

CITY OF ALBANY
CITY COUNCIL WORK SESSION
Municipal Court Room
Monday, October 20, 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, Floyd Collins, Bessie Johnson, Rich Kellum, Ray Kopczynski, and Dick Olsen

Councilors Absent: None

BUSINESS FROM THE PUBLIC

There was none.

CAD/RMS PROJECT REQUEST FOR PROPOSAL AND INTERGOVERNMENTAL AGREEMENT

Information Technology Director Jorge Salinas introduced SSGT Micah Smith from the Linn County Sheriff's Office (LCSO). Smith, along with Fire Chief John Bradner and Police Chief Mario Lattanzio, assisted in the information gathering for Phase 1 of the CAD/RMS System upgrade project.

Salinas said the CAD/RMS System upgrade is needed for several reasons. The current system is 25 years old, using 1989 technology. It requires that officers spend time in double data entries, and the mobile data terminal (MDT) module is not compatible with Windows 8.1. The upgrade addresses concerns raised by Council and Budget Committee members. In addition, the Oregon Uniform Crime Reporting format is set to expire in 36 months, at which time the current system will no longer be compatible.

Salinas said the objective for the first phase of the project is to identify qualified vendors that can provide the upgrade and convert the existing database. He reviewed the timeline for the request for proposal (RFP), as laid out in the staff report. The date of issuance is proposed to be October 31, with potential award of contract on April 30, 2015. The second phase of the project would be to award the contract and continue to implementation. Staff is seeking Council approval for Phase 1, to enter into an intergovernmental agreement (IGA) with LCSO on the RFP.

Salinas said the City and LCSO have collaborated in development of the RFP and entity requirements and would share the cost of the solution and future maintenance/support. LCSO would contract with a third party vendor to provide the software solution and data conversion services, and would provide hosting services for the solution. The City would provide project management services.

Councilor Rich Kellum asked if the request has gone before the Linn County Commissioners. Smith said there have been preliminary discussions with the Commissioners and their staff; the Commissioners will see the IGA and RFP request at their meeting on October 28, 2014.

Councilor Bill Coburn asked if there is a rough cost estimate. Salinas said it is a complex system that could be in the \$1 million to \$1.5 million ballpark. Coburn asked if it is known where the funding would come from. Salinas said staff would bring back information from the RFP process, and funding would then be decided by the Council and Commissioners.

Councilor Ray Kopczynski asked if system upgrades should be budgeted for on a more sequential basis in the future. Salinas said the system would likely need to be changed in the next eight to ten years because technology is likely to change considerably over that timeframe. Smith added that the RFP includes entering into an extensive service, maintenance and support contract which will help to achieve longevity; he hopes for a solution of eight, ten, or maybe 15 years. He said many agencies around the state have recently upgraded, trying to get out of antiquity with their systems.

Councilor Bessie Johnson said she thinks the upgrade is needed. She asked if the new system would run parallel to the old. Smith said any solution will be required to include data migration and conversion. Staff expects that the current system would be retained until they are confident about the conversion. Some agencies have run two systems for several years; however, City and LCSO staff are adamant that that is not the best way to do business and will work diligently with vendors and third party contractors to make sure they are able to convert.

Kellum said the upgrade is important because of the time officers spend entering and reentering information in the current system. He said the upgrade will pay for itself over time.

Councilor Floyd Collins asked if there was an opportunity to piggyback with work other jurisdictions have already done. Salinas said the City and LCSO want vendors to meet specific requirements as laid out by both entities. Smith said the evaluation criteria included agency references and vendor interviews which were weighted accordingly. He said staff has made note of roadblocks others encountered and hope to mitigate those issues by doing the planning upfront.

Collins asked if the system would be able to communicate with Salem and Marion County. Smith said both agencies currently participate in a regional area information network (RAIN), under which data is set aside in the system to be picked up by a regional server for the statewide system. Continuance of this process will be included in the RFP.

Collins said it may be advantageous to have the same format or platform as other jurisdictions in the future. He suggested that consideration be given to piggybacking on the work others have done in the way of vendor selection.

Kopczynski asked if there would be cloud storage. Smith said cloud storage is a possibility but it has inherent risks in that criminal justice information data needs to be protected. It could be that cloud storage is not feasible in the short term but could be expanded on in the long term once FBI rules and regulations catch up with technology.

Konopa asked if Council would like staff to enter into the IGA.

MOTION: Kopczynski moved that staff enter into an IGA as proposed. Kellum seconded.

Councilor Dick Olsen asked how the upgrade will be paid for. Salinas said the results of the RFP will be brought back to the Council and Commissioners to ensure everybody is in agreement and to discuss funding options. There is a clause in the agreement that any party may pull out within seven days of the intent to award.

Johnson asked about the timeframe for implementation. Salinas said it could be a couple of years before the upgrade is fully implemented. He said this is a complex, multijurisdictional project and it is important that it be done correctly.

