

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, April 23, 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

Community Development Block Grant plans.

Konopa explained how the City of Albany became an entitlement community and the formation and goals of the Community Development Block Grant (CDBG) Task Force. Tonight is for public testimony; the City Council will not take action until May 2014.

Open: Konopa opened the public hearing at 7:17 p.m.

Planner II Anne Catlin said staff spent time navigating through Housing and Urban Development (HUD) regulations. One of the HUD requirements is for the City to develop a plan to spend money to further improve community development, economic development, remove blighting influences, and primarily help low-income people in Albany.

Catlin said they have been working over the last few years to get lots of programs up and running. The amendments to the Annual Action Plan for Fiscal Year (FY) 2013-2014 will specify details of programs just getting underway. The Annual Action Plan for FY 2014-2015 includes a variety of projects such as housing rehabilitation, some public facilities (Sunrise Park and Periwinkle Path), and economic development projects such as helping microenterprise and small grant programs. Catlin said the second category is public services, which allocates funds for service agencies such as Family Tree Relief, Community Services Consortium, Jackson Street Youth Shelter, CHANCE, and FISH of Albany. The third category is to move folks from homelessness to housing by hopefully funding two projects: a youth shelter and an expansion of Helping Hands by adding transitional housing.

Catlin said the other two plans that are open to public comment are the Analysis of Impediments to Fair Housing Choice and Fair Housing Plan; and the City of Albany's CDBG Citizen Participation Plan.

Konopa called the person signed up on the list (see agenda file). Jo Zimmer, 1425 28th Avenue SE, said she is in support of the CDBG program.

No one else wished to speak.

Catlin said the public comment period will remain open until May 14, 2014. Catlin will let the City Council know if she receives any substantial comments. Staff is still working on environmental reviews that could affect funding to a few projects.

Close: The public hearing was closed at 7:20 p.m.

Second Reading of Ordinances

Imposing local restrictions on medical marijuana facilities and declaring an emergency (prohibited within 300 feet of residential use).

There was an ordinance on the dais with the same title and revised language in Section 1(1) (see agenda file).

City Attorney Jim Delapoer read the ordinance in title only: "AN ORDINANCE OF THE CITY OF ALBANY, OREGON IMPOSING LOCAL RESTRICTIONS ON MEDICAL MARIJUANA FACILITIES AND DECLARING AN EMERGENCY."

Delapoer read the limitation language in Section 1(1): "In addition such limitations and regulations as may be imposed by state law on medical marijuana facilities which dispense marijuana pursuant to ORS 475.314, no such facility nor any person operating as an employee or agent of such facility shall operate, locate or dispense marijuana within 300 feet of any property zoned residential as described in Article 3 of the Albany Development Code (ADC) or zoned mixed-use as described in Article 5 of the ADC, and the Office Professional (OP) and Neighborhood Commercial (NC) zones as described in the ADC. This restriction does not apply to property that is zoned Industrial Park (IP), Light Industrial (LI) or Heavy Industrial (HI)."

MOTION: Councilor Ray Kopczynski moved to adopt the ordinance on the dais which includes the revised language in SECTION 1 (1), and Councilor Dick Olsen seconded the motion.

Councilor Rich Kellum said he did research and learned that in the year 2000, Colorado legalized people growing their own marijuana and in 2009, they made dispensaries legal. In 2013, there was a study by Doctor George Sam Wang, a medical toxicologist at the Rocky Mountain Poison Center in Denver. Kellum said Wang's team compared the number of children treated in the emergency room for marijuana poisoning before and after the dispensary law was enacted. Between 2000 and 2009, there were 790 kids under the age of 12 taken to the emergency room for marijuana poisoning where they spent from three hours to several weeks depending on the level of detoxification required. Kellum said, that is 7.31 children per month. From 2009 to 2013, there were 588 instances where children under 12 years old were poisoned; that is 14.71 kids per month. The only difference was that there were dispensaries. It seems to have doubled; they are talking about 1,400 children. Kellum said, we should go slowly; if it has caused a problem somewhere else, we need to make sure to make the right choice. In 2004, Oregon voted on whether to have dispensaries and it failed it 57-43; and in 2010 it failed again 58-42. In Linn County the margin was even wider.

Kellum said when they recognized it could cause problems they said to keep it 1,000 feet from schools. The buffer is to protect the kids. He thinks if 1,000 feet is necessary for a school, it is necessary wherever a group of kids might gather. He is against dispensaries in Albany. He doesn't think they can reasonably say that they can protect kids. He said, we can err on the side of the kids or err on the side of the purveyors of marijuana.

