

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, June 22, 2011
7:15 p.m.

MINUTES

CALL TO ORDER

Mayor Konopa called the meeting to order at 7:19 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Konopa led the pledge of allegiance to the flag.

ROLL CALL

Councilors present: Jeff Christman, Floyd Collins, Dick Olsen, Bill Coburn, and Bessie Johnson

SCHEDULED BUSINESS

Public Hearing

ST-06-06, Infrastructure Improvements – School to Knox Butte, determining the assessments against the properties specifically benefited by street improvements, and declaring an emergency.

Staff Report

Civil Engineer II Chris Goins explained how the properties would be assessed and the final cost totals.

Public Hearing

Konopa opened the public hearing at 7:22 p.m.

No one wished to speak.

Konopa closed the public hearing at 7:22 p.m.

City Attorney Jim Delapoer read for the first time in title only “AN ORDINANCE TO DETERMINE THE ASSESSMENTS AGAINST THE PROPERTIES SPECIFICALLY BENEFITED BY STREET IMPROVEMENTS FOR ST-08-06, INFRASTRUCTURE IMPROVEMENTS-SCHOOL TO KNOX BUTTE; AND DECLARING AN EMERGENCY.”

MOTION: Councilor Coburn moved to have the ordinance read a second time in title only. Councilor Johnson seconded the motion and it passed 5-0.

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

MOTION: Coburn moved to adopt the ordinance. Johnson seconded the motion.

Councilor Collins asked if these assessments are intertwined with the school’s project (North Timber Ridge). City Engineer/Assistant Public Works Director Mark Shepard said they can be handled separately.

VOTE: A vote was taken on the motion and it passed 5-0, and was designated Ordinance No. 5760.

Business from the Public

Committee to Save Blue – DVD presentation.

Cheri Holverson, 608 Alpine Meadow, explained that they would be unable to show the video because of mechanical issues. She suggested the Council look on the Albany Pet Hotel website to watch it. She read a sheet of information that the committee was providing (in agenda file) regarding Blue and asked the Council to review the Blue situation. She said Blue doesn’t fit the ordinance. She thanked Councilor Dick Olsen for visiting Blue and Collins and the Mayor for viewing the video tape. She submitted more signatures on Blue’s behalf (in the agenda file).

Susan Jones, 3471 Earl Avenue, manages the facility where Blue is currently residing. She said that they gave him basic aggression tests that they give to screen dogs for temperament. He wasn’t aggressive. They have only seen him wanting to play and be with people. He has been integrated into doggie play groups and they also have a video on www.AlbanyPetHotel.com.

Delapoer was concerned that Jones may have violated the court order by integrating him into the dog population. He asked Lieutenant Dorland will provide a copy of the court order to Jones.

Other Business form the Public

Evan Abernathy, 1312 8th Avenue, would like park lights to turn off at midnight on the weekends rather than at 10:00 p.m. as they currently do, especially in the summer time. Kids would have more time to ride or skateboard.

Bill Root, 2634 NW Valley View, said he recently returned from Washington DC and some states have reader boards on their highways. They had information regarding motorcycle awareness month, and safely sharing the road. He thought the Public Works department could do something like that in Albany.

Candace Ribera, representing Scott Lepman, provided a hand out regarding information on Goal 5.

First Reading of Ordinances

Amending AMC Chapter 7.080.050 to clarify the ordinance and strengthen the City's ability to protect residents from unreasonable construction noise, and declaring an emergency.

Delapoer explained that this item was discussed on Monday, June 6. It is simply another tool the Council can use to protect unnecessary noise.

City Attorney Jim Delapoer read for the first time in title only "AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE CHAPTER 7.080.050 TO CLARIFY THE ORDINANCE AND STRENGTHEN THE CITY'S ABILITY TO PROTECT RESIDENTS FROM UNREASONABLE CONSTRUCTION NOISE, AND DECLARING AN EMERGENCY."

MOTION: Johnson move to have the ordinance read a second time in title only. Collins seconded the motion and it passed 5-0.

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

MOTION: Johnson moved to adopt the ordinance. Collins seconded the motion and it passed 5-0 and was designated Ordinance No. 5761.

Amending AMC Chapter 7.28.010, 7.28.100, and 7.28.240, and repealing 7.28.102, relating to alcohol in parks and park hours.

The Council had a discussion regarding banning alcohol from all the City parks. There was concern that it wouldn't allow responsible citizens the opportunity to have a drink with their picnic.

