

CITY OF ALBANY
CITY COUNCIL WORK SESSION
Municipal Court Room
Monday, July 20, 2015
4:00 p.m.

MINUTES

CALL TO ORDER

Councilor Floyd Collins called the meeting to order at 4:00 p.m.

Mayor Sharon Konopa arrived at 4:20 p.m.

ROLL CALL

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

Councilors Absent: None

BUSINESS FROM THE PUBLIC

None.

PUBLIC SAFETY FACILITIES PROJECT UPDATE

Engineering Manager Staci Belcastro briefly reviewed two items on the June 22, 2015, Regular Session agenda for Council's consideration – a recommendation to award a professional services agreement for owner's representative for the Fire and Police stations project, and a recommendation to award a professional services contract for architecture and engineering services for the Fire and Police stations. She said staff will also present an item at the meeting recommending that Council initiate street vacation proceedings and direct staff to prepare a vacation application for a portion of Cathy Creek for the proposed Police station; this will allow for increased open green space and help the site meet their lot coverage requirements. She advised that neighborhood meetings have been scheduled for the Fire station project (August 11, 2015, 6:00 p.m., at Fire Station 11), and the Police station project (August 13, 2015, 6:00 p.m., at United Methodist Church).

BENTON COUNTY ROAD TRANSFERS

Interim Public Works Operations Director Chris Bailey introduced Josh Wheeler and Laurie Starha from Benton County Public Works. Bailey said City and County Public Works staff have been working over the past several months to update the Intergovernmental Agreement (IGA) for Jurisdictional Road Transfer and identify a subset of roads that could be transferred in the near term, that being the next five years or so. She displayed a map and pointed out several roads in North Albany that are under Benton County jurisdiction. An IGA from 2005 and two Letters of Understanding (LOU) describe how and when those roads can be improved and possibly transferred to the City's jurisdiction. Having two governing bodies share jurisdiction of roads is quite confusing and creates slowdowns in internal processes. The draft IGA describes a process and schedule agreed to by both agencies, the goal being to help target Benton County road maintenance work to facilitate the road transfer while allowing the City to define the level of maintenance it would find acceptable in order to accept a road. Other terms and conditions of the 2005 IGA have been brought forward so a framework remains for how roads that are not proposed to be transferred will be maintained. A joint meeting of the City Council and the Benton County Board of Commissioners is scheduled for August 18, 2015. Benton County staff would like to initiate some of the improvements prior to that meeting and will do so at their own risk if Council agrees conceptually with the IGA.

Councilor Rich Kellum asked if the standard for accepting a road is the same for both Linn and Benton Counties. Bailey said each road is considered individually and the improvements necessary to accept a road are decided on a case-by-case basis. City Manager Wes Hare added that, if the question is whether we are treating one county differently than another, the short answer is no. He noted times in the past when the City worked with Linn County on road transfer agreements by considering all of the factors present with a given road. Kellum clarified that his concern is that something might be left undone that the City will have to fix, and there is little money available.

Councilor Ray Kopczynski asked how many miles of roadway remain under Benton County jurisdiction that will eventually come into the City. Wheeler said that after the identified roads are transferred, he doesn't foresee the need to transfer additional roads unless there is a major expansion of the City's urban growth boundary. Hare added that, while there is no funding source identified to maintain the roads long-term and it would be nice if Benton County maintained those roads indefinitely, the City is interested in growth, development, and quality of life for our residents. These agreements get us to a better state and leave a challenge for the future as to how the roads will be maintained.

Councilor Bill Coburn said he shares Kellum's concern and appreciates Hare's comments. He wants to be sure that we don't fall into the trap of doing something just because it has been done before. The elephant in the room is that there is no way to take care of these roads once the City takes ownership. He said it's not unprecedented that the City doesn't own all the roads; for example, ODOT owns roads that go through town.

Hare said Benton County has made a good faith effort to work with the City to come up with a reasonable plan for improving the roads for our citizens. The long-term funding source won't be an immediate issue. The current primary source of funding for the City's street system is gas tax, but this is currently under review at the state level. He thinks the greater good is to enter into the agreement, recognizing that the long-term maintenance needs will need to be addressed. Brief discussion followed.

Collins said he had a few content issues. He said the new IGA should incorporate all of the LOUs so the agreement is in one document. He said easements have been granted to Benton County in the past for maintaining ditches; consideration needs to be given to how those easements will be transferred between jurisdictions. He said getting the general wetlands permit transferred and ensuring the City is protected as far as drainage and wetlands is another question.

Wheeler said that combining all of the agreements into one document is a great idea. He said consideration will be given to the easement situation and to the wetlands permit. It was noted that the City doesn't have a general wetlands permit and this needs to be addressed prior to road transfer.

Collins commented that while he has the same concern as other Councilors regarding the fiscal issue, we are seeing more population in North Albany and more people frustrated by jurisdictional runaround. He thinks there will likely be some non-urban standard roadways in North Albany.

Kellum said he is fine with having different streets with various levels of expectation, as long as everyone understands that upfront. His concern is that the expense of bringing all of the roads up to urban standard could be a deal-breaker.

In response to further question from Collins, Belcastro said the plan for East Thornton Lake Road is to have the North Albany Road contractor do that work as part of the existing contract, with Benton County to reimburse for those costs. They will try to get the work done within the road closure window; however, if that doesn't occur they will have a special schedule so the work is not done when school is in session.

A joint meeting with the Benton County Board of Commissioners is scheduled for August 18, 2015, at 4:00 p.m.

