

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
Wednesday, July 27, 2011  
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, Bill Coburn, Bessie Johnson, Dick Olsen, and Floyd Collins.

Councilors absent: None.

SCHEDULED BUSINESS

Continued Consolidated Legislative Public Hearing: CP-02-10/DC-05-10, Goal 5

Konopa said this Continued Legislative Public Hearing is regarding amendments to the Albany Comprehensive Plan Chapters 1, 2, 7, 8, and 9; and Plates 3, 4, and 6; and amendments to the Development Code Articles 1, 2, 3, 4, 6, 9, 11, and 22 to implement Statewide Planning Goal 5.

Konopa said a new City Councilor will be appointed soon to fill the vacant position. To enable the new Councilor to participate in the Goal 5 adoption process, the hearing will be continued to August 24, 2011.

Konopa called to order the legislative public hearing at 7:16 p.m.

Konopa said the legislative public hearing is hereby continued to August 24, 2011.

Konopa closed the public hearing at 7:16 p.m.

Public Hearing: Demolition of 337 Sixth Avenue SE

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

Community Development Director Greg Byrne said that staff recently brought to the City Council in a work session a review of an administrative decision to demolish a building at 337 Sixth Avenue SE. Council asked that the staff presentation on this issue be brought forward in a public hearing.

Building Official Melanie Adams gave a PowerPoint presentation (see agenda file). She presented three questions and answers as follows:

- 1) Is this a dangerous building? Albany Municipal Code says a dangerous building is a structure that endangers the life, health, property, or safety of the building's occupants or the public. A property can be dangerous for a variety of reasons. In 2006, the City Council adopted Municipal Code language that says unsafe buildings "are public nuisances and shall be abated by repair, rehabilitation, demolition, or removal." Staff has spent three years pursuing options for repair or rehabilitation of the subject building. The building is dangerous for several reasons, one of which is that it is a fire hazard. She showed photos and described conditions in the house including a basement apartment with no egress; narrow, steep stairs with no lighting; overcrowding in a building not designed for multifamily use; no smoke detectors or carbon monoxide detectors; and holes in the floors, ceiling, and walls.

Adams said the building is also dangerous because it is a public nuisance. It has a substantial record of police calls and a history of drug activity. It is dangerous because of unsafe electrical. She showed photos and described tattered electrical connections within inches of leaking plumbing; a jury-rigged light coming in contact with moisture and in close proximity to an unpermitted gas heater in the basement with limited escape options; a receptacle installed in the basement closet unit; no working lights in the top floor apartment; a fixture that smelled strongly of fish which is a clear indication of an electrical problem; and electrical installations throughout the house that were patched together by someone who is not a licensed electrician. The building is also dangerous due to lack of basic cooking facilities, lack of heat, and lack of sanitation.

The house contained 49 violations, most of which have not been corrected. Cosmetic improvements have been made, but that does not change the poorly installed plumbing, the myriad of pipes that were installed incorrectly, the lack of maintenance of mechanical systems throughout the house, and that heaters were installed in an

unsafe manner without permits and in places where a fire or explosion would be disastrous. It is the responsibility of the Building Division to see beyond cosmetic improvements. The tenants of the building called the City to request an inspection. The neighborhood sent a petition signed by over 100 people to ask if the City could do anything about this troubled building in their neighborhood. Certified inspectors have determined the building is not safe for people to live in. The building has had a lot of work (electrical, plumbing, gas heaters, partition walls, etc.) without permits; this is especially of concern because the property owner has said that he does not understand the Albany Building Code. The case record has been reviewed by the Community Development Director, the City Manager, the City Attorney, and a Linn County Circuit Court judge. The conclusion has been in every instance, that this building is a hazard to the community and the City has the authority to repair or remove the hazard.

- 2) Is there anyone who will take responsibility for the property? Two parties have an ownership interest in the property – the Drapers and Fannie Mae. Staff has spent nearly three years working with the Drapers, having walked the property with Mr. Draper on numerous occasions. On those occasions staff explained each deficiency and how to fix it, tried to help him hire a contractor, and suggested he put the property on the market. The Council has been provided a chronology that illustrates the many conversations the City has had with Mr. Draper in an effort to get the property back in good condition.

