

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, February 26, 2014
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 of allegiance to the flag.

ROLL CALL

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

Councilors absent: None.

SCHEDULED BUSINESS

First Reading of Ordinance

DC-02-13, amending Ordinance No. 4441, which adopted the City of Albany Development Code and Zoning Map by amending the Development Code text related to redemption centers, adopting findings, and declaring an emergency.

City Attorney Jim Delapoer read the ordinance for the first time in title only.

MOTION: Councilor Bessie Johnson moved to have the ordinance read a second time in title only. Councilor Dick Olsen seconded the motion and it passed 6-0.

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

MOTION: Olsen moved to adopt the ordinance. Councilor Bill Coburn seconded the motion.

Councilor Rich Kellum said that he drove to the area at 4:00 a.m. to survey it. He is concerned that the Council is rejecting a business because they don't fit into specific parameters. He heard testimony about noise issues, but he doesn't think there was evidence of that. As to security issues, as long as the river is on one end and Helping Hands is on the other, there will be people traveling through the area. He is opposed to the ordinance.

VOTE: A vote was taken on the motion and it passed 4-2, with Kellum and Councilor Ray Kopczynski voting no, and was designated Ordinance No. 5831.

Konopa read the Notice of Decision: Within five days of the decision the Community Development Director provides written notice of the decision to the applicant and any other parties entitled to notice. A decision of the City Council may be appealed to the Land Use Board of Appeals by filing a Notice of Intent to Appeal not later than 21 days after the decision becomes final.

Business from the Public

Greg Bechtel, 978 Ferry Street SW, distributed a document titled "Recommended Additional Regulations for Dispensaries in Albany" (see agenda file). He is the Chief Financial Officer for Albany Alternative Health Solutions (AAHS). He thanked the Council for considering the Planning Commission's recommendation.

Bechtelsaid Senate Bill 1531 would allow for municipalities to provide additional, reasonable regulations for medical marijuana dispensaries. Bechtel hopes to own the first marijuana dispensary in Albany. Compliance is important to him. He said the state has only hired four auditors, yet with the anticipated 100-150 dispensaries that will apply in March, Bechtel thinks that just four auditors is woefully inadequate. The reason this is a problem is because it will undoubtedly fall to local municipalities to ensure compliance, which comes with an added cost and burden. His business is patient-oriented and he wants to protect patients first, so he suggests that since the added cost for compliance will fall to municipalities, that the Council enact a dispensary compliance fee. To maintain an atmosphere in Albany that is a professional business, dispensaries should contribute to local communities. He recommends a small monthly fee, for example \$100-200 per month. The revenue would offset costs that may come from additional compliance measures the City might take; the revenue would lessen the burden to the City.

Bechtelsaid there are neighborhood concerns with dispensaries. In his experience as a patient there are some dispensaries he would not go to again. Dispensaries are a business and businesses should not be in

neighborhoods. He thinks a 300 feet buffer from residential is not prohibitive; it is the same as adult shops. Becthel said that he doesn't think adult shops and dispensaries should be put in the same category, he understands that businesses should be clumped together because it is better for a city model. Because of Albany's geography, enacting a buffer will actually decrease the number of dispensaries that can open in Albany.

Becthel said he spoke with the Albany Police Department (APD) staff and their biggest concern is redistribution points. Dispensaries have a stigma for redistribution; he is also concerned about that and he has done many things internally to prevent that. He does not think the regulations with the state law go far enough regarding persons responsible for facilities; he thinks that there should be provisions in Albany that specifically prohibit the ownership operation or the person responsible for a facility in Albany if they have distribution charges for marijuana. Becthel said, if they have done it before, once they have an actual store front, the potential is great that they would redistribute again. He said, responsible patients support additional regulations. Patient access should always be the first priority, and protecting neighborhoods from potential abuses should be a close second.

Becthel said that AAHS will be opening on March 3. He invited the City Council to visit on March 2 and learn about what AAHS does.

