

CITY OF ALBANY
CITY COUNCIL (WORK SESSION)
Municipal Court Room
Monday, November 7, 2011
4:00 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 4:00 p.m.

ROLL CALL

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

Councilors absent: None.

BUSINESS FROM THE PUBLIC

There was no business from the public.

WATER SERVICE FOR PROPERTY OUTSIDE CITY LIMITS

Assistant Public Works Director/City Engineer Jeff Blaine said the City has a request for water service from Pamela Hutchinson based on problems with her well, as detailed in the staff report. The address is 420 Clover Ridge Road NE, which is outside the city limits but inside the urban growth boundary (UGB). The Albany Municipal Code (AMC) allows such a request to be granted with City Council approval. If the Council agrees to the request then staff will have the requestor sign an irrevocable agreement to annex and pay connection fees, and they will start receiving monthly water bills. The annexation would go to the May 2012 election.

Councilor Bessie Johnson joined the meeting at 4:01 p.m.

Blaine explained that the two fee components are System Development Charges (SDCs) and water connection charges, whereby the customer participates in their fair share of the construction of the water line across their frontage.

Community Development Director Greg Byrne said that staff is in the process of arranging for six properties that have signed irrevocable agreements to be on the ballot for the May 2012 election.

Discussion followed about the history of island annexations in Albany and recent decisions by the Council not to pursue island annexations. The six properties mentioned by Byrne are an exception because they have signed irrevocable agreements.

MOTION: Councilor Floyd Collins moved to support the request for City water service for 420 Clover Ridge Road and Councilor Ray Kopczynski seconded it.

Johnson said it might be a good idea to ask adjacent properties if they would like to annex.

VOTE: A vote was taken on the motion and it passed 6-0.

MAIN STREET REHABILITATION

Transportation Systems Analyst Ron Irish said that with the last adoption of the Capital Improvement Program (CIP) the Council asked staff for more information about the Main Street roundabout. The question for the Council today is, is this a good time to proceed, or should the project be delayed.

Irish put up an overhead titled "Main Street Project Preliminary Design." A second overhead shows the roundabout concept. Both overheads are in the agenda packet. Irish said the neighborhood prefers a roundabout to a signalized intersection. This Main Street roundabout would be smaller than the North Albany roundabout.

Irish reviewed the four questions in the staff report.

Is the street system near the Main Street/Salem Avenue intersection nearing failure?

Irish said traffic fluctuates depending on what is happening with the highway system. In the early 1990s there was a lot of congestion but then when the couplet went in, the volume on Main Street dropped. It gradually picked up overtime and dropped a second time with the interchange improvements at the train station. Since then it has gradually picked up again, along with the rate of accidents. The 1997 Transportation System Plan (TSP) analysis predated the couplet and train station, and showed Main Street as having the sixth highest crash rate. In 2010 the TSP

identified corridors and determined that this is one of four that have level of service "F." Today there is significant traffic volume and the crash rate has dropped; but is starting to pick up again and the average is now 4.

Collins asked, under both scenarios (the signalized intersection or the roundabout), does the church need to be moved? Irish said no, however the function of the church depends on how it is accessed. The building itself is not in jeopardy, though.

Given the cost of the project, is it really the most important capacity project on the street system?

Irish said, it depends on how different projects are funded. Main Street is mainly funded through SDCs. If the project isn't built it would free up SDC money, but the other projects that use the money would have to be SDC eligible. It could not be used for Jackson Street or Hill Street, for example. Staff evaluated other short term projects and determined that Main Street is the most important, and there would still be SDC money left for other projects.

Would ODOT have extra incentive to add capacity to the highway system if this project was delayed for a few years?

Irish said that if the City did a project with added capacity, it might delay work that ODOT might have otherwise done along the highway system. Yet as he looked into it he saw nothing in ODOT's plans for the next four years. ODOT knows of Albany's TSP project and since it would help solve the problem less expensively than if ODOT did it, Irish feels they would look to the City to do ours first.

Irish said that ODOT is revising their performance standards. He showed an overhead from ODOT titled "Table 6, Volume to Capacity Ratios" (see agenda file) and explained how ODOT measures intersections. Under the new rules the ratio is going up, and changing the table changes what ODOT considers as "failing". They are accepting more congestion as of January 1, 2012. Irish used Walmart as an example of how the new rules would have changed their requirements. Congestion will get worse and by definition, it will be acceptable to ODOT and will not trigger an improvement. So the answer to the question of whether doing this project would be an incentive for ODOT to add capacity to the highway system is no, because ODOT is changing Table 6.

Collins said that throughout the TSP process, Lyons Street, Ellsworth Street, and Highway 20 have remained a problem. ODOT has not identified a fix and this project can't get into ODOT's CIP until they identify it as a problem. Collins wants to keep it on ODOTs radar and have them at least acknowledge it so that it will eventually get moved into their CIP.

