

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, March 12, 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

Public Hearing

DC-03-13, amending Ordinance No. 4441, which adopted the City of Albany Development Code and Zoning Map, by amending the Development Code text related to economic development, home businesses, planned developments, and signs, and adopting findings and declaring an emergency.

Konopa said, this is a legislative public hearing regarding legislative amendments to the Albany Development Code (ADC) recommended by the Business Ready Task Force to remove obstacles to development, and address issues with home businesses and planned developments as described in Planning file DC-03-13. The applicant is the City of Albany.

Konopa said, for those who wish to testify, please sign in at the table next to the City Clerk.

Open: Konopa opened the public hearing at 7:15 p.m.

Staff Report

Lead Long Range Planner Anne Catlin said tonight the City Council considers an important packet of proposed amendments to the ADC that the City Council, City staff, and the community have been working on for almost two years. This package of amendments started when staff began to document obstacles in the ADC that were brought to their attention. The list started getting quite long so a Task Force was started with members from the business community, residents, neighborhoods, and the Planning Commission.

Catlin began a PowerPoint presentation (see agenda file).

Catlin described the public participation and notification process used:

- The Task Force met for more than a year and a half to identify and evaluate obstacles to development and redevelopment.
- A public notice was mailed on January 3, 2014, to all property owners in the city limits (more than 14,000).
- A public open house was held January 14, 2014.
- A Public Hearings notice was published in the *Albany Democrat-Herald* on January 27, 2014.
- The Planning Commission received eight written comments and three people testified.
- Two more letters were received, which are on the dais.

Catlin summarized the proposed amendments. To reduce plan review process time and cost, the proposed changes will:

- Eliminate a step in the Planned Development process; reduce open space requirement.
- Exempt minor developments and changes of use from land use review.
- Allow a 2-year extension to land use approvals and a second 2-year extension for phased developments.

Catlin said one of the letters on the dais is from Walter Gowell, an Attorney representing a property owner in Albany (see agenda file). They have a land use decision that is expiring soon and appreciate the proposed extension. They suggested staff add the sentence in Section 1.083, to let developments that have not yet expired go ahead and take advantage of these proposed amendments. They have submitted their written request already,

in case the amendments are adopted, in hopes that this change can also be made. Gowell also suggested adding a sentence to the end of 1.083(1) regarding the anniversary dates.

Catlin described other amendments:

- Allow flexibility for small infill sites in meeting standards.
- Nonconforming sites – remove obstacles to redevelopment such as:
 - Allow reinstatement of nonconforming status.
 - Site improvements only triggered when building permit values exceed \$25,000.
 - If two parking spaces are required with new use, spaces do not need to be provided.
- Encourage reuse of vacant buildings in the Light Industrial (LI) zone by allowing some commercial uses.
- Allow small-scale manufacturing and “industrial offices” in many commercial and mixed use zones.
- Exempt residential developments in downtown zones from private and common open space requirements.
- Reduce required parking for many uses; allow on-street parking to count; allow unpaved parking for occasional overflow needs.

Catlin said they have received complaints about standards that are subjective and unclear. They had the BRTF consider changes. This is also the area where the City received the most public comments. Catlin described the changes:

- Create two levels of home businesses for better enforcement and increase allowances:
 - Allow outright those home businesses that meet clear and measurable standards; and
 - Allow more types of home businesses through a Conditional Use (CU) review to allow neighborhood input.

Catlin said the Planning Commission carefully considered input and increased measurable standards for uses allowed outright. They made the following changes:

- Number outside employees increased from one part-time to two full-time.
- *Frequent deliveries* is defined - average of three per day by commercial vehicles excluding deliveries by the post office.
- *Excessive Traffic* defined - no more than three customer vehicles at one time.
- Allow home businesses in accessory buildings up to 1,000 square feet.

Catlin said she received more input after the agenda packets were distributed. It was suggested that some of the prohibited uses for home businesses could be considered through the CU process, such as: auto body repair or painting for compensation, mechanical repair conducted outside of an enclosed building, and a headquarters or dispatch center.