Konopa asked if Becthel is suggesting an additional fee on top of the state's fee. Becthel said yes; he represents AAHS and they recommend an additional fee because there won't be enough auditing from the state. He said, four employees to monitor so many dispensaries is not reasonable; most dispensaries won't even get a visit in their first year. Becthel said he wants to make sure others follow the rules like they do.

Konopa asked if Senate Bill 1531 is in limbo. Becthel said the Senate amended it to allow municipalities to add additional reasonable restrictions. He gave an update on its current status.

Tom Cordier, 3340 Park Terrace NW, spoke to the decision to not allow the redemption center in the old Salvation Army building. Konopa said that the public hearing was closed last week so the Council was not able to allow any more comments before deliberation. Cordier said several Councilors received a two-page email from Michael O'Rourke of More Ink, located in the Carriage House Plaza. Cordier said that O'Rourke surveyed businesses in the Plaza and that the businesses wanted the redemption center to locate in the Salvation Army building. Cordier said he thinks the public hearing notification process is insufficient. Cordier said he talked personally to the business owners in the Plaza and they didn't know about the public hearing or the tentative decision regarding the redemption center.

Cordier said that the people that O'Rourke polled do not agree with the Council's decision. Cordier said their reason is the same as Hasso Hering's testimony at a Planning Commission when he stated that the redemption center would vastly increase recycling, and that benefit outweighs the Main Street zoning issue. It could attract more traffic, and therefore business, to the Plaza and that is what the business owners want. Cordier said the redemption center was going to spend \$350,000 to renovate the building; he pointed out it was not urban renewal or public money. Cordier said the Council talks about being a business friendly community, but actions speak louder than words.

Cordier said he spoke to Stephanie Marcus from the Oregon Beverage Recycling Cooperative; he said she is dismayed by the Council's decision. He was also told the City was trying to find a different location, and if that is the case, he said, Marcus doesn't know that. Discussion followed. Konopa explained to Cordier that she will personally show Marcus other buildings in the correct zones, but the Council cannot do that before the decisions are made in this land use hearing; before the decision is made, by law the Council must stay silent.

Economic Development and Urban Renewal Director Kate Porsche said she will be contacting Marcus tomorrow to see how she can be of service to find a location for the redemption center that would meet current zoning. As the Mayor stated, staff cannot move forward with contacting the applicant until after the final decision was made tonight. Porsche said, we do want their business here in Albany, just not in that location.

Johnson said that what Cordier said about the City's public notice for land use hearings is not correct. The neighbors in that area testified at the February 12, 2014, public hearing. She said, it is not fair to say just because someone didn't know about it, that the City didn't properly notify. The business people had the same opportunity to testify. Kellum said there is a difference in giving the notice to the property owner instead of the business. Konopa said there is also signage about the public hearing on the building.

Delapoer said the notice is a creature of state law in land use. Land use is as highly formalized process; the City Council does not make the rules, the state does. Delapoer said there is an entire quasi-judiciary statutory procedure. Albany's noticing requirements equal or exceed state law. Delapoer said, we could do more, but if we depart from state law to do more, then those on the other side of the matter could take issue and the result could be that the hearing is derailed. Historically, prior to the recession when there was a lot of land use decisions to be made, there was no shortage of people participating in the hearings; Delapoer said that is evidence that the City's notification process does work. The City also has to meet the 120 day clock and adding additional notices to what the law requires could impact that requirement.

Cordier asked if either of the Ward I Councilors went to the businesses to talk to the owners. Delapoer said they cannot legally do that because it would be an ex parte communication. Land use is like a court trial in front of a judge or jury. In a quasi-judicial hearing, the Council is governed by very structured rules, and they can only

base their decision on what comes before them. If the Council is aware that there is a land use matter pending, they would be having an ex parte communication, which requires that the Councilor disclose all that they have learned. Ex parte contacts are actually discouraged because the Council wants the people attending the hearing to have confidence that the process was fair. He said, it is the same reason that you wouldn't want a judge to get the information before a trial starts. Delapoe said that since 2008, there have been very few quasi judicial hearings. In 2005, they happened all the time with Council meetings going to midnight and 100 people testifying.

