

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, July 13, 2016
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: Mayor Sharon Konopa and Councilors Rich Kellum, Bill Coburn, Bessie Johnson, Ray Kopczynski, Dick Olsen, and Floyd Collins.

Councilors absent: None.

SCHEDULED BUSINESS

Communication

Accepting Judge Roark's resignation from the Airport Advisory Commission.

MOTION: Councilor Ray Kopczynski moved to accept Judge Roark's resignation. Councilor Rich Kellum seconded the motion and it passed 6-0.

Business from the Public

There was none.

Adoption of Resolutions

Approving ongoing vehicle lease contracts with Wire Works, LLC.

MOTION: Kopczynski moved to adopt the resolution and Kellum seconded the motion. The motion passed 6-0 and was designated Resolution No. 6519.

Approving exemption from the competitive bidding requirements through the use of an interstate cooperative procurement for remounting and refurbishing two medic units and declaring assets as surplus property.

Assistant Fire Chief Shane Wooton said there is an error in the staff memo. The memo states gives a not-to-exceed amount of \$300,000 and the resolution says up to \$340,000. The amount in the resolution is correct.

MOTION: Kellum moved to approve and Kopczynski seconded the motion.

Kellum said there is a bid process already in place with another agency and this action allows the City of Albany to piggyback on it.

VOTE: The motion passed 6-0 and was designated Resolution No. 6520.

Authorizing application to the Federal Transit Administration for federal transportation assistance.

MOTION: Councilor Floyd Collins moved to adopt the resolution. Kopczynski seconded the motion, and it passed 6-0 and was designated Resolution No. 6521.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) April 7, 2016, Joint Work Session with City Council, Planning Commission, and Budget Committee.
 - b) April 27, 2016, Regular Session minutes.
 - c) May 9, 2016, Work Session minutes.
 - d) May 11, 2016, Regular Session minutes.
- 2) Annual liquor license renewals.
- 3) Accepting the following easements:

- a) Five-foot wide sanitary sewer easement as part of SS-15-02, 2015 Pipe Bursting Projects, for tax lot 11S-03W-07DD-06600, from Larry and Viola Johnston. RES. NO. 6522
 - b) Five-foot wide sanitary sewer easement as part of SS-15-02, 2015 Pipe Bursting Projects, for tax lot 11S-03W-07DD-00800, from Linnie and Earline Townlin Revocable Living Trust. RES. NO. 6523
 - c) 15-foot wide water line easement for a public water line as part of the Hickory Station, LLC, development project, from Hickory Station LLC. RES. NO. 6524
 - d) 15-foot wide sidewalk easement, as required by a Property Line Adjustment Condition of Approval, for tax lots 11S-03W-08AD-01800 and 00600, from GRH Albany LLC, HOC Albany LLC, and MRH Taylorsville LLC. RES. NO. 6525
- 4) Granting and accepting a street and utility right-of-way dedication to place the public improvements at the Main Street roundabout into the public right-of-way, from City of Albany. RES. NO. 6526

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

Award of Bids

WL-16-04, Meadow Wood Drive Water Line.

Public Works Engineering and Community Development Director Jeff Blaine said staff recommends awarding the contract in the amount of \$509,705 to the low bidder, Pacific Excavation of Eugene.

Collins moved to award the bid to Pacific Excavation, Inc. for \$509,705. Kopczynski seconded the motion and it passed 6-0.

MS-16-02, Fire Station 11; and MS-16-03, Police Station.

Councilor Bill Coburn referenced Section II of the table on page 63. He asked if the amount of \$19,500,200 is inclusive. Engineering Manager Staci Belcastro explained that the project was set up with three schedules for flexibility in awarding the contracts. Gerding was the lowest responsive bidder for all three schedules. She said the bids came in tight, which means the plans were good, and they are under budget.

Collins said the two responsive bids were within one half of one percent of each other, which reflects well on Mackenzie and City staff. The Kirby bid should not have been opened because they were non-responsive due to being late. Discussion followed.