Collins noted that the changes to Table 6 will also impact land use. He wants Albany to put pressure on ODOT to get the corridor done, as it is a critical thoroughfare for this community. Konopa pointed out that with ODOTs higher numbers it will be even more congested before they address it.

Irish is not sure how much leverage the Main Street project will get for the corridor. It would involve Highway 20 to Corvallis so it will be a big project and might not take place until we are designated as a Metropolitan Planning Organization (MPO), which could be few years out. Our leverage increases as an MPO, but Main Street likely will not affect it much.

Shepard said that they can keep pressure on ODOT at staff level and at the Council level, but whether the City does this Main Street project or not, may not have much bearing on ODOT one way or the other.

Collins said, if we have projects we know need to be done, we should do them now because the construction market is favorable. He thinks staff should proceed and get the best bid possible, and keep pressure on ODOT for the corridor study. Also doing this project can demonstrate that Albany did all we can to alleviate highway congestion, so ODOT would next need to do the analysis. He supports the proposed timeframe and funding.

Councilor Jeff Christman asked, where will the additional funds come from? Shepard said they plan to use State Transportation Planning (STP) funds. The SDCs will pay 80%. Albany gets \$400,000 STP funds annually.

Christman said there was a neighborhood meeting in March 2008. He asked, has there been one since then? Irish said no; but if the project stays in the CIP then staff should meet with them again.

Councilor Bill Coburn asked when the latest traffic counts were done. Irish said in 2004. Coburn asked if they should get updated counts, since the paper mill has closed since then. Irish said they will likely get updated counts if they enter into the design phase, though he does not think it is likely the mill closure impacted this intersection much.

Councilor Dick Olsen is concerned that this is in the urban renewal area that the City is trying to improve. He asked, do we want to encourage more traffic when it is close to a residential area? Discussion followed.

Johnson said the downside to the roundabout is the trains. Irish said the crossing on Main Street does not have high volume. In terms of trains, a roundabout versus a signal won't make a difference.

Konopa thinks the roundabout is safer than the current route.

The Council concurred to keep this project in the CIP.

DANGEROUS DOG ORDINANCE REVISIONS

Konopa explained that the group that worked on the dog ordinance was comprised of City staff and three members of the public: Max Frederick, Larry Holverson, and Mark Azavedo.

Konopa said the group has met seven times and put many hours into this ordinance. When they first met they all identified what they wanted the outcome to be; then they went through every word in the existing ordinance. They made sure everyone's outcome was addressed and then went to the public for written comments. Several were submitted and reviewed, and they made yet another revision. Finally, Holverson took the ordinance to the Save Blue Committee for their comments.

Larry Holverson, 608 Alpine Meadows NW, a member of the Dangerous Dog Ordinance work group and the Save Blue Committee, said that no one got everything they wanted. However, the overall product provides for the safety of the community, a workable and manageable ordinance for the Police Department to implement, and options other than death or returning an animal back to its owner. All those items were addressed in the final product. Holverson thinks it will serve the community well. He said that considering the amount of time that went into it, and as polarized as the community was on this issue, they decided not to involve issues regarding the dog Blue in the discussion. But, the dog Blue did keep coming into the conversation. Still, the final product was produced with the dog Blue issue set aside.

Azavedo said he echoes Holverson's comments. This was a diverse group in terms of perspectives. They went through all the ideas and gave them critical thought in a way that allowed for folks to change their position or work toward changing the minds of others. He said, this is a good product and is better than the current ordinance.

Holverson said that one thing that became obvious is that this situation is not unique to Albany. Many cities all over the country wrestle with it. He would not be surprised if they get requests from other cities for copies of the ordinance, if the Council approves it. Holverson said that Police Lieutenant Casey Dorland was at every meeting.

Johnson appreciates the work of the Committee, but she thinks the ordinance is too detailed and thinks the current ordinance was working fine up until a year ago with the Blue incident. She said that some of the items, like assuring a dog won't bite again, are impossible. She has many concerns about the proposed ordinance.

City Attorney Jim Delapoer said that this was difficult. They tried to meet the concerns about preventing euthanasia. From law enforcement's perspective it is cleaner than the current ordinance and it improves animal safety. It removes the need for affidavits and requires that proceedings be taped, but there is also a disclaimer in the event the tape fails. It also requires that if a dog was classified somewhere else as dangerous, that it brings its status with it to Albany and requires the owner to notify the Police Department.

