

CITY OF ALBANY
CITY COUNCIL WORK SESSION
Municipal Court Room
Monday, October 6, 2014
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 Bill Coburn, Bessie Johnson, Rich Kellum, Ray Kopczynski, and Dick Olsen.

Councilors absent: Councilor Floyd Collins (excused)

BUSINESS FROM THE PUBLIC

None.

PARKS & RECREATION AWARDS AND AUCTION

Parks & Recreation Director Ed Hodney said the City received a Silver Pinnacle Award from the International Festivals and Events Association for best new attendee service. He said the City received this award for the introduction of the GoodSnitch mobile app. The app was used at RiverRhythms concert programs and can be downloaded on phones and tablets. He said this allows attendees to report issues and make comments during the event. He said staff monitors the responses and is able to take quick action to address any problems. He said use of the app has generated a lot of data to help staff improve future services and programs.

Hodney said Mark Azevedo was named volunteer of the year by the Oregon Recreation and Parks Association. The Council congratulated Azevedo on the achievement. Hodney said Azevedo played a key role in starting the Sawing for Schools Program. He said the program has generated over 30,000 board feet of lumber for the high school woodshops. He said a spinoff of the program is Lumber to Legacy which is an auction event to raise money for white oak restoration and educational outreach efforts. Azevedo distributed a flyer regarding the event [see agenda file].

Azevedo said the eight white oaks that were removed from the Lowe's site were milled into lumber. He said the trees were 150-270 years in age. He said the lumber has been distributed throughout several states to professional woodworkers. The professional woodworkers have created several high-quality projects from the lumber and those items will be up for auction. He said a group of high school students also had the opportunity to create café chairs. The Lumber for Legacy event is scheduled for November 9, 2014, from 5:30-8:30 p.m. It costs \$20 per ticket and includes a light meal and drinks.

Councilor Dick Olsen said he noticed several trees along Salem Avenue have been cut. Azevedo said that those trees will be used in the Sawing for Schools Program. Olsen said we need to encourage tree plantings in neighborhoods.

REPUBLIC SERVICES ANNUAL REPORT

Republic Services Municipal Manager Julie Jackson distributed an Annual Report Summary [see agenda file]. She said Division Manager Kevin Hines couldn't be at tonight's meeting. She said Republic Services is focusing on customer service this year. The company has created a new mobile app that enables customers to access their account, pay their bill, and add services. She said the app will soon allow customers to be able to view what day their garbage, recycling, and yard debris is picked up. She said there have been positive responses from customers regarding the app. Another item being worked on is creating a new and improved website. She said the goal is to have the work completed in early 2015. Jackson reported that Linn County has a 51% rating for recycling and Benton County is at 47%.

Konopa said she is glad that the website will be updated. Councilor Rich Kellum asked if customers can use the app to cancel pickup for a certain week. Jackson said that would be difficult to do because the routes are predetermined.

Councilor Bessie Johnson said Republic Services has always been a good community partner; but she noticed that costs have gone down, yet the company is still asking for an increase. She asked, why is an increase being requested when costs have gone down? Jackson said it is determined by the rate of return and if it is higher than 10%, they don't request an increase. She said they did have one community this year that didn't have an increase because their rate of return was greater than 10%. Johnson said 2% doesn't look like much but it adds up for people, especially those on a fixed income. Jackson said the company will be spending the next quarter of this year fixing containers and replacing carts. Johnson asked if the labor line item listed in the report includes all employees. Jackson said the labor costs listed are for hourly employees.

Olsen said he has put out a communal garbage container for folks who need to throw items away when they are walking near the canal. He said he leaves his regular garbage container out, but wondered if there is a nicer looking option. Jackson said she would check to see if there is another option and will contact Olsen.

TRANSIENT LODGING TAX (TLT) REPORT

Economic Development & Urban Renewal Director Kate Porsche introduced Dave Pappas, Leigha Thomas, Jimmie Lucht, and Randy Porter. She said Hodney is also part of this ad hoc committee. The group's focus has been to discuss the proposal and also open the lines of communication. She said the group has put together funding partnership proposals which are included in the staff report in the agenda packet. She said there is consensus and enthusiasm for an outside sales position at the Linn County Expo Center. The position would focus on filling the remaining open weekends at the Expo.

