

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, December 14, 2011
Following ARA Meeting

MINUTES

CALL TO ORDER

Mayor Konopa called the meeting to order at 8:18 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Konopa led the pledge of allegiance to the flag.

ROLL CALL

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

SPECIAL PRESENTATION

Homeless Persons' Memorial Day.

Konopa read a proclamation declaring Wednesday, December 21, 2011, as the "Third Annual Homeless Persons' Memorial Day."

SCHEDULED BUSINESS

Business from the Public

No one wished to speak.

Adoption of Resolutions

Establishing a procedure to stabilize land lease rates at the Albany Municipal Airport.

Councilor Coburn asked what the range of difference was in the rates. Airport and Transit Manager Chris Bailey said the highest is \$0.254 per square foot and the lowest is around \$0.223 per square foot.

Councilor Kopczynski asked if anyone complained about the fee difference. City Manager Wes Hare said yes, periodically they hear from the public.

Kopczynski asked, without a Fixed Base Operator, is now a good time to raise the fee? Bailey said the City is holding the top steady and raising the lower end until it becomes equitable. This resolution is to establish equity of rate.

MOTION: Kopczynski moved to adopt the resolution establishing the procedure to stabilize land lease rates at the Albany Municipal Airport. Councilor Johnson seconded the motion and it passed 6-0, and was designated Resolution No. 6067.

ST-09-03, Oak Street Local Improvement District (LID), declaring a necessity that the City acquire certain real property for the purpose of creating and improving public right-of-way.

Public Works Director Mark Shepard explained that when the Oak Street LID was initially formed, a Ping's Garden representative agreed to a proposed assessment methodology whereby the Lee family would dedicate the necessary right-of-way for the improvements without charge and, through negotiations with the Lowe's development team, that their assessment would be substantially lower than it would otherwise be for all the improvements being undertaken. The City preliminarily capped the Lee assessment upon their agreement to dedicate the land in question and because the Lowe's development team agreed to essentially pick up the remaining share of the improvement costs.

Assistant Public Works Director/City Engineer Jeff Blaine explained that at the last Council meeting there was information regarding the design for the Oak Street Improvement Project. The project requires three right-of-way dedications, two of which have already been addressed. The one remaining right-of-way dedication is required from Ping's Garden at the southwest corner of the intersection of Ninth Avenue and Oak Street. The required dedication is approximately 2,200 square feet and is described on pages 6, 7, and 8, of the Council packet. Staff wants to make sure the City has the right-of-way in hand before moving forward on the project. Although City staff continues to negotiate with the Lee family, they have not yet obtained the dedication as promised at the time of the LID formation. Staff is optimistic that the dedication will be received as originally promised and that condemnation proceedings will not be necessary. However, at this point in the project schedule it is necessary that the staff receive authorization to initiate eminent domain proceedings, including condemnation of land and a motion for immediate possession, to ensure the

project schedule is not compromised by a lack of required right-of-way. The authorization would be used as a last resort.

City Attorney Jim Delapoer said as with any LID, the Council first decided on the properties involved. Ping's Garden was already part of the LID as a consented mandated property. The proposed deal was to limit their costs to \$10,000. The assessed portion could have been between \$100,000 and \$200,000. The owner's concern is about not having to pay more. He suggested the Council authorize the assessment to be capped, at \$10,000. Through a Council motion, an agreement with the owners of Pings Garden would be created and the original assessments amount would be in writing; their costs would not be more than \$10,000 if they donate the property.

Sandra Lee, 251 SE 23rd Avenue, representing Ping's Garden, asked if cost under runs and over runs would be taken care of by Lowes and the City. Shepard said yes, she is correct they have an agreement with Lowes to do that. Lee said she would need to discuss what the City Attorney has offered with the family.

Delapoer said, provided the Council agrees, he would prepare a letter to them outlining the offer.

MOTION: Councilor Collins moved to adopt the resolution for ST-09-03, Oak Street Local Improvement District, declaring a necessity that the City acquire certain real property for the purpose of creating and improving public right-of-way. Kopczynski seconded the motion and it passed 6-0, and was declared Resolution No. 6068.