Catlin said the changes that the community is most excited about are amendments to sign standards to make them easier to use. A subcommittee was appointed to include members outside the BRTF to evaluate the current standards. The current standards, generally, are: Aggregate Allowance is two signs total per street frontage, and the allowance outside downtown is 1.5 square feet times’ street frontage. This allowance includes free standing signs. There is no allowance for signs facing parking lots unless in an integrated center. Catlin said the proposed changes are:

- Remove aggregate maximum number and size of signs (two signs per frontage) so that sign allowances are by sign type. Catlin used Walmart as an example.
- Wall signs: Remove limit of two signs per street frontage; remove 12% restriction; remove 100 square foot maximum size; the new allowance is based on building length for all building frontages.
- Temporary Signs: increase display days from 60 to 120; allow one A-frame sign year round; create separate event sign category to allow unlimited event signs under one registration.

Catlin described the testimony received. There is a letter on the dais from Christina K Sullivan (see agenda file) regarding how to calculate wall allowance. Sullivan proposed 1.75 square feet. Catlin believes that 1.5 square feet is the right number, and she confirmed with sign industry representatives that 1.5 square feet is a fairly common size and that allowance would be sufficient.

Councilor Rick Kellum asked, does the frontage apply to one or both sides of a building? Catlin said the current use is aggregate based on street frontage, so for the example being discussed it means both Santiam and Price Road would get an allowance for each side. The proposal separates it out so the formula would apply to wall signs and free-standing signs. The new code also includes parking lots, so it would allow a business to have signs that affront a parking lot or a street.

Catlin continued describing the testimony received as outlined in the PowerPoint:

- Increase wall sign allowance to 1.75 square feet times building frontage (*the restricting figures in the current Code are the 12% wall sign cap, and 100 square foot cap.*)
- Allow adjustments and alternate method of calculations – allow sign areas from other sides to be combined onto main frontage (*adjustments are permitted already.*)
- Free standing signs – owner shouldn’t be required to bear burden for other businesses (*the City doesn’t regulate sign content; sign owners can charge for using of their free standing sign.*)

Catlin described the proposed revisions to wall signs. After reviewing calculations and working with customers testing out the proposed standards, staff believes that the formula for determining wall sign area should be 1.5 square feet for each lineal foot of building frontage in all zones except in our downtown pedestrian and historic area zones: Central Business (CB), Historic Downtown (HD), Lyon Ellsworth (LE), and Mixed Use Residential (MUR.) These proposed changes to 13.422 are:

13.422 Wall Signs. The total area of wall signs shall conform to the following:

(12) Wall Sign Area. The aggregate area of all wall signs for each street building frontage shall not exceed an area equal to 1-1/2 one square foot feet for each lineal foot of street building frontage to which the sign pertains, except in the CB, HD, LE, and MUR zones the area shall be one square foot for each lineal foot of building frontage. However, I In addition, aggregate wall sign area shall be subject to the following minimum and maximum ranges for each building frontage:

(a) For CC, RC, PB, LI, HI, and IP zones, the minimum is 48 45 square feet, maximum is 200 square feet.

(b) For NC, MS, MUCR and WF zones, the minimum is 32 35 square feet, maximum is 160 150 square feet.

(c) For CB and HD zones the minimum is 32 square feet, maximum is 120 square feet.

(d) For LE, MUR, OP, ES and TD zones the minimum is 32 24 square feet, maximum is 80 50 square feet.

(2) Aggregate area provisions do not include nameplates, directional signs, awning, and marquee signs as prescribed in Sections 13.320 (3, 5, 6, 8, 11, 12, and 14).

Kellum asked if they would have the ability to come back and request more if their sign went over the minimum in other zones, such as the downtown area. Catlin said they could ask for a variance. With the other changes they will have a larger allowance for signs than currently allowed. She said they have not had an issue with allowances in the downtown area.

