid asked, when was the last time the Fire Department looked at other manufactures for nozzles to see what the competition is. Bradner said that he believes it has been five years since they have done a study on different types of nozzles available. Reid said that maybe somewhere down the line they might want to choose a different manufacturer that is less expensive. Bradner said that would be possible, but the recommendation would be to replace all of the nozzles so that they are the same.

Collins asked if other agencies that the City has a mutual aid response with use corresponding equipment. Bradner said that he isn't sure regarding the nozzles, but there is standardization with the self-contained breathing apparatus equipment with the mutual aid agencies.

MOTION: Reid moved to approve the resolution waiving competitive bidding, establishing a class special procurement contract, and awarding a special procurement contract for Task Force Tips brand fire hose nozzles and accessories to L.N. Curtis & Sons. Councilor Coburn seconded the motion and it passed 6-0 and was designated Resolution No. 5896.

Authorizing the City Manager to sign an Intergovernmental Agreement with Greater Albany Public Schools to make payment of \$300,000 to construct recreation facilities on school land, to accept the transfer of title to certain real property, and to enter into a lease of other real property.

Hodney said that this item was discussed in January at a Work Session. He said that at that Work Session the Council asked for additional staff work to be done and directed staff to come back with a structure to the proposed relationship between the school district and the City in respect to building a track and soccer field at Timber Ridge School for \$300,000. In exchange for that cash payment to the school district, the City would receive use of the facilities during non-school hours without cost for maintenance. In addition, the City would be conveyed the title to Burkhart Park and the eventual conveyance of Deerfield Park. Hodney said that they have negotiated the agreement.

Olsen said that on page 20 of the agreement it says the public will have use of the soccer field and track, if these facilities are fenced will the general public be able to access the track and soccer field. Hodney said yes, they will. Olsen asked if the fence will be locked. Hodney said that they will ensure that the fence is not locked and that the public will be able to access the facilities during non-school hours.

MOTION: Johnson moved to approve the resolution to adopt the resolution authorizing the City Manager to sign an Intergovernmental Agreement with the Greater Albany Public Schools, to make payment of

\$300,000 to construct recreation facilities on school land, to accept the transfer of title to certain real property, and to enter into a lease of other real property. Reid seconded the motion and it passed 6-0 and was designated Resolution No. 5897.

#### Adoption of Consent Calendar

- 1) Approval of Minutes:
  - a) January 27, 2010, Regular Session.
  - b) February 22, 2010, Work Session.

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

#### BUSINESS FROM THE COUNCIL

Reid said he had a meeting in Eugene with the Rail Summit. He said that they are still trying to get some unity in the Willamette Corridor for passenger service. The consensus seemed to be that there should be passenger train service. There was a discussion that there should be a rail authority for the Corridor because there is some dissension expressed on the ability of ODOT Rail to be unbiased in their operations of the rail systems.

Olsen said he had received the February copy of *Local Focus* and it talks about restrictions on gifts for officials. He asked if Delapoer could take a look at the report. Delapoer said that he would be happy to read it and report back at a Work Session.

Coburn said there was a request from the Farmers Market to use the City parking lot and asked if the Council needs to take any action on it. Hare said that it doesn't require any action unless the Council wants to take action. He said that it has been a very successful program.

Coburn said that he is the representative on the Stakeholders Task Force having to do with the improvements on I-5 from the North Jefferson Interchange to Highway 20. He said that they had a meeting to discuss the Open House that they recently held at the Linn County Fairgrounds. The group has decided that all of the widening will be done in the center. The fog lines won't move and they won't have to purchase any property or have to put in noise barriers.

Coburn said that he will not be at the Work Session on March 22 as he will be out of town.

Johnson said she received a notice that she will be getting the US Census survey in the mail. She said that it is important for people to fill out the Census because the more accurate the population the better funding the City can get to provide the services needed. She urged everyone to fill out their surveys and send them in.

#### RECESS INTO EXECUTIVE SESSION TO DISCUSS PENDING LITIGATION OR LITIGATION LIKELY TO BE FILED IN ACCORDANCE WITH ORS 192.660 (2)(h)

The Regular Session was recessed into Executive Session at 7:57 p.m.

#### RECONVENE

The Regular Session was reconvened at 8:43 p.m.