FIRE LINE BACKFLOW DEVICE DISCUSSION

Bailey said that in auditing and inspecting fire line systems around town, staff have found several deficiencies – some systems don't have detection meters, and some systems have inadequate or no backflow prevention.

Water Utility Superintendent Karen Kelley reviewed her background with the Oregon Health Authority and provided basic information about backflow and backsiphonage. She said backflow prevention is a state requirement; Albany has a very robust written plan and capable staff that oversee the program. Staff is out every day looking for potential cross connections and making sure they have the appropriate device. She said 12 private fire protection systems have been identified as having either no, or inadequate, backflow protection, and this needs to be remedied to maintain the integrity of the Albany Municipal Code (AMC) and the City's water system. Staff recommends approval of up to \$150,000 of Water Economic Development funds to help customers gain compliance with backflow requirements. It was also found that 24 properties do not have detection meters; staff recommends these costs be covered as part of standard meter replacement/installation practices within the Operations budget.

Councilor Bessie Johnson asked if the properties are all in the same area of town. Bailey replied that they are scattered around the community.

Kopczynski asked if there is nothing that requires inspection at time of sale or title transfer that would bring this lack of meeting the AMC to staff's attention. Bailey said staff generally learns of these issues when someone takes out a plumbing permit. Staff's best explanation is that these systems either came in before the requirements or when different requirements were in place. Staff is suggesting using City funds because it is not known how these systems got to their current state. Brief discussion followed.

Kopczynski suggested that this come back at a Regular Session for transparency. There was general agreement.

Bailey described a citizen complaint that may come forward related to the backflow prevention assembly program. Following a water shutoff notice being issued for noncompliance, the customer called with questions about the program, and the shutoff process was put on hold. After checking with the state coordinator, it is staff's intention to go forward with enforcement, and the customer has stated that he will bring this to Council. This is for information only at this time.

HEARINGS OFFICER DESIGNATION

City Attorney Jim Delapoer distributed a resolution appointing a "director" and a "hearings officer" for purposes of AMC Chapter 6.18 concerning dangerous dogs (see agenda file). He said there is a dog in detention for killing a domestic animal, and that this dog can be sent to California with the full cooperation of authorities there because that state has a "two strikes" policy. The proposed resolution is needed to allow this action. It continues the process

where the “Director” is the Chief of Police or his designee, and the “Hearings Officer” is the Municipal Judge or approved Pro Tem Judge.

MOTION: Kopczynski moved to adopt the resolution, and Coburn seconded. The motion passed 6-0, and was designated Resolution No. 6442.

PACIFICORP FRANCHISE AGREEMENT CHANGE IN ORDINANCE FORMAT

Delapoer distributed a proposed revised ordinance amending Albany Municipal Code (AMC) Chapter 3.04, to exempt PacifiCorp from the privilege tax obligations set forth therein and establishing an electrical utility franchise and general utility easement for PacifiCorp; and declaring an emergency (see agenda file). The revisions clarify the relationship with the existing privilege tax ordinance and make clear how that would be integrated into the AMC.

Delapoer said this item will be on the July 22, 2015, Regular Session agenda. Council could move to amend the ordinance that received a first reading on July 8, 2015, to conform to the new version, and then proceed to a second reading and adoption, or they could start with a first reading on the revised ordinance. He referred to concerns about whether this is a tax and whether there should be an emergency clause. It is his opinion that the franchise fee is not a tax and that it is not subject to referendum. He reviewed a similar case where Benton County found a franchise fee was not subject to referendum, which the Court of Appeals affirmed without opinion. He said the value of the emergency clause is that whatever is being enacted becomes immediately effective. Council may amend the ordinance to remove the emergency clause if they choose.

Kellum said that, according to the Secretary of State’s Office, an ordinance for a franchise shall not take effect until 30 days after passage unless there is a need for measures necessary for the immediate preservation of the peace, health, and safety of the city. In his opinion, we shouldn’t declare an emergency unless there is in fact an emergency. Delapoer noted that Albany is a home rule city and that Council should do what they think is right.

Councilor Dick Olsen noted that not declaring an emergency would give Council a couple of weeks to think about actions before they take effect.

Kopczynski said the franchise fee feels like a tax to many people. Having said that, this recommendation was part of the City Manager’s budget message, included in the budget process, and approved as part of the adopted budget. He supports the emergency clause in this case but, going forward, he thinks that Council can talk about when to use the emergency clause.

Coburn suggested that it would be a cleaner process to have a second reading on the existing ordinance at the next meeting, and then have staff bring the changes back at a future time. There was general agreement.

Konopa commented that a charge to use the right-of-way is a cost of business for the utility companies and it’s unfortunate that they call it out as a separate cost on their customer’s bills. She noted that other businesses typically don’t call out those types of business costs. Hare noted that the City has had a reduction in both revenues and employees during a time that we are adding significantly to our population. The City relies on franchise fee revenue and there has been a decline in resources from the telephone company franchise as fewer people have landlines. The question for Council is what should be done to replace that revenue or cut expenses.

COUNCILOR COMMENTS

Konopa noted that the Albany Carousel is having an open house on Wednesday, July 22, 2015. Councilors are asked to be at City Hall by 6:10 p.m. and ride the trolley to the event.

CITY MANAGER REPORT

There was no additional report.

ADJOURNMENT

There being no other business, the meeting was adjourned at 5:34 p.m.

Respectfully submitted,

Reviewed by,

Teresa Nix
Administrative Assistant

Wes Hare
City Manager