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

VOLUNTARY SEPARATION INCENTIVE PROGRAM UPDATE

City Manager Wes Hare said Council is aware that the City made a significant reduction in the number of employees over the past five years. The FTE dropped from a high of 428 to a low of about 382, a reduction of about 9 percent over peak employment. One of the vehicles used was the Voluntary Separation Incentive Program (VSIP). The VSIP worked successfully and helped the City save a substantial sum of money; however, an error in the program has been discovered. The City gave employees an option to apply the incentive to future health insurance premiums, or they could take cash. Health insurance benefits are generally not taxable and the City didn't tax or report it as taxable income. The IRS has since said that because the cash option was offered, the health insurance benefit is taxable. There is an additional liability of about \$40,000 a year over a two-year period required to cover the taxes for that program. The IRS understood this was an honest mistake and is not charging penalties and interest.

Finance Director Stewart Taylor said the table provided in the staff report details the difference in tax liability to the City for the 12 employees that elected the deferral in the 2011 VSIP. An additional 11 employees elected the deferral in the 2012 VSIP. He explained that the IRS received information from the City's participation in a national research program which included a survey of activities including payroll functions, and subsequently determined that because the lump cash sum was offered, the health insurance benefit changed to deferred income and the benefits were taxable. The City has made the payment to the IRS. The affected employees will be notified and provided with an amended W-2 form. Staff has talked about an approach to encourage employees to work with the City's auditor, which has a local office, to file an amended return for the appropriate year and pay whatever tax is owed. The amounts owed would vary depending on each employee's situation. The City would then receive reimbursement from the IRS.

Collins asked if the City has any options. Hare said the taxes have to be paid. The Council could take a harder line with the former employees; however, staff thinks it is to the City's advantage to get voluntary participation from the affected people and is proposing to make resources available to encourage that. This is mainly information for Council at this time.

Kellum said the employees made a straight-forward deal based on the facts in front of them. He said it wasn't the employees' mistake, it was ours. Hare said the deal was honestly entered into on both sides. He noted that having the City pay the taxes would create additional tax liability for the employees. The employees did receive the benefit and staff felt it would be appropriate to expedite the amendment but not to participate in the tax liability. City Attorney Jim Delapoer added that everybody's tax situation is different and it would be very difficult to reconstruct any kind of equitable allocation.

Hare recommended that staff have a meeting with the affected employees, determine their reactions, grant them an opportunity to meet with a tax advisor, and go from there. He thinks it is premature to say the City will cover the additional cost but that may be something the Council considers down the road. Kellum said he would like a report when it is known how the employees feel about their liability and the effects it will have on them. There was general agreement.

CANAL ISSUES

Hare said Council is aware that staff has been talking with representatives from the City of Lebanon about appropriate cost sharing for operation of the Santiam Canal. Both cities use the canal as a water source and it serves as an amenity in both communities. Lebanon uses the Canal for their trail system, has taken water out to put into Cheadle Lake, and has stormwater that drains into the Canal. In the 30-year relationship over the canal, there has been suspicion on the part of the City of Lebanon that they have had to pay too much, whereas Albany has had the feeling they haven't been paying their fair share. Unfortunately, this has sometimes played out in the media. When the two cities last came together in 2007, a temporary agreement was reached which neither Council ratified but which has been loosely used up to this day.

Hare said the City Council last discussed this issue in March and directed staff to work with the City of Lebanon to try to come to an agreement. During initial staff discussions, there was clearly tension and disagreement over who pays how much. They met again in late August, at which time Hare put two proposals on the table. One was to go back to the 1986 agreement which said Albany will pay for two-thirds of the cost of operating and maintaining the canal and Lebanon will pay one-third. That wasn't attractive to Lebanon because the cost of maintaining the canal has gone up significantly over time. The other proposal was that the two cities mutually participate in a cost avoidance study to show what it would cost the City of Lebanon to get the value they are receiving from the canal if there were no canal, and they parted with an agreement to further consider that option. Since that time, the Lebanon City Council decided to move forward on their own with a study to look at the cost of a new water intake into the Santiam River so they would be independent from the City of Albany.

Hare said it is important to serve the best interests of both communities by coming up with an agreement that will work into the future. He reviewed a proposal that would add to the scope of work of the consultant Lebanon is using to consider issues that are important to the City of Albany. If Council agrees to the concept, the Lebanon City Manager has agreed to present it to the Lebanon City Council. Hare said this may be one of the last steps toward a successful resolution before we are in a totally conflicted situation on this issue. He asked for approval of the concept at this time; he will come back with a proposal once the costs are known.

Kopczynski asked about the timeframe. Hare said he thinks it would be a matter of months. Once there is approval by both City Councils, staff will prepare a scope that is representative of the issues associated with cost avoidance.

Kellum asked if the City of Lebanon is current on their bill. Staff said they became current in May according to the informal agreement. Since that time, they have been billed two times in accordance with the original 1986 agreement. They have not paid those bills and Albany has said payment could wait until at least January while discussions are going forward. In response to further inquiries, Hare said part of the negotiation process is realizing that some things may be of greater value than an immediate cash payment, such as how to treat stormwater and whether there is shared responsibility for past improvements made by the City of Albany. Staff will also research what rights the City has to limit discharge into the canal.