The Municipal Code gives the property owner the choice to repair or demolish a dangerous property, but what happens when an owner chooses to do neither? In this case, the City Attorney filed a lawsuit in Circuit Court. Draper was given notice and an opportunity to present his case. He did not do so, and the judge granted the City the right to correct or remove the hazard. Fannie Mae's representatives told the City in February that they were foreclosing on the property, that they would secure the property, and that they intended to demolish the building. Since that time, the City has been unable to get further information from Fannie Mae. Reports continue to come in that people are breaking into the house, and the demolition has not happened. A lawyer for Fannie Mae was notified of the pending demolition. The property is now up for sale. It would be great if someone bought it, but that person would need to have the money in hand to bring the house up to code in a timely fashion. No serious proposals have been brought forward so far.

- 3) Are there any other options besides demolition? It is not staff's desire to tear down a building with some potential for rehabilitation; that is the option of last resort. Other options are:
  - a) Board the place up and let it sit. There are concerns about arson and the potential of fire damage to adjacent houses. Even though the property is posted with a "do not enter" sign, there have been many people in the building including nighttime occupants and transients. The concern is that someone will use candles or propane and start a fire. This happened several years ago at the Woodland Square property.
  - b) Gut and remodel the property using City funds. This property is only half of the case against the Drapers. The house across the street must be dealt with and the plan is to try to save that house even if it means using City money to do so. There are also still arson properties that will likely require City funds.
  - c) Leave it alone and hope someone buys it and complies with the City's order. Anyone who buys the property must understand it will require a complete overhaul and that time is of the essence. No serious buyer has come forward. In the meantime, the property is a magnet for transient and criminal activity.
  - d) Demolish the property and remove the hazard. Given the City's lack of funds to do a complete remodel and staff's belief that leaving the vacant property is a danger to the community, staff opted to demolish the building. This is not the first choice but is necessary because no one will take responsibility.

#### Public Testimony

Fredric J. Burger, 525 Railroad Street SE, lives across from the subject property. He knows how hard it is for someone who is low income to find housing in this economy. He is on Social Security Disability and was fortunate to find a landlord willing to take him at a price he could afford. When he moved into the neighborhood in 2008, he noticed suspicious activity at the subject property and he has learned of its history by talking with his neighbors. He feels that the house is a danger to the immediate community if left in irresponsible hands. He applauded City staff for their work and asked that the property owner not be given the chance to take back the work done to negate problems at the site.

Danielle Bryant, 428 5<sup>th</sup> Avenue SE, said she was born and raised in Albany and is passionate about the well being of the community. She has served as the Hackleman Neighborhood Watch co-captain for the last seven years. She said, Mr. Draper, his supporters, and the Democrat-Herald would like the Council to believe that City staff is inaccurate and that the conditions are not as bad as they are made out to be. She asked that the Council trust the opinion of its competent staff. She drew attention to the letter and petition, and the report from the Albany Police Department detailing police visits to this address, distributed in Councilors' packets. She asked the Council to support the findings and the years of work of the Building Division. At her request, several audience members raised their hands to indicate they are members of the Hackleman Neighborhood Watch.

Rob Wilson, 540 Railroad Street SE, has lived adjacent to the subject property for 35 years. He said the house has been a continual criminal focal point with drug activity and theft. The corner of 6<sup>th</sup> Avenue and Railroad Street is known as the “any drug any time corner”. Drug dealers moved from the house with the closure notice and the building has never looked as nice as it does now. He has been in the house and has seen many of the deficiencies cited by City staff; he has seen very little cooperation from Draper in addressing these issues. Much has been made of the age of house, but many modifications, including doors and windows, have taken place without historic review or approval. At the core of neighborhood support for demolition is perhaps the Drapers’ refusal to be responsible property owners. He cited poor living conditions, including a renter who used a bucket as a toilet then dumped it over the fence into his yard. Unless there is an immediate sale to a new owner, he would support demolition.

Robin Hobbensiefken, 340 5<sup>th</sup> Avenue SE, said he has lived at this location since 2002. He has two children, now ages 10 and 12, who have grown up around the fighting and noise at the subject property. Since the house has been vacant, the neighborhood is much quieter. It would be great if someone would buy the house and fix it up, but there are better houses in the neighborhood that have been for sale for a long time. He is in favor of demolition and he has spoke with two other neighbors, both of which agreed they would like to see the house demolished.