Konopa added that the Council has to disclose even if they drive by a site. She recalls during the Costco land use issue, she had to submit several pages of all the people that contacted her and the substance of the conversation as ex parte contact.

Jim Clausen, 1403 15th Street, is concerned about over regulating and driving away business. He is also concerned about the updated physical force plan for Linn County that is on the agenda. He does not think police force should be regulated too much. He thinks they do a fantastic job and most are very conscientious. He is worried that if an officer has an incident that they would be bound by these rules. He thinks the decision to use force should be at the discretion of the officer.

Adoption of Resolutions

Authorizing the Finance Director to sign a contract with Boldt, Carlisle, and Smith, LLC, for professional auditing services for five years beginning with the 2014 year-end financial audit.

Johnson asked if there were other bids. Finance Director Stewart Taylor said the City invited Requests for Proposals (RFP) from auditing firms. They received six but one was late so it was disqualified. A review committee looked at the technical aspects, including cost, technical merits, and professional references. From the initial evaluation two were invited for interviews with an auditor review panel which included Budget Committee Chair Sue Folden, Senior Accountants Anne Baker and Mike Murzynsky, and Taylor. Through the scoring process, Boldt, Carlisle, and Smith, LLC was ranked the highest. The range of costs over the five years was \$99,000 between high and low. Boldt, Carlisle, and Smith, LLC was in about the middle of the range.

MOTION: Councilor Floyd Collins moved to adopt the resolution and Kopczynski seconded it.

Kellum asked, what is the biggest reason you picked them? Taylor said they had the highest score in each criterion. Taylor ranked them high due to his confidence in the work they have done and the relationship that the auditors have with City management in ways to bolster internal controls or accounting changes. Their suggestions have been very helpful with the implementation of new regulations and rules.

VOTE: A vote was taken on the motion to adopt the resolution and it passed 6-0 and was designated Resolution No. 6298.

Approving the updated physical force plan for Linn County. (The complete Plan is available for review at the City Manager's Office.)

District Attorney Doug Marteeny said that Senate Bill 111 passed about six years ago and required each county to come up with a deadly physical force plan. Five years ago, a committee met and passed the plan. They wanted to give autonomy to each agency to incorporate their own policies and procedures. They recently updated the plan to better reflect current policies. The committee included Sheriff Tim Muller, Lieutenant Dave Mouser from Oregon State Police, Albany Police Chief Mario Lattanzio, police unions, citizen Andy Thrower, a member from the Lebanon police department, and Marteeny.

Marteeny spoke to Clausen's concern about binding police officers while they are doing their job. Marteeny said this plan was proposed by law enforcement officers and is consistent with nationwide protocols and with police officer training.

Marteeny shared a story that demonstrates the wisdom of this plan. Police have a vested interest that public sees them as good, upstanding citizens. There was a police shooting by Brownsville last year; at a traffic stop a driver pointed a gun at the police officer from just nine yards away. The training that the officer had had kicked in, shots were fired, and the driver was hit with one bullet that severed an artery. As soon as the scene was secure, the same police officer rendered aid and saved his life. This reflected very well on the police officer. For those reasons it makes sense to adopt the plan and he urges the Council's approval.

MOTION: Kellum moved to adopt the resolution and Coburn seconded it. The motion passed 6-0 and was designated Resolution No. 6299.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) January 6, 2014, City Council Work Session.
 - b) January 8, 2014, City Council Regular Session.