Coburn said it seems like the City of Albany has been trying to work with the City of Lebanon but they haven't liked any of the proposals. He said maybe they should do their own study and they might find that one-third of the canal costs is a good deal. Hare said that is a potential outcome if an agreement can't be reached on a potential scope of work. He is trying to keep the process as cooperative and collaborative as possible so we don't go down a road that is detrimental to both sides.

Collins said the objective is to find reasonable answers for both communities. If the proposal is a way to get options on the table, he would like to give the authorization to proceed. He said Albany's history of working with another jurisdiction to find reasonable answers is demonstrated with its history with Millersburg. He thinks reasonable answers can also be found with Lebanon.

In response to additional questions, Delapoer said staff's concern is that the consultant may not consider some aspects of costs and may provide an artificially low number. Staff is seeking to participate by asking the consultant to consider items which are currently outside his scope in hopes that Lebanon will recognize that they are legitimate costs and that partnering with Albany remains a better bargain for both cities.

MOTION: Kellum moved to proceed as recommended by the City Manager. Collins seconded. The motion passed 5-1, with Coburn voting no.

COUNCILOR COMMENTS

MOTION: Kopczynski moved to remove the marijuana tax item from the October 22, 2014, Regular Session Agenda. Coburn seconded.

Johnson asked why the motion was made. Kopczynski said he doesn't think additional consideration is necessary. Olsen said he thinks the issue is frivolous. Coburn said, based on previous comments from the City Attorney, he thinks it is a waste of time.

Konopa said Council is scheduled to see an amendment to an ordinance related to the location of recreational marijuana sales consistent with restrictions on medical marijuana dispensaries. There was consensus that Council would see that item at the regular meeting. Konopa suggested that the marijuana tax item be addressed at the regular meeting since it is on the agenda and to allow for public input. Johnson agreed.

Collins said he will oppose the motion. He said there are reasons for Albany and surrounding communities to consider potential taxation if the measure passes. If other jurisdictions are successful in having their local tax upheld and Albany has no tax, the City could become an attractor for marijuana sales in the central valley. He would like to have the discussion on Wednesday.

VOTE: A vote was taken on the motion and it failed 3 to 4, with Collins, Johnson, Kellum, and Konopa voting no.

Coburn requested that the City Attorney review the options and potential consequences.

Delapoer said it is his opinion that a local marijuana tax is unlikely to withstand appellate review. He thinks the courts will find that taxation will be dealt with at the state level. On the other hand, if Council adopts the tax measure, it will be in place if the local tax is allowed.

Johnson asked for information on why Canna Kitchen is choosing to not be licensed as a medical marijuana dispensary. Hare said the City has turned the question over to the District Attorney's office. Delapoer said if the business is operating without proper licensing, that is a state issue and not a local jurisdiction issue.

Olsen said he has received comments about the roundabout, and they have been mostly positive.

Collins said the Public Safety Facility Review Committee (PSFRC) may bring a recommendation forward in November for potential consideration for the May ballot and there has been early discussion about the forming of a political action committee (PAC). He has received questions as to whether it is permissible for a member of a standing committee to participate in a PAC that is supporting a City issue. Hare said the law states that advisory board members cannot use City resources or their position to promote. However, citizens do not surrender their rights by serving on an advisory board and there is nothing to stop them from joining a PAC to support a City measure. Collins requested that the question be submitted to the Secretary of State's office, given the recent history. Delapoer said staff would craft an inquiry. He clarified that neither he nor Council can protect people from their individual requirements under the law.

Kopczynski recalled previous discussion about working with other jurisdictions on the timing of bond measures. Collins said he thinks those conversations about timing and implications needs to occur between members of the policy making bodies. Delapoer noted that staff cannot have any role that may be deemed to be advocacy on any of the measures.

Konopa said a citizen has asked if Council would consider supporting the Linn-Benton Community College bond measure. She distributed a draft resolution in support which she had prepared. She said staff was not able to comment or prepare materials related to the bond measure. She asked that Council be prepared to discuss the item at the next meeting.

Konopa drew attention to a draft ordinance amending Ordinance No. 5833 to include marijuana and marijuana-infused products within the locational restrictions applicable to medical marijuana dispensaries. Delapoer said the ordinance would simply expand the geographic limitations that exist for medical marijuana dispensaries to recreational marijuana sales should that use become legal. The ordinance will be considered at the next meeting.

Konopa said she signed up for Council to participate in the Veterans Day parade on November 11. The parade starts at 11:00 a.m. and Councilors should arrive at about 10:00 a.m.

CITY MANAGER REPORT

Hare reminded Council of the Budget Committee meeting on November 20, 2014.

Albany City Council
October 20, 2014

ADJOURNMENT

There being no other business, the meeting was adjourned at 5:40 p.m.

Respectfully submitted,

Reviewed by,

Teresa Nix
Administrative Assistant

Wes Hare
City Manager