Porsche said the group discussed two different amounts of funding. The first option is a \$50,000 contribution from the City's TLT fund which would be paired with a contribution from Linn County to fund the position. The second option discussed was for the City to fully fund the position at \$90,000. She said \$50,000 could come from the TLT reserves, and \$40,000 could come from the Collaborative Tourism Program (CTP) line item. The group recommended the position be contract/commission-based, that there is a three-year commitment for the funding of the position, and that there is a measurable Return-on-Investment (ROI) which is to be reported to the City and TLT partners.

Porsche said the other piece outlined in the report is the potential for maintenance or capital investment in the building itself. She said the Committee's recommendation is for the Expo Center position, but the group wanted to provide this option as well.

Porsche said staff will bring the group back together with other stakeholders to have a discussion around the ROI on TLT. She said it will be a brainstorming meeting to discuss what the goals of the TLT program are and how to achieve them.

Hodney said Linn County Commissioner Roger Nyquist is supportive of a partnership. Konopa asked if there were conversations about Linn County adding their own transient room tax. Porsche said the group didn't discuss that topic because they felt it was a more appropriate discussion for the Linn County Commissioners and City Council.

Councilor Ray Kopczynski asked, if the City partners with the County, are we paying for a County employee? Hodney said the City would be paying for a contract that Linn County would secure. Kopczynski asked what the County is doing in regards to maintenance at the Expo. Linn County Fair and Expo Manager Randy Porter said he has \$30,000 budgeted for maintenance at the Expo.

Kellum said he spoke with all of the Linn County Commissioners. He said this would be a contractual situation for the employee. The employee would be paid more if there is a better outcome for the City. He said, in regards to maintenance at the Expo, the Commissioners have said they will come up with money for issues. Kellum said he's in favor of the \$90,000 option.

Konopa asked, if the Council went the route of \$90,000 for a position, what are the thoughts about doing the contract as a competitive bid where it can be based on performance. She said bidding proposals could come from City staff or from a tourism promotional organization. She said the funding doesn't have to just go to the Linn County Expo, there may be other groups that can devote more time to finding bookings. Kellum said he feels the process should stay within the Linn County Expo Center. Konopa said Council and staff have been told there is a problem with hotel bookings, yet the TLT collected are the highest they've ever been. Kopczynski said the original argument was that there was going to be a significant downturn in taxes, yet it hasn't happened based on the numbers. He said he agrees that there can be an improvement and he likes some of the ideas that he sees here.

Konopa said it would be nice to see how many beds are actually being filled in each hotel. Thomas said there is room for improvement in hotel room reservations. She said there has been a lot of business generated by individuals stopping in from travels on I-5. She said future bookings are down and Expo events help fill the hotel rooms. Olsen said it is hard to be encouraged about this because the County isn't adding a tax.

City Manager Wes Hare said one issue for Albany is that it lacks key attractions. He said the Expo Center is one of the largest in Oregon and is capable of hosting large events. He said the thing he likes about the proposal is that we are hearing unanimity from the different interested parties within the community. He said he also likes the idea of a partnership with the County. He said the City doesn't use TLT to support City operations; most of the funds are used to promote tourism. Hare said he supports the recommendation of the Committee. Porsche said the group unanimously agreed that the position should be an Expo Center contractual position. Konopa asked if the position will focus entirely on marketing. Porsche said the group said 100% of the funds would go to funding the new position. It is specifically for marketing and sales at the Expo. She said the individual would be focused on finding events that promote attendees staying at the local hotels. Kellum said two County commissioners have specified the position will be for filling up the Expo only. He said the previous sales position has been changed into a position that is focused on service within the Expo. Porter said the position was restructured to be more local and office-oriented. He said the vision for a sales person would be strictly outside sales. Kopczynski asked, when will this topic be discussed with the County Commissioners? Porsche said the first step was discussing this topic with the Council to find out everyone's thoughts, and the next step would be moving forward with the County.

Johnson asked if the amount being proposed is for one year. Porsche said it would be per year and would be a three-year commitment. Johnson asked if that money is available in the reserve fund for three years in a row. Porsche said the first year, funding would come from the reserve line item. From there, the new programs would see less of an increase as this

item is added into the budget. Johnson said she is apprehensive about paying for a position when the Expo Center needs to be updated and repaired. She said repairs should be done first before considering a marketing position. Thomas said bookings that are made now are for events that won't take place for two or three years. Hare acknowledged there are capital needs at the Expo, but it is still a nice relatively new facility. He said the expectation is that increased bookings will generate additional revenue. He said there is always a gap between operating expenses of facilities like the Expo Center and the revenue generated. Porter said staff works hard to maintain the facility, but there are systems that are failing. He gave an example of two hot water heaters that stopped functioning and had to be replaced at a cost of \$16,000.