- 2) Adopting revisions to the Public Records Request Policy, F-05-08; the standard public records request form; and the Fire Department records request form; and repealing Resolution No. 6209. RES. NO. 6300
- 3) Certifying properties exempt from property taxation:
 - a) Songbird Village. RES. NO. 6301
 - b) Periwinkle Place. RES. NO. 6302
 - c) Parkrose Properties. RES. NO. 6303
 - d) 1680-1682 Oak Street SE. RES. NO. 6304
 - e) 515 Geary Streets SE. RES. NO. 6305
- 4) Approving contract renewal for Municipal Court Judge Robert Scott.
- 5) Appointing Municipal Court Judge Pro Tems and repealing Resolution No. 6198. RES. NO. 6306
- 6) Declaring an APD 2005 Harley Davidson motorcycle as surplus property.
- 7) Approving an extended property tax abatement agreement and waiving employment requirement on short-term exemption for investment for Beta Seed, "Inc." RES. NO. 6307
- 8) Authorizing the City Manager to enter into an Intergovernmental Agreement with Linn County for an Oregon Department of Transportation 2013-2015 biennium operating grant.

Olsen requested that item 5) be pulled for discussion. Coburn requested that item 7) be pulled for discussion.

MOTION: Johnson moved to adopt the Consent Calendar with item 5) and 7) removed for discussion. Kellum seconded the motion and it passed 6-0.

To item 5), Olsen noted that the City of Albany is very fortunate to have Municipal Court Judge Robert Scott.

MOTION: Olsen moved to approve item 5) and Kopczynski seconded it. The motion passed 6-0.

To item 7), Coburn disclosed that Beta Seed is a customer of EC Electric where he works. It does not involve his department and he is not involved in the action. Delapoer confirmed that he and Coburn discussed this item; neither Coburn nor his company has a pecuniary benefit with this particular vote. He has disclosed it per Delapoer's counsel, and he is not prohibited from voting.

Konopa said she has toured the plant, and it is quite an operation. She said, we are fortunate to have them near Albany. It is a growing global business.

Collins said that John Pascone from Albany Millersburg Economic Corporation (AMEDC) invests a lot of time with businesses like Beta Seed. The work he does is behind the scenes but is very valuable. He appreciates AMEDC's work.

MOTION: Kellum moved to adopt item 7). Collins seconded the motion and it passed 6-0.

Award of Bid

WL-14-01, Zone 1, Phase I Water Lines – Ferry, Jefferson, and Thurston Streets.

Public Works Director Mark Shepard said that the project is slightly over budget by about \$15,000 as described on page 69 of the agenda packet. The overage includes a 10% contingency that won't be used unless there are change orders. Generally, they don't have significant change orders so Shepard expects that it will come in at budget.

MOTION: Collins moved to award the contract in the amount of \$468,885 to Pacific Excavation and Kopczynski seconded the motion.

Coburn said there is often discussion about local business being involved in the bid process. He pointed out that Pacific Excavation has an office in Albany and in other cities. He noted that the bidders included four contractors from Salem, and one from Stayton, Eugene, Philomath, and Washington.

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

BUSINESS FROM THE COUNCIL

Collins wants to reconsider the motion at the Work Session on Monday, February 24, 2014, regarding the pending civil penalty to City Manager Wes Hare for allegedly violating election laws. Collins said the issue is not the \$75 fine; at the Work Session the Council agreed to pay the fine on Hare's behalf because they stand behind him. Collins thinks that that approach was partially right, but now he wants to take a two-prong approach. The first is to approach elected officials and have them work it through either the legislative process or have a legislative member work with the Secretary of State (SOS) office to address the underlying rule. The second is to go ahead and authorize the City Attorney to file on behalf of the City for a contested case. Collins said, my concern is that the Oregon Administrative Rules (OARs) and the adopted guidance manual for the implementation of ORS 260.432 goes beyond the scope of the intent of the statute. As Delapoer has pointed out, the statute is 2-3 paragraphs long, yet the guidance manual is 22 pages. He believes that as written, the guidance manual may infringe upon freedom of speech as guaranteed in the constitution. Collins said, without some clarification and an amendment to the election laws, if left unchallenged, it will be a detriment to this city

and all other cities in the future in our attempt to get factual information to the public to inform them of what the issues are that they will be voting on.