MOTION: Reid moved to ratify the City Manager's execution of the settlement documents in the City versus SVC litigation and to approve the modification of the retainer agreement between the City and the Markowitz, Herbold, Glade, and Mehlhaf Law Firm. Johnson seconded the motion and it passed 6-0.

Collins asked Konopa to explain the motion to the public. Konopa said that this motion is to ratify an agreement for the litigation that the City had with PepsiCo and it is for \$25 million dollars.

Olsen thanked the Markowitz Firm for carrying out the lawsuit and he thanked Delapoer for the excellent original contract that he signed with PepsiCo at the outset that made this all possible.

Konopa presented Dave Markowitz and Kerry Shepard a key to the City of Albany. Delapoer presented Markowitz and Shepard a commemorative photograph.

Hare presented Jim Delapoer a key to the City of Albany.

Konopa thinks that the Council and staff will start receiving calls about how to spend the money. She said no plans have been made yet for the money and that the funds will be put in a separate account. The Council will make the decision on how to expend the funds.

Hare said his understanding from some of the Council is that they would like staff to make recommendations while recognizing that this is a one time revenue source and is not an ongoing source of money to support operations. He said that it is most appropriate to consider using the revenue for some major capital needs that the

City has. Hare also said that there is a need to reimburse the funds that have been expended on the SVC litigation.

Collins said that he supports reimbursing the funds that were used for litigation expenses, and restricting the revenue for other than operation and maintenance programs unless there is a rare exception made by the Council. He said that it is important for the Council to make this statement and give Hare and staff some form of direction on how to formulate that because it is the Council's responsibility as community leaders to communicate what should be done with the revenue. Collins said that if Pepsi had been here, there would have been a substantial input to the water and sewer fund that could have been utilized to offset some of the debt service, and it would benefit all of the existing users and stabilize the water and sewer fund. The principal use for the contract we were in was for economic development and he said that funds should be reserved for that.

Konopa said that there will be a meeting to discuss ideas and thoughts about how to spend the revenue.

Christman said that after the obligatory fees are paid for, the funds should be put into a separate account and left there for 90 days as a cooling off period. He said that this will help relieve staff from the burden of answering all of the questions about how the funds should be spent and it gives staff and the Council time to gather ideas on how to use the funds.

MOTION: Christman moved to place the net amount into a designated fund and have no expenditures for 90 days. Reid seconded the motion.

Olsen said that he thinks this is a good idea, but would like to see the funds in the account for more than 90 days.

Hare said, as a point of information, the budget process this year will be very difficult, will probably be looking at some layoffs, and it will be a severely constrained budget over what it has been in the past. The settlement doesn't change the fact that our revenue stream doesn't support our current operations, so that is just some background information.

Johnson said she agrees with Christman and Olsen about holding off on spending the money for a while. She said that the Council needs to really think about the best use for the money, and that there are many things that need to be done to help the citizens of Albany.

Collins said that during the 90 day period staff could come back to the Council with suggestions of types of restrictions they might formulate.

Coburn asked Finance Director Stewart Taylor if there are any investment opportunities for the funds. Taylor said that Oregon Local Budget Law restricts the type of investments the City can put public funds into, so the City doesn't really expand its options for investments other than the current options that are available, which is the Local Government Investment Pool. The City does have investments outside of the pool that are managed by Taylor through an Investment Advisor and those are generally government security types of investments. He said that right now the portfolio is earning just over three percent, and the Government Pool is earning one percent. Taylor said that there are some investment opportunities that are available under Oregon law that he chooses not to participate in because the number one priority in the City's Investment Policy is stability and safety of principal.

VOTE ON MOTION: The original motion was voted on and passed 6-0.

#### NEXT MEETING DATE:

The next Work Session of the City Council is scheduled for Monday, March 22, 2010, at 4:00 p.m., in the Municipal Court Room, at City Hall, and the next Regular Session is scheduled for Wednesday, March 24, 2010, at 7:15 p.m., in the Council Chambers, at City Hall

#### ADJOURNMENT

There being no other business, the meeting was adjourned at 9:00 p.m.

Respectfully submitted by,

Reviewed by,

Diana Eilers  
Administrative Assistant I

Stewart Taylor  
Finance Director