

CITY OF ALBANY  
CITY COUNCIL (WORK SESSION)  
Municipal Court Room  
Monday, July 25, 2011  
4:00 p.m.

**MINUTES**

**CALL TO ORDER**

Mayor Sharon Konopa called the meeting to order at 4:04 p.m.

**ROLL CALL**

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

Councilors absent: Councilor Jeff Christman was excused.

**PROPOSAL TO BAN ALCOHOL IN CITY PARKS AND ESTABLISH PARK HOURS**

Parks & Recreation Director Ed Hodney said that the memo in the agenda packet responds to the Council's questions. There was one question related to the Oregon Constitution which Police Captain Jeff Hinrichs will address.

Hodney handed out an inventory of parks (see agenda file). Parks where alcohol is restricted were highlighted in yellow. One of the common litter issues is broken glass; it occurs anywhere there is a hard surface. Broken glass is regularly becoming a clean-up issue for Parks Maintenance staff. The glass is mostly from alcoholic containers and prohibiting alcohol would mitigate this.

Regarding park hours, Hodney surveyed 14 parks from Portland Metro to Sandy. Most of them have uniform park hours and also prohibit alcohol unless permitted. He said, it seems to be the norm in Oregon cities. Albany's current ordinance permits the Parks & Recreation Director to establish park hours on a case by case basis, and they have done that with a couple of parks by posting park hours. Bryant and Bowman Parks are the exceptions since they were already regulated before Hodney started at the City. He also posted hours at Kinder Park to close at 10:00 p.m. Bowman Park was restricted in response to neighbor complaints about activity in the park after dark.

Hinrichs said that ORS 430.235 regulates conduct allowed in public. Years ago, Police could arrest for crimes like drunken and disorderly conduct, but now arresting for behaviors is considered unconstitutional, like drunken and disorderly. Now Police are restricted to arrests for violent behavior only. A person that is being difficult, loud, or even calling someone names, may not be acting in a "violent, tumultuous" manner. Having a ban on alcohol in the parks would make it much easier for Police to deal with all these types of behaviors, not just violent behavior.

Hinrichs said there is also inconsistency with the way parks are regulated in Albany. They have different hours or none at all, and whether alcohol is permitted varies too. Being consistent would be much easier for staff and citizens to deal with.

Hinrichs said he has been asked about the difference between warnings and citations. If for example the Police find a couple having a glass of wine in a park where alcohol is banned, they would talk to them and evaluate if it was a citable offense. If the couple just didn't know it was banned, then most often the Police would just give them a warning and the issue would be resolved. On the other hand if someone was being belligerent, the Police could actually enforce the law. Hinrichs assured the Council that officers would make a careful evaluation.

Hinrichs also pointed out that there is very little "good" that goes on after 10:00 or 11:00 p.m. in parks. Most activity the Police see after that time is drinking, drug use, or vandalism.

Hodney said the Parks & Recreation Commission voted 5-0 in support of the ordinance to prohibit alcohol in parks, and 4-1 in support of a change in park hours. One Commissioner was concerned about playing basketball in a park, for example, at 2:00 a.m. The only other comment was from a citizen at the last meeting about the skate park and its hours. Under curfew the skate park can be used until midnight on weekends for those under 18, or until 10:30 p.m. on week days. The new ordinance would close the park at 10:00 p.m. but the Parks & Recreation Director could consider, under the authority in the ordinance, the extension of hours at the skate park. He could also withdraw the extension if it became a problem.

City Attorney Jim Delapoer said this is a policy judgment for the Council. There is no "right" answer. Restricting the parks will have an undesirable affect on good, law-abiding citizens; but it will also have a beneficiary effect on other citizens. As a prosecutor, the appeal for the ban on alcohol is largely for ease of enforcement. Delapoer said, your law enforcement is bare bones as it is. Some of the conduct that does not cross the line now, like staggering or vulgar speech, is going to drive the users of the park away. In order to arrest someone for violence, the Police Officer has to have witnessed the behavior or a citizen that witnessed it will have to stay at the park until Police arrive, and then follow through as a witness in court. In most cases where someone is misbehaving in the park, the good citizen is going to just pick up their stuff and leave. As a prosecutor, Delapoer doesn't like those cases because they can fall apart.