Parks & Recreation Director Ed Hodney said one of the reasons they brought this AMC amendment to the Council was to assist the Albany Police Department (APD), because of what is perceived to be an abuse problem in Albany.

Olsen asked, is there a drunk and disorderly law in Albany? Delapoer said no. What Albany has is disorderly conduct laws.

Olsen commented that this amendment would not allow just taking a beer and a sandwich to the park.

Johnson asked, is this going to be enforceable? Lieutenant Casey Dorland, APD, said the amendment was meant to address the issues that they currently can't address. The calls the APD is receiving are complaints about drunken behavior. There is currently a piece meal approach regarding which parks allow drinking and which parks do not. He said, from an enforcement perspective it is not equal. The amendment standardizes the ordinance. They can deal with all of the parks on an equal basis. They are getting the calls, but don't have the tools to address it.

Coburn said the problem is individuals drinking too much in the park. Dorland said yes, currently Albany doesn't have a drunk in public law. Most complaints are about Waverly Park.

Delapoer suggested this item go to a work session to kick around the options. There are no easy solutions. Ultimately the policy creates a loss of personal freedom in exchange for protection.

City Manager Wes Hare agreed that the issue is a reflection of the community standard. There has not been much interest in the ordinance.

Konopa would like to see this go to a work session and include information regarding park hours.

The Council agreed. This ordinance will be brought to a work session for discussion.

Communication

Considering a proposal from Robinson Construction to perform construction-related work on the Wal-Mart site between the hours of 6:00 p.m. and 7:00 a.m. for four months.

Coburn declared his company is a subcontractor for Robinson Construction, but basically has no conflict of interest because he has no economic interest in the project.

Assistant Public Works Director/City Engineer Mark Shepard said the construction contractor that is performing all of the on-site and off-site improvements for the Wal-Mart improvements has submitted a request to work through the night for four months (late June through mid October). The Albany Municipal Code outlines the limitations on actions that create noise and generally prohibits construction activities after 6:00 p.m. and before 7:00 a.m. in order to protect community residents from loud, disturbing, and unnecessary noise unless the Council authorizes an exemption. This contractor is required by the Oregon Department of Transportation (ODOT) to complete the Highway 20/I-5 interchange improvements between 7:00 p.m. and 7:00 a.m. in order to minimize the disruption of traffic. The contractor would like to use the Wal-Mart site on Goldfish Farm Road as a staging area for this nighttime construction. The contractor would stockpile gravel and other material on the Wal-Mart site and retrieve the material during the night work hours. This would require construction traffic such as dump trucks and loaders to operate on the Wal-Mart site during the night.

Shepard said the Wal-Mart site is north of the Coastal Crossing subdivision. Staff is concerned that allowing the Wal-Mart site to be used as a staging area for the night work will impact the homes in Coastal Crossing with significant noise during the night and is requesting Council denial of the proposal as presented. The contractor has not demonstrated that he has explored all other alternatives that will have less of an impact on residential properties. In addition, the proposal does not provide enough detail and certainty regarding the mitigation plan to minimize noise impacts.

Ryan Tuttle, 21360 Northwest Amberwood Drive, Hillsboro, Oregon, Project Manager for Robinson Construction, apologized for not providing enough detail. The difficulty with supplying that detail is that the nature of the project has many facets especially on the highway work on the I-5 interchange; and the access to the materials on site have safety requirements for back-up beepers, for lighting, etc., and it is difficult to put a specific on how those will be used as the variables of the project are going to require different uses at different times. ODOT restrictions require night work. They can work in ODOT right-of-ways during daytime hours as long as they don't affect any lane closures. The night work is the time that lanes can be closed. They need access to materials. Those materials are stockpiled on site. It's his understanding that nearby sites have the same restrictions of access hours. Areas they have looked at have been under the same hour limitations. Knife River, further down Hwy 20, is affected by the same hour restrictions. They have a significant amount of backfill material that was crushed on site and to pull that material from the Wal-Mart site to another site may cause some issues. He said that included in the Council packet is an email from ODOT stating that there wouldn't be a work area stock pile place allowed within the work zone.

Hare explained that the issue for the Council is that the Wal-Mart site is adjacent to a sensitive neighborhood that will not be happy with back-up lights and whistles and bells, whereas another site would not have a neighborhood that close.

