



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

OUR MISSION IS

*"Providing quality public services
for a better Albany community."*

OUR VISION IS

*"A vital and diversified community
that promotes a high quality of life,
great neighborhoods, balanced
economic growth, and quality public
services."*

AGENDA

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE TO THE FLAG
3. ROLL CALL
4. SCHEDULED BUSINESS
 - a. Business from the Public
 - 1) Takena Street traffic issues. [verbal]
Action: _____
 - b. Adoption of Consent Calendar
 - 1) Approval of Minutes
 - a) July 12, 2010, City Council/Airport Advisory Joint Work Session. [Pages 1-2]
 - b) August 11, 2010, City Council Regular Session. [Pages 3-10]
 - c) August 23, 2010, City Council Work Session. [Pages 11-13]
 - d) September 8, 2010, City Council Regular Session. [Pages 14-19]
 - e) September 20, 2010, City Council Work Session. [Pages 20-22]
 - f) September 22, 2010, City Council Regular Session. [Pages 23-32]
 - 2) Accepting the Oregon Association Chiefs of Police Safety Belt/Three Flags Traffic Safety Grant to enforce safety belt, speeding, and DUII laws. [Pages 33-34] RES. NO. _____
 - 3) Accepting the Oregon Association Chiefs of Police DUII Overtime Grant for the detection and removal of impaired drivers from our streets. [Pages 35-36] RES. NO. _____
 - 4) Accepting donation of a CDR Premium Hardware Kit for use by the Multi-Agency Investigation Teams for DUII investigations from the Linn County Victim Impact Panel, Inc. [Pages 37-38] RES. NO. _____
 - c. Report
 - 1) Receiving Code Enforcement Team First Quarter Report for Fiscal Year 2010-2011. [Pages 39-40]
Action: _____
5. BUSINESS FROM THE COUNCIL
6. NEXT MEETING DATE: Work Session November 8, 2010
Regular Session November 10, 2010
7. ADJOURNMENT

City of Albany Web site: www.cityofalbany.net

The location of the meeting/hearing is accessible to the disabled. If you have a disability that requires accommodation, please notify the Human Resources Department in advance by calling (541) 917-7500.

City of Albany
CITY COUNCIL / AIRPORT ADVISORY COMMISSION
JOINT WORK SESSION
City Hall, City Council chambers
333 Broadalbin SW
Thursday, July 12, 2010
4 – 6 p.m.

MINUTES

City Councilor's Present: Sharon Konopa, Jeff Christman, Bill Coburn, Floyd Collins, Bessie Johnson, Dick Olsen, Ralph Reid, Jr.

Commission Members Present:: Pat Eastman, John Harshberger, Heath Kasper, Dennis Smith, John Pascone, Ron Terhaar,

Commission Members Absent: Jerry Wilken

Staff Present: Wes Hare, Marilyn Smith, Diane Taniguchi-Dennis, Stewart Taylor, Jim Delapoer, Chris Bailey, Irene Mann

Others Present: Dan Miltenberger, Tom Kopczynski, Penny Miltenberger
(arrived at 5:17)

CALL TO ORDER

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

BUSINESS FROM THE PUBLIC

Dan Miltenberger (2825 Jackson SE) had a list of questions. He asked why the airport budget for personnel was so high. He said he advanced the City \$10,000 for the budget in the past. He requested to see the contracts for Happy Miles and Tom Kopczynski. He said he looked at the 3-ring binders with the airport contracts and Bailey offered to summarize the contents, but he felt they were incomplete. He said he asked to see all of the contracts and Happy Miles receipts and felt those were not complete and commented on some of the items he felt were inappropriate for Miles to request for reimbursement. He made some comments on the FBO contract.

DRAFT MINIMUM STANDARDS FOR FBO AND SASO

The City Council and Airport Advisory Commission discussed standards for the Airport FBO. Taniguchi-Dennis said the Standards were a framework at this time and the Commission planned to create minimum standards for Council's approval. Expectations would be defined in a contract or lease set forth in an RFQ.

Bailey said she would obtain contracts from the City of Madras. She also said that Master's students from Willamette University would be creating a business plan for the airport.

The fuel concession was also discussed and every airport handles fuel differently. The Commission would need to make a recommendation for the City of Albany Airport.

The hours that the airport should be open were discussed. It was agreed the City Council wanted a viable Airport.

AIRCRAFT STATIC DISPLAY PROJECT

The placement of a static display of airplanes was discussed. The consensus was that the display should be placed south of the reader board sign. It was not governed by any City Ordinances since it was sculpture/art, not a sign.

OTHER AIRPORT AND COMMISSION BUSINESS

A list of pending items on the Airport Advisory Commission work plan was read to the Council. They included: Airport financing, cost of hotels, signs on buildings, review of leases, a report to the City Council, parking, public restrooms, the Willamette student program, and an airport logo.

Konopa suggested the Commission provide a report to the Council in six months or as problems arise.

The Council discussed the history behind the land sale and the possibility of the Oregon Air Fair returning to Albany.

Bailey provided the Council an update on a citizen complaint about helicopter noise late at night over Lehigh Acres. She is talking to the helicopter school in Hillsboro to ask them to change their flight plan.

The future funding of the Northwest Art and Air Festival (NWAAF) was discussed and will be part of the agenda for the Transient Room Tax Committee.

Council members expressed thanks to the Commission members for their energy and expertise of the Airport activities during the NWAAF.

OTHER BUSINESS

Jim Delapoe distributed a memo that would be discussed at the July 14, 2010, City Council meeting regarding the PepsiCo Settlement Allocation.

City Manager Wes Hare said he would not be present at the City Council meeting on July 14, 2010.

Jeff Christman said he would be able to attend the special Transportation System Plan (TSP) work session at 7:15 p.m. on Monday, July 19, 2010.

NEXT MEETING DATE

The next meeting of the Airport Advisory Commission is scheduled for Wednesday, August 18, 2010, at 3:30 p.m. in the Santiam Room at City Hall.

ADJOURNMENT

The meeting was adjourned at 5:26 p.m.

Respectfully submitted,


Irene Mann
Executive Assistant to the Public Works Director

IM:kw

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, August 11, 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

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

SPECIAL PRESENTATION

Special recognition of the City Manager for five years of service.

Konopa presented City Manager Wes Hare with a "Recognition Mug" for five years of service to the City of Albany. She read a letter (in the agenda file) highlighting projects under his leadership.

Citizen Life Saving Award.

A special Citizen Life Saving Award (in agenda file) was presented to Amanda Adams, for her March 29 lifesaving efforts of administering CPR to a neighbor. Her efforts contributed to saving his life.

SCHEDULED BUSINESS

Communication

Accepting Robyn van Rossman's resignation from the Landmarks Advisory Commission.

MOTION: Councilor Coburn moved to accept the resignation of Robyn van Rossman from the Landmarks Advisory Commission and send a letter of appreciation for her service. Councilor Reid seconded the motion and it passed 6-0.

Consolidated Quasi-Judicial Public Hearing

Amending Ordinance No. 4441, which adopted the City of Albany Zoning Map, to amend the Zoning Map designation of Lots 5, 6, 7, and 8 of the Rupp Subdivision located on 16th Avenue SE; adopting findings; and declaring an emergency.

Konopa explained that the Consolidated Quasi Judicial Public Hearing was for changes that have been proposed to the Zoning Map, the replating of four subdivisions lots into three parcels, the site plan review for parcels 1, 2, 3, and to fell eight trees on the subject properties. She explained that the properties are located on the north side of 16th Avenue SE, between Davidson Street SE and Waverly Drive SE, and the applicant's are Julius and Dolores Rupp.

Konopa opened the public hearing at 7:22 pm

Konopa asked if any members of the Council wished to abstain. No one did.

Konopa asked if any members of the Council wished to declare a conflict of interest, or report any significant ex parte contact or a site visit. No one did.

Konopa explained that for anyone wishing to testify, to be aware that they must raise an issue with enough detail to afford the Council and parties an opportunity to respond to the issue if later that issue is raised on appeal to the Land Use board of Appeals. Testimony and evidence must be directed towards the approval standards staff will describe or other criteria in the plan or Development Code which they believe apply to the decision. If additional documents or evidence are provided by any party, the Council may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested a by the applicant shall result in a corresponding extension to the 120-day limit. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with enough detail to allow the local government or its designee to respond to the issue precludes an action or damages in Circuit Court.

Staff Report

Planner III Janet Morris said that the applicant applied for all of the changes at the same time so they could all be reviewed by the Council at the same time. She identified the property for zoning changes (pgs 51, 52, 53 of agenda file). She explained that the Council needs to approve the zoning amendment or all of the other requests for changes would fail. The current zoning designation of the four lots is Office Professional (OP). Prior to 2002, these properties were zoned RM-5 (medium density multiple family dwellings). In 2002, at the request of the Rupps, the subject four lots (and four other adjacent properties to the west owned by the Rupps) were rezoned to OP as part of a legislative amendment package. The Rupps now propose to change the zoning designation back to a multiple family zoning designation (RM-Residential Medium Density). Residential multiple units are allowed in both OP and RM. But, the main reason for the zone change is to gain building height. In the RM zone the maximum height is 45 feet. In the OP zone the maximum height is 30 feet. Morris said that the zoning changes would not have significant impact to the area.

Morris explained that the purpose of the land division application is to replat the four subdivision lots to result in three parcels. The applicants propose to construct "townhouse style" residential development on each of the three parcels. A single triplex would be constructed on both Parcels 1 and 2, and two triplexes would be constructed on Parcel 3.

Morris said the applicants also propose to remove eight of 14 trees located on the properties that have trunks greater than 25 inches in circumference when measured at 54 inches up from the base of the tree. There are also other trees that will be removed, but the felling of trees that have trunks under 25 inches in circumference is not regulated. One of the trees requested for removal have been found to be significant or unique in some way.

Councilor Christman asked, why are they requesting a lot change from four to three, rather than from four to two? Morris responded that it likely was because of the number of setbacks, but the applicant can explain when they testify.

Konopa asked if the maple tree removal request was for a small tree. Morris said yes.

Councilor Johnson asked, is the reason for the zoning request to gain height? Morris said yes.

Applicant

Jack Burrell, K& D Engineering, PO Box 276, Albany, representing the Rupps, explained that they want to go three stories, about 30 feet to the eaves, then the roof line, around six feet, which makes it 36 feet. Storm drain water would be going north. He explained partitioning of the lots from four to three allows their buildings to comply with landscaping and open space criteria. He added that he and the Rupps have worked with staff and they are satisfied with the conditions in the ordinance.

No one else wished to speak.

Konopa closed the public hearing at 7:45 p.m.

City Attorney Jim Delapoe read for the first time in title only "AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY ZONING MAP, TO AMEND THE ZONING MAP DESIGNATION OF LOTS 5, 6, 7 AND 8 OF THE RUPP SUBDIVISION LOCATED ON 16TH AVENUE SE; ADOPTING FINDINGS; AND DECLARING AN EMERGENCY."

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

Delapoe read the ordinance a second time in title only.

MOTION: Reid moved to adopt the ordinance. Johnson seconded the motion and it passed 6-0, and was designated Ordinance No. 5744.

MOTION: Reid moved to approve the balance of the application. Johnson seconded the motion and it passed 6-0.

Konopa explained that within five days of the decision the Community Development Director provides written notice of the decision to the applicant and any other parties entitled to notice. A decision of the City Council may be appealed to the Land Use Board of Appeals by filing a Notice of Intent to Appeal not later than 21 days after the decision becomes final.

Quasi-Judicial Public Hearing

HI-08-10, appealing Landmarks Advisory Commission's decision to deny replacement of most windows with new wood windows at property located at 808 Elm Street SW.

Konopa explained that the Quasi-Judicial public hearing was to appeal the decision of the Landmarks Advisory Commission (LAC) denying replacement of most of the windows with new wood windows at property located at 808 Elm Street SW. The applicant is Gary Lyon, representing the Chamberlain House. She said according to ADC 1.540 the Council must first determine the scope of review on appeal to be one of the following: (1) restricted to the record made on the decision being appealed; or (2) limited to such issues the Council determines is necessary for a proper resolution of the matter; or (3) a de novo hearing on the merits. Konopa asked, how does the Council wish to hear the appeal?

Delapoer elaborated on the process for each scope of review.

MOTION: Johnson moved to have a de nova hearing. Coburn seconded the motion and it passed 6-0.

Konopa called the public hearing to order at 7:53 p.m.

Konopa asked if any member of the Council wished to abstain. No one did.

Konopa asked if any member of the Council wished to declare a conflict of interest, or report any significant ex parte contact, or a site visit.

Olsen said he had a conversation with the owner of the Chamberlin House who pointed out the advantages of replacing the windows including being more energy efficient, the current windows are deteriorated, and their clients are less likely to fall out of the upper story windows. Olsen explained he disagreed saying that the efficiency difference is not that much; often windows are more repairable than they look; and he couldn't see the logic in the falling out scenario. He also drove by the house. He had articles available to the Council regarding the advantages of replacing windows with historical accurate windows and other subjects (in the agenda file).

Konopa explained that for anyone wishing to testify, to be aware that they must raise an issue with enough detail to afford the Council and parties an opportunity to respond to the issue if later that issue is raised on appeal to the Land Use board of Appeals. Testimony and evidence must be directed towards the approval standards staff will describe or other criteria in the plan or Development Code which they believe apply to the decision. If additional documents or evidence are provided by any party, the Council may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested a by the applicant shall result in a corresponding extension to the 120-day limit. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with enough detail to allow the local government or its designee to respond to the issue precludes an action or damages in Circuit Court.

Staff Report

Community Development Director Greg Byrne explained that the owners applied to the LAC to make exterior alterations to the porch, windows, and siding, at 808 Elm Street. The Commission held a public hearing and made a decision to approve the replacement of some of the windows, siding, and porch, and denied others. Information regarding that decision was provided to the Council in the agenda. The Council's decision tonight will decide if the Commission erred in applying the preservation standards in the Development Code.