Delapoer said this revised ordinance cleans up the procedures and is stronger than the current ordinance. It allows for a hearings officer but it is still a judicative process. The burden is on the owner to come up with an alternative for a dangerous dog, whereas the current ordinance does not. The definition of dangerous has also been changed so that it is not based on how a doctor treats the bite, but on the size of the wound. There is also more generalized language that allows the hearings officer to have discretion to classify a dog as dangerous or not.

Delapoer said the Council should appoint people to the positions of director and hearings officer who they have confidence in. Dorland agreed with Delapoer that this revised ordinance provides corrections that from law enforcement's perspective, needed to be made.

Johnson listed several concerns with the proposed ordinance. Delapoer said, this ordinance balances human safety and dog rehabilitation. If the Council wants to change that scale then it would make sense to remove some of the flexibility. The proposed changes represent a shift in the balance; it is up to the Council to decide what they want the balance to be.

Azavedo responded to why the proposed ordinance gives discretion to the director. In many cases the City reviews, the dogs are being mishandled or mistreated yet under the current code the dog is punished or euthanized when their behavior is in response to poor training, at the hands of the owner. This proposed ordinance allows the dog owner to demonstrate that the dog and the owner are behaving in ways that are not going to be dangerous in the future.

Holverson said that all involved felt that a truly vicious dog should be euthanized; but they still wanted for the small portion of dogs that are victims of circumstance, like the dog Blue, to have other options available.

Christman asked if staff had looked into the ramifications of getting out of the dangerous dog business altogether by repealing the ordinance. Delapoer said he did investigate that scenario and found that state law does not do prospective classifications as dangerous or potentially dangerous. It is illegal to have a dangerous dog but it doesn't become dangerous until it commits an injury. It really only applies in more rural areas where counties do not adopt their own regulations. In Linn County it would become the default in the absence of City regulations, and Delapoer predicts that the process would become even more political than it is now, yet it would be the City's Police

Department that would still have to deal with it. The City would be giving up control over the outcome and still doing all the work, without the confidence of the public of an independent and objective review process. Thus, adopting state law does not appear to be a viable alternative. The City could adopt the states laws as our own, but it is actually broader than the City's: for example, under state law a dog can be considered dangerous for chasing a cat.

Christman said that given the length of the ordinance, he thinks it will be difficult to enforce. Delapoer said it is enforceable, but he does agree with Christman that there is more process involved: more Police involvement, more staff time, and more time for hearings. On the other hand, if the community thinks something is unfair then they take it to public forums. Christman thinks this new ordinance will take more staff time than we can afford. Delapoer pointed out that staff time gets spent either way, with a new ordinance or with the backlash against the old ordinance.

Johnson said that the lengthiness of the dog Blue saga wasn't because of the City's current ordinance; rather it was due to the appeals by the owner. It is not because of something the Council did. She wants the public to understand that.

Delapoer pointed out that the fairer a person feels their hearing was at the local level, the less likely they are to appeal. The City actually has many hearings every year yet has had very few appeals, because overall folks feel they get a fair hearing in Municipal Court.

Holverson said he appreciates Christman's concerns about staff time but it is important to note that the number of dog cases over the last several years was just a few. It will not happen so often that it will be eating up a lot of staff time.

This item will come back to the November 9, 2011, Regular Session.

Konopa left the Work Session at 5:36 p.m. and turned it over to Council Chair Collins.

WATER & SEWER FUNDS – FINANCIAL UPDATE

Hare said staff is providing an update to the Council so they are aware of some critical decisions to be made in the future regarding water and sewer funds.

Shepard said the water rate policy adopted in 2004 envisioned that the rates would be increased by the Engineering News Record (ENR) rate plus 1%, with a base of 2.5% and a max of 6%. The goal was to have predictable, systematic rate increases and avoid surprise rate increases, while still being able to address capital needs (such as replacing steel water lines, etc.) and maintain a perpetual life replacement program. The goal was to avoid having a system that was so broken that it would require a massive rate increase to catch up.

Shepard said that because of difficult economic times the Council chose to forego the rate increases for three years in a row. Rate increases customarily take place in January, so staff will be seeking Council direction on what to do for the scheduled January increase.

Shepard said that sewer increases are not scheduled until July, but staff wanted to present the Council with both at the same time so they are aware. The sewer rate increase is driven by the City's requirement to pay for the loans (coverage requirements) on the Water Reclamation Facility and Talking Water Gardens. There are some other issues too that staff will bring to the Council's attention in the spring.

Shepard said that for sewer, if nothing changes with Operations & Maintenance increases and current collections, the increase would need to be 9%. That amount could be reduced if they can find savings in Operations & Maintenance. Staff is already working on a plan to transition the department and Shepard anticipates finding opportunity for savings. The other issue is revenue; it needs to be enough to meet coverage requirements. The 9% increase is Shepard's best conservative estimate.