Chris Bryant, 428 5<sup>th</sup> Avenue SE, read a letter into the record from his neighbors, Howard and Becky Jenks, 440 5<sup>th</sup> Avenue SE (distributed in Councilors’ packets).

Mary Hartley, 2910 Santiam Highway SE, said she was called about one month ago to look at the subject property. She agrees that it needs to be made safe for residents and neighbors. The house is in the Hackleman Historic District, and she believes there may be state funds available to help save it. The property has been listed for the amount of the liens against it (\$89,000), and the listing specifies that the buyer would have to bring the house up to City Code as a single-family residence. She said that there are a number of homes in the City that are not in good condition, that some of them are in worse condition than this one, and that a lot of historic homes do not have updated electrical systems and plumbing. She wonders how it is to be decided which homes will be demolished. She has shown the property and thinks there is a possibility it will sell.

Councilor Bessie Johnson asked about discussions with the bank. Hartley said the bank has said it would not stand against the house being demolished, but that they would be happy if she can get it sold.

Councilor Jeff Christman asked if the house has been foreclosed on. Hartley said it is in foreclosure proceedings; it has not yet been foreclosed on.

Christman asked what it would take to bring the house back to its historical nature. Hartley said it would take about \$150,000 to \$175,000 to bring the house back to single-family conditions under City Code. This does not include the purchase price. Konopa noted that the house has been modified a lot from its original historical condition.

City Attorney Jim Delapoer said that, regardless of what is in the listing, a sale would not assure that any defects would be corrected. Hartley said a lender would probably require a rehabilitation loan.

Richard Draper, 338 6<sup>th</sup> Avenue SE, asked if City staff has been in the house since he put up the fire-proof sheetrock. He reviewed recent work he has done to the house. In response to an inquiry from Konopa, Draper said he did not get permits for the work because staff would not give them to him. Staff wanted him to hire an architect but he didn’t have the money to do that. The house is listed and he would like to sell it.

Councilor Floyd Collins asked if work to the house was done by a licensed contractor. Draper said no, his license expired in 1999. Collins noted that work on multi-family residences must be done by a licensed contractor. Draper said he had a licensed electrician do some work; he doesn’t know if a permit was secured.

Councilor Bill Coburn asked if the homes that Draper built in the past had the proper permits and inspections. Draper said yes. Coburn said that he assumes Draper had the experience and knowledge to know the procedures. Draper said the photos shown by staff were taken several years ago; that is not what is there now. If this house is torn down, he said, the material to be taken out is good, solid, old-growth lumber.

Donna Schneider, 4924 NW Palestine Avenue, owns a house near the subject property. In January, she told Adams that Draper wanted to sell to someone who would fix the house up and Adams said he no longer had that option; now Adams is saying that is an option. She understands that two former tenants died within a month of moving; she thinks the move may have caused death earlier than necessary. The tenants were from Aging and Disability Services; she thinks that agency would not have allowed them to live there if it was not safe. The house did not cause people to be addicts; why tear down a perfectly good house to get rid of druggies and poor people? She said Adams was quoted in the newspaper as saying there was probably a meth lab at this location; this is an unfair characterization. The police should monitor drug and illegal activities, not an older landlord.

Gordon Miller, 1545 NW Patrick Court, said he has known Draper for over 20 years and he is here to vouch for his character and integrity. Draper does not have the means to bring this house up to Code because he is so good-hearted; he has lost a lot of money by renting to people who haven’t been able to pay, and he has contributed much to the community. People in this age bracket were raised in a different era when there were not so many rules and laws. He asked who would pay for the house to be demolished. City Manager Wes Hare said the house would be demolished at the City’s expense and a lien would be placed on the property.

Camron Settlemeier, 230 7<sup>th</sup> Avenue SW, said the house is listed as “Historic Contributing” in the Hackleman Historic District. He questioned why the City would demolish a vacant house. If every vacant house that is a public nuisance were torn down, that would be a lot of demolition work. He noted that the Montieth House sat vacant for some time. He expressed concern about the precedent that would be set by tearing down a historic home, the message it would send to someone who wants to buy a historic home with older wiring, and the impact it might have on the ability to get grants in the future. He asked if this has been before the Landmarks Advisory Commission (LAC), if tearing it down would have any impact on the General Fund, and if the City would have any liability for the empty lot on which it holds a lien.