MOTION: Collins moved to award the bid to Gerding Builders LLC for \$19,500,200. Kellum seconded the motion and it passed 6-0.

Collins asked when contracts will be signed and when will they start work? Belcastro said staff will provide the contracts tomorrow and start scheduling construction meetings. They will have definite dates at the next Council meeting. Ground-breaking will be August 9, 2016.

Appointments

Appointing John Harshberger, Sr., to the Airport Advisory Commission.

Johnson said there were a couple of applicants for the Airport Advisory Commission. Harshberger had been on the Commission and had only five months left on his current term. Johnson thought it was better this time to appoint someone with experience on the commission. She will consider the other applicants when it is time to appoint again.

MOTION: Johnson moved to approve the appointment of John Harshberger. Kellum seconded the motion and it passed 6-0.

Appointing Arwen McGilvra and Janel Bennett to the Library Board.

MOTION: Johnson moved to approve the appointment of Arwen McGilvra and Janel Bennett to the Library Board. Kopczynski seconded the motion and it passed 6-0.

Report

2017 League of Oregon Cities legislative priorities.

The Council discussed the list on page 76.

Finance Director Stewart Taylor described local control and compression.

Konopa expressed support for choosing Transportation Funding.

Collins supports Qualification Based Selection, which makes cost one component of contractor evaluation, but not the only determiner.

Konopa mentioned the Nonprofit Property Tax Exemption. She said it can put a strain on a community.

The Council agreed to give their lists to Taylor to tally and report the top four to the League of Oregon Cities (LOC).

BUSINESS FROM THE COUNCIL

Johnson said she will be gone from August 5, 2016, to August 14, 2016.

Coburn thanked Blaine and staff for the quick response to the tall grass fire danger at Tudor and Queen.

Councilor Dick Olsen expressed concern about rules being applied selectively. He mentioned a constituent who can't legally leave his motor home parked on the street overnight ready to leave in the morning. He thinks that law encourages contempt. There should be some flexibility.

Kellum wished to go on record as saying that our police are under-appreciated and that is too bad.

Kopczynski said some neighbors from the 33rd Avenue cul-de-sac will attend the Council's August 22, 2016, Work Session to address trash, trespass, and other issues. City Attorney Jim Delapoer said there may be a request to close one end of the street. The Council should consider letting staff respond to this item before expressing support. Closing the cul-de-sac would make the street non-compliant with the Development Code. There may be other ways to address the neighbors' concerns. Discussion followed.

Blaine said he'd be willing to coordinate a meeting between the neighbors and staff to talk through the concerns and then report to Council. The discussion will involve multiple departments. Coburn supports Blaine's offer.

Collins said he agrees with Blaine and Coburn.

Konopa said she contacted the Corvallis Mayor about whether they will put a gas tax measure on the ballot in November. Corvallis has still not decided on the issue. Their Council meets next week. The Mayor will let Konopa know after that meeting if they plan to proceed. Collins asked if the LOC is talking about it.

Delapoer said he will ask City Attorney Sean Kidd to explain the scheduling needed to get the marijuana tax measure on the November election. A tax ordinance cannot have an emergency clause, so the ordinance must be in place in advance to meet the election notification dates.

Delapoer said the joint Council meeting with Millersburg on the July 19, 2016, has been postponed until fall. The Council needs more technical and financial information in order to make an informed decision. The numbers won't be ready until early fall, and the decision isn't urgent.

Kidd said forwarding the question to the voters of legalizing marijuana can go to the July 27, 2016, meeting as a resolution. It could be adopted at that meeting, or they could wait to adopt it on August 10, 2016, which is the last scheduled Council meeting, in order to meet noticing requirements and get the issue on the November ballot. But, Kidd explained, the ordinance that will place a tax on the sale of marijuana is different, because there cannot be an emergency clause on an ordinance that involves a tax. Kidd said that one will come to the Council on July 25, 2016, for a first reading and July 27, 2016, for the second reading. Discussion followed and it was decided to start the meeting on July 25, 2016, at 5:10 p.m.