In summary, Catlin said:

The proposed amendments satisfy the review criteria because they:

- Better achieve the goals and policies of the Albany Comprehensive Plan (Goal 1 Citizen Involvement, Goal 9 Economic Development)
- Are consistent with the purposes of the Code and with the zoning district purpose statements.

Catlin said the Planning Commission unanimously recommended approval. Staff recommends approval with revisions in Exhibits A, C and D as shown on dais. Discussion followed about the handouts on the dais.

Kellum said that he has almost 70 customers who do welding in Albany. They are individuals who have purchased \$374,000 worth of gas, wire, etc. He looked more specifically at those who do it as a sideline business. Kellum said those customers are bothered by this, not because they don't want to follow rules but because they don't think their neighbors should be able to make noise that they can't make. Catlin said that a welder suggested they consider a sustained amount of noise. The proposal is to prohibit sustained noise for more than 10 minutes between 7:00 a.m. and 6:00 p.m. This is consistent with the welder's suggested language. It is also at 60 decibels. Catlin thinks the Planning Commission did a good job responding to that concern. This would be a measurable standard, far better than the current standard with refers to "offensive noise", which is subjective.

Kellum asked what the current standard is for Albany. Catlin said that AMC noise code is specific to construction activity, dog barking, and some other regulations but has nothing about running a home business, which is why the Planning Commission wanted to address it.

Konopa said, if anyone wishes to enter an exhibit into the record as part of your testimony, please briefly describe it and then present it to the City Clerk.

Konopa called the first person on the signup sheet (see agenda file).

Walter Gowell, P.O. Box 480, McMinnville, is here on behalf of his client, First Federal Savings and Loan Association of McMinnville. First Federal owns a 40 acre tract which is currently vacant but is subject to various regulations. There are developers looking to purchase the property and many development issues were discussed and tentatively resolved in 2011 during a proceeding before the City Council. It was helpful to firm up discussions with potential developers. On March 23, 2011, there was a Council decision and a Notice of Decision was issued in March 25, 2011. Gowell's concern tonight is the interest of First Federal in obtaining an extension. In examining the City ordinances they could not find an extension provision. They contacted City staff in February and learned of this pending decision which was considered by the Planning Commission and is before the City Council tonight. Gowell supports City staff's proposal of an extension provision for land use approvals. First Federal's situation is that if the amendment was passed as proposed it would not include folks whose approvals had expired prior to the adoption of the ordinance, and First Federal might miss the date by 1-2 weeks. The proposed language makes it possible for extensions to apply to those who make a written request prior to their original expiration date.

Gowell said the second issue relates to how long before approval expires the extension request needs to be made. It had said 45 days before the expiration date, which prompted a discussion about how the expiration date is calculated. It is not defined. Gowell suggested that the date used for the extension deadline could be the date of the anniversary that the Notice of Decision went out.

Gowell said City staff did an excellent job presenting the issues tonight and he supports staff's position.

Councilor Bill Coburn asked Gowell if he is satisfied with the changes staff proposed. Gowell said yes, staff endorsed the changes that he proposed and they are included in the ordinance.

Paul Gutoski, 1515 SW Park Terrace, owns Polybuilt Inc., and supports the changes made by staff and the Planning Commission regarding home businesses. As to noise, it would be nice if they can make more noise than that, but on the other hand it does a good job of protecting a business like his. His noise levels may be over the limits at times, but he has been operating out of his house for over seven years and has had no complaints. If a business like his can operate that way without complaints, then he thinks it is compatible. As to the welders Kellum referred to, Gutoski wishes they would have shown up to express their concerns. He said from the letters the Council has received it would appear that he is not alone, but at times he feels that way because he sent letters to customers, vendors, and neighbors, but none showed up. He recommends the proposed changes and they are better than what they were. He likes how the different groups came together and worked it out. He is pleased.

