

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, February 8, 2017
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

The pledge of allegiance was led by Cub Scout Pack #226. The Scouts introduced themselves as Cole, Joseph, Michael Dane Anderson, Luke Stutzman, Dillon Stutzman, and Bruce Anderson.

Konopa said the Scouts came to talk about city government with her. The boys remembered that they talked about homelessness and the ordinance on property transfers from a vehicle to a pedestrian.

ROLL CALL

Councilors present: Mayor Sharon Konopa and Councilors Rich Kellum, Bill Coburn, Bessie Johnson, Ray Kopczynski, Dick Olsen, and Mike Sykes.

Councilors absent: None.

SCHEDULED BUSINESS

Business from the Public

Hamid Siddiqui, owner of Ciddici's Pizza, spoke about aggressive towing companies. He said that the local towing companies aren't interested in the business of towing illegally-parked vehicles from his parking lot. Councilor Bill Coburn said he talked to Siddiqui before the meeting, and he understands that AA towing, for one, doesn't want the negative publicity of towing local cars from local parking places. Konopa said that the new ordinance wouldn't keep out-of-town companies from towing illegally-parked vehicles, but it would prohibit them from impounding local vehicles out of town. Siddiqui said that if out-of-town towing companies don't have a local impound lot, they won't tow vehicles in Albany. He said local companies don't even want to be listed on signs posted at parking lots.

Richard Clates, of Stealth Recover and Towing, said they recently opened in Albany. He said they are an aggressive towing company but not predatory. They work for major motor clubs and private party parking. He said they would take care of Ciddici's parking lot.

Dan Manzi, Highway 34 Towing, said he's never been asked to post Ciddici's parking lot, but he would if he were asked. He agreed that AA doesn't do it because they don't want to have a conflict with local people. Highway 34 Towing tows for Fred Meyer and 7-11. They have had their signs taken down at some parking lots because they "have too many rules." They require posting a car for 72 hours before they will tow it, and they ask parking lot managers to try to notify owners.

Manzi also said regarding the proposed fees in the ordinance, that he currently charges \$45 to open their facility so someone can recover their car. It isn't worth sending out two people at night to open the gates for \$25. It isn't safe. One of his employees was stabbed when he opened up a lot for someone late at night. Manzi is willing to waive an extra day's impound charge in order to avoid going out to the lot at night. He also said his company does not and will not take credit cards. He has had experience of credit card payments being stopped. There was discussion of rates and hours of operation.

Councilor Mike Sykes asked, what would be an appropriate fee for opening up after hours? Manzi said they charge \$45, but they have two people respond. If they charged more than that, people would wait and come the next day. In McMinnville, towing companies all charge \$100, for two drivers at \$50 each. This makes it cheaper to wait and retrieve an impounded car the next day.

Clates returned to the podium to say he's of the same opinion.

Shawn Alderman, Supervisor of Customer Service at the Post Office, asked who restricts the Post Office to using AA Towing. Konopa said the City has no say over who the Post Office uses. Alderman said the Post Office lot is posted with AA's name, but they don't want to tow anyone. Konopa explained the purpose of the ordinance under discussion. Post Office Clerk Bunnie Bushong said they have a problem with restaurant customers and River Rhythms attendees parking in the Post Office lot after 5:00 p.m. The Post Office lobby is open 24 hours, so they need to have spaces available. Konopa said she hopes that several parking spaces could be freed for the public after business hours, with a couple of spaces reserved for the Post Office, but she never found out who to talk to at the Post Office about it.

First Reading of Ordinances

- 1) Amending Ordinance No. 4441, which adopted the City of Albany Development Code, by amending the Albany Development Code text, (DC-02-16).

Planning Manager Bob Richardson described the clarifications to the ordinance regarding RV park location and fencing. He said staff spotted some potential issues with the language about fencing tentatively approved by Council on January 11, 2017. The amended language has been clarified to specify that required fencing must be designed to prevent light trespass, and that chain-link fences are not considered sight-obscuring.