Dick Owen, 810 Cox Street SE, gave his history as a professional engineer. He said state law says private property can only be taken for public domain. In this case, the City is taking a person’s property and destroying it. What does this have to do with public domain? The house is strong; the problem is the people who lived in it.

Darin Dyson, 314 6<sup>th</sup> Avenue SE, has lived across from the subject property for five years. He is a licensed electrician. He has never seen Draper hire anyone with a license to work on the house. He has seen many things that are disturbing. He has two children, ages 7 and 10, and wants to help make this a better community. He does not believe that can happen with this house. There is no way the house will be put back to historical conditions; it would cost too much. The best thing is to tear the house down and put up something to be proud of.

Fredrick J. Burger said his understanding is that Aging and Disability Services does not look at living conditions unless there is a specific complaint.

Konopa closed the public hearing at 8:57 p.m.

#### Discussion and Decision

Konopa invited staff response to the public testimony.

In response to testimony regarding the legal issue, Delapoer said that this case was presented to a Linn County Circuit Judge who signed an Order which included Findings of Fact. The judge determined that the house is in violation of Albany Municipal Code and that, if the defendants failed to comply, the City is authorized to proceed with demolition. The legal issue of whether the City can demolish the house is settled; the policy issue is before the Council.

In response to testimony regarding concerns about historical homes, Adams commented that the City is not interested in going after older homes; but it will go after dangerous homes. The house is listed as “Historic Contributing” with poor condition. Public safety trumps historic preservation in the Code. This was not reviewed by the LAC, and that was not required.

Coburn recalled that this item was first brought up in a work session for information. He was in no hurry to have the house demolished, and the general feeling of the Council was that a public hearing would be appropriate to hear from the neighbors and the property owners. Having heard all of the information, he doesn’t see any reason to disagree with the neighbors, City staff, or the court.

Johnson asked about demolition costs. Adams said the cost will be about \$25,000, most of which is for dumpsters.

Councilor Dick Olsen said the property was a lumber yard until about 1890, after which he would guess the house was built or moved in. It is one of Albany’s older structures, and it would be a shame to destroy it if someone is interested in giving it new life as a single-family residence. He has seen many houses in similar shape brought back to be respectable residences; there are people with the strength and enthusiasm to do that.

Collins said he walked through the house with Hartley and observed some of the gas, electrical, and water line issues. He is convinced the house should not be inhabited. The dilemma is whether it is reasonable to have this on the market and have the risk to the neighborhood continue. Although Draper has been a contributing member of the community for decades and did not understand the implications of the Code, that does not relieve him of his responsibility to tenants and neighbors. He would only support Olsen’s suggestion if it was for a short period of time.

Delapoer said the Council could indicate its desire that the demolition not be done for some period of time to see if the house sells. He would suggest that a buyer be required to present a detailed plan. Selling the house does not in and of itself solve any of the deficiencies.

Byrne said a series of building permits would be required on this property to get it back into a viable single family home. It would require someone with substantial means and the City would look for that work to begin almost immediately.

Olsen spoke about a house on Broadalbin Street that was a nuisance to the neighborhood and that has gradually become a respectable single-family home. He said restoring a home is time consuming and expensive; he doesn’t think it can be expected to happen in a short amount of time.

Christman noted that this process has been going on for over three years. He does not think it is a very good assumption that someone will come in now, to buy and restore this house. He noted that the Neighborhood Watch group has taken an interest and is pushing to make this a better area.

Johnson said she thinks that the cost to purchase this house and restore it is unrealistic in this market. It is to everyone's best interest to go ahead with the demolition. The Neighborhood Watch has done its due diligence and given its input. Unfortunately, the historic aspects of this house have been destroyed. She thinks we need to follow the City ordinance and the court order.

Coburn noted that one concern is arson. He is concerned about what might happen if the Council delays demolition and there is a fire that results in loss of property or life. Delapoer clarified that the courts have not ordered the City to demolish the house but have given the City the authority to demolish the house.