Councilor Bessie Johnson said she read that at last count, there were 100 cities and 13 counties in Oregon that voted to wait on dispensaries and go slow. California has dispensaries; some may be good and abide by the law, but late at night the party busses frequented the dispensaries. She is not sure what the hurry is. She is not in favor of having dispensaries in Albany and doesn't agree with those who say legalized marijuana is inevitable. Cities around Albany have voted for a moratorium, so those customers will likely come to Albany. She will be voting no.

Councilor Floyd Collins has commented before on where he stands on dispensaries. He said he dislikes that the ordinance on the dais does not apply to property that is zoned in LI or HI. If dispensaries are allowed, he doesn't think they should be in industrial zones with the manufacturing facilities.

VOTE: A vote was taken on the motion and it passed 4-3, with Collins, Johnson, Kellum voting no, and was designated Ordinance No. 5833.

Konopa said this has been a divisive issue. Her hope is that if the dispensaries come in to Albany that they are placed in the appropriate areas.

Imposing local restrictions on medical marijuana facilities and declaring an emergency. (prohibited within 300 feet of residential use NO INDUSTRIAL EXCEPTION).

There was no action taken on this item.

Business from the Public

Jeff Christman, Albany, said he will not be commenting on the pros or cons of dispensaries or the decision that the City Council just made. He is here to comment on a question that came up at the April 21, 2014, Work Session, which was what effect the dispensaries would have on the business community. Christman said, dispensaries are new to the City of Albany so we don't know what the short-term or long-term effects will be. He can, however, share what the impact will be to one industry, the financial institutions. He said his information comes from a seven page document that Christman received from the Department of Treasury Financial Crimes Enforcement Network, which is just one of the agencies that financial institutions have to deal with. Christman said it provides guidance to clarify bank transactions to financial institutions seeking to provide services to marijuana related businesses.

Christman spoke to two of the points in the document. First, there will be several new Suspicious Activities Reports (SARs) categories created. Financial institutions are required to file SARs on activities that they suspect or have reason to suspect involve funds delivered from an illegal activity. Christman explained that since it is

against federal law to distribute marijuana, and since most financial institutions are federally insured, if they were to open an account for a dispensary, the activity on that account would be reported as suspicious. He pointed out that the financial institution must report it, or they would be in violation of federal law. The second area is when the account is opened; every financial institution has to have a customer identification program, which are regulations stating the due diligence that must be completed prior to opening new accounts. Several new items are listed in the due diligence requirements because of marijuana dispensaries. The first one states that financial institutions that work with dispensaries need to determine that the dispensary is preventing the distribution of marijuana to minors. This means they need to determine if it is reasonable to believe that a minor would have access to marijuana from the dispensary. Christman has no idea how financial institutions are going to do that. He said he is not asking the Council to do something about these federal regulations; rather he is answering a question that was posed at the Work Session. Had there been a moratorium placed on dispensaries, financial institutions in this community would have had time to work through some of these issues.

Bill Root, 2634 NW Valley View, said he was approached by North Albany Neighborhood Association (NANA) with a question. The NANA member wanted to know what could be done to encourage a grocery store to move into the old Ray's in North Albany. They suggested the City could offer a tax break or some other incentive. Konopa said Urban Renewal Director Kate Porsche contacted the listing agent to see how she could help, and put together a packet of support letters from the city, counties, Chamber, and AMEDC to give to the listing agent to help market the site. Porsche also sent the portfolio on the property to a number of retailers that might be a good fit in that space. But it is in the hands of the property owners and there is only so much the City can do. Collins said the City also joined with Albany Millersburg Economic Development Corporation (AMEDC) and Albany Chamber of Commerce (ACC) to make a united front for the marketing firms. People looking at the site know that it is not just the City, but also AMEDC and ACC that would do what they can to get business to locate at that site. Root said that NANA will also help if they can.

Tom Cordier, 2240 Park Terrace NW, said he is disappointed in the Council's decision about the marijuana dispensaries. He said that what Kellum shared tonight was not given to the Council before. He said that what happened tonight is what he thinks fits the definition of how this Council works; he said that no matter what information is brought forward, the Council has already made up their mind. He looked at League of Oregon Cities website and learned that more than 100 communities have opted for the timeout. Tonight they heard from Christman that there will be regulations imposed on financial institutions. He thinks the Council is out of step with the majority of voters in Albany and Linn County. In the state of Washington, they have seen the result of moving too quickly with the drivers who are under the influence of marijuana, because it wasn't done in an orderly fashion. The moratorium provided a mechanism for it to be done in an orderly fashion. Cordier said the people in the audience tonight do not represent the majority of the community. The voters will speak again at the election in November because of the decision tonight. Konopa said this subject was discussed at the Monday Work Session for an hour and 20 minutes, as well as several other meetings, and Kellum did not bring the new information until tonight. Cordier said there was new information tonight, and the Council didn't listen to it.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) February 26, 2014, City Council Regular Session.
- 2) Removing a loading zone on Ninth Avenue west of Elm Street. RES. NO. 6318
- 3) Accepting an easement from Robin L. Brillon and Vonda L. Brillon. RES. NO. 6319

MOTION: Collins moved to adopt the Consent Calendar as presented. Kopczynski seconded the motion and it passed 6-0.