Councilor Rich Kellum asked about sound attenuation. Richardson said the Council discussed sound, but the Council's tentative approval didn't deal with sound, due to the challenges involved in measuring sound and writing effective Code language. Kellum asked if the language specifies fencing materials, to avoid materials that would transmit noise. Richardson said that staff was trying to craft language to fulfill the intent to block light, and also to make sure that there are solutions that an RV park owner can reasonably implement. So staff didn't specify materials. This issue came up as a result of the question of allowing RV parks in an RM zone, which requires a Conditional Use (CU) approval process. The CU process allows the Planning Commission to consider the neighborhood compatibility of fencing, including materials.

Councilor Bessie Johnson asked why chain-link with privacy slats wouldn't work. Richardson said vinyl slats can fall out or get worn out by the sun until they are see-through and no longer effective. Johnson said that at the manufactured home park on Geary Street, the wooden fence is rotten and falling down. Richardson said that fence would have to be put back up if the property were subject to a CU process.

City Attorney Sean Kidd read the ordinance for the first time in title only: AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE, BY AMENDING THE ALBANY DEVELOPMENT CODE TEXT, DC-02-16.

MOTION: Johnson moved to have the ordinance read for the second time in title only. Councilor Ray Kopczynski seconded the motion, which passed 6-0.

Kidd read the ordinance for the second time in title only.

MOTION: Johnson moved to adopt the ordinance and Kopczynski seconded the motion.

Kellum said he will vote yes, but has reservations.

VOTE: The vote on the ordinance was tied at 3-3, with Councilor Dick Olsen, Kellum, and Coburn voting against.

Konopa said she feels that adding more RV spaces doesn't fit with the community.

VOTE: Konopa voted no and the motion failed 3-4.

- 2) Amending the Albany Municipal Code (AMC) Title 13 by adding a new Chapter 13.90 titled Private Property Impounds; and declaring an emergency.

There was a revised ordinance (see agenda file) and resolution (see agenda file) on the dais.

Code Compliance Officer Kris Schendel said he wants to clarify that the new language affects only private property towing initiated by a parking manager who is not the owner of the vehicle. He said the hook-up fees have increased, putting Albany at the highest end of every city that has a code. He believes regulating the fees is necessary. Right now, no local towers charge more than these fees, but there is nothing in the Code to stop them from doing so. The fee cap could be changed later, if the Council wanted to change it.

Schendel explained the changes to the section on release of a vehicle. A requirement that the tower must supply an itemized receipt to the customer has been added. The size of the sign has been changed in order to make better use of the sheet metal used for signs. The last change was made with Kidd's help. If the City sets maximum rates, the ORS says we have to require towers to register with the City. The ORS requires minimal information to be collected, and the registration is free.

Schendel said all cities who have a code have these same fees. These fees only apply to private property impounds, but they still have to follow city policy of \$25 per night. He understands the need, and also why the city restricts the fee, especially for people who don't live here and travel to Albany for an event. Towing companies could charge other fees on top of the \$50, but that is the reason for the cap.

Kopczynski said he would agree to raise the after-hour release fee to \$45. He's concerned about towing companies not taking credit cards. Not everyone will be carrying enough cash to get a towed car released. Schendel said he's concerned, too. Banks limit cash withdrawals. He thinks allowing credit card payment for private property impounds only is a good idea.

Kellum said there are portable credit card systems like Square that are easy to set up. Schendel said Manzi's problem has been that people will cancel a card after he has already run the payment. Clates explained the difficulties of accepting credit card payments. He said credit cards simply don't work. Discussion followed.

City Manager Wes Hare said we are doing this in response to problems of predatory towing in Albany. He asked Schendel if any of the people who have complained have said anything about method of payment. Schendel said no. The complaints are about having to go out of town to retrieve vehicles. Hare said he thinks we can start with this regulation. He thinks towers who are predatory will likely stop towing in Albany based on the other regulations. What we have heard is reasonable. If the goal is to solve problems we have actually had, he thinks we can get there without the credit card provision. Schendel agreed.