Tuttle said they do have a sound buffer in place on the southeast side of the site.

Konopa said that neighborhood was opposed to that site being rezoned from the beginning, and so the Council is sensitive to their needs.

Hare suggested staff meet with Robinson Construction to work out a plan and return to the Council with an updated request.

Coburn commented on changes such as disconnecting back-up alarms and lights aimed away from the residential neighborhoods. He said that's the kind of details staff would like.

Tuttle said he thought the details would be ironed out at the City Council meeting.

Adoption of Resolutions

Committing resources of special revenue funds and delegating authority to assign ending fund balances to the Finance Director.

Finance Director Stewart Taylor said in 2009 the Government Accounting Standards Board (GASB) issued Statement #54, regarding the reporting of fund balances. It establishes a hierarchy of classifications for fund balances. One of the provisions of the statement is that Special Revenue Funds, which are classified as governmental funds, fall into a classification of restricted or committed. Restricted would be those restricted by a third party such as a state statute or a grant covenant. Committed are actions of the City

Council that commit resources for specific purposes. The City's financial statements will reflect the changes starting June 30.

MOTION: Collins moved to adopt the resolution committing resources of Special Revenue Funds and delegating authority to assign ending fund balances to the Finance Director. Coburn seconded the motion and it passed 5-0, and was designated Resolution No. 6015.

Adopting the Fiscal Year 2010-2011 Supplemental Budget.

Taylor said the supplemental budget authorizes small transfers or actions by the Council that have happened throughout the year. A resolution is needed in order to comply with Oregon local budget law.

MOTION: Collins moved to adopt the FY 2010-2011 Supplemental Budget. Christman seconded the motion and it passed 5-0, and was designated Resolution No. 6016.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) May 11, 2011, City Council Regular Session.
 - b) May 23, 2011, City Council Work Session.
- 2) Approving annual liquor license renewals.
- 3) Extending City of Albany's workers' compensation coverage to volunteers for policy year 2011-2012 (annual renewal). RES. NO. 6017
- 4) Accepting a franchised utility easement from Martin Family Trust. RES. NO. 6018
- 5) Accepting temporary extension of transit advertising services with Lamar Advertising.

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

Award of Bid

WL-11-02, Shannon Drive water line replacement.

Collins clarified that the source of funding is funds derived from outside the corporate limits. Shepard said yes, it is not funding from the standard ratepayer.

Coburn asked if ODOT prequalification was used for an unfamiliar bidder. Shepard said for the City it is not so much ODOT prequalification as that the City is administrating the contracts appropriately.

Johnson asked, if the City has a low bidder that is questionable, does the City have the right not to contract with them? Shepard said a bidder needs to be both responsive and responsible, and a low bid is reviewed very carefully before being awarded the contract.

MOTION: Johnson moved to award the contract in the amount of \$190,810.00 to the low bidder, Pacific Excavation, Inc., of Eugene. Coburn seconded the motion and it passed 5-0.

Appointment

City Council Representatives.

Albany-Millersburg Joint Water/Wastewater Management Committee

Bill Coburn	<i>Term expires: 12-31-2012</i>
(filling Reid's vacant seat)	
Sharon Konopa	<i>Term expires: 12-31-2012</i>
(filling Coburn's vacant alternate seat)	

Cascades West Area Commission on transportation (CWACTION)

Dick Olsen	<i>Term expires: 12-31-2011</i>
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Linn-Benton Loop Commission

Floyd Collins	<i>Term expires: 12-31-2012</i>
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MOTION: Collins moved to approve the Councilor appointments to fill the unexpired terms resulting from the resignation of Ralph Reid, Jr. from the Council. Olsen seconded the motion and it passed 5-0.

Report

Greater Albany Public Schools (GAPS) final obligations for improvements and assessments associated with the Timber Ridge Local Improvement Districts (LID).

Hare said this item was discussed Monday night. The City over paid GAPS for the north segment of the Timber Ridge LID. The North segment of the project, which was school managed, came in over budget and

the South segment, which was City managed, came in under budget. Hare said since there was an error involving \$36,000 and it is relatively small, he suggested, for political reasons, the City carry the error, by using the City's street construction funds. He said that basically GAPS and the City are serving the same folks. The good will and good partnership with GAPS is more important. This is not a point to draw a line in the sand.