Kellum asked Gutoski, which is louder, your neighbor's mower or your business? Gutoski said it depends. He used a barking dog as an example. He called the City to see what the ratio of complaints for home businesses was compared to dogs and cats; Albany Police Department counted 70-90 calls for dogs or cats in the month of January, compared to about 20 complaints per year for businesses which was presented at the Planning Commission. Gutoski said, good neighbors don't have dogs barking late at night, and good business owners don't make too much noise late at night. He said yes, he is at times louder than a lawn mower. Kellum asked Gutoski if he conducts his business inside the building with his door closed. Gutoski said no. He said he has spent \$4,000-\$5,000 defending his business. As a resident he can mow his lawn, but as a home business he can also mow his lawn but it better be done in ten minutes. He said, I would like to make noise all day long, but I am the only one up here saying so.

Richard Berger, Government Affairs Director for the Willamette Association of Realtors, 615 Waverly Drive, represents 300 realtors in and around the City of Albany. He provided written testimony (see agenda file). He has been a part of this process since beginning and attended almost all the BRTF meetings. The Willamette Association of Realtors supports the changes. The vast majority are simple, reasonable, straight forward, are good for business and land owners, and are easy for City staff to administer. He thanked the BRTF, the Planning Commission, the City Council, and staff for their two years of hard work.

Dean McDaniel, 34560 Hwy 99 E, Tangent, had a map that showed wetlands and he wants to get it changed. Konopa determined that it does not pertain to this hearing. Hare met him in the hallway to discuss his issue.

Christina Sullivan, 3383 Hillwood Road, Jefferson, has a business in Albany at 1260 Price Road. She said she is ecstatic about the changes. She is in favor of the changes and is very pleased.

Konopa asked if anyone else wished to speak. No one did.

Closed: Konopa closed the public hearing at 8:06 p.m.

City Attorney Jim Delapoer read the ordinance for the first time in title only: AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE AND ZONING MAP, BY AMENDING THE DEVELOPMENT CODE TEXT RELATED TO ECONOMIC DEVELOPMENT, HOME BUSINESSES, PLANNED DEVELOPMENTS, AND SIGNS, AND ADOPTING FINDINGS AND DELCARING AN EMERGENCY (FILE DC-03-13).

MOTION: Kellum moved to have the ordinance read a second time in title only. Councilor Ray Kopczynski seconded the motion and it passed 6-0.

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

Kellum thinks that if they are going to restrict something, they should restrict the activity, not who is causing it. He gave an example using parking as an illustration. He thinks that everyone should have the same set of rules. He thinks this is the wrong place to put restrictions on noise; instead, they should change the AMC for noise standards that apply to everyone. He said, if this were to pass, you could have two mechanics; one as buisness and one as hobby, and one would have to jump through hoops do to the exact same thing the other is doing. He thinks this is discriminatory. The home business portion should be removed, and they should deal with parking and noise in general. Discussion followed.

Coburn agrees with Kellum and used welding as an example of an activity that could be a hobby or a business. He also thinks it is discriminating.

Delapoer said the core of zoning is discriminatory. Certain things are allowed in one zone but not in another. Taken to the extreme, all commercial and residential zones could be removed; the problem is that the City doesn't have the resources to follow up on all the issues that would arise, so it is far more productive to be proactive and create zones, which is discriminatory.

Kopczynski asked, if this ordinance passes would existing businesses be grandfathered in? Hare said the City has had more stringent regulations on home occupations than what is being proposed; these changes actually ease the restrictions. Discussion followed.

Hare said, noise is just one element, and Delapoer is right in his assessment. Hare used dogs as example: they could regulate only what the dogs do and not how many dogs a household has, yet it would be very difficult to prove whose dog did what, when. Likewise with businesses, it would be difficult to prove whose business did what. The City Code has been around a long time, as well as home businesses, and this is true for cities across the nation. The question isn't if cities should have home business regulations, rather it is if the regulations are appropriate. Hare said to keep in mind that the BRTF worked for a long time and many people provided input. They were far apart in the beginning but did a lot of work to come together to find rules they could live with.

Hare said, the enforcement of any rule requires a certain amount of discretion, using judgment. Hare thinks their judgment has been good because they recognize the intent of the Code. The intent is that the external impacts are fair to both parties. He recommends that the Council focus on the exact changes being proposed and decide if they can live with them or not.