Konopa suggested striking 2 (b) on page 5 of the ordinance.

Clates asked when he could apply for registration. Konopa said she will sign the ordinance tonight. Schendel said he has registration forms with him at the meeting.

Kidd read the ordinance for the first time in title only: AMENDING THE ALBANY MUNICIPAL CODE (AMC) TITLE 13 BY ADDING A NEW CHAPTER 13.90 TITLED PRIVATE PROPERTY IMPOUNDS; AND DECLARING AN EMERGENCY.

MOTION: Johnson moved to have the ordinance read a second time in title only. Kopczynski seconded the motion, which passed 6-0.

Kidd read the ordinance for the second time in title only.

MOTION: Kopczynski moved to adopt the ordinance on the dais with an amendment removing 2(b). Johnson seconded the motion.

Kellum said he will vote for the ordinance, but he thinks we are hitting a problem bigger than we need to. Johnson agreed and said she thinks this will be need to be tweaked going forward.

VOTE: A vote was taken on the motion and it passed 6-0, and was designated Ordinance No. 5888.

3) Setting private property impound towing rates.

Kopczynski said he would like the after-hours towing fee increased to \$45.

Coburn said he is okay with leaving the storage fee as it is.

MOTION: Kopczynski moved to adopt the resolution and amend the \$25 "After Hours Release Fee" on Exhibit A to \$45 and Coburn seconded it. The motion passed 6-0 and was designated Resolution No. 6569.

Adoption of Resolutions

1) Approving exemption from the competitive bidding process for the purchase of two low floor buses through an existing interstate cooperative contract with Washington State Department of Enterprise Services and Gillig, LLC; issuing a notice of intent to award contract with Gillig, LLC; and authorizing the Public Works Operations Director to enter into a contract not to exceed \$840,240 with Gillig, LLC.

Public Works Operations Director Chris Bailey explained that using this contract will help Transit in price and expediency. Transit Programs Supervisor Barry Hoffman said the competitive bid process was done by Washington. Oregon Department of Transportation (ODOT) has a purchasing agreement with the state of Washington. Kopczynski asked how much Transit will get from selling used buses. Hoffman said the buses will be sold at auction, but they won't bring much. He said, we've put 700,000 miles on them.

Konopa asked if one of the buses has enough use left that we could use it as a shuttle bus for Albany events? Hoffman said yes, but we'd have to shift them to another department. The buses were purchased with federal transit funds, so they could not be used for public transportation. Staff will look into it.

Kellum said we have big buses, and we never seem to have many riders. If we have routes with only 4 to 6 riders, we should use smaller buses so we can lower our fuel use. Bailey said they do try to right-size buses. The difficulty is that at some times of day there may be 40 riders, and you can't buy one bus for one time of day and another bus for another time of day. Public Works is getting some transit planning money to plan transit improvements, so they will come back to the Council next year about right-sizing buses and optimizing routes.

MOTION: Kopczynski moved adopt the resolution and Coburn seconded it. The motion passed 5-1 with Kellum voting no and was designated Resolution No. 6570.

- 2) Waiving competitive bidding to establish a contract-specific special procurement from Day Wireless Systems for a public safety radio tower antenna.

There was a revised memo on the dais (see agenda file).

Police Chief Mario Lattanzio said the tower is a two-part process: constructing the tower, and then putting the equipment on the tower. Day Wireless was the only responder to the construction bid. They also do the Police Department's current radio system. Police wants to have the same company continue to furnish the same products.

Coburn asked how much the tower will cost. Lattanzio replied, \$59,356.13. It will be 60 feet tall.

Kopczynski asked if this was part of the bond funding and budget? Lattanzio said yes. Discussion followed about the tower and the bidding process.

