

CITY OF ALBANY
CITY COUNCIL WORK SESSION
Municipal Court Room
Monday, September 21, 2015
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 Rich Kellum, Bill Coburn, Ray Kopczynski, Dick Olsen, and Floyd Collins.

Councilors absent: Bessie Johnson was excused.

BUSINESS FROM THE PUBLIC

There was none.

FLOODPLAIN PROGRAM UPDATES

Planner II Melissa Anderson Anderson updated the Council on floodplain management work efforts. She said staff has been working on various projects related to floodplain management. Many of these projects are ongoing, and some may require future Council action. Staff anticipates a number of items will be presented to the City Council over the next year.

Albany participates in the National Flood Insurance Program (NFIP) by adopting, administering and enforcing floodplain management ordinances to reduce future flood damage. In exchange, the NFIP makes federally-backed flood insurance available, which is also required for federally-backed mortgages. The City is currently in good standing with the program.

For citizens residing in the floodplain, one of the issues of most concern is flood insurance rates, which vary based on many risk factors. The City joined the Community Rating System (CRS) program in 1991, and is in good standing as a CRS Class 6 community, which means a 20% discount on flood insurance premiums for residents, business and property owners with property in the special flood hazard area. This discount amounts to an annual savings of approximately \$323 per insurance policy, or \$55,150 for our community. If Albany became a Class 5 community, annual savings would be approximately \$400 per policy and \$70,000 total for the community.

Councilor Ray Kopczynski asked if there is a process for recertification? Anderson said yes, every five years. Albany's next evaluation is next year.

Councilor Rich Kellum asked what factors improve a city's rating. Anderson said increasing standards like No Adverse Impact will help. The North Albany floodplain map study will probably get us points, as will doing better public outreach.

Councilor Dick Olsen asked how often the "base" flood happens. Anderson said it is a 100-year flood. Olsen asked if a city will get a better rating if it doesn't let people build in the floodplain. Anderson said yes, but nearly 50% of Albany's floodplain is already zoned Open Space, which limits development in those areas. The rating takes into account things like storm water management, regulations, outreach projects, and emergency management.

Kellum asked if the storm water management plan helps. Anderson said yes. Albany has standard operating procedures for inspections and cleaning, and we respond to complaints.

Anderson said that the City will be evaluated again for participation and class rating in the CRS program in 2016. The goal is to maintain the Class 6 rating, and, where possible, improve it to Class 5.

The Federal Emergency Management Agency (FEMA) is nearing completion of the federal process to adopt new flood insurance rate maps. A final letter of determination should be issued in February 2016. The City will need to update the Development Code to reference the new flood insurance rate maps for North Albany. Amending the Development Code requires public hearings before the Planning Commission and City Council. This will need to be done before the new flood insurance maps for North Albany become effective, which is estimated to be in August, 2016.

Currently, Albany doesn't have a way to ensure that fill on one property doesn't shift floodwater onto neighboring properties. Many communities have implemented a "No Adverse Impact" (NAI) approach to floodplain management. The NAI approach ensures that development activities of one property owner do not adversely impact other property owners or increase flooding. The City Council began discussing NAI in 2011, and the last Council work session discussion on this topic was in 2013. Following that discussion, Council directed staff to return with sample code language for the Council's review. Staff turnover has delayed this process, but staff will continue this work and return to Council next spring or summer with sample code language as originally directed.

Councilor Floyd Collins asked if No Adverse Impact means zero. He said it would be hard to prove zero impact. Assistant Public Works Director/City Engineer Jeff Blaine reminded the Council that Public Works discussed the issue of what is acceptable with the Council in 2011 and 2013. Collins thought he remembered a state law requiring no impact parcel-to-parcel. Blaine said there is no written law, but there is case law. City Attorney Jim Delapoer said the common-law doctrine is, if you alter the natural flow and then see damage, you are liable. It's hard to regulate because it requires damage. Collins suggested getting something reasonable in the Development Code so we can be ahead of the curve. Delapoer said when you try to make sure that no one is damaged by another citizen, you must also respect laws prohibiting unreasonable limits on development of property. Kellum asked, if our Community Development Department approves a project that turns out to have an adverse impact, is it the City's fault? Delapoer said situations are almost never that clear. The City can't guarantee good outcomes. The City's responsibility is to not be negligent.

Blaine reminded the Council that floodplain management is about the 100-year floodplain, where a flood is an extreme event. In the last few years, the City has made a number of changes in the development process to deal with property drainage and construction. Delapoer added that if we tried to prevent bad outcomes in all cases, we would assume duties the law has not imposed, and, once you assume duties, you are obligated to perform them.

