

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
Wednesday, February 9, 2011  
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**

Mayor Konopa led the pledge of allegiance to the flag.

**ROLL CALL**

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

**SCHEDULED BUSINESS**

Business from the Public

There was none.

Adoption of Resolutions

Adopting the 2011 Albany Public Transit Plan.

Konopa said this item came to a Council Work Session for discussion.

MOTION: Councilor Reid moved to adopt the resolution calling for the adoption of the 2011 Public Transit Plan. Councilor Johnson seconded the motion and it passed 4-1, with Councilor Coburn voting no, and it was designated Resolution No. 5978.

Establishing system development charges for impacts to the Albany Transportation System, establishing an appeal fee, and repealing Resolutions No. 5806.

Konopa said this has been a long process. This resolution is the final piece.

MOTION: Councilor Christman moved to adopt the resolution establishing system development charges for impacts to the Albany Transportation System, establishing an appeal fee and repealing Resolution No. 5806. Councilor Olsen seconded the motion.

Christman asked, have there been any comments or feed back since the special session on this subject? Transportation Systems Analyst Ron Irish said they received an inquiry from Chamber of Commerce Manager Janet Steele and Albany Millersburg Economic Development Corporation Manager John Pascone asking what the effect of the resolution would be. He explained to them that in the short term, through the year 2012, for the development community it was beneficial over the flat fee in that the fee was the same in both cases but in the interim period, under the step fee, development projects are eligible for a credit if they build a TSD funded project, whereas in the flat fee there weren't many projects available to receive a credit. In the long term, whether they see a benefit depended in large measure on how the fee was stepped up and whether a particular project built an eligible improvement or not. So the answer in the long term was, it depends.

VOICE VOTE: A voice vote was taken on the motion and it neither passed nor failed, with Christman, Olsen, and Johnson voting yes, and Reid and Coburn voting no. It takes four votes of the Council to pass or defeat a motion. This motion will return to the next available session of the Council at which all members are present.

Adoption of Consent Calendar

- 1) Approval of Minutes
  - a. January 12, 2011, City Council Regular Session.
  - b. January 26, 2011, City Council Regular Session.
- 2) Approving an extended property tax abatement agreement between the City of Albany, a cosponsor of the South Santiam Enterprise Zone, and Entek International, LLC. RES. NO. 5979
- 3) Certifying properties exempt from taxation:
  - a. Songbird Village RES. NO. 5980
  - b. Periwinkle Place RES. NO. 5981
  - c. Park Rose Properties RES. NO. 5982

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

#### Award of Bid

##### W-07-03-C, Maple Reservoir Seismic Improvements.

City Manager Wes Hare explained that a few years ago the City received grant money from the Federal government to do seismic upgrades at the Vine Street Water Plant. This is one of the projects that needed to be completed under that grant program. It helps ensure that the City will have water in the event of a seismic occurrence, or any emergency.

Olsen asked, what is the project? Hare believes they are reinforcing the tank.

Coburn was surprised that the bids came in over the Engineer's estimate.

MOTION: Coburn moved to award the contract for W-07-03-C, Maple Reservoir Seismic Improvements, in the amount of \$261,940.00 to the low bidder, Legacy Contracting, Inc., of Salem, OR. Reid seconded the motion and it passed 5-0.

#### Reports

##### Removal of derelict aircraft from the Albany Municipal Airport.

Airport & Transit Manager Chris Bailey said the City Airport has an issue with a plane that needs to be removed from its parking area. The owner is also in arrears several months on the rent. The current Municipal Code doesn't address this issue. Staff would like to receive direction from the Council to amend the current ordinance. The tires are flat, the plane is not air worthy, and hasn't moved in several years. It has been parked there at least 16 years. It is considered an eyesore. The parking apron is to accommodate inexpensive parking, not a storage area for junk aircraft.

City Attorney Jim Delapoer added that staff and the Airport Commission are in the process of developing operational rules for the City Airport. It would be an appropriate time to change the ordinance, if the Council is willing to delegate staff authority to amend it. He said there are three ways to approach this one particular issue; wait for staff and the Commission to create comprehensive rules (that could take a long time), give staff authority to come back to the Council with an amendment to the Code, or deal with this issue tonight by adopting, by motion, some proposed language he had available now. His proposed language is:

*"The Council to authorize the Airport Manager to require the removal from outside storage of any unserviceable aircraft or any aircraft that has been delinquent anytime in the past 12 months of all City fees and charges. An aircraft is unserviceable if in the reasonable judgment of the Airport Manager the aircraft has been non-airworthy for 90 of the previous 180 days."*

Delapoer explained that he feels the language is generous in the amount of time an aircraft could be parked in the apron for repairs. After that time it would need to be under cover or removed from the Airport. It also gives authority to the Airport Manager to deal with delinquent fees. It also provides for a process so that the City doesn't spend thousands of dollars in litigation for a \$75 back payment. He said there would be a process to notify the owners, give them time to act, and then if no action use the authority to remove the aircraft. He said there are issues with removing an unserviceable airplane because of wing span and towing concerns. He reminded the Council they have three options; wait, direct staff to come back, or adopt the rule he is suggesting.