Planner II Anne Catlin explained the review criteria that are in the Code (in agenda file) used by the Commission. She mentioned that the windows contribute to the character of this 1909 Classic Box house and the basement is being used as an office. She said the Commission approved the request for all exterior alternations, but only approved replacement of the following windows with matching wood windows: all windows on the west side due to them not being visible from the street; and the basement level windows on the south side were determined to be deteriorated beyond reasonable repair; and the attic dormer on the front façade was approved for replacement if it could not be reasonably repaired.

Catlin said that in the agenda packet there was a letter from James Goode in support of the Chamberlin House, Inc. request. On the Council dais the City received a letter from the Oregon Department of Human Services in support of the appellant as well (in agenda file). She said letters received in support of the LAC decision (all in the agenda file) include those from Heb Yamamoto who commented on his positive experience working with the LAC; Amanda Pool of the Monteith Historical Society, who commented on preserving historic buildings; Joy Sears, Restoration Specialist, who mentioned that a repaired wood window can easily last more than 100 years; and Larry Preston, a local contractor, who said that historical windows can be leak free.

Coburn asked, was the Larry Preston letter speaking specifically about this property? Catlin said he was speaking generally, but is familiar with this property.

Applicant

Gary Lyon, Director of Chamberlin House, Inc., 2225 Timothy Drive NW, Salem, said they support the needs of 34 developmentally challenged individuals. He said that energy conservation is one of their concerns. They operate within the General Fund from the state of Oregon and they will be receiving a 6% cut this budget year. The new windows that they want to use will match the existing windows. The window company has said the new windows out-perform storm windows and double pane and gas windows provide double the insulation. He said they are concerned about water leakage, saying their clients are particularly vulnerable to allergens and viruses associated with moldy water borne illness. The risk of leakage is higher with rebuilt windows. They have a heavy focus on health and safety at the home. There are also safety concerns regarding the residents pushing the windows out. All of the resident bedrooms are on the second floor and he commented on safety issues in the case of fire as disabled clients cannot help firefighters in their own evacuation.

Reid asked how long have they had been in this house. Lyon said since 1977.

Reid asked, do you know when the house was put on the historical register? Lyon said he did not know, but understood that a former director had it put on the historic register for tax purposes. The director didn't realize that as a nonprofit agency, they do not pay taxes.

Support of Appeal Testimony

Dave Sullivan, 208 6th SE Avenue, a member of Friends of Historical Albany, said he has had extensive contact with the LAC. The Commission has great knowledge and experience for historical renovation. They are concerned about character defining pieces of all the historical houses. He talked about imperfections and subjective judgments regarding maintenance on historic homes in Albany. There has been some character preservation changes already allowed. He provided examples of issues and the level of details that the Commission is concerned with, all of which he believes is very costly. The Chamberlin House wants to repair and keep things up. Allowing the LAC decision to stand is too expensive. He owns two historic homes and they take constant maintenance because of their age, but others may not be willing to repair their homes because of the costs. He asked the Council to support the appeal.

Jerry Boydston, 3381 NW Crest Loop, contractor for the renovation, said some of the windows were rotten and unrepairable, in his opinion.

Councilor Collins asked, could you find someone willing to do a reasonable repair of the windows? Boydston believes that they would have to rebuild some of the windows, not repair them.

Stanley Phil Davidson, 3860 Alder Street, Scio, representing the paint contractor doing the Chamberlin House, believes there is a safety issue, saying that the existing windows are done with lead paint. It is a safety issue for workers and the clients. The windows are not in good shape and sanding and scraping will increase the risk to them. Maintenance is six times what it costs to paint one of the new ones. The new ones will serve Chamberlin House for many years. The more encapsulation the more quickly it will go bad.

Collins asked, what is the expected life of painting and repainting versus new windows? Davidson said within three to five years they would be back to paint. The new windows would last 12-15 years. The current paint and glazing is lead based.

Opposition to Appeal Testimony

Oscar Hult, 825 5th Avenue SW, a member of the LAC, said the replacement windows are not exactly like the windows that are there. He said LAC uses the Secretary of Interior's Standards for Rehabilitation on compatibility to allow substitute for windows only under the condition that it is a non-contributing property or the existing windows are so deteriorated or damaged as to be beyond repair. The LAC believes the windows at Chamberlin House can be easily repaired. (Written testimony in the agenda file.)

Coburn said there seems to be a whole lot of opinions, but very few facts regarding these windows. Hult said the Secretary of the Interior standards are to retain as much historic materials as possible.

Collins asked if the Albany Development Code pre dates the lead based paint law. Hult believes the law applies only to where children are in residence or schools. There followed discussion regarding lead based paint.

Reid asked, if a historic home no longer complies with maintenance is there a penalty? Delapoer said they would be in violation if they are not in compliance. There is a penalty, if they are prosecuted.

Rebecca Bond, read a letter from the Albany Visitors Association, 250 Broadalbin, in support of the LAC. She said the historic districts entice visitors and tourist to Albany and gave examples of other houses within the districts.

Trent Jacobs, 828 SW 8th Avenue, Architect, said he had a neutral opinion regarding this issue. He spoke about lead and how it is dangerous to children. He commented on about insulation, water infiltration, and the effect of less insulated windows on differing sides of the house. He commented on sizes of windows, orientation of windows, and gases coming from differing areas of the country resulting in changes because of shipping.

Linda Herd, 723 Ferry Street, a member of the LAC, said that the guidelines are from across the United States. She was concerned about the suitability of a two-story structure for the residents, regardless of the window type. She suggested the Chamberlin House move the bedrooms to the basement. (Written testimony in agenda file.)

Applicant's rebuttal

Lyon believes their request would stand up to 99% of tourist coming to view the Albany historic district. He said their request speaks to safety, the prudent use of tax dollars, and concerns about their clients. He said the Secretary of the Interior guidelines speak to a "reasonable" manner of replacement. Though the lead paint laws apply only to children, their clients are more vulnerable. They continue to be concerned about infiltration of water from rain. The integrity of the new windows comes with guarantees. He wanted to make clear that the window that Mr. Boydston brought was not one the Commission okayed.

No one else wished to speak.

Delapoer reminded the Council that the land use decision is on how to apply the law to the facts. Some of the testimony given tonight did not meet the criteria of the hearing, such as discussion regarding Albany's code. Whether this law is correct is not the Council's decision tonight.

Konopa closed the public hearing at 9:18 p.m.

Collins said the LAC seems to have made an inconsistent decision. It doesn't appear to be based on the condition of the windows but if they were visible from the street. That condition is not in the criteria. The Council heard testimony that they can't be repaired unless the appellant is willing to spend a lot of money.

Olsen provided handouts for the Council (in the agenda file) and referred to the discussions in them regarding replacement windows. He told a personal story about breaking a window in his historic home and the costs involved in replacing it.

MOTION: Olsen moved for the Council to affirm the Landmarks Advisory Commission decision and deny the appeal Historic Review of Exterior Alterations application that would replace all but two of the windows on the Chamberlin House with new wood windows. Reid seconded the motion.

Johnson said the Commission allowed the Chamberlin House to replace one side of windows. She agrees with Collins.

Christman said it appears the main reason for allowing the windows to be replaced, was that they could not be seen. He can't find that in the criteria.

VOTE: A vote was taken on the motion and it failed 2-4, with Christman, Coburn, Collins, and Johnson voting no.

MOTION: Coburn moved to reverse the Landmarks Advisory Commission decision. Christman seconded the motion. (This motion was withdrawn.)

Olsen commented on his concerns for the historic district if preservation requirements are not enforced.

Christman said the windows in Olsen's house could be reasonably repaired. The ones in the Chamberlin House cannot be repaired at a reasonable cost.

MOTION: Coburn moved for the City Council to reverse the Landmarks Advisory Commission decision and grant approval with conditions of the Historic Review of Exterior Alterations application that would replace all but two of the windows on the Chamberlin House with new wood windows, and direct staff to prepare findings that address the new information presented at the public hearing for consideration at the next meeting. Johnson seconded the motion and it passed 4-2, with Olsen and Reid voting no.

Delapoer explained to the audience that the Council has basically announced to the staff that they want the staff to come back with findings to reverse the decision. Because this is a quasi-judicial decision, it must be based on findings. That is state law, not local law.

Recess

The Council took a brief recess at 9:37 p.m.

Reconvene

The Council meeting reconvened at 9:45 p.m.

Business from the Public

Bill Root, 2634 Valley View NW, spoke to the items brought up by a member of the public at the last Council meeting regarding North Albany and the Thornton Lake area (in agenda file). He also spoke to the speeding issues on Valley View Drive, saying that there is a lot of pedestrian traffic on the street and the proposed removing of the center stripe may be a safety concern (in agenda file).

Konopa asked if he had talked to Traffic Engineer Ron Irish. He said he had and traffic studies show that there are rare speed violations on the road.

Collins also suggested he speak with Irish, saying that when you eliminate a center stripe off of a relatively narrow country road like that it does slow down traffic because cars have a tendency to occupy the center of the street until they see oncoming traffic, then they move towards the outside and the fog stripes.

Reid said he would also recommend widening the fog stripes on both sides of the road.

Joe Rae Perkins, 1033 Maple Street, spoke to the new promenade on Broadalbin Street. She said there are deep wells in the "planters" and was concerned about walkers tripping. The pots are too close to the curb, which makes it impossible to open a car door. She said the street is too narrow for parking. City Manager Wes Hare and Public Works Director Diane Taniguchi-Dennis will talk to the contractors about mitigation. It will probably go through the Urban Renewal District as it is their project.

First Reading of Ordinances

Levying assessments against property specifically benefited by sewer connections and the assessment of sewer and transportation system development charges for property described as Tax Lot 200, Parcel 11S-04W-25AD, and site address 859 Belmont Avenue; 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 CONNECTIONS AND THE ASSESSMENT OF SEWER AND TRANSPORTATION SYSTEM DEVELOPMENT CHARGES FOR PROPERTY DESCRIBED AT TAX LOT 200, PARCEL 11S-04W-25AD, AND SITE ADDRESS 859 BELMONT AVENUE, 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 6-0.

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

MOTION: Reid moved to adopt the ordinance. Coburn seconded the motion and it passed 6-0, and was designated Ordinance No. 5745.

Adoption of Consent Calendar

- 1 Approval of Minutes
 - a) October 14, 2008, City Council and Benton County Board of Commissioners Joint Meeting.
 - b) July 7, 2010, City Council Work Session.
 - c) July 14, 2010, City Council Regular Session.
 - d) July 19, 2010, City Council Work Session.
 - e) July 28, 2010, City Council Regular Session.
- 2) Accepting the 2010-2011 Linn County and City of Corvallis Intergovernmental Agreements for funding the development of a business plan to assist the Linn-Benton Loop (2010-228 & 229).

RES. NO. 5934
RES. NO. 5935
- 3) Accepting the 2010-2011 Linn County Special Transportation Program grant funding agreement for Albany Transit System and Linn-Benton Loop Transit System.

RES. NO. 5936
- 4) Adopting an Intergovernmental Agreement for Call-a-Ride paratransit service between the City of Albany and the City of Millersburg.

RES. NO. 5937
- 5) Accepting a right-of-way dedication from Jackson Food Stores, Inc.

RES. NO. 5938
- 6) Accepting an easement from Tim S. Siddiqui.

RES. NO. 5939
- 7) Approving a liquor license for Elmer's Restaurant, 2802 Santiam Highway SE.
- 8) Approving annual liquor license renewals.

Coburn asked for item 6) to be removed for discussion. Olsen asked for item 1a) to be removed for discussion.

MOTION: Coburn moved to adopt the Consent Calendar with items 1a) and 6) removed for discussion. Christman seconded the motion and it passed 6-0.

Olsen asked why item 1a) took so long to come to the Council for approval. City Clerk Betty Langwell explained that the City was waiting for the Benton County Commissioners to approve those minutes before bringing it to the Council.

MOTION: Olsen moved to adopt item 1a) of the Consent Calendar. Coburn seconded the motion and it passed 6-0.

Coburn asked, was item 6) already an approved easement with the previous property owner? Taniguchi-Dennis said that often the City doesn't have easements for drainageways; so as development occurs we get them.

MOTION: Coburn moved to adopt item 6) of the Consent Calendar. Johnson seconded the motion and it passed 6-0.

Appointment

Appointing Trent Jacobs to the Landmarks Advisory Commission.

MOTION: Johnson moved to appoint Trent Jacobs to the Landmarks Advisory Commission. Reid seconded the motion and it passed 6-0.

Reports

November and December 2010 Council meeting dates.

The Council directed Management Assistant/Public Information Officer Marilyn Smith to coordinate the dates of the Councilors and provide an updated schedule to the Council and staff.

PepsiCo settlement allocation.

Christman said he was interested in setting some objectives for the PepsiCo funds. The Council has looked at projects. They have received letters, emails, and verbal comments. Staff has proposed a list, a couple of plans have been given, and they have heard individual preferences. His proposal tonight includes what has been referred to as the Collins and Stewart plans, and concepts received from the public. It is a 10-year plan that earns \$2.6 million in interest on loans provided. It puts dollars back into the City Facilities Replacement Fund and the Parks Capital Projects Fund.

Christman said the Council needs to discuss the concepts and benefits of the projects first. He provided a worksheet (in agenda file) that included actual dollar amounts. He reviewed the numbers on the spreadsheet and said that the plan provides for a one time sewer credit, the City becomes its own bank, and none of the PepsiCo funds are used for operating purposes.

Collins commented that this plan responds to the public and looks to options to invest using the PepsiCo funds for investments. There are projects in the plan that won't see cash flow for several years. He wants staff to take the plan and review it, provide feedback and information.

Collins said there is one item that requires an immediate decision; the East Thornton Lake Natural Area. He said he had agreed to bring his original motion back to the Council when all members were present in order to have everyone weigh in on the plan.

MOTION: Collins moved to approve the funding plan proposed by the Parks & Recreation Director on July 26, 2010, for the acquisition of the East Thornton Lake Natural Area. Olsen seconded them motion.

Johnson said she would be voting no. She thinks it is an antidevelopment response. She asked, what has the group done to raise the rest of the money?