Konopa said these changes make it better for home businesses than before.

Kellum said that businesses being treated differently than their next door neighbors bothers him. He gave the example of his own business, which he started in his home. The issue is basic fairness.

Councilor Dick Olsen said he is a noisy neighbor, chopping wood and using chainsaws; but he is not in the business of it and making that noise eight hours a day, five days a week; and that is the difference. He occasionally exceeds the allowed decibels, but not all day, every day. Discussion followed.

Kellum said they should remove "noise" from the ADC and put it in the AMC. For residential areas, set a time frame and a maximum decibel level and it would apply to businesses and residents. He thinks this penalizes people for making money. Konopa explained why the BRTF made that distinction.

Delapoer said that there are not many decibel limits in the current AMC. The BRTF was to find an objective standard and reasonable limit. Delapoer asked Catlin if there are areas in the Code that rely on decibel levels. Catlin said that in Article 9.440, the City has adopted Department of Environmental Quality standards for noise. Depending on the type of business and the type of area, the decibel levels vary from the 45-60 range. Delapoer said the purpose of giving decibels in the ADC is for design standards that people can build to. The current AMC noise ordinance does not specify decibel; decibels are an objective measurement, but it would be difficult for a neighbor to measure. Thus, it would be problematic from an enforcement standard. Discussion followed.

Councilor Bessie Johnson asked if the current small businesses will be grandfathered in. Delapoer said for the most part this loosens restrictions, not tightens them; and it changes noise from a subjective to an objective standard.

Johnson said they received a lot of material in a short period of time and she wants more time. Konopa said the BRTF, Planning Commission, and Council went through the same material in a joint meeting, an open house, and a second joint meeting. This material has been in front of the Council before today, and now it is in Code format. Johnson said she does not want to be rushed.

To Johnson's questions, Delapoer said it does not have a provision for grandfathering in.

Hare said it is important to make the distinction that an existing business under the current Code could be more easily found in violation using the existing standard, which is "unreasonable noise", than they would with the Code that is being proposed. There is no grandfathering because there is a more objective standard being proposed than is in the current Code. It is not accurate to say that the proposed standard would be more difficult to adhere to than the current standard. Discussion followed.

Konopa said a business in Ward III called her, and they want the proposed changes to be adopted because they are not in compliance now and the proposed changes would bring them into compliance. Kopczynski agrees that the changes would be good for many businesses, but he will be voting no because it now specifies two types, painting and auto, which are both hobbies and business. They are called out, and that bothers him. Konopa suggested they could remove the word "hobby."

Catlin said that currently there is a list of prohibited uses, and the first is auto body repair and painting. The Planning Commission suggesting allowing it as a CU with the intent of helping the hobbyist. Fixing a car and getting paid for it is prohibited under the current Code but under the proposed Code a person could get a CU permit. Most complaints they get are for traffic, parking, and outside display. Discussion followed.

Konopa drew attention to page 70 of the agenda packet. She said Section 3.125 shows that the proposed changes are less strict.

Johnson noted that the proposed Code does not allow more than three business clients on a property at one time; she is concerned this will restrict families from parking on their own property. Konopa pointed out that the current Code says one car, and this increases it to three.

Kellum thinks there is a simple fix, with a parking code and a noise code. Discussion followed.

Catlin said aside from the noise standard, there are other standards being proposed that try to address the impacts that the City has heard complaints about. Currently the language is so subjective that it is hard to enforce when complaints are made. Compared to other cities this proposed Code is generous with its standards, such as for number of employees and allowing on-site sales. Catlin said that on balance, the proposed Code is better. She referred to the matrix, which illustrates that a business could still exceed all the standards with a CU permit. The CU permit is a proactive way to get neighborhood input, and is easier than trying to find a resolution after a complaint is filed.