BUSINESS FROM THE COUNCIL

Johnson asked why Business From the Public was moved on the agenda from before the marijuana dispensary ordinances to after the ordinances. Konopa said they have already taken public input on the subject so the correction was made on the website but not in the Councilor's packets. Johnson said Christman brought up new information under Business From the Public. She thinks moving the agenda around gives the wrong impression. Kopczynski spoke to Christman's comments, explaining that the marijuana dispensaries are already working with a local regulated financial institution.

Kellum said he noticed that there were ACC folks in the audience; he thanked them for being at the meeting.

Kopczynski said he left a brochure on the dais for each Councilor from the Albany Visitors Association (AVA) (see agenda file). He is the AVA liaison for the City Council. The meeting last week was held at the Samaritan Center in Lebanon. Nia Ridley is the manager of the new Samaritan Center and is also on the AVA Board. She gave them a short tour and a PowerPoint presentation about the facility. It is designed for events, business meetings, etc. They have already had over 20 meetings this year and there are 50 lined up for rest of year. They will be developing a community out there over the next five years. They have just broken ground on the hotel complex and they are getting ready to break ground for another hospital. It will be a small planned whole-community with retail, financial institutions, etc. Kopczynski said it is very impressive. Kopczynski also met Lebanon City Manager Gary Marks. He encouraged the Councilors to tour the facility.

Kellum asked why a citizen from Lebanon would be part of the AVA. Kopczynski said there are also AVA members from Brownsville and Sweet Home; it is a regional organization to drive tourism into this whole area. Konopa explained that the AVA used to just include Albany members but when Linn County wanted some of Albany's Transient Lodging Tax (TLT) the AVA started marketing the whole county. Since Albany's TLT supports marketing all of Linn County, the AVA includes board members from other cities. Kellum asked if anyone else, other than Albany, is helping to foot the bill. Konopa said Brownsville does help a little. She said that is why it would be ideal if Linn County would implement their own TLT. Kellum said it bothers him that Albany is footing the bill and they are reaping the benefit. Johnson agrees.

Olsen asked if this facility will compete with facilities in Albany. Discussion followed.

Konopa pointed out that if those other cities have an event they don't have enough hotel rooms, Albany would be the recipient of those hotel guests.

Collins said at the Metropolitan Planning Organization (MPO) meeting, Linda Modrell who represents Benton County handed out a flyer from Oregon State Rail Plan (see agenda file). It is out for public comment from April 18, 2014, to June 20, 2014. Documents are available on the ODOT website.

Delapoer said he is defending City Manager Wes Hare on the elections violation. He said Hasso Herring asked him for copies of the briefs being filed, and Delapoer agreed to provide him copies when they were done. It was filed yesterday so Delapoer gave copies to Herring and also to Steve Lundeberg from the *Albany Democrat-Herald*. Copies were also provided to the City Councilors. Delapoer is hoping the Council will be able to see the arguments on both sides of the issue and understand the free speech issues and the intricacies of the law. He explained the process. Delapoer suspects that a hearing will go forward on May 6, 2014, and an administrative law Judge will make a decision that would then be subject to an appeal in the Court of Appeals.

Delapoer pointed out that he is representing Hare at no cost to the City.

Public Works Director Mark Shepard explained that State Transportation Planning (STP) fund agreements with ODOT use money from the federal government for capital projects. Staff brings the agreements to the City Council for approval. As capital projects are completed, the left over funding can be applied to future projects. There was about \$223,000 left over from previous projects which can be applied to the Main Street project and the North Albany Road project. The funding is being added to the ODOT agreement by an amendment which will be processed at the staff level.

NEXT MEETING DATE: Work Session May 12, 2014
 Regular Session May 14, 2014

ADJOURNMENT

There being no other business, the meeting was adjourned at 7:58 p.m.

Respectfully submitted,

Reviewed by,

Mary A. Dibble, MMC
City Clerk

Stewart Taylor
Finance Director