Collins believes there will be support from the state and federal government, including grants and loans.

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

MOTION: Collins moved for the Council to authorize the City Manager to purchase 27 acres from the Trust for Public Lands in accordance with the East Thornton Lake Natural Area funding plan and instruct staff to aggressively pursue external funding sources. Olsen seconded the motion and it passed 4-2, with Johnson and Coburn voting no.

The Council asked staff to schedule a special work session to review the plan presented by Christman and discuss options for the PepsiCo funds. Staff will arrange for a meeting on Monday, August 23, at 7:15 p.m.

BUSINESS FROM THE COUNCIL

Johnson said she had a request from a citizen regarding the possibility of having charging stations for electric carts used by the disabled in parks and along paths. Hare said staff has been discussing charging stations for cars and could check into electric cart stations as well.

Konopa announced that on the 24th there is an Albany Partnership for Housing – Building New Life Skills Session, at 515 Geary Street, from 4:00 p.m. to 6:00 p.m.

Delapoer said he had been contacted by the Reliant Aviation attorney asking if they could come to a City Council meeting to present their proposals. He would like a half-hour at the next Council meeting. Delapoer explained that granting the invitation would require his office to extend the time line required for the eviction.

There was Council consensus to have Reliant Aviation and their attorney come to the August 25th City Council meeting.

NEXT MEETING DATE

The next scheduled meeting of the Albany City Council is a Work Session, on Monday, August 23, 2010, in the Municipal Court Room, at City Hall, at 4:00 p.m.

The next Regular Session is scheduled for Wednesday, August 25, 2010, in the City Council Chambers, at City Hall, at 7:15 p.m.

ADJOURNMENT

There being no other business, the meeting was adjourned at 11:00

Respectfully submitted by,

Reviewed by,

Betty Langwell, MMC
City Clerk

Stewart Taylor
Finance Director

CITY OF ALBANY
CITY COUNCIL WORK SESSION
City Hall, Municipal Court Room
Monday, August 23, 2010
4:00 p.m.

MINUTES

CALL TO ORDER

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

ROLL CALL

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

BUSINESS FROM THE PUBLIC

There was no business from the public.

JACKSON STREET VACATION REQUEST

Assistant Public Works Director/City Engineer Mark Shepard provided a map (in agenda file) showing the property that is being considered for vacation. It is at the north end of Jackson Street. It is a City right-of-way that staff believes the City no longer needs. The City does have a water line in the area and there is an overhead utility. If the Council agrees, the Council would initiate the vacation process and the City would only vacate to the center line or back of the sidewalk, whichever is furthest east.

Councilor Johnson asked what center line Shepard was considering. Shepard said the center line of Jackson Street.

Konopa asked, could 14th Avenue ever be connected to Jackson Street? Shepard doesn't believe so, because of the geometry of the street and there is a pedestrian lane there.

Councilor Reid commented that the adjoining properties are currently maintaining that right-of-way.

Councilor Collins was concerned about what the City was getting in return for giving up an asset. There followed discussion about giving up public right of ways generally.

DIRECTION: Council directed staff to have the property owners initiate the vacation process.

Collins asked staff to investigate charging fair market value for vacations. He would like an analysis brought back for Council discussion.

NORTH ALBANY WATER SERVICE REQUEST

Shepard said the property owners at 3258 NW Countryman Circle, Tim and Linda Dodson, have submitted a request for an additional water service to property they own in North Albany. The property requesting the water service is outside of the City limits and the Urban Growth Boundary (UGB). The Dodsons want to subdivide their existing 5 acre parcel into two properties and build a smaller home on the new parcel to move into for retirement. They want to connect to City water due to concerns about the water quality of the groundwater and potential impacts to Mrs. Dodson's health. The health issues they have faced are what is motivating them to want to connect to City water rather than drill a well in order to serve their new lot. Staff cannot approve the request since they do not meet the criteria for additional water service outlined in Resolution 3363 regarding water service for properties outside the City limits in North Albany. Shepard said granting the request would not reduce water quality for others in the area. In the past the Council has asked for an Irrevocable Request for Annexation from the property owner. Currently in the area most properties are on City water, some are on wells.

Councilor Coburn said he sees no problem, as they already have water and everyone else in the area has City water.

Konopa reviewed some history of water systems outside of the UGB and was concerned about allowing this exception when not allowing others.

Johnson believes wells could be drilled for them to get their water. She agrees with Konopa that if the Council agrees, it would set a precedent.

Coburn doesn't think the City is setting a precedent. He said the City has a big Water Treatment Plant and should be in the business of selling water. The Council has always taken this issue on a case-by-case basis. He is not a fan of Resolution 3363.

Councilor Olsen commented on Benton County continuing to allow building with no regard for basic water services. He is frustrated with the fact that the City continues to get these requests with no input regarding the previous planning.

Reid feels that adding more hook-ups would put pressure on the water line going across the Willamette River. He is concerned about the pipeline going to the area and would like to look at doing something with Adair Village. He is not in favor of granting this request.

There was continued discussion regarding Benton County and planning that limits development along Albany's UGB.

Collins doesn't see any substantial action from Benton County and he too is frustrated.

Councilor Christman agrees with Coburn that the City is in the business of selling water. It is his understanding that the City ratepayers are subsidizing water extended outside the City. He thinks the current surcharge should be raised. He is in favor of this request.

MOTION: Coburn moved to grant the request for an exception from Resolution 3363 based on extenuating circumstances. Christman seconded the motion.

Reid would like a map showing where all the water services are in that area of North Albany.

Linda Dodson spoke, saying that they understood that owners dumped radio-active material on the uphill property from them. That makes them very concerned about the groundwater. She feels this is a unique situation.

Konopa commented that when the City planned the new Water Treatment Plant, it was for growth within the boundaries. Expansion would be faster if the City continues to sell water outside the city limits.

Collins commented that the property was purchased in 1985, well before Resolution No. 3363.

VOTE: A vote was taken on the motion and it failed 3-4, with Reid, Olsen, Johnson, and Konopa voting no.

Council members requested maps and other information on water service outside the city limits and in or outside UGB. Public Works Director Diane Taniguchi-Dennis said staff can start to map who is served, who isn't being served, and who has the potential to be served in those areas.

There followed Council discussion regarding water capacities.

DEQ 1200-C PERMIT REPORT

Assistant City Engineer Jeff Blaine explained that Albany has an Erosion Prevention and Sediment Control (EPSC) program to help protect the public storm drain system and water of the state from pollution generated by construction-related activities. The Department of Environmental Quality (DEQ) also has their version of an EPSC program. The Environmental Protection Agency (EPA) requires the DEQ to have oversight over construction-related activities that disturb more than one acre, or smaller projects that are part of a common plan of development that originally disturbed more than one acre, e.g. home construction within a large subdivision. DEQ has managed this oversight through what is known as a 1200-C Permit. Registration under the DEQ 1200-C permit has the same general requirements as Albany's EPSC permit. It requires submittal of a permit application and fee, development of an EPSC plan, implementation of Best Management Practices, and continual monitoring, inspections, and reporting. In many ways the City's program and DEQ's program are redundant. In recognition of the redundancy, DEQ is proposing that in communities with qualifying EPSC programs, like Albany, projects under five acres be automatically covered under the 1200-C program by relying on the City's program. In order to participate in this new process, the City would need to enter into an Intergovernmental Agreement (IGA) with the DEQ. Staff recommends participating as it would represent a significant benefit to Albany on its capital projects and to the development community. For the City of Albany it would capture almost all street construction projects and 60% of private projects. If the Council is interested in pursuing this further, staff will bring a draft IGA to the Council in September for their consideration.

Collins said he was in support of the program.

Coburn asked if he understood correctly that the DEQ would not get involved, only if it were 5 acres or more. Blaine said yes. Coburn had some concerns about a developer being able to understand the issues, or being able to enforce them. He doesn't think that anyone knows or understands the issues. Blaine said the City is not taking on any of the responsibilities of the DEQ.

It was Council consensus to have staff move forward.

ALBANY TRANSIT SYSTEM REPORT

Airport and Transit Manager Chris Bailey provided a power point including the Kittelson report (in City archives). Bailey said that Kittelson says things can be improved and funded with an increase in fees. But some people in the community have no other option but to ride the public buses and are usually the poorest of the population. Staff will implement as many upgrades as funding will allow.

Collins asked if staff was continuing talks with the school district regarding the bus barn.

Reid was concerned about mixing public transit with school buses.

Coburn asked if there were concentrations of people and where do they generally ride buses to.

Bailey said they are reviewing the Kittelson report, continuing talks, and asking the same questions.

COUNCILOR COMMENTS

Reid mentioned that campaign signs had been erected before they are allowed by Albany ordinances. Public Information Officer/Executive Assistant Marilyn Smith said the Code Squad would be handling those complaints.

Reid was concerned that the Federal Legislature was considering raising the weight load requirements of semi trucks. He isn't sure Albany's streets could take the continuing increase in weight.

DIRECTION: After discussion the Council consensus was to have the Mayor write a letter to the Federal Legislature regarding the impact on Albany, if the weight load for semi trucks is increased.

Konopa reminded everyone to be back to City Hall for the Special Session at 7:15 p.m.

ADJOURNMENT

There being no other business, the meeting was adjourned at 6:00 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, MMC
City Clerk

Stewart Taylor
Finance Director

CITY OF ALBANY
 CITY COUNCIL
 Council Chambers
 Wednesday, September 8, 2010
 7:15 p.m.

MINUTES

CALL TO ORDER

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

PROCLAMATIONS

A Day to Remember.

Konopa read a proclamation declaring September 11, 2010, as "A Day to Remember." She mentioned that there would be several events happening in Albany throughout the weekend.

Albany Firefighters' Appreciation Week.

Konopa read a proclamation declaring September 19-26, 2010, as "Albany Firefighters' Appreciation Week." Fire Chief John Bradner recognized Fire Apparatus Operator Loel Trulove and Fire Lieutenant Chris Labelle for their long time efforts raising funds for the Muscular Dystrophy Association.

SCHEDULED BUSINESS

Continued Legislative Public Hearing

CP-01-10/DC-04-10, amending Ordinance No. 4447, which adopted the City of Albany Comprehensive Plan and map, and amending Ordinance No. 4441, which adopted the City of Albany Development Code by amending the Comprehensive Plan text and map and Development Code text relating to floodplain management, adopting findings, and declaring an emergency.

Konopa explained that the public hearing was a continuation of a public hearing that was opened on August 25, 2010, and recessed to tonight's date. The ordinance was read once in title only at the August meeting.

Konopa opened the public hearing at 7:21 p.m.

Staff Report

Planning Manager Heather Hansen explained that at the August 25, 2010, public hearing the Council directed staff to make further revisions to the proposed amendments based on public testimony and guidance from the Federal Emergency Management Agency (FEMA) on floodplain development permit requirement thresholds. Staff has incorporated additional revisions from the testimony at the public hearings about streamlining and tightening up the floodplain development permit process and criteria. Input from Christine Shirley, the State Coordinator at the Oregon Department of Land Conservation and Development, was incorporated regarding minimal thresholds to the floodplain development permit. The latest version of the draft "Oregon Model Flood Damage Prevention" ordinance was incorporated. Changes requested by FEMA included: only solid fences and free standing walls will require a permit (page 16 of agenda); the only issue with paving that FEMA considers is the extent to which it changes the topography, so it was moved to the grading, excavation, and fills standards; and infrastructure improvements that do not change the topography of the land were added as exemptions. In addition, staff made changes to make the code sections easier to use, such as: sections were rearranged so it flows more logically; floodway restrictions were combined for clarity; land divisions and manufactured home parks were combined to avoid redundancy; and site improvements were added since they were missing entirely from the code sections. She mentioned that items highlighted in yellow in the agenda were the changes.

Hansen said that at the top of page 14 of the agenda, second sentence (page 8 of Exhibit C), there is a reference to "Section 6.088", that should read "Section 6.091." Also, she had a question from a citizen regarding the sentence at the top of page 16, "The floodplain development permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and thereafter pursued to completion." Hansen said that language is common in building permits and will vary depending on the activity and the expectation is that something will have taken place with the project involved. If there is continued activity the permit can be renewed for an additional 180 days.

City Attorney Jim Delapoer added that he would ask the Council to include the phrase "This Article does not create *any duty or* liability on the part of the City of Albany or any officer or employee thereof for any flood damages that result from reliance on this Article..." to the top of page 7, of the Revised Exhibit C (page 13 of agenda) attached to the ordinance. He also suggested that any motion include the phrase, "... amend the ordinance to conform to the recommendations of staff..."

Councilor Reid doesn't believe the definition of a "basement", on page 7 of the agenda (page 1 of Exhibit C), is inclusive enough to include a daylight basement.

Konopa explained to the audience that if anyone wishes to enter an exhibit into the record as part of their testimony, please briefly describe the letter, photo, or map, and then present it to the City Clerk.

Testimony

Dan Watson, 710 Thornton Lake Drive NW, commended staff for their work and urged the Council to approve the ordinance. Watson said he was the one that asked about the 180 days and if he understands the answer, the permit would be left open. Hansen said yes, but the project manager would need to check in with the department.

No one else wished to speak.

Konopa closed the hearing at 7:32 p.m.

Deliberation

Councilor Collins commented that he appreciated staff going to the state for clarification. It simplified the process.

MOTION: Collins moved to amend the ordinance to conform to the recommendations of staff. Reid seconded the motion and it passed 6-0.

City Attorney Jim Delapoer read for a second time in title only "AN ORDINANCE AMENDING ORDINANCE NO 4447, WHICH ADOPTED THE CITY OF ALBANY COMPREHENSIVE PLAN AND MAP, AND AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE BY AMENDING THE COMPREHENSIVE PLAN TEXT AND MAP AND DEVELOPMENT CODE TEXT RELATING TO FLOODPLAIN MANAGEMENT, ADOPTING FINDINGS, AND DECLARING AN EMERGENCY."

MOTION: Reid moved to adopt the ordinance as amended. Collins seconded the motion and it passed 6-0, and was designated Ordinance No. 5746.