Anderson said National Oceanic and Atmospheric Administration (NOAA) Fisheries has sued FEMA in Oregon and other states for failing to consult with NOAA when species listed under the Endangered Species Act (ESA) are affected by development in the Special Flood Hazard Area. FEMA administers the NFIP, and must implement it so that listed species like salmon and steelhead are not put at higher risk. NOAA and FEMA must identify measures to ensure that implementing the NFIP will not result in further loss of salmon habitat. The outcome of the consultation process will be a Biological Opinion (BiOp), which will provide specific guidance on what is required to comply with the ESA. The final BiOp is currently under legal review, and is expected to be released in the next month. Based on the result, FEMA may issue new standards for the NFIP, which would trigger requirements for the City to amend the floodplain code. These amendments would be required in order to remain in good standing with the NFIP, which is necessary for residents to qualify for flood insurance and federally backed mortgages. If code amendments are required, public hearings and City Council approval will be necessary for adoption.

Anderson said that Albany is required to have a current Natural Hazard Mitigation Plan (NHMP) in order to qualify for grants and disaster relief funds from FEMA. As part of the NHMP update, city staff has been working with a floodplain management planning committee on an update to the flood hazard section of the NHMP, and on developing a program for public information and insurance promotion. Both projects will be completed this year. The committee gives us additional points in the CRS rating system. The update to the entire NHMP will be presented to Council at the end of this year.

Kellum asked if the Endangered Species Act includes some salmon runs that didn't travel this far up the river before fish ladders were installed. Anderson said she doesn't know the details of what species are considered endangered. She said a lot of negotiating is being done between FEMA and NOAA Fisheries. The first BiOp sounded like a moratorium on development in the Willamette Valley, but it seems to be reaching some kind of balance by now. She's anxious to find out how it will affect us.

COMMUNITY DEVELOPMENT COMMISSION

Konopa said she proposes that the Council change the Ordinance establishing the Community Development Commission (CDC) so the Mayor would make appointments, subject to ratification by the Council. There has been a lot of discussion, but no action has been taken. Three CDC members are now working on expired terms, and three more have terms expiring this year. Currently, the Council makes appointments to the CDC. In order to do that, the Council would need to interview applicants. This will take more staff time and more Council time, and applicants don't want to be interviewed in a public forum. Albany doesn't do that with any other boards and commissions. She asked the Council to bring the issue up in regular session to consider for action.

MOTION: Kellum moved to forward the issue to the Council in regular session. Councilor Bill Coburn seconded the motion, which passed 5-0. The item will come before the City Council at the October 14, 2015 meeting.

PUBLIC SAFETY FACILITIES PROJECT UPDATE

Belcastro said the planning applications for both buildings were submitted last week and are under review. The first public hearing will be November 16 in front of the Planning Commission. If a second hearing is needed, it will be December 7. There will be a public hearing in front of the Council sometime in January 2016. MacKenzie has completed 30% designs, and hazardous materials survey of the fire station property is complete. Demolitions will start sometime after November 1st. Public Works wants all the buildings to be demolished by March 2016.

Kellum said it still doesn't look to him like Edward Jones' new building on Geary will be ready by then. Fire Chief John Bradner said the City has given Edward Jones a two-week extension to occupy their current building. They plan to be out by November 15. Konopa said their new building is moving right along. Hare said the City is willing to work with them. They won't be kicked out. The City has already paid a large amount to buy out their lease. Kellum said that money went to Edward Jones headquarters back east, not to the local broker. Hare said the City's issue has to be what the City needs and what the cost is.

Belcastro said Fire Station 11 will be the last to be demolished. Staff and equipment probably will move in March or April. Public Works will meet with ODOT September 28 to discuss the fire station concept, including the flashing lights, crosswalks, etc. The City is waiting for concurrence on the wetland delineation for the police station property. The concurrence deadline has passed, and we need the delineation in order to get fill permits.

ONE PERCENT FOR ART

Parks & Recreation Director Ed Hodney said he is requesting direction from the Council as to what changes they want to make to the One Percent for Art Ordinance. Collins asked for clarification that the one percent is calculated on the cost of the building only, not the parking lot or site improvements. Engineering Manager Staci Belcastro said that is correct. Kopczynski said he likes the ordinance's provision allowing art bought with the 1% to be located in a different City building. Collins asked if the one percent was in the original budget estimates for the new stations? Belcastro said yes, it was a line item in the bond. Konopa thinks it's creative to have a storm drain as an art facility. Kellum said he is concerned about asking his constituents to pay extra for an art storm drain rather than a standard storm drain.

Olsen said there's not much chance of him or his neighbors actually going to the police station. It's set back from the road, and drivers going 45 miles per hour won't see the art. How many people will see it? Lots of people will see art at the fire station. There's talk of putting a restored steam pumper in the fire station as art. The City has three other historic fire engines. He'd like to see all of them in the building. The first floor is all glass, including a double-door entryway. He would like to see art at the police station as appropriate but thinks the rest of the money should be spent for a really good fire engine display at the fire station. Konopa said there are two questions to answer: first, does the Council want to amend the Ordinance, and second, how do they want to spend that money?