Bailey added that she would like the authority to be generic enough that it doesn't deal with just this particular plane but rather in the future when a plane may be abandoned a process is in place and they can take care of it without having to come back to the Council.

Reid asked, who keeps track of the amount of time an aircraft is unserviceable? How long has this aircraft been in arrears? Bailey said this plane is in arrears around for 18 months of rent.

Delapoer said they are suggesting a policy that would not be specific to this individual situation.

Reid could remember when there was a similar issue with an aircraft and removal was complicated by the fact that there was no policy.

MOTION: Reid moved to adopt the wording that gives authority to the Airport Manager, as suggested by the City Attorney. Johnson seconded the motion.

Olsen asked, does the Airport Manager have any leeway as to enforcement? Delapoer said yes, reasonable discretion, and he believes the authority will be rarely used.

Olsen would like the issue to come back to the next meeting to give Council time to consider the language.

Christman asked, has this been discussed with the Airport Commission? Bailey said yes, this issue has been discussed at the Commission level and they were in agreement to have the plane removed. She is trying to come up with a solution that gets the plane repaired and the bills paid, or get it off the field.

Christman asked if there was a Commission meeting between now and the next Council meeting? Bailey said there is an Airport Commission meeting on February 10. Staff would be able to get input from the Commission if the Council chose to hold this issue over to the next Council meeting.

Coburn said since the owner contacted the City after seeing the newspaper article, what were they willing to do? Bailey said staff is working with them to get it off the field and under covered storage. It has been on the field for at least 16 years.

Coburn was concerned about the City's inability to bill or collect for services. First it was the Fixed Base Operator and now this problem. Bailey said she was hoping that this will be the end of that problem. It is one of her goals since she has been there.

Delapoer explained the payment issues and the concerns about delinquency. He said the City charges so little for tie-downs that taking any to court for nonpayment can cost more than their arrears.

There followed discussion about moving the airplane by towing or dismantling it and costs associated with that as well.

Coburn agreed with Olsen and Christman to take it to the Airport Commission first.

MOTION WITHDRAWN: Reid withdrew his motion and Johnson, the seconder, agreed.

DIRECTION: Council direction to take this item to the Airport Commission and bring back a recommendation.

Asking City Council to call up a land use item.

Community Development Director Greg Byrne explained that in 1998 the City annexed what was known as the "Wilt" property at Grand Prairie Road and Interstate-5. Periwinkle Creek runs through the middle of it. At the time there were certain conditions attached to the annexation through the annexation agreement. The property owner is now a lending institution that would like to partition the property into two parcels, making it more marketable. Staff cannot effectively deal with the partition request because of the conditions that were attached to the annexation. If the Council decides to call this item up, staff will prepare a staff report and recommendation, and bring it to the Council for review.

MOTION: Coburn moved to have staff bring to the Council a report and recommendation concerning the annexation agreement and request for partition on the "Wilt" property at Grand Prairie Road and Interstate-5. Christman seconded the motion and it passed 5-0

**BUSINESS FROM THE COUNCIL**

Olsen commented about the City tax breaks that were given in the Consent Calendar through the resolutions. He also commented on the school tax problems.

Konopa said there is an Oregon House Bill that would allow local communities to increase the tax cap. The current cap law is statewide, so the bill would have to go to state voters to be changed. She felt it was a bill for the Council to watch.

Hare was approached by Linn County Commissioner Will Tucker about the amount of funding Linn County is putting into the Linn County Fairgrounds. Hare thinks this would be a good time to meet with them. The Council was agreeable.

RECESS INTO AN EXECUTIVE SESSION TO DISCUSS LABOR NEGOTIATIONS IN ACCORDANCE WITH ORS 192.660 (2)(d) AND DISCUSS REAL PROPERTY TRANSACTIONS IN ACCORDANCE WITH ORS 192.660(2)(e).

The Regular Session was recessed into an Executive Session at 7:53 p.m.

**RECONVENE**

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

Coburn asked, why would the attorney representing "Blue" contact the Council regarding their court case against the City? Delapoer said that attorney had emailed him explaining that he was working with Councilor

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Olsen regarding the law suit and asked Delapoer's permission to contact other Councilors regarding the suit. The Council is Delapoer's client so it was correct that he ask his permission. Delapoer did not feel he had the right not to allow contact. He asked Hare to alert the Council to the possibility that they could be contacted. He wanted the Council to be aware that if contacted, to consider that when someone is suing you and you have a conversation with them, you may end up being a witness against yourself.

Coburn asked, what is reviewed in an appeal? Delapoer said generally it is whether due process or errors in law were committed. He doesn't believe there is a risk to the City with this law suit. Delapoer believes the law suit is without merit and the City will prevail.

NEXT MEETING DATE

The next scheduled meeting of the Council is a Work Session on Monday, February 21, 2011, at 4:00 p.m., in the Municipal Court Room. The next scheduled Regular Session of the City Council is on Wednesday, February 23, 2011, at 7:15 p.m., in the City Council Chambers, at City Hall.

ADJOURNMENT

There being no other business, the meeting was adjourned at 8:47 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, MMC  
City Clerk

Stewart Taylor  
Finance Director