Konopa said she is concerned with funding a position that the City doesn't have control over. She said she would rather see money go toward capital. She said there could be a line item listed for specific Expo Center items. Kopczynski said he doesn't have a problem with a three-year commitment as long as there is a yearly review.

Hare said staff wasn't expecting a decision at tonight's meeting, but would like some direction. He suggested bringing this item before a full Council to discuss the following options: Full funding, funding at the \$50,000 level, funding capital improvements, or choosing to make no changes. Olsen asked, which other agencies are receiving TLT dollars? Porsche said the Albany Visitors' Association, Albany-Millersburg Economic Development Corporation, Albany Downtown Association, CTP, Albany Main Street, Veterans Day Parade, and some miscellaneous transfers out to other City programs. Olsen said that he would hate to see any of those programs suffer. Hare said he doesn't think that will happen, especially over a three-year period.

This item will come back for consideration at the first full Council meeting in November.

LOWE'S UPDATE

City Attorney Jim Delapoer said he was directed by Council to determine what concessions he could get from Lowe's representatives if the City agreed to extend the deadline for construction by one year. He said Lowe's will agree to pay the City a fee equal to one year's additional real and personal property taxes that would be imposed on their store over and above land value. There is currently a component on Lowe's tax bill which represents the value of their unimproved land. There will be an additional value for their land and personal property when the store is constructed and running. Delapoer explained that the additional amount would be a fee paid by Lowe's to the City which would be due within 30 days of them getting a tax bill from Linn County. He said he doesn't know what the dollar amount will be, but it is intended to reimburse the City for the loss of the year's tax revenue caused by the delay.

Delapoer said Lowe's has agreed to pay their Local Improvement District (LID) assessment in full. He said this will help replenish the System Development Charges (SDCs) funding bases that were used to construct the punch-through. He said Lowe's also agreed that if they are delayed beyond December 31, 2015, they will pay a \$20,000 fee in addition to the \$1,000 per day of liquidated damages. He said he has reviewed all three of these items and approval has been secured at the corporate level of Lowe's. Delapoer will start working on a revised contract if the Council approves. Kellum asked if the \$2 million dollar total remains the same. Delapoer said that is correct. He said he appreciated Mr. Stoner coming to meet with the City Council. The Council agreed to move forward with the agreement modification.

MARIJUANA TAX ORDINANCE & RESOLUTION

Delapoer said he was directed to prepare an ordinance for Council's consideration. He said the ordinance is modeled after the Ashland ordinance which has become the model for several cities. He directed the Council to Deputy City Attorney Sean Kidd's memo in the agenda packet. He said Section 42 of Measure 91 states "No county or city of this state shall impose any fee or tax... in connection with the purchase, sale, production, processing, transportation, and delivery of marijuana items." He said this is what has prompted some cities to try to get the tax in place in case Ballot 91 is approved. He said Section 58 of Measure 91 states that the "Act [is] designed to operate uniformly throughout the state, [and] shall be paramount and superior to and shall fully replace and supersede any and all municipal charter enactments or local ordinances inconsistent with it." He said this is an attempt by the drafters of Measure 91 to say that this will be primarily deemed a matter of statewide concern and not local concern. He said if the Council enacts the tax and the measure passes, it is likely there will be future litigation. He said it is a policy judgment for the Council.

Olsen asked what Delapoer thought the cost of the litigation would be. Delapoer said he doesn't know that amount, but believes that a coordinated response would probably be done by the League of Oregon Cities. Delapoer said that an emergency clause shouldn't be included in the ordinance, but the ordinance should be adopted by November 1, 2014, in order to be effective 30 days before the new law is effective if it is approved by the voters.

Kellum asked if there is the possibility that this will become a moot point because there is something that says we have the right to impose taxes. Delapoer said the State has already successfully taken the position that cities can't adopt local "sin" taxes on liquor and cigarettes. He said his opinion of what might happen is that if the initiative passes, and if cities have adopted local taxes and the courts say that those taxes stand up, the legislature will address that by providing some level of revenue-sharing with cities that didn't levy a tax. He believes that the State would like to have a uniform approach. Konopa said the measure doesn't prevent the state from imposing a tax. Delapoer said that is correct. He said the state will distribute those revenues as they so choose.