Delapoer said that when the Ordinance was written, the Council wanted to distance itself from choosing the art. Now it seems the Council may want to do the deciding. He asked the Council if they are comfortable with the one-percent commitment, and if they want to control how the money is spent. Coburn said he thinks the Ordinance is poorly written as one-size-fits-all. It looks like the police are trying hard to spend more money than they need for the building. That isn't a good use of public money. He thinks one percent for the City Hall building might have been too low. It has a lot of public space. He thinks the Council should be involved in determining the amount to be spent on art.

Konopa said the campaign for the facilities never promised not to spend money on art. Kellum said the campaign did say the buildings wouldn't be fancy. He agrees with Coburn that the City is trying hard to spend the amount of money the Ordinance allows. Konopa said the available dollars could easily have been spent on pure art. Staff tried to find a balance between artistic appearance and also function, at the Council's direction. Belcastro said the police concept hasn't been entirely developed yet. Some of the "art" features are required whether they are art or not. The seat walls are required for security, whether or not they have seats built in. Storm water treatment is required. The police station will be 30 feet tall and the downspout will be big – maybe big enough to see from the road.

Kopczynski said he would like the Council to have final oversight but not the decision-making responsibility. Olsen asked if the Ordinance says the Council can appoint an "other person or agency" to be responsible. Delapoer said yes; the Council could even appoint themselves. City Manager Wes Hare said the intent of the Ordinance was to use knowledgeable advisors but to recognize that advisors may not choose something acceptable to the community. The Council can review and make the ultimate decision. He advised the Council not to bypass the Arts Commission on the one occasion when the city has a big project.

Hodney said the Arts Commission has already endorsed the two projects brought to them by staff. They won't go back and reevaluate that endorsement unless the Council directs them to do so. Olsen asked if the Arts Commission were directed to spend so much for fire and so much for police? Hodney said yes, because they came as separate proposals. Olsen asked, can we spend more on the fire station and less on the police station? Hodney said the Arts Commission will be willing to reconsider at direction from the Council.

Delapoer said the Ordinance says the Council doesn't have a role in the decision, but in this case they seem to want to make the decision. In order to do that, they can designate the Council as the final decision body. Hodney said the practice for 12 years has been for the Arts Commission to bring recommendations to the Council for the Council's decision. Delapoer suggested that the Council formalize that practice with a motion. Coburn restated his earlier concern. He wants to be able to spend less than the one percent if that is adequate. Konopa said the decision will always come to the Council, and the Council can always choose not to spend the money. Kellum said he thinks that as long as the money is used for something the building needs anyway, then every penny should be spent. He would like to have a goal rather than a rule.

Collins said he's concerned about one percent of cost locked in up front, before we have construction documents. He doesn't want to come up short on the basic facilities because money is committed to art. He would like to see the Ordinance allow the value of donated facilities or art to count toward the one percent. That would also open an opportunity to involve the community. Hodney said this project has to move forward. If the Council wants to pull back from the art budgets on these projects, now is the time. He is hearing concerns that the Council would like to see more flexibility in the Ordinance. He thinks the Arts Commission could provide some draft language but it might take a while.

Chief of Police Mario Lattanzio said delay will affect the police project. Part of the design incorporates the art budget. They have already cut 1000 square feet to get within budget. Konopa said the bond has a 20-year term. Factored over 20 years, the bond amount is about 12 cents per person. Having an attractive project could help improve the whole area of

SW Pacific and spark reinvestment across the highway. Coburn said a lot of people are probably concerned about the amount of money being spent. Modifying the Ordinance to spend one-half or three-quarters of one percent would still get the money the police station needs. Konopa asked if the Council would modify the Ordinance to please critics or to do what is best for Albany. Kopczynski said he doesn't think one percent can remotely be construed as trying to make a Taj Mahal. He suggested letting the Arts Commission show the Council their recommendations.

Collins said the Arts Commission has spent time with the police on the functional elements of the project. He doesn't want to cut the functional facilities and then put nice but not necessary art there. He commended staff for their approach to find functional enhancements. He suggests using a cap per project, instead of a flat one percent.

Kellum asked, what is the drop-dead decision date? Belcastro said the consultant needs direction now. They've already developed 30% plans, but they haven't developed the storm water features yet. Hare said we know we have to have storm water facilities. What is the cost of the enhanced facilities? Belcastro said roughly \$60,000, including the seat walls with lighting. Lattanzio said that amount doesn't include the art piece, which hasn't been settled on yet. Kellum said his concern is the difference between the cost of the standard feature and the cost of the enhanced feature? Belcastro said the cost of the enhanced storm water facility is roughly \$60,000. Subtracting \$10,000 for the seat walls, which would be required regardless, leaves about \$47,000 for the enhanced facility.

Coburn said he wants to think about the issues, and would rather not make a decision until Councilor Johnson is able to take part. By consensus, the Council agreed to carry the discussion over to the Wednesday, September 23, 2015, regular session.

COUNCILOR COMMENTS

There were none.

CITY MANAGER REPORT

There was no City Manager Report.

ADJOURNMENT

There being no other business, the meeting was adjourned at 5:31 p.m.

Respectfully submitted,

Reviewed by,

Allison Liesse
Accounting Specialist

Stewart Taylor
Finance Director