Shepard said that for water, the Council has not raised rates due to the poor economy and the perception of how high Albany utility bills are. If the Council chooses to follow the rate schedule policy, there would be a 5.1% increase this year. If they choose to raise rates just to meet the bare minimum on coverage, it limits the amount available for perpetual replacement and proactive repairs.

Shepard reviewed the options as outlined in the staff report.

Johnson said the City cannot forego anymore rate increases. They have to replace the pipes as the infrastructure is deteriorating.

Shepard said that for three years the Council chose to forego the water increase and last year, instead of a sewer rate increase of 6%, the Council used PepsiCo Settlement funds to backfill the Sewer fund by 6%; so they still need an 6% to make up for last year in addition to 3% for this year, for a total of 9% increase to sewer.

Coburn said he thinks they made a mistake last year. The Council was reluctant to increase fees and raise rates due to the economy so they transferred the Settlements funds. It was a token effort. They have lost a 6% increase year after

year. He recalled the Council had decided not to use the Settlement for salaries but buying down rates was similar in that it was not sustainable. Now, they have to jump to a 9% increase instead of what would have been a 6% increase.

Olsen asked how many constituents thanked the Council for not raising rates last year. The Council agreed that most customers didn't realize the rates did not increase last year.

Collins said that raising water rates in January, sewer rates in July, proposing a Fire and Police levy in the spring, and looking to make up for \$1 million in tax revenue shortfalls, is compounding. He thinks staff has done what they need to do by raising the flag for the Council about these issues. He thinks water and sewer programs need to be reviewed in detail like the General Fund has been reviewed. Since water and sewer programs are Enterprise Funds they may not have received the same detailed review for savings that might offset a rate increase. He thinks the review needs to be done before the Council can make a decision. This may impact the General Fund too, since there are some transfers made between them.

Shepard said he is already working with management staff to identify opportunities to save money. He is optimistic.

Christman agrees with Collins. The Council needs to bring both rates into the same discussion as the General Fund shortfall. He noted that the 2004 Water Financial Plan was completed in a different economy and a lot has changed since then. It may be wise to schedule another financial plan. So much has changed that to continue to reference a document from 2004 is not responsible. Hare pointed out that they have not been following the 2004 plan.

Coburn asked, were there some increased operations costs due to the problem with the Siemens filter? Shepard said that may account for a small amount but he thinks that possible future savings are related more to how things are structured and how they do things administratively. The wild card is the Sewer Treatment Plant and sludge hauling, and when it will be under control. They don't have an answer for that yet.

Johnson said the rate increases are necessary for infrastructure improvements. She asked how much water is being lost through leaking lines. Staff said about 19%.

Collins said, the question for the Council is if they want staff to bring a water increase forward before they have done the critical thinking portion.

Hare pointed out that staff has already been thinking critically and he doesn't want to leave the impression that they have not. Collins agreed and said the emphasis they have added, is that the General Fund shortfall is driving the need to question whether they need to discuss the water increase before that much larger discussion takes place.

Shepard explained that the debt service requirements are a fixed cost whereas the capital and operations are more flexible. It is complex.

Hare pointed out that 19% is not good for water loss. Collins pointed out that they used to have 35% water loss.

Further discussion will continue in January 2012.

FIRE STATION 12 SEISMIC UPGRADE CHANGE ORDER

Fire Chief John Bradner said staff is seeking approval of an increase to the construction contract for Fire Station 12 seismic upgrades.

Bradner said there have been change orders to the project. The two major items driving the increase are electrical requirements relating to a meter relocation, and water damage and dry rot to the structure due to vinyl siding that is failing.

Bradner said this project was paid for partially with grant funds. The original split was 74% paid by the state and 26% paid by the City. These change orders will change the ratio to 70% state and 30% City funding. Details of the changes are outlined in the staff memo in the agenda packet.

Coburn asked, did we have an architect involved? Bradner said Group Mackenzie was the project engineer. Coburn said it seems that an engineer should have caught the electrical requirements and it should not have been a surprise. Bradner said they thought they would have to move the meter just two feet out, but Pacific Power required more space. This is the second project Pacific Power has required this change on. When the design work was done it was not a requirement, but now it is. The guidelines changed midstream.

Kopczynski said he toured the facility and that all this work needs to be done.

MOTION: Kopczynski moved to authorize the change order for the expenses at Station 12. Coburn second the motion and it passed 6-0.

COUNCILOR COMMENTS

There were no Councilor comments.

CITY MANAGER

There were no comments from the City Manager.

ADJOURNMENT

There being no further business, the Work Session adjourned at 6:23 p.m.

Respectfully submitted,

Reviewed by,

Mary A. Dibble, MMC
Deputy City Clerk

Stewart Taylor
Finance Director