Konopa explained that within five working days following adoption of an amendment or new land use regulation, the Director shall forward to the Department of Land Conservation and Development a copy of the adopted text and findings and notify the Department of any substantial changes which may have occurred in the proposal since any previous notification to the Department.

Business from the Public

Jo Rae Perkins, 1033 Maple Street, commented on the success of the Northwest Air & Art Festival (NWAAF).

Ray Hilt, 3012 Tadena Street SW, representing the Optimist Club of Albany, said that the Sign Permit Code doesn't mention nonprofits. He was concerned that they were violating Albany permit requirements for 15 years with the Veteran's Breakfast at West Albany High School. He mentioned other events and things that they do. He asked if staff intended to bring changes to the Sign Code in the future. He would like nonprofits to be exempted from the fee requirement.

Community Development Director Greg Byrne said that staff has no plans to bring any changes to the Sign Code to the Council. He said that Hilt was correct; there is no differentiation between profits and nonprofits.

Delapoer mentioned that sign ordinances are principally to cover safety concerns. He is not sure the City could reasonably make an exception for charities. Perhaps, the fees could be changed.

Hilt said that is what he is asking for, a waiver of the fees.

Hansen said because they were for events, the criteria was the same as temporary signs. There followed discussion regarding the length of time for the signs and fees required for private property.

Shirley Hilts, 3012 Takena Street SW, said her church put on a bazaar and they too would like to see a waiver of fees. They put out signs near the highway and at intersections.

Konopa said they would look at it.

Bruce Gonzales, 270 NE Charlotte Street, had an issue with the NWAAF saying that on Saturday the height of the balloon and airplane flyovers were too close to houses in the northeast section of Albany. He said they were very low and believes they were not complying with Federal Aviation Administration rules. He also had concerns about being given only two weeks to clean up his property or be issued a \$1,000 citation. He said that he complied, but it was a burden because he was given such a short notice. He said he had to pay people to help clean up. He thinks the City should give people more time to get it done. He said the Citywide clean up used to provide a dumpster to haul trash away. He said continuing that policy would benefit the whole community.

Konopa responded that as long as you are making an effort, the City usually will work with the property owner and will extend the clean up time.

Gonzales mentioned that he builds off-road vehicles. Under state law he cannot license them, but the City requires them to be licensed, if he is going to keep them on his property. He moved them on to county property but was upset that he couldn't keep them on his own property. He said if it was a neighbor complaining he would understand, but now the City is using high resolution cameras to enforce codes. He feels he is being violated by the cameras.

Public Information Officer/Executive Assistant Marilyn Smith said that it was a neighborhood cleanup in the Draperville area that Gonzales was referring to and the Code Squad has given them extended deadlines.

Gonzales said he waited all day for the City to show up, a day he could have been working, as they said they would be issuing tickets if the neighborhood had not complied. The City never showed. He wants to be treated with respect.

Gloria Hernandez-Seto, 270 NE Charlotte, said the NWAAF planes were in the tree line on Saturday. She mentioned other instances of low flying planes. Also, when the City came to the neighborhood to tell them to clean up their yards, there had just been a death in the neighborhood as well as in her own family. She said they were rushed by the City and feels it wasn't fair to them considering the circumstances. She was also concerned with the use of overhead cameras to photograph their yards as she thought there were laws forbidding that.

Delapoer assured Hernandez-Seto that there are no enhanced overhead aerial observations from the City of Albany nor do they use high resolution cameras to spy on neighborhoods.

Councilor Johnson suggested, regarding the low flying balloonists, that there were adverse wind conditions and the balloonists were not able to go very high.

Perkins disagreed, saying that Saturday there was no flying to the north. Approximately 10 balloons went up. Perkins said they engage in a flight pattern called "tree topping", which does bring the balloons very close to trees. She will let the pilots know not to intrude upon personal space. She would like to introduce the people here tonight to the pilots.

Delapoer explained that the City of Albany does not regulate planes or balloonists.

Konopa said the Council will have staff check into the complaints.

Adoption of Resolution and Public Hearing

Adopting floodplain development permit fees to support compliance with the National Flood Insurance Program requirements.

Konopa explained that this resolution establishes floodplain development permit fees that support the City's floodplain management program requirements under the National Flood Insurance Program of the Federal Emergency Management Agency (FEMA).

Hansen explained a public notice on the floodplain development permit was published in the paper stating that a public hearing would be held to consider adoption of the resolution. She said that the fees are based on an hourly rate of \$70/hr. and fees would be different for every project. The other fees are for larger projects that would take more review. That process would involve a specialist in the Engineering Department that would specialize in hydrological and hydraulic analysis. In the past they have often found something that needed to be updated or revised on a plan submitted by the applicant's engineers, in order to comply with the program. She said not every project will need an analysis by a third party.

Councilor Christman asked, do we notify the applicant before we make that third party contract? Hansen said at the time that the application is submitted it would be evident that a third party review would be necessary.

Christman asked, does the applicant have to use the Engineering Department for that third party review? Hansen said the City could have a prequalified list.

Public Works Director Diane Taniguchi-Dennis said flood analysis can be very complex. She gave Thornton Lake and North Albany as an example. She said when it is highly complex and sensitive, they would contract it out. It would be possible to introduce some level of control for the applicant by having a roster of available engineers.

Konopa opened the public hearing at 8:18 p.m.

No one wished to speak.

The public hearing was closed at 8:18 p.m.

MOTION: Reid moved to adopt the floodplain development permit fees to support compliance with the National Flood Insurance Program requirements. Johnson seconded the motion.

Councilor Coburn said he was confused about the fees. He asked, in your example, does it translate into someone having spent close to 100 hours reviewing an Engineer's plan? Dennis said the private consultants who specialize in this, charge the higher end fees. Basically, City staff doesn't have the expertise that it takes; we would have to contract it out. It is a burden to the applicant because they do have their engineers do their designs. But these are complex plans and modeling in the sense that the "devil is in the details" of the assumptions that go into developing the hydraulic models. Therefore, it takes an expert review of those assumptions to ensure the best interests of all citizens are protected. The other option is for the City to absorb that cost, but the City doesn't have stormwater fees or any other utility to pick up the costs.

Christman said it seems like we are asking the applicant to pay twice; pay the engineer to do the drawing and pay for a specialist to review it. He would like a lengthy list of references for the applicant.

Dennis said it is a high risk situation when dealing with flooding. Experts have to be the best. The most efficient way is if the City conducts the study. However, floodplain analysis is complex and currently the City has no one on staff who is a specialist, therefore it would need to be a contracted service.

VOTE: A vote was taken on the motion and it passed 6-0, and was designated Resolution No. 5944.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) July 19, 2010, City Council Work Session.
 - b) July 26, 2010, City Council Work Session.
 - c) August 16, 2010, City Council Work Session.

Christman asked for items 1b) and 1c) to be pulled for discussion.

MOTION: Reid moved to adopt the Consent Calendar with items 1b) and 1c) removed for discussion. Johnson seconded the motion and it passed 6-0.

Christman said on page 4 of the July 26, 2010, City Council Work Session minutes, last paragraph, second sentence "COD" should be changed to "CD". The minutes will be corrected.

MOTION: Christman moved to adopt item 1b) of the Consent Calendar with the correction. Reid seconded the motion and it passed 6-0.

Christman said the minutes of August 16, 2010, list him as absent and he was there. Collins also is listed as absent and he was there. The minutes will be corrected.

MOTION: Christman moved to adopt item 1c) of the Consent Calendar with corrections. Reid seconded the motion and it passed 6-0.

Award of Bid

WL-10-01, Columbus Street and Denver Street area water line.

Taniguchi-Dennis said there is a corrected Attachment 1, page 44, on the dais (in the agenda file). There was a typo regarding the bid for Pacific Excavation, Inc. The correct amount is \$375,685.

MOTION: Collins moved to award the contract in the amount of \$359,975 to the low bidder, Canby Excavating, Inc., of Oregon. Reid seconded the motion and it passed 6-0.

Change Order

MS-09-01, Albany Transportation Center – Multimodal Phase III.

Special Projects Coordinator Guy Mayes said that there were several items that came up during the project that were unknown or unforeseen and not included in the original contract. Mayes said a summary of the major change order items were on page 46 of the agenda.

Coburn asked, can we assume none of these problems were addressed in the specifications? Mayes answered that they try to put as much responsibility on the contractor as possible but there is a reasonable window in which they cannot anticipate problems.

Reid was concerned that the City would be a poor landlord as this property was part of the City for some time and the City still allowed a hole in the roof to remain, which caused structural damage. He said the additional office space was a known project before construction and should have been included in the specifications.

Collins asked with the contingency being reduced, what happens with the unexpended amount? Mayes said part of it is spoken for as power connection costs, Information Technology wiring, furniture, and utility connections. This is a federal grant that is paying for the project and the City gets reimbursed as they spend the money. The contingency amount is allocated. If it is never spent, it goes back to the federal government.

MOTION: Coburn moved to approve the construction contract increase for Greenberry Construction in the amount of \$177,202, a 22% increase. Johnson seconded the motion and it passed 4-2, with Reid and Collins voting no.

Report

Designating Voting Delegate and Alternate for 2010 LOC Conference.

There was Council consensus to designate Jeff Christman as the voting delegate and Bessie Johnson as the alternate for the 2010 League of Oregon Cities Conference.

BUSINESS FROM THE COUNCIL

Konopa said the Council received a request from Jeff Soash to conduct a review of water rate computations. Does the Council want to respond?

Coburn doesn't want to review the water rate structure. He does not believe it is unique to any City. Numerous other utilities are structured the same way and someone will always feel that it is unfair.

Collins said the Water Task Force spent 2 1/2 years coming up with a formula fair to the majority of citizens. They knew it was not 100% equitable; someone will always be on the losing end when a formula is spread throughout the City. He doesn't want to revisit it until they redo the Water Master Plan.

It was the consensus of the City Council to not look at changing the water rate structure.

There was a discussion regarding vehicle licensing and off-road vehicles. Vehicle licensing is done by the state.

RECESS TO EXECUTIVE SESSION TO DISCUSS LABOR NEGOTIATIONS AND TO DISCUSS PENDING LITIGATION OR LITIGATION LIKELY TO BE FILED IN ACCORDANCE WITH ORS 192.660 (2)(d)(h)

The Regular Session was recessed into an Executive Session at 8:51 p.m.

RECONVENE

The Regular Session was reconvened at 9:45 p.m.

Coburn suggested that when the City is ready to go out for a Request for Proposal (RFP) for a Fixed Base Operator for the Airport, that they consider asking for a business plan in addition to conforming to the requirements and specifications of the RFP and leave it as wide open as possible.

Delapoer suggested the Council have additional discussions with the Airport Advisory Commission.

Coburn said he would not be available for the September 22 meeting as he would be out of town.

Delapoer will be out of town that meeting as well.

NEXT MEETING DATE

The next Council Work Session is scheduled for Monday, September 20, 2010, at 4:00 p.m., in the Municipal Court Room at City Hall. The next Regular Session is scheduled for Wednesday, September 22, 2010, at 7:15 p.m., in the Council Chambers, at City Hall.

ADJOURNMENT

There being no other business, the meeting was adjourned at 9:47 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, MMC
City Clerk

Stewart Taylor
Finance Director

CITY OF ALBANY
CITY COUNCIL (WORK SESSION)
Council Chambers
333 Broadalbin Street SW
Monday, September 20, 2010
4:00 p.m.

MINUTES

CALL TO ORDER

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

ROLL CALL

Councilors present: Councilors Dick Olsen, Bill Coburn, Jeff Christman, Floyd Collins, Bessie Johnson (arrived at 5:10 p.m.), and Ralph Reid, Jr.

Councilors absent: None.

BUSINESS FROM THE PUBLIC

There was no business from the public.

INVESTMENT POLICY UPDATE

Finance Director Stewart Taylor said that this is an opportunity to have an annual review and discussion of the investment policy. He said that staff will bring updates to the Financial Policies and the Risk Management Policy in October or November. Taylor introduced Investment Advisor Deanne Woodring from D. A. Davidson. Woodring highlighted the proposed changes to the Investment Policy and gave an update regarding the current market environment. (See agenda file for PowerPoint Presentation.) She recommends opening up the potential to add high-quality corporate bonds back into the portfolio.

Councilor Floyd Collins asked what the current lending rates are if the City had to borrow money from the commercial market. Woodring said that she believes the rates are pretty low.

Taylor said that the financial policy is on the City Council Agenda for Wednesday, September 22, 2010, and if anyone has questions give staff a call.

NATURAL HAZARD MITIGATION PLAN UPDATE

Fire Chief John Bradner said that the Natural Hazard Mitigation Steering Committee has met four times this year and is made up of the Department Directors. A draft of the updated natural hazard mitigation plan has been approved by the Committee. The draft is available on the City's Website. Bradner said that the second public meeting is coming up on September 30 to review the draft plan. Bradner said that after the meeting, the plan will be forwarded to the University of Oregon for their review. After their review is complete, it will go to Oregon Emergency Management and then to FEMA for a final review. Bradner said, once we get the plan back from FEMA, it will be brought back to the City Council in January for approval. Hare said that as an ongoing part of efforts to stay qualified for federal grants through FEMA, a large percentage of City employees are required to go through online FEMA training courses. It's an ongoing training so that in the event of an emergency employees will have had common training regarding the incident command system and how it should operate.

E-MAIL RETENTION POLICIES

Deputy City Clerk Mary Dibble said that the staff report goes over what the City is doing to be in compliance with state law. She said that starting October 1, the Mayor and Councilors are asked to forward copies of their City-related e-mails to the City's e-mail archive service. Konopa asked, if an e-mail message is being sent to a staff member, does it still need to be forwarded? Dibble said no. Konopa asked if junk mail needs to be forwarded. City Attorney Jim Delapoer said that the best course of action is to forward it so that there will be no questions about whether something is City-related or not. He said that if Councilors send an e-mail to someone in their capacity as a City Councilor/Mayor, copy it to the e-mail address in the staff report. If someone e-mails them in their capacity as a City Councilor/Mayor, send it in whether it is junk mail or not.

