

**CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, September 24, 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

ROLL CALL

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

Councilors Absent: None

SCHEDULED BUSINESS

Business from the Public

Jason McAfee, 2380 15th Street, referred to his previous comments to the City Council and said he apparently overstepped his bounds when he took a soil sample without Council's approval. He requested permission to take a soil sample test on City-owned property at the end of 15th Street.

Assistant City Manager/Public Works & Community Development Director Mark Shepard explained that the property in question is an old City landfill, and that McAfee previously came forward with an interest in potentially acquiring some of the property for development. The question is whether the City wants someone to take soil samples on an old landfill site given the potential risks and concerns.

City Attorney Jim Delapoer recalled that McAfee had proposed to purchase some of the property to expand his land ownership which includes a 100-acre hazelnut orchard. Delapoer's recommendation was that the purchase price would not be a realistic amount of compensation for the risk that would be incurred.

McAfee clarified that his proposal is to put a pole barn for horse training on the parking lot area of the site and not the actual dump site.

Councilor Ray Kopczynski asked if there is a way to indemnify the City through a sales agreement. Delapoer said an indemnity agreement would only be as good as McAfee's personal finances.

Councilor Rich Kellum asked if the City could lease the property with a cover so whatever is below would not be disturbed. Delapoer said the Council could incur whatever risk they are willing to incur for the benefit received.

Councilor Bill Coburn said he would be interested in getting more information, particularly if there is a way to validate that the area McAfee wants to use was the parking area.

Shepard said staff could do further investigation if directed; however, keeping activity to the area of the parking lot would not guarantee that there are no materials of concern, and a few clean samples would not guarantee that there aren't issues that weren't grabbed in the samples. Delapoer added that if a test shows contamination, it would be the City's responsibility to remediate it.

Councilor Dick Olsen said he was sympathetic to the idea but he thinks it is best to not disturb the site.

Konopa expressed concern about delaying the cleanup to future Councils. City Manager Wes Hare said the Department of Environmental Quality typically monitors decommissioned dumps to determine if there is any potential hazard to the public. One of the best treatments is to cap them and let the materials degrade over time. Disturbing a site creates the potential for migration of contaminants, particularly when the site is close to the water as this site is. Hare said he is sympathetic to the request but the question before the Council is one of public value versus public benefit.

Councilor Floyd Collins asked if this is the only site on the property that would work for the pole barn. McAfee said the proposed site is the most aesthetic and functional site on the property.

In response to inquiries from Konopa, Planner David Martineau said there is a path toward getting approval to place the structure on McAfee's property through the land use process but it is an arduous path which would include successful passage of a Development Code amendment, as well as a conditional use or site plan review to permit the use. Discussion followed.

Konopa said the request is to allow soil testing on City property and she isn't hearing support for that action. She encouraged McAfee to meet with Planning Staff to see if there is a process that might allow him to put the use on his property.

Susan Keen, 507 SE 4th Avenue, said she previously addressed the City Council on September 10, during which she shared some personal history and fears. Three days later, she said, a Benton County Sheriff's Deputy came to her home and arrested her but didn't tell her why she was being arrested. As background, she said that she filed a small claims case in Linn County in 2009 against the chief of police for actions committed by his police department but City staff told her the claim was not justified and stopped the action. A year later, she filed another action against the police chief because of what she perceived to be retaliation by the police department. She later filed another civil complaint but she couldn't find an attorney who would represent her. She dropped that case out of fear of further retaliation. Three years later, she said she is still receiving retaliation.

Ordinances Pending Adoption

Amending Albany Municipal Code Title 7, Public Peace, Morals, and Safety; Title 12, Surface Water; and Title 15, Public Improvements, to comply with federal and state regulations regarding water quality.

Assistant Public Works Director/City Engineer Jeff Blaine said there had been some confusion about the post-construction stormwater quality permit fees and how they are applied, and staff was asked to provide clarification. He reviewed the staff memorandum (see agenda file), which provides sample fees based on a hypothetical development proposal, describes how "Other Fees" would be applied, and provides examples of construction cost estimates. Blaine explained that the Transfer of Landscaping Responsibility to the City Fee is entirely voluntary and adds flexibility to the program to benefit the developer, and that the Off-Site Post-Construction Stormwater Quality Fee provides a solution to allow a developer to move forward with a project even if their site will not support post-construction stormwater quality facilities. Blaine said the construction cost estimates are provided to give Council a feel for the order and magnitude of these costs; however, actual costs will vary based on how each developer chooses to develop their site and the types of stormwater quality improvements they choose to construct. He said there is a lot of flexibility built into the proposed program for the developer, which is expected to promote ingenuity and reduce costs moving forward.

Councilor Bessie Johnson thanked staff for the clarification. She asked for assurance that there are no overlapping or double fees. Blaine said there is no overlapping of the fees. Shepard added that there is no proposal to increase fees associated with land use approval and the stormwater fees only come into play when the developer applies for a permit.

Kellum asked if different people would be inspecting water and sewer than would be inspecting storm drainage. Blaine said the City utilizes the same inspectors for all of the utilities but the inspectors will now have additional items. Shepard said the fees are structured to reimburse for plan review and inspection time.