MOTION: Kopczynski moved to authorize the City Manager to enter into an agreement with the Lee family stating that their assessed portion of the LID will not exceed \$10,000, provided they donate the property needed for the project. Councilor Olsen seconded the motion and it passed 6-0.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) November 7, 2011, City Council Work Session.
- 2) Accepting an easement for water transmission main crossings of the Willamette River. RES. NO. 6069
- 3) Authorizing the Public Works Director to enter into a purchase agreement to acquire right-of-way for Cameron Street south of Windy Avenue.
- 4) Allowing Coast to Valley Express access to a bus stop at the Albany Station.
- 5) Approving a change of owner liquor license for SCH Ventures, LLC, D/B/A Rhythm and Brews Café, 229 Third Street SW.

Councilor Christman asked for item 3) to be pulled for discussion. Johnson asked for item 1a) to be pulled for discussion.

MOTION: Coburn moved to adopt the Consent Calendar with items 1a) and 3) removed for discussion. Johnson seconded the motion and it passed 6-0.

Christman asked, using the diagram on page 32 of the agenda, is Cameron Street built out to the end of the south side of lot 24? Transportation Systems Analyst Ron Irish said the sidewalk was built by the lot 24 owners and there is a partial street on private property.

MOTION: Christman moved to adopt item 3) of the Consent Calendar. Kopczynski seconded the motion and it passed 6-0.

Regarding item 1a), Johnson asked for the word "now" to be changed to "how" on the November 7, 2011, City Council Work Session minutes, on page 16 of the agenda, the seventh paragraph from the top, second sentence.

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

Reports

Delinquent assessments.

Finance Director Stewart Taylor explained that staff is asking the Council for discussion regarding criteria for delinquent assessments. He said the City has approximately 380 active assessment accounts. Most originated through property owners asking to make installment payments for public improvements which directly benefit their property. For the most part, property owners who agreed to make installment payments are diligent and current in making payments. However, there are 35 assessments held by 22 different property owners that have not made a payment in over a year. Most of the outstanding balances range from under \$1,000 to over \$12,000. However, two balances are larger; one is over \$29,000 and the other is over \$215,000. The Bancroft Bonding Act includes a procedure for collection for delinquent assessments that includes a resolution passed by the Council declaring the whole sum, both principal and

interest, due and payable at once, and direct collection in the same manner as delinquent property taxes. Before reaching that point, the Council could adopt intermediate steps that may prompt a delinquent owner to make payments or request a modification to the existing schedule. Some considerations could include the following:

- A minimum outstanding amount that would justify the cost of pursuing the collection.
- An invitation to the property owner to meet with staff to discuss an alternative payment arrangement.
- Authorization for staff to modify payments arrangements.
- A notice to the property owner that a collection resolution is scheduled to be considered by the City Council.

Olsen asked, are any homeowners threatened with the loss of their home? Taylor said he is unaware of any.

Coburn asked if there had been conversations with some homeowners suggesting that they have no intention of paying. Rather, they intend those costs to be part of the selling arrangement of their homes.

Accounting Specialist Linda Lamer added that staff is assuming that because the delinquent accounts have been notified and haven't made payments or contacted the City, that they do not intend to make payments.

Coburn understands that it would be time consuming to review each individual assessment, but it is an option.

Delapoer said working on individual cases is hard to justify. The Council needs to decide if they want to collect the money then authorize the staff to collect. That could mean that at the end of the day someone could get foreclosed. If the Council wants exemptions, direction needs to be given to staff. He thinks that in all cases, meeting with the property owners, collecting all the debt or working out a payment arrangement, seems appropriate.

Collins suggested following the law, but give staff authorization to work with clients to bring their assessments current.

Delapoer reminded the Council they need to treat everyone the same. He suggested developing a methodology for all cases, a written policy of communication with clients, and written authorization to take steps to collect outstanding payments.

Christman asked, what is the smallest amount owed? Taylor said around \$500. Christman would like to insure that the cost effectiveness of pursuing a delinquent assessment be part of the criteria.

Delapoer suggested that staff allow any assessment of less than \$1,000 to sit, because it incurs interest at 9% annum. With no payments, it would eventually become over \$1,000.

DIRECTION: Council direction was to have staff bring back a recommendation for a notification and payment policy.

Johnson prefers to collect on all delinquencies.

Delapoer asked, do you want a recommendation on a cap? Christman suggested that staff come back with a recommendation as to a cap as well.

53rd Avenue road extension and bridge improvements.