Delapoer said that the Council cannot expect confidentiality via e-mail or letters. Information Technology (IT) Director Jorge Salinas said that IT blocks about 10,000 spam per day.

Councilor Dick Olsen asked if he receives information about a vendor wanting to create campaign materials for him, if he needs to send it in. Delapoer said no because that e-mail was being sent to Olsen in his role as a candidate, not a Councilor. Olsen asked if he has to forward e-mails to the City if he doesn't respond to them. Delapoer said yes.

Councilor Ralph Reid said that he has a City e-mail account, and asked if he is required to forward his e-mails. Dibble said no since they will automatically be in the City's Archiver. Salinas said that the Mayor and/or Councilors can get a City e-mail account if they would prefer and then they wouldn't have to worry about forwarding e-mail messages.

Konopa asked about text messaging. Dibble said that they are public records, but the City's policy is that City-related text messaging is not allowed.

POTENTIAL SUSTAINABILITY PROJECTS

Parks & Facilities Maintenance Manager Craig Carnagey discussed two resource conservation projects and these projects are in response to the City's Strategic Plan. He said that several energy efficiency projects have been implemented as well as increased recycling and water conservation. These projects have saved natural resources and money. Carnagey said that the two proposed projects are a rain garden at the Swanson Fitness Center and a solar hot water thermal to heat the pool and the hot water inside the building. He asked the Council if they would like to pursue these projects.

Collins said that he doesn't see a reasonable payback with these projects. Carnagey said that 10,000 gallons of water costs about \$600 a year. Collins thought that the cost of water would be substantially less than \$600 for 10,000 gallons of water. Carnagey said that the City could recoup its investment on the rain garden project in about ten years. He said that the City has received approval for a grant through OWEB to help meet some of the requirements as well. Carnagey said that the payback on the solar thermals would take about eight years and that there is a business tax credit available, as well as incentives from the Energy Trust of Oregon, and a \$7,000 annual cost savings on the electric bill.

Collins said that he came up with 9-10 years payback for the second project. Collins said that he wouldn't make an investment for a ten year payback on his own house and it doesn't seem like a wise use of City funds.

Councilor Christman said that he is thinking along the same lines as Collins. Christman said that the payback is lengthy and that the timing for these projects isn't good. Collins said that it might be good to include something like this in the Capital Investment Program (CIP) for renewable projects. Hare said that there have been a series of sustainability projects that have been performed within the City. Carnagey said that one source of funding for this is from the Facilities Maintenance Fund. Carnagey asked the Council what they thought would be an acceptable rate of return. Collins said that is a good question. It would be beneficial to have a policy related to review and approval of non-specific CIP projects. Carnagey said that these projects were brought to the Council because of the high dollar amount. City Manager Hare said that they can go back to the drawing board to look at this again.

Olsen said he agrees with Collins' comments and he also wonders what will replace the lawn. He asked what types of plants and shrubs would require no care. Carnagey said that it would still require some maintenance but it would be substantially less than what is required for the grass. Olsen said that he has some doubts about replacing the grassy area and that it seems it could easily become unattractive and he is not enthused about the idea. Collins said that he supports what staff has done to identify sustainability opportunities, but he thinks there needs to be some guidance about which opportunities to spend time on when considering the use of public resources.

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

The Work Session recessed to Executive Session at 5:01 p.m.

RECONVENE

The Work Session reconvened at 5:34 p.m.

COUNCILOR COMMENTS

Councilor Bessie Johnson apologized for being late. She said that she attended the drug court graduation, and there were nine people who graduated. She said that Judge Murphy said that it costs \$20,000 per person but it saves money in the long run.

Coburn said that he won't be here for the September 22, 2010, Regular Session.

Olsen said that he has been talking to Hare and others about demolishing Fire Station 11. He would like to see the pros and cons of performing seismic repairs to that building. Hare said that staff is working on a report regarding the status of the Police Department and Fire Station 11. Hare said that seismic issues will be one issue they will be looking at as well as other issues.

Collins said that the RCM Homes development needs to be cleaned up. Collins said that he has been notified that people are living in the bushes.

Collins said that he also noticed the article in the newspaper regarding code-compliance issues. Olsen asked when it went into effect that a person cannot have an unlicensed vehicles in their yard. Coburn said that it seems like the folks on Marilyn Street and Charlotte Street don't like the rules in the City.

CITY MANAGER REPORT

Hare said that the League of Oregon Cities Conference is this week, Thursday-Saturday. He said that he will be presenting on finance, dealing with angry citizens, and civility at council meetings.

Hare said that there is a School District Joint Meeting on December 1, 2010, and asked if it would work for everyone. Collins and Christman won't be available on that date.

ADJOURNMENT

There being no further business, the Work Session adjourned at 6:00 p.m.

Respectfully submitted,

Reviewed by,

Diana Eilers
Administrative Assistant I

Stewart Taylor
Finance Director

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, September 22, 2010
7:15 p.m.

MINUTES

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE TO THE FLAG

Konopa led the pledge allegiance to the flag.

ROLL CALL

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

Councilors absent: Councilor Bill Coburn.

SCHEDULED BUSINESS

Public Hearings

Adopting a supplemental budget reimbursing the Capital Projects and Risk Management Funds, authorizing defeasance of callable bonds, and providing a one-time sewer rate credit by using PepsiCo settlement proceeds.

Konopa called for a staff report.

Finance Director Stewart Taylor said the City had litigation with PepsiCo and was awarded a settlement for breach of contract. The Council asked for public input over several months. On August 23, 2010, the Council directed staff to proceed with the reimbursement of funds that were used for preparation of the Pepsi site and to pay for litigation costs, and the defeasance of callable bonds. The Council has also pledged funds to the East Thornton Lake Natural Area (ETLNA) project. The ETLNA project is not part of the public hearing this evening because there was a number of different participants and agencies involved. It will come back at a future date for a public hearing.

Taylor said this public hearing satisfies Oregon local budget law. The Council adopted the budget with the PepsiCo money in a single fund and in order to move the money to the other funds a public hearing is required, because it is greater than 10% of the fund.

Taylor said staff needs direction for the sewer rate credit in three areas: what are the eligible accounts (single family residential or SFR, multifamily residential, commercial, and industrial); how the credit should be calculated (a flat rate of \$35 or based on the actual annualized rate increase for each account); and the method of delivery (a credit on the monthly statement or a voucher or other type of reimbursement.) Taylor suggested using Chamber Dollars as reimbursement, which can be spent at local Albany businesses.

Taylor said crediting just SFR customers would cost less than the amount listed in the resolution. The \$850,000 in the resolution would provide credit for all four customer classes. The estimated cost to credit SFR only would be \$550,000. There could be some costs involved for software programming depending on what the Council decides. There are five billing cycles but they are not divided by customer classes so targeting specific classes will involve programming. The printing and mailing of bills is contracted out, so there would also be costs to include a voucher or Chamber Dollars with utility bills.

Of the methods described, Taylor recommends applying a direct credit to the bills since it provides the greatest control. The Chamber Dollars provides for economic stimulus in our community; though staff would not be able to verify claims of missing vouchers. If the Council does choose the voucher approach however, Taylor recommends Chamber Dollars.

Konopa asked if this decision had to be made at this meeting or if it can come to a work session. Taylor said working out the details could wait especially since there is a Councilor absent tonight.

Councilor Bessie Johnson said she thought the credit would be simpler to implement and is bothered that there may be extra costs involved. It's a small amount to begin with. She asked, do we have to go through all this extra cost for such a small credit? She thought the motion was to just not implement the next rate increase. Taylor said the motion was to provide for a sewer rate credit. He said not implementing the rate increase was discussed, but cannot be done since it would violate the conditions of the City's coverage requirements because the sewer rate has to be sufficient to provide a percentage of the annual debt payment.

Public Hearing

The public hearing was opened at 7:28 p.m.

David Renly, 320 Charlotte Street, was signed up but intended to speak on a different subject.

No one else wished to speak.

The public hearing was closed at 7:29 p.m.

Councilor Jeff Christman said the resolution being considered just makes the allocations for funding; details can be worked out later.

MOTION: Christman moved to adopt a supplemental budget reimbursing the Capital Projects and Risk Management Funds, authorizing defeasance of a callable bond, and providing a one-time sewer rate credit by using PepsiCo Settlement proceeds, and Councilor Floyd Collins seconded it.

Christman doesn't think the motion that was made on August 23, 2010, included this level of detail but does not think the decisions to be made are insurmountable either. City Manager Wes Hare agreed and explained that staff brought the question of how to make credit to the bills in order to get the Council's feedback; however if the Council directs staff to just pick a reimbursement method and make it happen, they can.

Collins recalled that the purpose of the original motion approving the credit was to credit all customer classes.

Assistant Public Works Director/City Engineer Mark Shepard said that \$550,000 covers \$35 for the SFR and \$840,000 covers credits of 7% to all customer classes. The \$35 credit is based on the League of Oregon Cities (LOC) reported average winter usage of 8 hcf for Oregon cities. Albany's actual customer average is probably lower than LOC's benchmark. The \$35 represents the revenue generated over one year by the 7% rate increase.

Councilor Dick Olsen asked if staff calculated what \$840,000 would be if it was applied only to SFR accounts. Shepard said staff had not made that calculation. There are about 14,000 SRF accounts.

Johnson said she is not against giving the credit, but she thinks it should be applied across the board. The amount, however, is so small; but perhaps it will at least make customers aware of how little 7.5 % really is when they see it on their bills.

VOTE: The motion passed 5-0 and was designated Resolution No. 5945.

Amending the Albany Municipal Code Title 12, Chapter 12.35, Grading, to prevent dual regulation of grading activities in the floodplain and on steep slopes and declaring an emergency.

Konopa called for a staff report.

Shepard said this is a housekeeping item.

Assistant City Engineer Jeff Blaine said newly adopted Albany Municipal Code (AMC) regulations require that grading fill excavation be included in a floodplain permit. The purpose of the amendment is to remove the dual regulation and divert to the floodplain development permit only.

Shepard said another area is fill or grading on steep slopes. The current AMC includes it as what needs to be reviewed, but the changes under the exemptions makes it clear that the fill permit is not required when they have already been reviewed as part of a land use proceeding.

Public Hearing

Konopa opened the public hearing at 7:38 p.m.

There were no comments.

Konopa closed the public hearing at 7:38 p.m.

Deputy City Attorney Andy Noonan read for first time in title only, "AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE TITLE 12, CHAPTER 12.35, GRADING, TO PREVENT DUAL REGULATION OF GRADING ACTIVITIES IN THE FLOODPLAIN AND ON STEEP SLOPES; AND DECLARING AN EMERGENCY."

MOTION: Councilor Ralph Reid moved that the ordinance be read for a second time in title only. Johnson seconded it and it passed 5-0.

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

MOTION: Reid moved to adopt the ordinance and Collins seconded it. The motion passed 5-0 and was designated Ordinance No. 5747.

Business from the Public

Bruce Gonzales, 270 NE Charlotte Street, handed out documents to the Councilors (see agenda file). He said he is here concerning the AMC that requires Oregon state licenses on vehicles that are in a person's private backyard. Oregon law gives exclusive rights for licensing and regulation of motor vehicles to the state. The City of Albany does not have the right to make laws for the license plate itself when the state has the only jurisdiction. He said that the first page of the paper he handed out is a statement; the second is what might be considered an eyesore by the Council; and the next six pages are definitions of things that the Code Enforcement officer wants him to license. They are highlighted in areas where the officer highlighted them. She highlighted language about boats, ATVs, light trailers, heavy trailers, and descriptions of abandoned vehicles. He said the vehicles were in his backyard and were not abandoned. They run. The only difference is they didn't have a license. He spent \$86 on several and the rest of them were moved off the property. He doesn't understand how this changes them from junk to treasure. The Council has the power to change this law and be in compliance with Oregon state law. Councilor Dick Olsen is the only one that called him back. He called the other Council members too but they did not call back. Konopa also called him back.

Deputy City Attorney Andy Noonan gave a summary of the City's laws. There are two ordinances for vehicles. One is for abandoned vehicles and the other defines certain categories of junk. He said the abandoned vehicle ordinance does not allow the City to enforce a declaration that a vehicle is abandoned if it doesn't otherwise have to have a license as required by law. So, if it is exempt from licensure by the Department of Motor Vehicles (DMV), then it doesn't fall under abandoned vehicles under this ordinance.

Noonan explained that the other issue is that the abandoned vehicle ordinance, unlike the junk ordinance, deals primarily with those vehicles that are in the public right-of-way (ROW) or left on the street. A person could have another vehicle characterized as junk under the junk ordinance, on another part of their property. So if a person has vehicles that are exempt from licensure under the DMV, and they are not in the ROW - or even if they are in the ROW - they would not constitute an abandoned vehicle.

The second ordinance defines junk and has a broad scope. It tends to be enforced for garbage, debris, waste, things that cause a health or safety hazard, or blight. The definition of junk under that ordinance does include abandoned automobiles. It can also include vehicles that have been unlicensed for 30 or more days. But if a vehicle does not require a license by DMV then the City is not going to enforce it under the junk ordinance. Under the junk definition there is a determination provision that allows for the matter to come before the City generally through the Municipal Court as a citation, if there has been a petition process. Three or more citizens can petition and the case can be abated or cited; or, if the City Manager or their designee (usually Police and or the City Attorney's Office) determines it is a junk vehicle. If it is simply unlicensed, it is generally not pursued. If it is abandoned or parted out, they are concerns because citizens complain about blight and property values.

Gonzales said the officer said he had to license all the vehicles on his property regardless of their condition. She went into boats, utility trailers, heavy trailers, etc. The definition she sent to him has all of them highlighted. That is what she is telling him he has to do, that they have to be licensed.

Noonan said under the City ordinance if a vehicle is exempt from licensure then they won't qualify it as abandoned. It is reviewed by the City Attorney's Office if it comes to them by a complaint. There are times when a vehicle may come before them and if they find that it is exempt, or otherwise does not fit within the definition, then they do not prosecute.