Johnson noted there have been comments about how the fee revenue will be used. Shepard clarified that the fee revenue will be designated to the specific utility account.

MOTION: Collins moved to adopt the ordinance. Olsen seconded. The motion passed 4-3, with Coburn, Johnson and Kellum voting no. The ordinance was designated Ordinance No. 5841.

DC-01-14, amending Ordinance No. 4441, which adopted the City of Albany Development Code and Zoning Map, by amending the Development Code text related to implementation of a post-construction stormwater quality program, and adopting findings.

MOTION: Collins moved to adopt the ordinance. Kopczynski seconded. The motion passed 4-2, with Coburn and Johnson voting no. The ordinance was designated Ordinance No. 5842.

Konopa said a legislative 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. Within five working days following adoption of an amendment or new land use regulation, the Director shall forward to the Department of Land Conservation and Development a copy of the adopted text and findings and notify the Department of any substantial changes which may have occurred in the proposal since any previous notification to the Department.

Adoption of Resolution

Establishing post-construction stormwater quality permit fees.

MOTION: Kopczynski moved to adopt the resolution. Collins seconded. The motion passed 4-3 with Coburn, Johnson and Kellum voting no. The resolution was designated Resolution No. 6358.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) April 3, 2014, City Council, Planning Commission & Budget Commission Joint Meeting
 - b) July 9, 2014, City Council Regular Session
- 2) Approving a liquor license for Espolon, LLC, d/b/a/ Espolon Restaurant & Sports Bar, 129 First Avenue West
- 3) Declaring a manufactured home located on City property at 2229 Willamette Avenue NE as surplus property and authorizing the Public Works Department to dispose of the asset
- 4) Accepting a water line easement from the Albany Mennonite Church

MOTION: Kopczynski moved adoption of the Consent Calendar. Collins seconded. The motion passed 6-0 and was designated Resolution No. 6359.

Award of Bid

WC-15-03, Vine Street Treatment Plant (WTP) bank repair.

Public Works Engineering Manager Staci Belcastro reviewed the recommendation that Council award a bid to repair the bank adjacent to the Vine Street Water Treatment Plant. She said the project is an emergency repair due to a 40-foot-long bank failure that occurred this past spring. She described the project, which will provide a long term fix to the Canal walls between 3rd and 4th Avenues. Although the project was not planned, funds are available in the Water System Capital Projects fund for this work.

Coburn asked if there was any prequalification process for contractors, given the unique challenges with this project. Belcastro said there was not a prequalification process but staff did meet with contractors to describe the project and they did not have any concerns.

Coburn asked if the low bidder listed their subcontractors and what percentage of work they were proposing to sub out. Belcastro said contractors are required to list their subcontractors; however, she didn't have that information in front of her.

Olsen said the architect who works with the Central Area Revitalization Area (CARA) Board has suggested changes to the Canal. He asked if the project could be put on hold until something more appropriate can be done with the Canal. Shepard said staff feels it is important to move forward with this process now rather than wait for a potential discussion by the CARA Advisory Board. He said the project will not preclude other improvements that the CARA Board might envision on the Canal.

Kopczynski said it was refreshing to see the majority of the bidders were from Albany.

MOTION: Kopczynski moved to approve the award of bid. Johnson seconded. The motion passed 6-0.

Report

Financial participation for construction of the Corvallis-Albany trail project.

Shepard reviewed the written staff report. Staff recommends that Council approve financial participation in the ODOT project, for construction of the portion of the trail that is inside the Albany City limits. Benton County is contributing an additional match of \$100,000 for pathway construction west of the Albany City limits. The City's contribution would be a not-to-exceed amount of \$304,500, the same amount that Council authorized in the City's 2012 grant application for this project, which was not successful.

Kellum asked where the money would come from. Shepard said from the Transportation SDC fund.

Kellum said he will support the request but he finds it strange that the trail is being done before needed road improvements. Konopa said she hopes the trail will increase safety at least for some people.

Johnson asked if Benton County had committed to their \$100,000 additional match. Shepard said Benton County has contributed to the project by doing the right-of-way analysis, much of the environmental work, and successfully applying for a grant, as well as committing to the \$100,000 match for this section of the trail.

In response to an inquiry from Collins, staff clarified that there was an error in the written staff report and the request was for an amount not to exceed \$304,500.

MOTION: Collins moved to approve the requested action with clarification of the number. Kopczynski seconded. The motion passed 6-0.

Albany City Council
September 24, 2014

BUSINESS FROM THE COUNCIL

Collins said he would be absent from the next Council work session and regular meeting.

Hare said he attended the ICMA conference this week and came back with good ideas to apply to the upcoming budget process. The next meeting of the Budget Committee will be held in November.

NEXT MEETING DATE: Work Session: October 6, 2014, and Regular Session: October 8, 2014

ADJOURNMENT

There being no other business, the meeting was adjourned at 8:25 p.m.

Respectfully submitted,

Reviewed by,

Teresa Nix
Administrative Assistant

Wes Hare
City Manager