Delapoe said a ban on alcohol in parks is easier to enforce. They don't need the citizen to follow through with the court process; the Police Officer doesn't have to witness the behavior; and in all cases, the Police Officers can exercise discretion. The balance is the ease of enforcement versus some people's legitimate rights being impacted. For park hours, it is a similar balance. There may be some who can't get to a park until after hours, but that would likely be a small number.

Councilor Bill Coburn asked, why is this coming to the Council now? Hodney said the larger conversation about transients in parks, and other areas like the train station, took place a few months ago. This decision is not time-critical, but it is timely given the other conversations the Council has had in recent months.

Konopa said the Council has talked about Takena Park. There are lots of kids that hang out there at night. Hodney said that in that case, staff heard from some that they are not closing the park early enough, and from others that they are closing it too early.

In regards to basketball being played at night in the parks, Hodney said to take into consideration the folks that live within hearing distance. Discussion followed.

Councilor Floyd Collins said it is a matter of risk and exposure. If they have just two or three cases a year, then he doesn't see the need to tighten up the regulations. If the frequency and magnitude is becoming more severe, then some sort of restriction would be useful.

Executive Assistant/Public Information Officer Marilyn Smith said that Albany Police Department (APD) ran the statistics for alcohol-related calls in all City parks for 2010. There were 46 complaints. For the first half of 2011, there were eleven. Although they do not track how many of those involved alcohol, Hinrichs said that typically, these calls would be the result of some sort of behavior that would warrant a call. Konopa also pointed out we don't know how many experience disruptions at the parks but don't call it in. She hears from folks that do not feel safe on the riverfront.

Councilor Dick Olsen asked, how many calls do you get outside of the parks about alcohol problems? Hinrichs said, the number is not significant because they are usually at a location such as their house or a park. They do not get too many calls, for example, from businesses. Discussion followed.

Coburn is concerned about unintended consequences. Limiting alcohol consumption in parks isn't going to make it go away, they will just move and drink somewhere else. Some feel we do too much for the downtrodden, and then we hear that among those people, Albany is the place to go and hang out. Maybe we would rather that they were in the parks than in other places.

Konopa said it would be consistent to have the ban. It would make it easier to enforce for both alcohol and park hours. She thinks that charging a \$20 permit fee is reasonable. Hodney noted that the Council can change the fee.

Councilor Bessie Johnson said it is unfortunate that a few can ruin it for everyone.

Hodney said the Council does not have to make a change. They could continue to address specific parks as they come up. One that will be coming to the Council very soon is Waverly Park. APD is under pressure from the neighbors to make a change.

There was discussion about the cost of signs.

Johnson agrees that they should set park hours.

Coburn is willing to try both limitations for a short period of time. He is not happy about it but is sympathetic to staff so he is leaning towards trying it.

Hodney said that at River Rhythms events, alcohol is permitted. Signage at the entrance makes that clear.

Collins asked, for the parks that do not have restrictions, how many problems are there? Hinrichs used Periwinkle Park as an example and read the offenses. There were about 5-6 where he suspects the activities were related to alcohol. Collins said, if we are not having a problem there, then why regulate it? He said, we should wait until staff brings a park to the Council's attention due to problems, such as Waverly Park which will be considered in the near future. He supports setting hours for the parks, but not prohibiting alcohol.

Staff will bring back a revised ordinance to establish park hours.

#### COUNCILOR APPLICANT INTERVIEWS

Konopa said the City got six applicants for the vacant Council position. Discussion followed about how to conduct the interviews.

The meeting will start at 5:45 p.m., with interviews beginning at 6:00 p.m. Each applicant will be given 30 minutes. The interviews will be selected in random order by drawing names from a hat.

#### COUNCILOR COMMENTS

Collins commented that Hare's decision not to install the fence at the underpass across from the train station was a good decision; however, the local newspaper printed misinformation about it. Discussion followed.

Konopa commented regarding the newspaper article about her comments on whether or not to ban plastic bags.

#### CITY MANAGER REPORT

There was no report.

#### ADJOURNMENT

There being no further business, the Work Session adjourned at 5:11 p.m.

Respectfully submitted,

Reviewed by,

Mary A. Dibble, MMC  
Deputy City Clerk

Stewart Taylor  
Finance Director