Gonzales said, as a law-abiding citizen, if an officer comes to my residence, and tells me what to do to not receive a citation, then I do it. He thinks this ordinance is farfetched by making him license vehicles in his backyard that do not fall under junk. The vehicles are not missing pieces. He said she insisted he had to do this. They had a phone conversation, which was recorded. He wants this changed. He has other witnesses that will say she pressured them. He doesn't want to go through the court system; he wants to be in compliance. He wants the Council to make the law just for all.

Noonan said, for the benefit of the Council, the condition described by Gonzales involving vehicles that are not on the street, would not constitute an abandoned vehicle. That is in Chapter 13; they would have to be in an alley or left on City property. The junk issue is a separate issue. When the City gets a report, they enforce it either through the Police or the petition process. As a reminder, when the Council came up with the junk ordinance in 1993-94, it was because the City was getting widespread complaints from citizens and they needed to come up with an objective standard that was enforceable. The problem cities have with junk ordinances is that they are contested routinely based on their vagueness. So the City tried to create categories of junk based on what other cities found to be defensible. They put it in the definition, and then beyond that to safeguard citizens they put in a determination provision that allows for consideration of categories of alleged junk either on a designee basis or a prima facie evidence (three or more adjacent neighbors have complained).

Gonzales said the officer is not enforcing according to the intent of the rule, and that is why he is here. He doesn't understand why buying the license would change anything.

Konopa said she is not clear what Gonzales would like to see happen. Is he suggesting that the City allow unlicensed vehicles that are classified as junk under the junk ordinance?

Gonzales said he would like the Council to remove the 30-day license and go with the rest of the ordinance. The rest of the ordinance is fairly clear about what a junk vehicle is. But they are trying to enforce that just because it is not licensed, it is a junk vehicle and must be removed. He never saw anything in the ordinance about boats and the officer wants all the boats licensed. The off-road vehicles and boat are not on his property. He also has two quads that he runs on private property. He also has utility trailers that he uses in his construction business. When they are on job sites they don't require a license because they are on private property but the officer wants him to license them anyway even though they are not required by the DMV. The City should not be able to require, it since the DMV has that sole responsibility.

Olsen asked, in times that are hard like this, why should a person have to keep vehicles licensed all the time? He is looking for the logic of the rule. The City's business is health and safety and he is not sure how a trailer in a backyard, with or without a license, is unsafe. He thinks there should be a work session on this subject.

Collins agrees. He thinks the license issue is a surrogate for the state of repair. He asked, at what point do we draw the line? The assumption may have been, if it has a license it is road ready but that may not be true.

Collins said a utility trailer is a good example. Collins said, we have to find the line between a trailer that is productive for business and another trailer where someone has the wheels off and it's been cut in half; one might be junk but the other would not. We need to find where to draw the line. He said, but we are not going to solve it in a meeting like this – it should be discussed in a work session. He thinks the license was used to serve as the fine line but it has turned out to be an inaccurate benchmark.

Gonzales said, if you drive around and look in back yards and driveways, you will see lots of them. There are lots of people out of work and people do not have the money right now.

Noonan said the City had a concern when this came up because these situations could become defacto unlicensed wrecking yards. So that is a matter of degree in many cases.

Collins said that by his house there were 18 vehicles on one family lot. All were all licensed and in all stages of repair. But when does it go from being a hobby, to being an abandoned vehicle, to being a wrecking yard?

Gonzales said there are county regulations that address the issue too.

Johnson also supports this item coming to a work session.

Dick Owen, 810 Cox Street, said he read an article about Gonzales. Owen said he personally was criminally charged. Konopa reminded him that that case was dismissed.

Regarding junk regulations, Owen thinks the 30 days and licensing should be removed. He said he was charged criminally for junk at an address that doesn't even exist. He paid \$15 to find out who reported it. It bounced around the court so far and so much from one thing to another. The Judge, City Attorney, and himself met and they agreed to Spanish law that Owen would have to prove that the cars weren't junk and that they would run. They were licensed and insured after the citation. The agreement was that he had to start up the cars. He had until April 30 to get the cars running but they never showed up. Then the police showed up to take a picture of his car.

Konopa asked Owen if he had any new information, as the Council has heard this testimony several times. Owen said no. He said, but the attorney never showed up and the case was over one inch of moss on the back of his car.

Owen continued. He said another thing is that there was a case of a woman who was in her nightclothes and an officer knocked on her door and arrested her for drunk driving. Owen said he called the Police Chief who said he would look into it. He called back 2.5 weeks later and he was hung up on. He wants City Manager Wes Hare to tell the Chief that he wants to talk to him.

Larry Nelson, 920 13th Avenue NE, said he likes to keep lots of things to fix. He got a citation today for \$2,500 for keeping junk. Much of his items are like Gonzales' things. They may not need to be licensed because he only uses them on his own property. He has nine acres in the city limits. He has trailers and a pickup truck that he never takes off his property; in fact he doesn't even have a title for the truck. According to the officer, who has been to his house three times now, anything that isn't licensed has to be removed. He can't get a title for this truck but he doesn't even take it off his property anyway, so why does he need it licensed? Why is it junk if it runs? Also he has commercial trucks that are not licensed but if he wants to use them he buys a trip permit from DMV. The cost is \$350 per year per truck for a license yet he seldom uses them so it doesn't make sense to buy a license for each truck. With a trip permit to be used anytime, the cost is \$30 for each vehicle for two

weeks. The City wants to tell him what to do with his nine acres, but they won't let him build a house because it is zoned for a five acre minimum and has no sewer. It is in farm deferral and he has to show income which he does by boarding horses. He said, if you are going to let me be on a farm then leave me alone and let me be a farm, but if you want to treat me like a city lot, then let me subdivide and build houses. He said, it seems like you want me to have nine acres and just mow the grass and make it look pretty for the neighbors. He pays his taxes and should do what he wants to with his property.

There was a discussion about how trip permits work.

Nelson said the \$2,500 citation seems excessive. The officer came out, told him there was a problem, and he started cleaning up and hauling things away. But then she came out again and gave him a citation. It seems it could have been done a different way. He is not trying to break laws; he is a good neighbor.

Johnson asked, what happened first in the process? Nelson said first he was notified he had junk. He said he acknowledges that and knows that it needs to be cleaned up. But he also has nine acres and wouldn't have bought it if he didn't want a lot of stuff around. But the process seems harsh and if he is going to pay taxes on nine acres he should get to use it like acreage, not like a city lot. He has 30 days to get into compliance according to the citation he got today. If he complies in three weeks they will dismiss it but if not then he will have to go to court. Nelson said the officer gave him a definition of junk 4 - 7 days before he got the citation. Also she wouldn't tell him exactly what he needed to do, for example, with a storage box.

Noonan said he ends up prosecuting many of these so is familiar with the process. He said when they get complaints, the first step is that an officer checks the property. Before issuing a citation the officer will almost always talk with the person. Junk cases are generally dismissed if they are corrected before the arraignment date. If they are not and it comes to him, he reviews it and they almost always give another 30 days to come into compliance. The City works with the citizens to get into compliance with not only the letter of the law but the spirit of the law, too.

Olsen asked why he can't get a truck license. Nelson described how he tried but is unable.

Olsen said, it is not fun to hire an attorney and get called into court and see your name in the paper. He asked, are we doing backyard checks citywide looking for junk? Hare said no. For years there has been tension among neighbors over junk. This is a complaint-driven process. Sometimes staff gets a flurry of complaints and the police will investigate. The problem is that people have different standards about what is acceptable. Staff has heard over and over that one neighbor's property can hurt the property value of others. Most cities have standards and there will always be someone that doesn't like those standards. Hare said that it seems that a review of Albany's code is the right thing to do; but he asked the Council to bear in mind that, if you lived in a historic neighborhood and your neighbor parks 12 pickup trucks in the front yard in various states of repair, you probably aren't going to like it, particularly if you are trying to sell your house. Staff runs into that type of situation routinely. It is difficult for officers in the field. If they see something that is in violation, then they issue a citation. He can't say how many have actually had to pay a fine over junk and trash, but he suspects the number is very small because the City goes out of its way to help. In fact staff and some Councilors have spent their Saturdays actually helping folks clean up on City-financed clean-up days. The City tries to be considerate that folks sometimes end up with junk they can't get rid of. Albany does as much or more than most cities to help citizens clean up their properties.

Olsen pointed out that some of the complaints tonight are about backyards.

Nelson said he agrees he has a lot of junk on his property. He said that the officer told him that his firewood would not be in compliance until it is split and stacked. Hare said he doubts anyone has been made to pay a fine for unstacked firewood. Noonan said that is a stand-alone and doesn't constitute a violation of the junk ordinance nor would it be prosecuted by the City Attorney's Office. Noonan's experience is that Municipal Court has dealt with a large number of junk cases, and as many as 90% have achieved compliance and the City is happy to dismiss them.

Johnson asked, were these started because of a citizen complaint? Staff said not always, though usually it is in response to a neighbor's complaint. Other scenarios are if an officer or employee becomes aware of a serious problem, they will turn it in. Staff is charged with trying to enforce as best they can the ordinances that the Council has passed. What the level of tolerance is for junk, is decided by the Council.

Johnson said she has been campaigning and has seen some safety hazards that she will be turning into Code Enforcement. She looks forward to reviewing the ordinance. She thinks folks should be able to do what they want with your property but the City also has to look out for their neighbors.

Reid asked Nelson why he cannot divide his nine acres. Nelson said, because they have to be five acre minimums. He is inside the City limits but does not have sewer service.

Collins said that for the work session he wants to look at what other cities do. He said he knows Nelson as a former neighbor and he was tidy. His new property is in Benton County and is urban reserve residential. There

are floodplain and other issues and Benton County doesn't want to issue a permit. It is an unusual situation for North Albany. He wants to find a reasonable solution.

Judy Byers, 35555 Circle Drive, said it is hard to believe that this Council is so protected from reality. She strongly objected. She said during these high times of unemployment, that the City demand that they license everything, is unreasonable.

Nick Bruno, 1931 47th Avenue SE, said he has been reading about this in the paper and he doesn't understand why the fine is \$2,500. He has been unemployed for a year and a half and there are others in his situation. He thinks it is a ridiculous amount.

David Renly, 320 Charlotte Street, said he also got a notice. When called he was told it was for his horse trailer that was on his side yard. It was at his brothers but he can't keep it there because the house had burned down. There are also four tires and wheels stacked on the side. They are not junk. He said the Council needs to do something about this. If there aren't people complaining within three houses away, why does it matter? They chose this neighborhood for a reason and they like living there.

Paul Gonzales, 310 Charlotte Street, said that the AMC says in 30 days, the car is junk. The only people exempt are wrecking yards. But all the car lots sell cars without licenses. The City wouldn't pick on a new car dealer. The state says they can have five vehicles on their property. The Council needs to look at the code.

Gloria Hernandez-Soto, 270 Charlotte Street, is here because of the hot air balloons. She has pictures to show that they were flying really low. She is afraid because she already had a fire and what if one of these lose gravity and have to come down. All she is asking is for the balloons to stay up in the sky. She asked, when does my privacy and safety come in?

Regarding junk, Hernandez-Soto said, before the Council starts casting stones they should know that she drove through some of their neighborhoods and they have neighbors with junky cars on the road that should not be there; but she doesn't care, because it's not her neighborhood. She submitted pictures of the hot air balloons into the record (see agenda file). She has lived there since 1983 and the house burned down in 1986. They have a 1952 Chevy with compound gear; her brother died in it and she will not get rid of it yet because she made a promise to her sister-in-law.

Adoption of Resolution

Supporting designation of the Albany-Corvallis Highway in Downtown Albany as a special transportation area in the Oregon Highway Plan.

Shepard said they are at the second step in a three step process. The first step was inclusion in the Transportation System Plan (TSP) adopted in February. This resolution will go to the Oregon Department of Transportation (ODOT) Transportation Commission. They will designate it as a special transportation area. The designation provides more flexibility in transportation planning (such as on-street parking and driveway access) which will enable the City to meet ODOT's mobility standards.

MOTION: Johnson moved to adopt the resolution supporting designation of the Albany-Corvallis Highway in downtown Albany as a Special Transportation Area in the Oregon Highway Plan and Reid seconded it. The motion passed 5-0 and was designated Resolution No. 5946.

Johnson thinks this is a great idea; we should do anything we can to protect the downtown.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) August 23, 2010, Regular Session.
- 2) Adopting an updated investment policy. RES. NO. 5947
- 3) Accepting a Recreation Trails Program grant from the Oregon Parks & Recreation Department for the proposed rehabilitation of Periwinkle Creek Trail. RES. NO. 5948
- 4) Approving the following liquor licenses:
 - a) Brewster's, 640 Hickory Street NW.
 - b) House of Noodle, 2025 Santiam Highway SE.
- 5) Authorizing the City of Albany to submit a grant for application to the Oregon Department of Transportation for transportation enhancement program funds and a commitment to provide the required local match. RES. NO. 5949
RES. NO. 5950
- 6) Directing staff to execute a property line adjustment consolidation deed. RES. NO. 5950

MOTION: Reid moved to adopt the Consent Calendar as presented. Johnson seconded the motion and it passed 5-0.

Appointment

Appointing Hal Schalles to the Albany Arts Commission

Konopa said this particular appointment was handled differently. Usually the Mayor makes an appointment but Konopa isn't familiar with art so they accepted applications instead, and the Arts Commission interviewed people and made a choice. They want to keep the applications on file in the event another member resigns soon.

MOTION: Johnson moved to approve the appointment of Hal Schalles to the Albany Arts Commission and Collins seconded it.

Reid said that on his application Schalles suggested using the old downtown fire station as an art gallery. But the building is seismically unsafe so he doesn't see that as an option.

VOTE: The motion passed 4-1 with Reid voting no.