Shepard said that originally when the PepsiCo project fell through, the City hoped they could finish the 53rd Avenue road extension and bridge improvements in hopes of not losing the value of all the design and permitting work that had already been completed and that it would make the large properties attractive to investors. The new roadway was planned to extend over the Union Pacific Railroad tracks connecting to Ellingson Road at Lochner Road. In 2009, the City submitted a federal funding request to complete the 53rd Avenue Street and Bridge Improvements. The funding request was for approximately \$18 million to pay for the estimated total costs to complete the project. The City received a funding commitment of \$292,150 in federal funds. Staff worked with the Oregon Department of Transportation (ODOT) to develop an Intergovernmental Agreement (IGA) for a smaller scope project. Costs to administer any project exceeded the available funds. The timing of the extension of 53rd Avenue is uncertain and the use of the limited City street resources for a smaller project is not recommended. While declining the project funding will mean the money will not be used in Albany, these federal funds can probably be better utilized on a project that will provide a more immediate benefit to the public in a different community.

Collins agrees with the analysis but asked, if the City were to use the money to relocate the two traffic poles on the east side of the 53rd Avenue/Highway 99E intersection now, would it benefit the "piano property?" Shepard said they contacted the property owners of the "piano property" and were told that the owners have nothing that would drive the need to spend that money now. Collins supports the staff recommendation.

Johnson and Coburn were concerned that the federal government would look unfavorably on Albany and no longer consider the City for other monies. They would support a letter accompanying the staff response from the Mayor and City Manger. Konopa and Hare agreed.

MOTION: Collins moved to decline entering into an IGA with the ODOT for \$292,150 in federal Surface Transportation Project Program funds earmarked for 53rd Avenue. Olsen seconded the motion and it passed 6-0.

W-01-04, Albany-Millersburg Water Treatment Plant, payment of CH2M Hill Engineers for settlement support.

Shepard explained that the settlement agreement with Siemens regarding the Albany-Millersburg Water Treatment Plan was a six year process addressing equipment that was not meeting anticipated performance standards. The settlement provided the City with replacement of half of the filter membrane modules at no cost and reduced pricing for additional module replacements through the year 2015. This settlement provided over \$500,000 in savings for replacement filter membrane modules. CH2M Hill, who was the City's consultant that designed the water treatment plant, provided technical and negotiations support, and they did not charge the City for any of the time that their staff spent assisting Albany staff. It is likely that the City would not have been able to reach the favorable settlement without the assistance of their technical and corporate support.

CH2M Hill has asked if the City would be willing to cover their costs for the staff time spent in support of the settlement negotiations. They realize, as the project designer, they have an obligation to support the successful completion of the project. Therefore, they submitted two invoices (in agenda file). One showed what the costs would have been if they had charged the City at their normal billing rates for their support. The other is an invoice for the same work but the billing rates were adjusted to only cover the direct costs incurred. Staff's recommendation is for 50% of the actual costs, approximately \$52,000. This payment acknowledges the value that CH2M hill provided in the process and the favorable outcome for the City while also identifying their responsibility as the design engineer to assure that the City receives what was paid for in the Water Treatment Plant construction.

Collins asked, is this something that should be decided at the joint body with the city of Millersburg? Shepard said Millersburg does have a 10% interest in the plant. They could pay 10% of the costs.

MOTION: Collins moved to authorize a payment of \$52,000 to CH2M Hill Engineers for the support they provided in reaching a settlement with Siemens regarding the Albany-Millersburg Water Treatment Plant. The motion is subject to the Albany-Millersburg Joint Water/Wastewater Management Committee recommendation of approval. Absent that recommendation the City of Albany will assume full obligation. Johnson seconded the motion and it passed 6-0.

BUSINESS FROM THE COUNCIL

Hare said he had met with the Council of Governments (COG) and they continue to monitor the City's status regarding being declared a Metropolitan Planning Organization (MPO), after reaching a population of 50,000 or more. There is a bill in Congress to raise the population threshold to 200,000, but no decision has been made yet. There was a discussion on how to best take advantage of the designation. Joining forces of all the policy making bodies was considered, as the primary concern is access to resources. There was mixed feelings from some of the members about collaboration.

NEXT MEETING DATE

The next scheduled meeting for the Council is a Work Session on Monday, January 9, 2012, at 4:00 p.m., in the Municipal Court Room, at City Hall.

The next scheduled Regular Session is on Wednesday, January 11, 2012, at 7:15 p.m., in the Council Chambers, at City Hall.

ADJOURNMENT

There being no other business, the meeting was adjourned at 9:45 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, MMC
City Clerk

Stewart Taylor
Finance Director