Collins said that in speaking to Delapoer, one of his concerns was addressed, and that was the potential legal fees which could be \$5,000 - \$20,000. Collins said Delapoer has indicated that he is willing to do this free of charge for the City. Collins said, that is an exceptional offer on behalf of Delapoer, and it goes to address the underlying issue of the protection of constitutional rights. Collins said he has dealt with state agencies and he knows that OARs are drafted by staff members and sometimes they take liberties that go beyond the intent of the state statute; he thinks this may be one of those cases.

Collins said Delapoer drafted a resolution (see agenda file) that authorizes him to file a contested case. They would also continue to work through their elected officials to see if something can be done in the interim. Collins had a brief conversation with Representative Andy Olson and he too is concerned with the issue. Olson will be contacting the SOS office to initiate the process at that end. Collins wants the motion made on Monday to be reconsidered and for this resolution to be considered.

Kopczynski asked if they would still pay the fine on behalf of Hare. Collins said they would not pay the fine before they contest the case.

Kellum asked about the context of a meeting that Konopa and other staff had with the SOS office last year to discuss ethics and elections, at which they were told by SOS staff that if there is a problem, they should pursue contesting it. Kellum asked if that was correct.

Management Assistant/Public Information Officer Marilyn Smith attended the meeting and described the conversation. Konopa, Smith, Delapoer, and Porsche met with Secretary of State Kate Brown and her then-Elections Director Steve Trout at the SOS office in Salem. Staff and Konopa went to discuss these very same issues. City representatives explained the concern about being unable to get meaningful information to the people who need it, when they need it; and concerns about the First Amendment right to free speech as public employees and citizens. Smith said Secretary of State Brown said, ".....challenge the statute, I am serious." Smith said Brown said the City should have a conversation with the American Civil Liberties Union and their volunteer lawyers. Brown also said she had appointed an advisory group that would change the OARs before the 2014 election cycle.

Hare said the amount of the fine is not the issue. The question is, being able to share information with the public about issues they will be voting on, and what are the limits? He said he has had three complaints filed against him for allegedly violating election laws, and not one has been upheld. But in the review of the third complaint, the SOS found an alleged violation that he hadn't even been accused of, which resulted in the fine. The public doesn't understand the law because they are filing complaints that are not valid; and Hare doesn't understand it because he was just fined. So if reasonable people who read the statute can't agree on what it means, then that is evidence that the subject needs clarification. He thanked Delapoer, and noted he is the best suited person in the state to take on this fight and it is generous of him to donate his time to do so.

Collins said, another issue is that if the penalty is allowed to continue and citations are issued for violating the rules, we have already seen evidence - even in the last two days - that some members of the community say that the City Manager violates the law. Collins doesn't think they can let that stand when there is such a lack of clarity. It undermines Hare's credibility in the community and as the City's Chief Financial Officer. It affects the ability of the public to have trust in their local government. Collins thinks they need to be challenged on multiple points, and that this is a good way to do that.

MOTION: Collins moved to reconsider the February 24, 2014, motion that the Mayor and Councilors each write a check for \$10.72 to the Secretary of State's office to cover the fine assessed to the City Manager and that the checks be delivered along with a letter of objection. Kopczynski seconded the motion and it passed 6-0.

MOTION: Collins moved to adopt the resolution to authorize and direct the City Attorney to contest a proposed civil penalty against City Manager Wes Hare stemming from an alleged violation of ORS 260.432 and Johnson seconded it.

Konopa read the resolution out loud:

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO CONTEST A PROPOSED CIVIL PENALTY AGAINST CITY MANAGER WES HARE STEMMING FROM AN ALLEGED VIOLATION OF ORS 260.432

WHEREAS, on or about February 20, 2014, City Manager Wes Hare and the City of Albany received a notice from the Oregon Secretary of State advising of a proposed civil penalty to be assessed against City Manager Hare, stemming from an alleged violation of ORS 260.432; and

WHEREAS, the proposed civil penalty stems from actions of the City Manager which were undertaken pursuant to express City Council direction; and

WHEREAS, the City Council directed the City Manager to announce to the public the Council decision to involve members of the public in developing plans for new fire and police stations; and