Reports

ST-07-03, 53rd Avenue Bridge and Roadway Improvements, Wetland Bank Settlement

Shepard is requesting Council authorization to enter into a settlement agreement with Oregon Wetlands LLC. This stems from the work done for the PepsiCo site, and meeting the City's obligations of the development agreement to get the site ready. The City had to show the Division of State Lands (DSL) that the City had locked up wetland credits for the wetlands that would be impacted by the new roadway. The City made an earnest money down payment of 10% and the contract called for six months to finalize the purchase. If the City did not purchase the credits in that time then interest would start to accrue at 12%. Over the life of the project, construction was delayed by PepsiCo and also by Larry Epping, who owned 95% of the land. The City couldn't execute the agreement and get the DSL permit and now that PepsiCo isn't coming, the issue needs to be cleaned up. Under the contract terms it would be \$122,000. It was determined that a negotiated settlement was the best avenue. Oregon Wetlands LLC originally offered \$100,000 and the City was able to get them to drop it to \$75,000. Staff wants Council authorization to work towards closure of this obligation.

Reid said first he wants to discuss if the City is going to finish a portion of the 53rd Avenue bridge because it might include some of these wetlands. Shepard said there is only one acre out of the ten acres that would have been impacted by the 53rd Avenue overpass. If they moved forward they would have to mitigate that one acre. The asking price from Oregon Wetlands LLC is \$1.50 a square foot. He discussed with DSL that because construction has slowed the cost of wetland credits has dropped to \$1.00 a square foot. Since there doesn't appear to be support for constructing the 53rd Avenue project, it would be best to close this out now.

Collins asked, given what he and Olsen are about to pursue with the Council of Governments (COG) regarding wetlands processes, how do we deal with industrial land? He is not sure the City should give up the wetland credits. He asked, if we had ten acres of credits could they be applied to other developing parcels and not just the PepsiCo property? Shepard said that is hard to answer. DSL previously didn't allow agencies to purchase credits in advance of a project that was under permit review. Just recently they have allowed jurisdictions to prospectively purchase wetland credits. The problem is that what DSL will allow or require for mitigation is continually in flux. Five years ago, wetland bank credits were a last resort and now, they are DSL's first choice. There is risk; if we purchase the credits, will we actually be able to use them? He can't answer that and suspects DSL could not either. If the Council wants to reserve the rights to the credits, Shepard thinks the bank would want the \$75,000 and a new contract. They had discussed a payment of \$160,000 to keep them open and \$30,000 a year for two years but with development where it is and wetland bank credits having more availability now, staff didn't think it is economically feasible to tie the money up.

Hare said the bottom line is that the City can get a better deal now. When the credits were purchased development was at a feverish pitch, the City was under the gun to meet PepsiCo's deadlines, and there were no other wetland credits available. What was a good deal under those circumstances is no longer a good deal today. Hare said, staff's suggestion gets us out from under this obligation and if we need to buy credits again we will have more options.

Collins said that pricewise, he agrees; though as individual projects come up and we have to negotiate with DSL and the banks, the cost is both capital and time. If the City did have something in hand, they could avoid spending six months arguing with DSL, and that time savings may be worth something. Shepard said, if we were still in a state where development was high and bank credits were limited, he would agree; now though, in talking with DSL about what is available and given that other cities are soliciting bids from banks for wetlands credits, it is different. The negotiation with the wetlands bank is actually quick; and we would still have to go through the permitting process for every project anyway. This would not save time in that way. Collins hopes his and Olsen's work with COG will help to streamline the whole process. Discussion followed.

Olsen asked if these wetlands will interfere if the Council does choose to finish a portion of the 53rd Avenue overpass. Shepard said when that road is built the wetlands will need to be mitigated at that time. The issue is if the City buys these credits now and doesn't build the project, we don't get our permit from DSL. To do it now

would mean to do some sort of construction right away so that DSL can say how it impacts and how it can be mitigated. The other issue is that wetland delineations have a shelf life so in about 2013 the current delineation would be invalid.

In terms of saving the credits, Shepard said the wetland bank credits need to match the form and function of the wetlands that a specific project is disturbing. He said, if we bought them now, we don't know what they would be good for and they would have to be used soon.

Johnson noted that we are paying 12% currently, and staff seems to have been able to negotiate a good settlement. It is better to pay \$75,000 than to pay 12% on \$122,000.

MOTION: Johnson moved to authorize a settlement payment of \$75,000 to Oregon Wetlands LLC for dissolution of the contract to purchase wetland bank credits, to be paid with PepsiCo Settlement proceeds. Christman seconded it and it passed 5-0.

Oregon Department of Environmental Quality 1200-C permits

Blaine said this item was discussed at the August 23, 2010, Work Session. At that time staff promised to bring back a draft permit and Intergovernmental Agreement (IGA) with the Department of Environmental Quality (DEQ) once it became available. It is available now and in the Council packet. Staff is requesting that the Council authorize the City Manager to execute the IGA.

Blaine said these documents will remove duplicate language about erosion prevention and sediment control in Albany and in other jurisdictions that are named in the permit. The removal of the language will affect about 60% of all the development activity and would cover almost all of our capital projects. It will reduce the overall permit cost for the City and for the development community and will improve time and project management.

Blaine said page three of the permit shows all the agencies that are covered because their local permitting meets the criteria. The language is clear that it does not place any additional regulations on those agencies listed.

Blaine said the City will need to provide DEQ with an annual report showing how many permits were issued and how many inspections were conducted.

Shepard added that the City Attorney approved the IGA.

Christman noticed that several expiration dates are five years from issuance. He asked if the City would have to apply again. Blaine said it is not a permit for the City of Albany but rather it is a general permit that the state reviews every five years. They open it to public comment, modify language, then the Environmental Protection Agency reviews it. Construction activity registers under this permit. The expiration date applies to DEQ. It could potentially not be renewed.

Collins asked, if we didn't do this and the state implemented their 1200-C permit and a local developer had to apply, what would the cost be for both permits for a typical five acre development? Blaine said the state's fee is about \$1,500 for the first year and \$765 for each additional year. The City's cost is \$1,100. This change means the developer would be avoiding the state's cost and getting better service. Shepard added that it also saves soft costs because developers do not have to pay their engineers to fill out applications and other paperwork.

Collins said this savings will be important to the development community in Albany.

MOTION: Collins moved to authorize the City Manager to execute an intergovernmental agreement with the Oregon Department of Environmental Quality. Johnson seconded it and it passed 5-0.

ST-09-03, Oak Street Local Improvement District

Shepard said that during the formation of the Oak Street Local Improvement District (LID) the Council had expressed input about design elements. Before staff spends a lot of time on design they would like to get general direction from the Council.

Civil Engineer III Chris Cerklewski said normally during the course of a street design in already established neighborhoods, staff tries to meet with all the residents. They ask neighbors what they would like to see out of the project, though of course they can't make everyone happy.

There are several main points staff would like to discuss with the Council before going to the neighbors:

- Design speed: The current speed is 35 mph and staff plans to work with ODOT to get it repealed and changed to 25 mph. This would be more in character with the neighborhood and is in line with it being a minor collector.
- On-street parking and parking in general: Staff would accommodate parking needs when feasible with on street parking or widening driveways. They will not be able to provide on street parking everywhere because of the requirements for the Lowe's frontage.

- Traffic calming: Lowering speed limits and other features to slow drivers down such as curb extensions, narrower lanes, and chicanes. Another option is a mini roundabout at Oak Street and 14th Avenue. They will also consider turning restrictions to deter cut-through traffic.
- Street trees: Landscape strips will have street trees except for in areas where there needs to be center turn lanes.
- Stormwater quality improvements: The City is not currently required by DEQ to do this but will be requiring it in the next few years so it is prudent to incorporate them now.

Christman asked if these recommendations are within the budget for this project. Cerklewski said that any of the options do not have a significant cost.

Johnson is against the mini roundabout. Regarding street trees, she asked, won't that take away on street parking? Cerklewski said it depends on the width of the street and the lanes. Staff used an overhead to show the potential turn restrictions (see agenda file). Discussion followed.

Johnson asked if speed bumps could be added. Cerklewski said they discourage speed bumps on collector streets because the traffic volume is higher. Also Lowe's customers will likely have trailers that are not conducive to speed bumps. Speed bumps are not a good fit.

Konopa wanted to make sure that Sherman Street is included when staff goes out to the neighborhood.

Staff would like a general consensus from the Council tonight about the overarching direction.

Collins said if the roundabout is a solid concrete structure it will attract skateboarders. The right turn at Queen Avenue would be better served by a traffic signal; he asked, at what point is a signal warranted? Shepard said the volumes are so low that they likely will not meet the threshold. Discussion followed.

Transportation Systems Analyst Ron Irish spoke to the volume and potential for a cut-through. The Transportation System Plan (TSP) modeling work assumed the Lowe's punch-through and two new lights. They also had model runs that did not include the punch through. What they saw when adding the punch-through is a diversion of trips from Geary Street to Oak Street that was almost entirely in the northbound direction. Drivers chose to take Oak Street to avoid the series of lights on Geary Street. It didn't however happen in the southbound direction because when drivers got to Queen Avenue they couldn't make the left hand turn, yet there wasn't enough traffic to warrant a signal. Primarily it would be the local neighborhood that would be impacted by the restriction, not the larger area. There are some pros and cons for the neighborhood with that restriction: they would have more access off-peak, but there would be more trips on the road overall without the turn restriction.

Collins asked, if we initially had a right turn restriction, would there be a point in time to reevaluate? Irish gave options that would redirect traffic including a signal. The downside of a signal is there is not a lot of demand and a signal placed on Oak Street will impact other signalized streets. Shepard said that a potential unintended consequence of adding a signal would be more southbound trips on Oak Street.

Johnson asked if a three way stop would work. Irish does not recommend it. It could create a gridlock at the Queen Avenue and Geary Street intersection.

Olsen asked if it is possible to phase the lights at Hill Street and Geary Street so there is a break in traffic. Irish said that when the red light stops north-south traffic it opens up east-west traffic, and vice versa; so there is almost never a time when there would be a gap. It would be easier if it were a one-way street system. Discussion followed about if Olsen's idea could be modeled. Olsen does not like the idea of prohibiting left turns from Oak Street. He also does not like mini roundabouts.

Johnson asked if the City pays for widening the driveways. Shepard said the City has at times paid for them as a part of mitigating the impact to private properties. Widening a driveway is less expensive than building an additional eight foot lane for on street parking, so there is a cost savings both in construction and ongoing maintenance.

Christman objects to the roundabout because it may turn into a skate park. He doesn't object to the other ideas because he thinks the City needs to take as many options as possible to the neighborhood. He thinks that residents from 9th Avenue to Queen Avenue, and Oak Street to Hill Street should be included, not just those that live on Oak Street.

Konopa said 34th Avenue meanders and the meandering does help to discourage truck traffic.

Shepard showed two roundabouts (see agenda file). They are mountable by big trucks. Bricks could be added to discourage skateboarders. It could be built without any ROW acquisition.

Collins thinks that with the pedestrian volume, especially kids from the park and the Boys & Girls Club, the more that is there to create confusion, the more it puts people at risk. Johnson agrees.

Reid commented that on page 40 it refers to a "standard" roundabout, but Albany only has two so we don't have a standard.

Reid said the street trees on Lowes are necessary so the neighborhood has some sort of visual blockage of the Lowe's building. Staff said that as part of the land use permit Lowe's will be dedicating ROW so there can be setback on their sidewalk frontage.

Hare said the City will be confronting the issue of roundabouts more and more. They are different so they are inherently suspicious. This was true in North Albany but we have found since that it is safer than traditional intersections. Traffic studies show they do function more safely than intersections. He suggested the roundabout be presented to the neighbors to see what they think. Christman said to go ahead and present it as an option to the neighbors, though he is not convinced they will want it.

Reid said if there is no left turn, then the neighbors will have to go onto 9th Street to get to the grocery stores.

Staff will present options except for the turning restriction at Oak Street and Queen Avenue. It may also be wise to eliminate the roundabout just so there are less options and it will be quicker to gain consensus with the neighbors. Shepard reviewed the Design Element table on page 80, not including these two items, and the Council agreed to present it to the neighbors.

Council directed staff to present the options to the neighborhood on Oak Street, Hill Street, and Sherman Street. Staff will bring back a final version after the neighbors have selected options.

BUSINESS FROM THE COUNCIL

Christman used the testimony tonight as an example for why he wants to put Business from the Public first on the agenda.

Konopa said this has been discussed many times over the years; but doing so delays everyone else that might actually be there for an item on the agenda. For example, the Oak Street residents in the audience tonight left early because it was so late and we still weren't to that item. Discussion followed.

Hare said he remembers a city that had Business from the Public first on the agenda, and for precisely the reason that Konopa explained, people got tired of making the effort to be scheduled on the agenda, showing up, but then having to wait for people under the Business from the Public to speak on items that were not on the agenda. So that particular City Council directed him to do the opposite. He agrees with Konopa that there were many from Oak Street that left early tonight. It is a balancing act.

Collins suggested putting a limit on testimony during Business from the Public to three minutes; or perhaps set a total of 15 minutes for testimony and if it exceeds that then it is moved to the end of the agenda.

Hare will be conducting a session at the League of Oregon Cities (LOC) Conference on dealing with angry citizens. He discussed a recent Vancouver, Washington City Council meeting where a tense scene occurred. Discussion followed.

Reid will not be at the next work session or Regular Council meeting.

Collins will not be at the October 27, 2010, Regular Council meeting.

Olsen said Business from the Public used to be last on the agenda and folks got really mad they had to wait that long. He thinks it is better to be held early in the meeting; but if folks have been invited to attend a public hearing, then that should take precedence over Business from the Public. He likes the way the agenda is being set now.

Olsen asked why Nelson got a citation if there were no complaints about his property. Staff said there must have been complaints or the City wouldn't go there. Olsen said he is surprised that a person might be cited for unstacked fire wood. Noonan said it may fall under scrap lumber but he doesn't want to comment since he doesn't know the facts about the case.

ADJOURNMENT

There being no other business, the meeting was adjourned at 10:11 p.m.

Respectfully submitted,

Mary A. Dibble, MMC
Deputy City Clerk

Reviewed by,

Stewart Taylor
Finance Director



TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Edward Boyd, Chief of Police

A handwritten signature in black ink that reads 'Edward Boyd' with a stylized flourish at the end.