Johnson asked the cost of the CU permit. Catlin said staff will ask Council to decide the cost. Staff recommends \$400-750 to allow businesses to work at home, which is low compared to leasing. Hare added that they heard testimony from small businesses that were locating in commercial zones, and they pointed out that folks operating in residential zones that do not have to pay for the additional cost of locating in a commercial zone. They felt there was one standard for them, and other for their competitor. Hare said, we don't have complete discretion on whether or not to have a zoning code; there are state land use standards that must be met. There is no way the City can do away with the zoning code altogether.

Konopa said if they leave the noise portion as it currently is, it would prohibit "offensive noise", which is subjective and difficult to enforce since the complaints can be over just about anything the complainant finds annoying. The proposed noise standard makes it objective and helps to protect the small business owner from a neighbor who finds just about any noise offensive.

Kellum said that most small businesses don't make any more money than working for wages. Most small businesses fail in the first five years, usually due to underfunding; \$400 is a lot of money. The reason they are at home is because they can't afford to be in a commercial district. Losing a job is the biggest impetus for going into business-for-self. Discussion followed about noise levels. Kellum said, having a specific standard that everyone has to abide by is fair.

Konopa said that she has received many complaints over the years about noise and home businesses. She also had a home business for 14 years and she made sure not to be offensive to her neighbors. She had a neighbor in the past that was very noisy late at night and if not for the Code, the neighborhood would have had to just live with it; it affects their quality of life. Another neighbor painted cars and used their air compressor at 3:00 a.m. inside the garage. With no Code, folks would be driven out of a neighborhood just by one noisy person. There has to be a way to protect the quality of life for the majority of residents in a neighborhood. Most home businesses are great and fit in well with their neighbors and she supports that, but there are exceptions and the City needs to have something in the Code to be able to do something about it when there is a problem. Discussion followed.

Johnson wants to do more research. Coburn also wants more time; he said there seems to be lots of conflicting information.

MOTION: Johnson moved to table the item until the April 9, 2014, City Council meeting and Coburn seconded it. The motion passed 6-0.

Business from the Public

There was no business from the public.

Adoption of Resolution

Authorizing new terms for the two Helping Hands loans.

MOTION: Councilor Floyd Collins moved to adopt the resolution and Kopczynski seconded it. The motion passed 6-0 and was designated Resolution No. 6309.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) February 10, 2014, City Council Work Session.
- 2) Applying for the Fiscal Year 2015 State Hazardous Materials Emergency Preparedness Grant on behalf of the Mid-Valley Local Emergency Planning Committee for hazardous materials related training, exercise, and plan development.

RES. NO. 6310

- 3) Amending parking restrictions within that area of Downtown Albany where parking on public parking lots and streets is enforced and managed by the Albany Downtown Association. RES. NO. 6311

Johnson asked for Item 3) to be removed for discussion.

MOTION: Coburn moved to adopt the Consent Calendar as presented with Item 3) removed for discussion. Kopczynski seconded the motion and it passed 6-0.

As to Item 3), Johnson is concerned that Parole and Probation is requesting two additional parking spaces. They have a large parking lot behind their building and she wonders why they need more. Kopczynski said it is for when they are transporting people in custody who may be handcuffed, etc. It is a safety issue.

Transportation Systems Analyst Ron Irish said they are being used by the Probation Department now. They do have a back door and they take people in who are chained. There are two spaces now for that use; one is close to Lyons Street, and when they remove people in custody from the vehicles they worry about getting hit by cars because they are so close to the intersection. They want to move that function one space away from the intersection, essentially getting rid of the first space. There are also two more fleet vehicles they would like to park on the street. City staff recommended that they not get rid of the first space, but that instead four spaces be designated and let the Probation Department decide which two to use for unloading people and which two for fleet vehicles.

Johnson asked how they would be labeled. Irish said probably with yellow curb, and designated as official vehicles only.

Konopa asked if the signs could say that it is a loading zone just during certain hours, so that after 5:00 p.m. other drivers could park there. Irish said they could add a time limit, though he does not think there is high demand for those spaces in the evening.