Taylor said there is no difference of agreement on the actual number for the assessment of LID North and LID South. There were engineering costs that identified the total costs of the project and then the appropriate reimbursement was identified for the school district. The LID costs assessed to the other properties for the North project were reimbursed to the school district without recognizing that a portion of those costs were for costs the school district had not expended any funds towards, and so should not have been reimbursed. There is no error in the total assessment amount, and GAPS recognizes what their costs should have been. Taylor said that also the school district hasn't identified, as readily as they should that the construction excise tax can be used for the project. GAPS has received \$857,000 of construction excise tax, 84% which has come from the City of Albany, and that could be used to reimburse the City.

There followed discussion about options for GAPS.

Collins said the school district wasn't entitled to the \$36,660, and they received it. In his mind the only reason for the City to pay the \$36,000 would be for a political, positive relationship with GAPS. He recognizes that the school district has financial concerns, but the City would be using Street Fund money that will in some form reduce funding available for City street projects. If this was a private company the City would be asking for the money to be returned immediately.

There followed notification issues and the school district's ability to pay back the funds.

MOTION: Coburn moved to not seek reimbursement funds on the North LID and that GAPS will be assessed their full portion of the roundabout on the South LID. Christman seconded the motion.

Shepard clarified that the result of this motion is that the City will cover the \$36,660 difference.

VOTE: A vote was taken on the motion and it passed 4-1, with Johnson voting no.

BUSINESS FROM THE COUNCIL

Allied Waste Resolution

Hare said following the work session, staff created a resolution that they believe meets the intent of the discussion.

Delapoer said that this resolution transitions to a rate methodology that includes increments linked to the consumer price index. He pointed out that section five of the resolution reserves the authority of the Council to depart from this modification. The period in the resolution is basically an experiment, shifting to a default methodology, and both sides have the right to say it is not working out.

Christman asked if any changes would be reviewed annually by the Council. Delapoer said yes, what it gives the Council is a standard to go by.

Collins questioned that it says 7% in the resolution but 10% in Exhibit A. Delapoer said the 10% is really a cap. The 7% is the initial increase and any future increase cannot exceed 10%, but the Council is not locked into each additional step.

Mike Huycke, representing Allied Waste, agreed with Delapoer, saying yes, that is how they interpret the language.

MOTION: Coburn moved to adopt the resolution approving a rate modification for Albany-Lebanon Sanitation Company and providing that future rates are transitioned to a methodology generally reflective of changes in the Consumer Price Index, and repealing Resolution No. 5802. Christman seconded the motion.

Johnson said she will be voting no, as she is opposed to any automatic rate hike.

VOTE: A vote was taken on the motion and it passed 4-1, with Johnson voting no, and was designated Resolution No. 6019.

Other Business from the Council

Christman provided information on the use of the economic development funds by the City. He believes the Council should be working on what is the best use of the settlement funds for Albany. He was concerned that the Council may reduce the funds significantly, in small increments, without any real results. His process so far was to create a focus group, representing different facets of the community, and receive input and

suggestions from them. From that group, came the information he is presenting tonight. He would like staff to schedule a work session to review these possibilities and consider making decisions for the use of the funding.

Hare said it would be a good idea to start discussing economic development plans. Staff needs clarification from the Council in order to provide a basic plan. From that, the Council can get community and business input and participation. He emphasized that business participation should be a major component. He used "Talking Waters" with Allegheny Technologies Incorporated/Wah Chang's participation, as an example of business and the City working together on the same project, which solved both wastewater concerns.

Collins said it could dove tail into a policy on how the Council wants to spend all economic development money. He would like to see a possible work session in August.

Public Information Officer Marilyn Smith reminded the Council that there is a Goal 5 community meeting at 6:00 p.m., Monday, July 25, following the work session.

Parks & Recreation Director Ed Hodney invited the Council to a community BBQ on Sunday, June 26, from 12-3 p.m., in support of the North Albany East Thornton Lake project.

NEXT MEETING DATE

The next meeting of the Albany City Council is a Joint Work Session with the Benton County Commission on Monday, July 11, 2011, at 4:00 p.m., in the Municipal Court Room of City Hall. The next Regular Session is scheduled for Wednesday, July 13, 2011, at 7:15 p.m., in the Council Chambers at City Hall. A Joint Work Session with the Linn County Commission is scheduled for Monday, July 18, 2011.

ADJOURNMENT

There being no other business, the meeting was adjourned at 9:25 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, MMC
City Clerk

Stewart Taylor
Finance Director