WHEREAS, the aforesaid actions by the City Manager did not, in the judgment of the Council, constitute or require advocacy as prohibited by statute; and

WHEREAS, the City Manager has not requested or sought in any fashion the assistance of the City Attorney, which is authorized by this resolution; and

WHEREAS, an acceptance without appeal of the proposed civil penalty will, in the judgment of the Council, have a significant and undesirable chilling effect on the willingness of City staff and others within the scope of ORS 260.432 by unlawfully limiting their free speech, precluding them from sharing factual and technical information with the City Council and the public, reducing the volume and quality of information that can ultimately be provided to the public when future city measures are pending for voter consideration; and

WHEREAS, this action is taken exclusively for the benefit of the public and not for the private benefit of City Manager Hare; and

WHEREAS, any incidental benefit that the City Manager could be deemed to receive from this action is hereby determined by the Council to be authorized compensation; and

WHEREAS, the City Attorney has expressed a willingness to bear the cost of the contested case proceeding and subsequent appeals, if any, without charge to the City.

NOW, THEREFORE, BE IT RESOLVED that the City Attorney is hereby authorized and directed to contest the civil penalty proposed for assessment against City Manager Wes Hare under the circumstances set forth in the recitals above and is further authorized, in the event of an adverse ruling, to prosecute an appeal thereof to the Court of Appeals of the State of Oregon should he determine the appeal to be meritorious and should he be willing to continue to provide legal representation in this matter without cost to the City.

BE IT FURTHER RESOLVED that the recitals set forth above are incorporated as facts in this resolution.

DATED AND EFFECTIVE THIS 26th DAY OF FEBRUARY 2014.

Delapoer said that a lot of the language in the resolution is technical; the reason is to express the action that the Council is authorizing is not for Hare, rather it is to try to relieve staff and other volunteers who would be subject to the statute from fear that when doing their best to provide factual information they will be subject to being charged with election law violations, and ultimately being held up to a certain degree of public censure even in the event of a nominal fine. If that kind of circumstance is allowed to stand, the Council will find that the voices the public will hear will be of the people who are the least informed. Delapoer thinks that is so important from a City perspective, that he is willing to spend his time doing it. He said, even if we lost, we would be better off because there would be clearer direction. The legalese in the resolution is to make it clear Hare is not the beneficiary; no one is doing this to save him \$75, especially since at the Work Session the Council had decided to pay it on his behalf.

Konopa said that it was difficult for the Council, as elected officials, to try to explain the measures on the ballot. She said in recent elections she was publicly accused of lying and yet she could not use City staff to back her up. That is not right. Staff has to be silent, so the Council is doing their best to be the voice and they get accused of lying with no way to counter the accusations. It is not fair to the voters either; voters need the facts. Better decisions are made with factual information, but their hands are tied because the employees who can best explain the facts have to be silent.

Delapoer said that no one is saying staff would engage in advocacy or tell folks how to vote. He pointed out that even the SOS didn't find that Hare had advocated; rather the violation was for a technicality, yet the statute speaks in terms of advocacy. He shares the concern that there is a disconnect between the statute and the OAR as it is being interpreted, and his concerns run deeper than that. No one is suggesting, and Delapoer will not be arguing, that staff should advocate on the public's expense for or against measures before the voters.

VOTE: The motion passed 6-0 and was designated Resolution No. 6308.

Kellum reiterated his concern about Main Street. He said that viewed from the outside, the Council is pushing a business away that wanted to put money into Albany. He thinks that is the wrong message.

Collins said at the root of Kellum's concern is the underlying zoning that has been in place for 18-19 years. If they have difficulty enforcing the zoning then they need to modify the zone during periodic review, during a process that is not specific to an application. The Council could initiate a review of the area and if it should be zoned Main Street, Village Center, or Neighborhood Commercial. Kellum said he understands, but it doesn't make a difference if the Council is right or wrong; the outside businesses and the public form their view by the information they see. He said, rumors become truth.