Johnson doesn't like the yellow curbs because businesses need parking also. Irish said it is difficult to differentiate official vehicle parking spaces from non-official spaces with just signage, so yellow curb is used to make it easier for the public. Yellow curb make is clear during the day, though it may make it more confusing after working hours.

Konopa suggested adding the hours 8:00 a.m. to 5:00 p.m. on the signs.

Coburn agrees with Johnson. He said the official vehicles could be there after hours, so it would not necessarily free up the spaces in the evening. He wonders why they can't park behind the building in the parking lot. Discussion followed.

Irish said the parking lot is often full with customers of the state facilities in the area. Most state employees are instructed to park outside of the lot, so he doubts they have room in the parking lot for extra vehicles, and that is likely why they are asking for assigned parking spaces.

MOTION: Kopczynski moved to adopt Item 3) and Olsen seconded it. The motion passed 4-2, with Johnson and Coburn voting no.

Award of Bid

ST-13-04-2014, Main Street Rehabilitation.

Assistant Public Works Director/City Engineer Jeff Blaine said that bids were opened on February 19, 2014. They had seven bids and they lowest bid was from Mid Valley Gravel for \$1,770,373.

Blaine said the project is over the budgeted amount. It is primarily funded through System Development Charges (SDCs) and there are adequate SDC reserves to cover the difference. Blaine pointed out this was bid last fiscal year, but the City rejected all bids and held the project over for a more favorable bid climate, which saved the City about \$170,000.

MOTION: Kellum moved to award the bid to Mid Valley Gravel in the amount of \$1,770,373 and Kopczynski seconded it.

Konopa asked if there will be a design for the center of the traffic circle. She had some requests for what folks want to see in the middle of the circle. She suggested reaching out to the neighborhood for suggestions. Civil Engineer III Nolan Nelson said currently the plan is for just landscaping. Blaine said there were several suggestions made at different points in time, but from a budget perspective, they planned on low maintenance landscaping. Staff can bring back some creative ideas for the City Council to consider.

Collins spoke to the funding that will be used to fill the gap in this project, primarily SDCi's. He has been talking to citizens about appropriated and unappropriated reserves; and this is a good example of using unappropriated reserves. When there is an overrun the City has flexibility. If all the reserves were appropriated,

they could not take action to award this bid; they would have to wait until it was included in the next budget cycle or find the funds elsewhere.

Coburn asked if the bid includes water lines going to the center of the roundabout. Nelson said yes.

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

BUSINESS FROM THE COUNCIL

Olsen said page 68, under Section 3.110, Item 2), refers to items not being visible. He asked if that means visible from the street, or just visible. Catlin said it is not clear; she suggested adding “from the street.” Olsen said it is fine to leave it as is.

Olsen said page 71, Section 3.160, addresses penalties, but it does not identify a way to appeal a penalty. He asked if that was the intent. Catlin said the idea is to have the hearing take place before the business gets established, rather than dealing with issues on a complaint basis. Delapoer said it would have to be through Municipal Court, so it’s not going to be a situation where an official gets to arbitrarily say the person did something wrong and it cannot be appealed. If it is a prospective standard, there would be appeals to the Planning Commission, City Council, or the Land Use Board of Appeals. If it is a subsequent matter, where the approval is in place and a person is deemed in violation, then it would be enforced civilly and criminally. Either way the person would be entitled to due process. Delapoer said the general penalty in the AMC would apply, and only a judge can assess the penalty. Discussion followed.

On page 76, under Section (1)(a), Olsen asked if rooftops count as open space. Some downtown buildings can take up the whole block. Catlin said the provisions for downtown and the common open space is in Article 8. This section is for planned development; this describes what can be set aside as common open space. A similar provision for multi-family is in Article 8 (pages 102-103), and rooftops would be one of the allowances to count towards the requirement. The proposal for planned developments is to reduce the amount of open space and streamline the process.