DATE: October 15, 2010, for the October 27, 2010, Council Meeting

SUBJECT: Accept OACP Safety Belt/Three Flags Traffic Safety Grant

RELATES TO STRATEGIC PLAN THEME: • A Safe City
• An Effective Government

Action Requested:

Approve a resolution to accept the Federal Fiscal Year 2010-11 Safety Belt/Three Flags Traffic Safety Grant from the Oregon Association Chiefs of Police in the amount of \$8,000 for a total of 200 hours of overtime for traffic enforcement (Federal Funds CFDA #20.600).

Discussion:

Albany was invited to apply and has been approved for up to \$8,000 for Safety Belt/Three Flags traffic safety. The overtime reimbursement rate is \$40/hour. These federal funds come through the Oregon Department of Transportation and are administered by the Oregon Association Chiefs of Police. Federal funds require the City to provide specific accounting, which includes approving the attached resolution.

The annual Three Flags grant period is based on the Federal Fiscal Year from October 1, 2010, to September 30, 2011. The increased patrols assist the City in reducing the number of motor vehicle-related deaths and injuries by increasing public awareness of laws regarding safety belt use and other traffic issues including DUII and speed.

Budget Impact:

The grant reimburses the City for up to \$ 8,000 in overtime costs to increase safety belt, speed, and DUII patrols.

msr
attachment

RESOLUTION NO. _____

A RESOLUTION IN SUPPORT OF ACCEPTING THE OREGON ASSOCIATION CHIEFS OF POLICE SAFETY BELT/THREE FLAGS TRAFFIC SAFETY GRANT TO ENFORCE SAFETY BELT, SPEEDING, AND DUII LAWS.

WHEREAS, the Oregon Association Chiefs of Police makes grant funds for Federal Fiscal Year 2010-11 available from October 1, 2010, to September 30, 2011, to provide overtime reimbursement for increased patrols to enforce safety belt, speeding, and DUII laws; and

WHEREAS, the City of Albany Police Department was invited to apply for overtime reimbursement for the Three Flags Traffic Safety Grant to enforce safety belt, speeding, and DUII laws; and

WHEREAS, the City of Albany Police Department has received approval for up to \$8,000 in overtime reimbursement for the Three Flags Traffic Safety Grant to enforce safety belt, speeding, and DUII laws; and

WHEREAS, grant acceptance will reimburse enforcement of safety belt, speeding, and DUII laws overtime; and

WHEREAS, grant acceptance will require a local match by providing two hours of straight time traffic safety enforcement for every hour of grant overtime and report hours of enforcement and number of arrests/citations made; and

WHEREAS, Oregon Local Budget Law provides that expenditures in the year of receipt of grants, gifts, bequests, or devices transferred to the local government in trust for a specific purpose may be made after enactment of a resolution or ordinance authorizing the expenditure (ORS 294.326(3)).

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council does hereby state that enforcing safety belt, speeding, and DUII laws will assist us in reducing the number of motor vehicle-related deaths and injuries by increasing public awareness; and

BE IT FURTHER RESOLVED that the Albany City Council authorizes the Albany Police Department to accept the Oregon Association Chiefs of Police overtime reimbursement for Safety Belt/Three Flags Traffic Safety Grant: and

BE IT FURTHER RESOLVED that the \$8,000 was appropriated in the City of Albany Fiscal Year 2010-2011 budget.

DATED AND EFFECTIVE THIS 27TH DAY OF OCTOBER 2010.

Mayor

ATTEST:

City Clerk



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Edward Boyd, Chief of Police *Edward Boyd*
DATE: October 15, 2010, for the October 27, 2010, Council Meeting
SUBJECT: Accept the Oregon Association Chiefs of Police DUII Traffic Safety Grant

RELATES TO STRATEGIC PLAN THEME: • A Safe City
• An Effective Government

Action Requested:

Approve a resolution to accept the Oregon Association Chiefs of Police DUII Traffic Safety grant for Fiscal Year 2010-11, to detect and remove impaired drivers from our streets. These funds are no longer considered to be federal funds when they are received from Oregon Association Chiefs of Police (DUII Grant CFDA #20.601).

Discussion:

The Police Department has participated for eleven years in a traffic safety grant to detect and remove drivers under the influence of intoxicants (DUII) from our roadways. We have been granted \$6,000 for this purpose for Fiscal Year 2010-11. These funds come through the Oregon Department of Transportation and are administered by the Oregon Association Chiefs of Police. The grant requires the City to provide specific accounting, which includes approving the attached resolution. The hourly rate for overtime reimbursement is \$40/hour.

The DUII Enforcement Grant allows us to increase directed patrols for DUII enforcement. The increased patrols assist us in removing dangerously impaired drivers from our streets and make our community safer. These directed patrols are particularly useful during special community events and national holidays that have historically seen an increase in impaired drivers.

Budget Impact:

Reimburse City for up to \$6,000 in overtime costs to increase DUII directed patrols.

msr
Attachment: Resolution

RESOLUTION NO. _____

A RESOLUTION IN SUPPORT OF ACCEPTING THE OREGON ASSOCIATION CHIEFS OF POLICE DUII OVERTIME GRANT FOR THE DETECTION AND REMOVAL OF IMPAIRED DRIVERS FROM OUR STREETS.

WHEREAS, the Oregon Association Chiefs of Police makes grant funds available from October 1, 2010, to September 30, 2011, to provide overtime reimbursement for increased patrols to detect and remove Drivers Under the Influence of Intoxicants (DUII) (CFDA 20.601); and

WHEREAS, the City of Albany Police Department was invited to apply for overtime reimbursement for DUII enforcement to enhance existing DUII patrols; and

WHEREAS, the City of Albany Police Department has received approval for up to \$6,000 overtime reimbursement for DUII enforcement to enhance existing DUII patrols; and

WHEREAS, grant acceptance will reimburse for DUII enforcement overtime; and

WHEREAS, grant acceptance will require a local match by providing department resources such as vehicle use, staff time to schedule overtime, and staff time to report hours of patrol enforcement and number of arrests/citations made; and

WHEREAS, Oregon Local Budget Law provides that expenditures in the year of receipt of grants, gifts, bequests, or devices transferred to the local government in trust for a specific purpose may be made after enactment of a resolution or ordinance authorizing the expenditure (ORS 294.326(3)).

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council does hereby state that detecting and removing impaired drivers under the influence of intoxicants from our streets is a priority.

BE IT FURTHER RESOLVED that the Albany City Council authorizes the Albany Police Department to accept the Oregon Association Chiefs of Police overtime reimbursement for DUII enforcement.

BE IT FURTHER RESOLVED that the \$6,000 was appropriated in the Fiscal Year 2010-11 budget.

DATED AND EFFECTIVE THIS 27TH DAY OF OCTOBER 2010.

Mayor

ATTEST:

City Clerk



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Edward Boyd, Chief of Police *Edward Boyd*
DATE: October 18, 2010, for October 27, 2010, Council Meeting
SUBJECT: Acceptance of Donation from the Linn County Victim Impact Panel, Inc.

RELATES TO STRATEGIC PLAN THEME:

- An Effective Government
- A Safe City

Action Requested:

City Council authorization for the Albany Police Department to accept the Linn County Victim Impact Panel, Inc. (LCVIP) donation of a CDR Premium Hardware Kit valued at \$5,139.

Discussion:

The Linn County Victim Impact Panel, Inc. (LCVIP) annually distributes non-federal funds to Linn County law enforcement agencies based on their DUII arrests for the prior year. This year, LCVIP purchased a CDR Premium Hardware Kit for \$5,139. LCVIP is donating the equipment to the Albany Police Department for use by the Multi-Agency Investigation Team (MAIT). The equipment will assist MAIT members in DUII investigations and prosecuting impaired drivers involved in motor vehicle crashes.

Budget Impact:

None.

Attachment: Resolution

RESOLUTION NO. _____

A RESOLUTION IN SUPPORT OF ACCEPTING A DONATION TO THE ALBANY POLICE DEPARTMENT OF A CDR PREMIUM HARDWARE KIT FOR USE BY THE MULTI AGENCY INVESTIGATION TEAMS (MAIT) FOR DUII INVESTIGATIONS.

WHEREAS, the Linn County Victim Impact Panel, Inc.(LCVIP) annually distributes non-federal funds to Linn County law enforcement agencies based on their DUII arrests for the prior year; and

WHEREAS, the LCVIP purchased a CDR Premium Hardware Kit and donated it to the Albany Police Department to be used in MAIT investigations and prosecution of impaired drivers; and

WHEREAS, donation acceptance will help solve crimes that would otherwise go unsolved, which allows us to deter future and additional criminal activity.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council does hereby state that solving crimes is a priority; and

BE IT FURTHER RESOLVED that the Albany City Council authorizes the Albany Police Department to accept the LCVIP donation of a CDR Premium Hardware Kit.

DATED AND EFFECTIVE THIS 27TH DAY OF OCTOBER 2010.

Mayor

ATTEST:

City Clerk



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Marilyn Smith, Management Assistant/Public Information Officer *mms*
DATE: October 20, 2010, for the October 27, 2010, City Council Meeting
SUBJECT: Code Enforcement Team First Quarter Report, Fiscal Year 2010-2011

RELATES TO STRATEGIC PLAN THEME:

- Great Neighborhoods
- A Safe City
- An Effective Government

The Code Enforcement Team has begun its 12th year. We now have the ability to track complaints, investigations, and case resolutions more efficiently, using the database developed by Management Systems Director Bob Woods. All team members now use the database, are able to view each other's updates, and can supplement case files with photographs. Besides being a case-tracking tool, the database makes it easier to provide accurate code enforcement data as part of the City's ongoing participation in the International City-County Management Association's performance measurement project.

The team received judgments from Linn County Circuit Court on two long-standing cases this quarter giving the City the authority to demolish and clean up the properties (337 Sixth Avenue SE and 1250 Shortridge Street SE).

Team members conducted a neighborhood education event in the Draperville area (Charlotte and Marilyn Streets, San Felicia Avenue NE) in early September. As a result, several residents of the area and others came to the City Council and the *Albany Democrat-Herald* with concerns about the City's junk regulations. The Team will come to the City Council's November 15, 2010, Work Session for a discussion of junk regulations. In the interim, we continue to receive complaints throughout the community of accumulated junk and household garbage; cars, utility trailers, recreational vehicles, and boats stored on residential streets; and abandoned and neglected properties that are neighborhood eyesores. The team investigates each one.

During this quarter, 66 new complaints were reported, 40 cases closed, and 105 remained open as of September 30. Here are a few highlights:

1. 1415 Salem Avenue SE (ongoing) – Thirty-nine residents of the neighborhood around this deteriorating mobile home park delivered a petition to City Hall on September 28, 2010, alleging that many of the structures are unsafe, possibly uninhabitable, and unsightly, degrading property values. Investigation continuing. **Status: Open.**
2. 1240 Geary Street SE (June 10, 2009) – Historic home damaged long ago by fire, abandoned, partially boarded up. Declared dangerous by Fire Department. Windows, siding, some interior flooring have been removed. Property is mowed occasionally. Awaiting sale and redevelopment. **Status: Open.**
3. ARCO station, 3110 Pacific Boulevard SE (July 20, 2009; reopened March 15, 2010) – A potential buyer has made an offer to property owner BP, and BP countered at twice the price. Property is in violation of Development Code – sign pole remaining at closed business and concertina wire tops the security fence. Citations pending. **Status: Open.**
4. 2035/2040 Tudor Way SE (February 2, 2010) – Perpetual collection of tires, car parts, and other garbage stored in both yards. Citation issued for keeping junk; property cleaned up and case dismissed. **Status: CLOSED.**

5. 525/535 20th Avenue SW (January 12, 2010) – Adjacent lots under single ownership with piles of junk, trash, and household garbage everywhere. City provided two 40-yard Dumpsters yielding little appreciable difference. Property owner convicted of keeping junk and trash, sentenced to 30 days in jail to begin July 21, 2010. Both properties have been sold and are being renovated to be rentals. **Status: CLOSED.**
6. 2077 Marion Street SE (June 16, 2010) – Two people living at house left vacant when owner died. Neither person has a claim to the property which also had junk and trash. Property went to foreclosure, bank evicted both squatters and completed cleanup. **Status: CLOSED.**
7. 2953 Fir Oaks Drive SW (June 10, 2010) – Report of roaring sound from industrial machinery all day long. Decibel readings were done on the property, inside and outside, and on the suspect industrial property. None of the levels measured were outside DEQ standards, though a definite and persistent hum was present inside the complainant’s house when all doors and windows were closed. Complainant planned to canvass neighboring properties to find out if others are experiencing the same noise, then contact the industry to negotiate a solution. **Status: CLOSED.**
8. 820, 825 Ridders Lane NW (May 18, 2009) – Abandoned single-family site-built home and abandoned manufactured home, both in extremely dilapidated condition in an undeveloped subdivision. Properties have new owners and structures have been demolished. **Status: CLOSED.**
9. 2014 Grace Avenue NW (March 11, 2010) – Reopened complaint from summer 2009. Pile of brush and debris creating a haven for rats. Brush has been cleared for new home construction. **Status: CLOSED.**
10. 3016 Grand Prairie Road SE (February 15, 2010) – Abandoned shell of single-wide manufactured home, three stripped and disabled vehicles, piles of tires, tall grass. Owner cited for keeping junk and trash. **Status: CLOSED.**
11. 1250 Shortridge Street SE (original complaint in 2004; reopened complaint February 28, 2007) – Property owner living in a storage building without sanitation or other utilities; accumulated junk and trash. Building Division issued a second notice and order under the property maintenance/dangerous buildings code requiring the owner to vacate the building until it is rendered habitable. Injunction granted by Linn County Circuit Court; preparing abatement plan. **Status: CLOSED.**

Budget Impact:

Beginning budget	\$20,900.00
Expenditures as of September 30, 2010	1,553.00
	<hr/>
	\$19,347.00

MMS:de