Kopczynski asked about Item A on page 6. He asked, could there be the potential of someone making decisions that binds the City without our input? Delapoer said this ordinance could probably be amended later on to meet Albany's

specific needs. He said this ordinance becomes a placeholder to preserve the Council's right to implement it. He said it would be difficult to make fundamental changes to the ordinance in the short amount of time that the Council has.

Kellum asked if the tax rate could be changed in the future. Delapoer said yes, the initial resolution envisions a 10% tax for recreational marijuana and 0% for medical marijuana registry holders. He said the tax could be changed by resolution just like other fees can be changed. He said if the Council wants to preserve the ability to impose a tax, an ordinance would need to be in place.

Johnson asked about Item C on page 6. She asked, does it mean that the taxes wouldn't be applied uniformly? Delapoer said the City can't legally treat people differently. He said one of the things that would be considered are the administrative costs to handle this tax.

Hare said his personal opinion is that this ordinance has a slim chance of surviving the legal process. He thinks staff and Council could do a lot of work to go through the process of adopting an ordinance and end up with nothing. Delapoer said this item is on the agenda for Wednesday, October 8, 2014. He said the Council could choose to remove it from the agenda.

MOTION: Councilor Bill Coburn made a motion to remove the ordinance from the agenda for Wednesday, October 8, 2014; Olsen seconded. The motion failed 3-2 with Johnson and Kellum voting no.

CITY MANAGER REPORT

Meeting with Industry Representatives

Hare said the Council asked a subcommittee composed of Councilors' Floyd Collins, Kellum, and Olsen to look at the issue of the proposal presented by local industry representatives and Linn-Benton Community College (LBCC) on a proposed workforce development project that would involve \$2.9 million dollars. He said the subcommittee had some concerns about the proposal and agreed to have a meeting with all of the interested players to discuss what is on the table. He said his recommendation is to schedule a meeting for November because Collins will be absent for a few weeks. He said the industry representatives have said there is no urgency, but it is something they would like the Council to consider.

Konopa said Council will also know the outcome of the LBCC ballot measure. Delapoer said the meeting doesn't have to be formal. Konopa said some type of structure is needed so the meeting can stay on topic. Hare said he envisioned an interactive roundtable discussion so everyone can hear the discussion. Delapoer said business from the public is not legally required. Olsen said the Council is here to do what the public wants. Konopa said it is a common courtesy to have business from the public on the agenda to allow for the public to make comments.

Coburn said he likes the idea of having a facilitator at this meeting. Johnson said people have the opportunity to ask questions or comments when the item is before the Council for a decision. Olsen said he has had an experience where he was shut out from weighing in on decisions and believes there should be business from the public. The Council agreed to have a special meeting scheduled for November, and Hare will work on getting a facilitator for the meeting.

Konopa mentioned that the LBCC bond on the November ballot benefits Albany, Lebanon, and Corvallis. She said only Albany is being asked to contribute to this workforce development project. Kellum said that point has been made to the local industry representatives. Delapoer said if there are four votes that think this project is a bad idea, it might be good to make that decision now.

Coburn said the problem he has with the subcommittee is that not all of the Council members are getting the information. He likes everyone hearing all of the information at the same time because the decision will be made as a group. He said everyone meeting together is a better solution. Kellum agreed and said it will be good to have the industry representatives at the meeting.

COUNCILOR COMMENTS

Kellum said he will be in an article in the *Albany Democrat-Herald* tomorrow for his work on the City time capsule. He said he designed the capsule. He learned that only children would be putting items into the time capsule and thinks that other people should be able to put items into the capsule. Konopa thanked Kellum for making the time capsule. She asked where the time capsule will be located. Porsche said it is going in the Main Street roundabout. Konopa asked when it will be opened. Kellum said it will be opened 50 years.

Kopczynski noted that the most recent issue of the *League of Oregon Cities Newsletter* discussed Gresham's 60-day process for industrial development. Hare said Albany usually does better than that on most development plans. He said the state mandate is 120 days through the planning process.

Kopczynski asked how the Public Facilities Request for Proposals meetings went. Public Information Officer/Management Assistant Marilyn Smith said there were some very different proposals. Two proposals had similar costs, while another one was much different in cost. She said good questions were asked. She said no models were presented at the meeting, but there may be some for the displays that will be at the library starting on October 13, 2014.

Albany City Council Work Session
October 6, 2014

ADJOURNMENT

There being no other business, the meeting was adjourned at 6:10 p.m.

Respectfully submitted,

Reviewed by,

Diana Eilers
Administrative Assistant I

Stewart Taylor
Finance Director