Referring to page 96, Olsen asked if allowing businesses to develop in industrial zones is because it is less expensive. Catlin said the BRTF discussed this and they are proposing they do allow it in existing buildings for certain kinds of uses. After talking to the business community and business owners, it is the kind of businesses that don’t need drive by traffic such as dance studios, fitness gyms, and other small non industrial that is commercial. This land isn’t needed for employment so the state of Oregon allowed the City to lighten up on the uses for the LI zone, with the provision that there is a neighborhood meeting to make sure it fits and also that the site is not precluded from going back to industrial use. Olsen asked what would happen if, for example, a dance studio goes in and then a welding business, and the dance studio thinks the welding is too loud. Catlin said that specific issue is discussed on page 98, Section (11)(b)(iv.). An acknowledgement form is a way to avoid complaints about adjacent industries in the area. Delapoer said that even if there is a noise standard, people are not precluded from complaining about it. Discussion followed.

Collins suggested they add in “new users” to that section. Catlin said that can be added.

Collins said in dealing with home occupations in residential zones, he thinks that residential zones have usual and have customary noises that are expected. Business activities are an exception to that expectation and the business owner would be asking for permission to do something different than the standard resident. A reasonable level of standards is applicable. If a business owner doesn’t think they can comply with the reasonable standards then they need to be in a commercial zone. He said, it is a privilege that is being extended to a business owner in a residential zone; this is more flexible than the current Code.

Kellum thanked Catlin for her hard work.

Hare shared a report on the Public Safety Facilities Review Committee. The Committee came to consensus to have the City Council move forward with the development of a site plan and conceptual drawings for a new fire station. They concluded at a previous meeting that the City needs a new fire station, and it needs to be at the current downtown site. At last night’s meeting they reached agreement on the principle of having the Council move forward on developing the plans. Hare said that Co Chair Dave Burright asked that it be communicated to the Council. It will take time to do it, and it is a critical decision for the Council to make. The cost is about \$200,000, so would require a Request for Proposal (RFP). The Council should consider if the contractor that is ultimately hired might also be the same they would have work on full scale plans for facility that they believe needs to be built. Hare said the Council should be thinking about the process they want to use for the RFP.

Konopa said in the past when they have proceeded with a facility, they have asked for public participation, especially when it involves the downtown historic district. They also did this for the carousel. She wants public participation to be part of the RFP. Discussion followed.

Collins asked if there was agreement or consensus about the functions to be included in the station, as suggested by the previous facility study by ZCS. Public Information Officer/Management Assistant Marilyn Smith said that Burright wants to bring back continued discussion on the program elements of the building at the April 8, 2014, meeting, because they did not get through it at their last meeting.

Collins thinks they should move ahead with RFP, and he thinks it should include an option for the police station, should they move forward. It could include Konopa’s request for public participation on the building design.

Hare said that given that they didn't agree on the language of the recommendation, he does not want to start until they do that.

Kopczynski asked if they can do an RFP when they don't know the budget. Hare said this would be a step toward the development of the budget. It would likely have been the next stage that ZCS would have done for the City if they had continued to the next phase. This would help to get closer to a number.

Johnson asked if they need to reinvent the wheel; she suggested getting ideas from other fire stations that were built in the state. She doesn't want to spend the money to start from scratch if it is not necessary. Discussion followed.

Konopa said the carousel cost \$120,000 for a preliminary design, and construction drawings were \$400,000.

To Johnson's comments, Hare said there was discussion about taking advantage of what other communities have done. The ZCS assessment did that as well. To some extent the RFP responders do that anyway.

Coburn asked if it would impact their ability to do a design/build. Hare said that is a good question; the Committee has not been that specific. It would make it less advantageous.

The Council concurred having staff work on that. Hare is not comfortable investing time other than some preliminary work until he gets more specific direction from Committee.

NEXT MEETING DATE: Work Session March 24, 2014
 Regular Session March 26, 2014

ADJOURNMENT

There being no other business, the meeting was adjourned at 9:43 p.m.

Respectfully submitted,

Reviewed by,

Mary A. Dibble, MMC
City Clerk

Stewart Taylor
Finance Director