In response to an inquiry from Collins, Delapoer said that Draper was personally served by a professional process server. Collins said he wishes that Draper would have taken action years ago to comply with the direction of the Building Official. He has no faith that extending the time period would result in any action. He is concerned about exposure between now and the time the house would sell, if ever.

**MOTION:** Collins moved that the City Council endorse and support the judgment issued by the court. Johnson seconded the motion.

Olsen asked if someone could still purchase the house if they came forward tomorrow. Byrne said staff would want some serious and firm assurances that the buyer had the capacity and will to do what needs to be done. He noted that staff is prepared to move forward and that demolition would begin within a few days. Brief discussion followed.

**VOTE:** The motion was voted on and it passed 4-1, with Olsen voting no.

RECESS

The Council recessed at 9:38 p.m.

RECONVENE

The meeting reconvened at 9:44 p.m.

#### Business from the Public

Ray Hilts, 3012 Takena Street SW, said he is here to talk about an item that was considered during multiple Council meetings several years ago: a complex and soccer fields at Timber Linn Park. He said Medford has a nice complex and it makes more money than it expends. The community also makes money from teams that come for tournaments. He encouraged the Council to ask the Parks & Recreation Director for information on the complex that was designed several years ago, and to consider using some of the Economic Development monies for that project.

Larry Holverson, 608 Alpine Avenue NW, said he is representing the Citizens Committee to Save Blue. The Committee has been active in the community for a number of months, and there is no question about the passion of the people involved and their commitment. The Committee's main objective is to save the dog Blue Raymond from being euthanized. Its second objective is to work with the City Council on modifications to the Dangerous Dogs ordinance that has been in effect for 20 years. He submitted an *Address to the Albany City Council, Ordinance 6.18 Revisions, July 27, 2011* (see agenda file) with suggested revisions to the ordinance. He said, if the City Council chooses to have a meeting process on this issue, the Committee would like to be included.

#### Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) June 6, 2011, City Council Work Session.
  - b) June 13, 2011, City Council Work Session.
- 2) Approving liquor licenses for:
  - a) Annual liquor license renewals.
  - b) Cappie's Brewhouse, 211 First Avenue NW.
  - c) San Jose Mexican Store, 1322 Geary Street SE.

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

#### BUSINESS FROM THE COUNCIL

Collins said the Council previously discussed potential revisions to Ordinance 6.18, during which concerns were expressed that an ordinance review may create confusion with the current legal case. He proposed that the Council

request that the City Manager bring back a process for a work group to move forward on this issue. Possible participants in the work group could include representatives from the City Council, the animal activist group, law enforcement, the medical community, and the community at large. The work group would propose potential draft language for Council consideration. This process would need to run a parallel track to the current legal case which must run its own course.

Olsen suggested that the work group also include a representative from the veterinary community. Collins said he had suggested the inclusion of a representative from the medical community because of discussions about the definition of *serious injury*; he feels that injury is not only physical but also emotional or psychological.

Christman said he can support this process with the understanding that it is separate from the legal case.

Olsen said he objects to the Council washing its hands of the Blue case. Coburn said he is not washing his hands of the Blue case but he will support this proposal as a separate issue.

Konopa shared a letter she received from an 8-year-old citizen requesting more flower shops to make the paths prettier, and more dog parks. She will respond that the City is working on the issue of dog parks.

Hare said there will be a farewell event for Public Works Director Diane Taniguchi-Dennis at the Talking Water Gardens this Friday from 4:00 p.m. to 6:00 p.m. He will miss her terribly; she has been wonderful to work with, has left her department in great shape, and will go on to great success.

Johnson said she won't be able to attend Friday. She said, it has been a pleasure knowing Taniguchi-Dennis who is so knowledgeable and can make sewers, pipes, and water treatment exciting.

Collins said he had the opportunity to work with Taniguchi-Dennis for 30 years and it has been a joy; the work she has done has contributed to the community and the state and has gone on to influence national policy.

#### NEXT MEETING DATE

Special Session – August 3, 2011  
Work Session – August 8, 2011  
Regular Session – August 10, 2011

#### ADJOURNMENT

There being no other business, the meeting was adjourned at 10:08 p.m.

Respectfully submitted,

Reviewed by,

Teresa Nix  
Administrative Assistant

Stewart Taylor  
Finance Director