Delapoer stressed that these two issues, the legalization and the taxing, are not time-place-manner (TPM) issues; the TPM issues will be decided later. Delapoer explained that the tax issue is confusing because in 2014, before the law was in final form, the City Council adopted a marijuana tax ordinance. It was done at that time so that if there was a subsequent law passed that precluded the tax, the Council could argue that the tax was already in effect. The ordinance said the amount of the tax will be established by resolution, but the Council never adopted a resolution to set the amount. So, the Council has a procedure that has been put forth. One of the City Attorney's challenges is to propose an ordinance that does exactly what your current ordinance does, but gives the people a chance to vote on it. So, Delapoer explained, it will probably be an ordinance to re-enact the same tax measure that was enacted before. Delapoer said, this is a complicated and confusing arena. No two Oregon cities are in exactly the same circumstance.

Blaine asked how the measure being placed on the ballot will effect staff's discussion of TPM. Delapoer explained that when a measure is pending, City staff cannot advocate to promote or propose a measure, and Council can't ask them to. The challenge is there will be three separate measures that will be pending at different times, which will make it difficult to address one that is not pending without inadvertently discussing its impact on another pending measure. Delapoer said that this is why Kidd recommends that the Council not act before they need to on any of these measures, because these constraints don't apply until there is a measure pending. Delapoer said, now, we are coming up against deadlines to get them on the November ballot. The legalization measure and the tax measure must be on the November ballot. Delapoer said that if staff has concerns about how to respond to questions they receive on a pending measure, to contact the City Attorneys.

Kidd said that if there are not TPM regulations adopted before the November vote, once the vote occurs, staff can then talk freely. That would give them almost two months before the end of the year to adopt TPMs. Delapoer suggested getting both the referral question on the ban and the tax question to pending status, and then leaving them alone until the November vote. If the November vote sustains the Council's ban, we won't need TPM restrictions. The tax measure will state that it will be applicable only based on the outcome of the vote on the ban. Collins asked if the TPM restrictions have to be adopted by December 31, 2016. Delapoer said no; what they are trying to avoid by making that date their goal, is to avoid someone investing in a business and then find that its use is restricted. Delapoer thinks it is unlikely, given all the public discussion, that a prudent business person would make a big investment until the Council decides the TPM restrictions, because they won't necessarily be grandfathered in. Discussion followed about TPM conversations that take place while the measures are pending, and the use of maps for discussions.

The Council asked for a draft ordinance for the TPM. Kidd said they could do that, and explained that at this point it would only address recreational sales. Delapoer said they will bring back an ordinance model so the Councilors have something to start from. Kidd noted that the state will not issue licenses until, at the very earliest, the beginning of next year. However, the City might get questions from the state about our code, so we may need to have something in place.

Kopczynski asked if the mapping software is public information. Delapoer said it is a public record.

The meeting on the July 25, 2106, will be at 5:10 p.m., just before the joint meeting with the Planning Commission. Delapoer said that at that meeting, the City Attorneys will share some concerns about expedited land division regulation changes that could significantly reduce the Council's ability to have any input on subdivision applications. He gave the history of the expedited land division process. At the last legislative session, the wording was changed so that it seems to include all land divisions. Discussion followed.

NEXT MEETING DATE: A Work Session on Monday, July 25, 2016, at 5:10 p.m., and Joint Meeting with Planning Commission at 5:15 p.m. on July 25, 2016; and a Regular Session on Wednesday, July 27, 2016.

ADJOURNMENT

There being no other business, the meeting was adjourned at 8:23 p.m.

Respectfully submitted,

Mary A. Dibble, MMC
City Clerk

Reviewed by,

Stewart Taylor
Finance Director