Konopa said the periodic review process is detailed and thorough, and includes a lot of public input about how they want Albany to grow and what it should look like in the future. Generally, the time to demand a change to the zoning is if the City doesn't have any more land in that particular zoning category. But in this situation, for the redemption center, there are plenty of other vacant buildings for sale in Community Commercial and Regional Commercial zones. Konopa said, if we change the rules for every applicant who doesn't want to comply with the zoning, then why have a Comprehensive

Plan? She said, if citizens think we should not have a Main Street zone, then we should go through periodic review for a Comprehensive Plan update.

Johnson said she read the *City Bridges* article about grocery carts. A few years ago, the Council passed an ordinance to address grocery carts. She asked for an update because she sees as many now as she did before the ordinance was passed.

Konopa suggested they have a Work Session to review the shopping cart ordinance. Smith said the Community Resource unit from APD has been doing aggressive enforcement recently, which is why the *City Bridges* story was run. APD is providing phone numbers to call to report abandoned carts. Many of the stores contract with businesses that retrieve carts; other stores want to be contacted directly. After a special round of enforcement, APD loosely counted 60 carts on one particular day, which totals about \$18,000. It is a problem and they are working on it more aggressively than in the past. If people see carts out of place, the numbers to call are also listed in *City Bridges*. Discussion followed.

Konopa asked the Code Enforcement Team to look at the ordinance and let the Council know if there needs to be a change.

Coburn said he and Kopczyński received an email about what times garbage trucks can start running. Someone was woken up at 6:00 a.m. and thought that was too early. Hare said they have not received a lot of complaints about garbage trucks, though it has been past practice for many years that they start that early in the morning. Coburn said he wonders what Republic Services (RS) does. Smith said RS has extensive rules about what and when they start, and she discussed this issue with Kevin Hines from RS the same day that Coburn received the email complaint. Smith said they don't start before 6:00 a.m. The time was set after years of trying different schedules to make things work for the majority of the community. They also have to consider when streets will be clear of cars; it is a complicated analysis. Coburn would be interested in Hines' sharing information so he can pass it on to his constituents.

Delapoer noted that in terms of Council authority, there is little the Council can do about the issue immediately because it would need to be addressed in RS's franchise agreement. The City's noise ordinance monitors construction noise, but it does not address incidental noise from vehicle traffic.

Smith will ask Hines to respond to the Councilor's questions.

Olsen said he appreciates the decision to protect the neighborhood in Ward I. He thinks that zoning and planning should not be an effort to necessarily maximize the number of businesses in a city; he prefers that the goal be to allow everyone to live in a great neighborhood. In order to have a great neighborhood there needs to be a gradation between business and commercial, and neighborhoods.

Hare commended Public Works staff on the 10 bids received for the water lines on Ferry Street, Jefferson Street, and Thurston Street. It reflects their good job of getting the word out. The range of bids was narrow and it reflects good work by the engineers involved.

Shepard said he has a suggestion following the discussion in today's meeting about land use. Staff was planning to have a training session for the Planning Commission on the land use process. It has been a long time since training was conducted and there are some new Councilors who have not gone through it. Shepard invited the Council to attend the training. Land use is complicated; the training would not mean that the citizens would understand the results of decisions, but the Council could be confident the proper process was followed.

Delapoer added that Cordier was initially very critical of the process but when the constraints of the law were explained he understood. Delapoer suggested that rather than having a training session, he could offer training during a Council meeting for about an hour; that way it would also be televised so the audience could also understand why the Council is under rigorous constraints. Discussion followed.

Shepard would like for the Landmarks Advisory Commission and Planning Commission to be able to attend and ask questions. He asked for Council direction. Konopa suggested having a special meeting which could be televised. Smith and Shepard will work to identify possible dates.

NEXT MEETING DATE: Work Session March 10, 2014
 Regular Session March 12, 2014

ADJOURNMENT

There being no other business, the meeting was adjourned at 8:47 p.m.

Respectfully submitted,

Mary A. Dibble, MMC
City Clerk

Reviewed by,

Stewart Taylor
Finance Director