MOTION: Johnson moved to adopt the resolution and Kellum seconded it. The motion passed 6-0 and was designated resolution No. 6571.

- 3) Authorizing the Fire Department to apply for funds not to exceed \$1,300,800 through the US Department of Homeland Security Fiscal Year 2016 Staffing for Adequate Fire and Emergency Response (SAFER) grant program for hiring firefighters.

Fire Chief John Bradner said there is a staff report and a resolution on the dais (see agenda file). He said the City received a SAFER grant in 2012, and was able to hire six new firefighters. When that grant ended, the City was not able to keep the positions, because staffing decreased, although we kept the personnel. The Fire Department is asking to do the same grant process to request funding for six new firefighters.

Konopa said it was great to get the grant in 2012. We knew it was temporary, but with retirements we were able to retain the trained personnel. It was very helpful.

MOTION: Kellum moved to adopt the resolution and Kopczynski seconded it. The motion passed 6-0 and was designated Resolution No. 6572.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) December 5, 2016, Work Session minutes.
 - b) January 9, 2017, Work Session minutes.
- 2) Liquor license recommendations to OLCC:
 - a) Grant the limited on-premises sales, change ownership, liquor license application for Tip Thai Cuisine, LLC., d/b/a Tip Thai Cuisine, located at 236 First Avenue W.
 - b) Grant the Brewery Public House, second location, liquor license application for Vagabond Brewing, LLC., d/b/a Vagabond Outpost, located at 2195 14th Avenue SE.
- 3) Approving contract renewal for Municipal Court Judge Robert Scott.
- 4) Approving Municipal Court Judge Pro Tems and repealing Resolution No. 6479. RES. NO. 6573

Kellum said he wanted to remove Item 2 b. Johnson asked to remove Item 3).

MOTION: Kopczynski moved to adopt the Consent Calendar with items (2)(b) and (3) removed for discussion. Kellum seconded the motion and it passed 6-0.

Regarding item 2) b), Kellum asked if this is actually a brewery, or a growler facility. Hare said he doesn't know; he explained that typically when we approve these, we don't question unless we have reason to believe there might be a law enforcement problem.

MOTION: Kellum moved to approve item 2) b). Kopczynski seconded the motion and it passed 6-0.

Regarding item 3), Finance Director Stewart Taylor said he talked to Judge Scott. Scott believes he is out of pocket for pro-tem judges between \$500 and \$1000 a year. He has no problem with the language but he would be delighted if it were removed. Hare said what is different about the judge position is that if Scott takes a vacation, we have to hire a replacement. Hare said what Scott likes about the current arrangement is that he can leave when he wants to, so whether he incurs an obligation for the City is at his discretion. Hare said this isn't unfair for a part-time employee. This agreement has been negotiated annually for a number of years.

Kidd added that Scott tries not to schedule trials when he's on vacation, so he can avoid the need for a pro tem. But when Scott is sick on a trial day, the Court reschedules the trial. We do not make Scott pay for being sick.

Konopa asked if both paragraphs of the section would be removed. Kidd said he believes the paragraphs may have been directed at an extended leave by the judge, when the City would incur substantial replacement costs.

Sykes said he brought up the question for Family Medical Leave Act reasons (FMLA). Are we held to FMLA even though we have this contract? Kidd said he doesn't think the City would have FMLA problems if we removed the language. Hare said he doesn't think so, either. He said taking the section out would cost the City some money but not much. Taking out the word "ill" would not have any impact. Discussion followed about how the judge is hired, about PERS requirements, and if this position needs to be a City employee.

MOTION: Johnson moved to adopt item (3) with a revision to remove the first paragraph of section (b) under "Pro Tem Services" on page 2 of the contract and Coburn seconded it.

Olsen asked some clarifying questions.

VOTE: A vote was taken on the motion and it passed 5-1 with Kellum voting no.

Approval of Agreement

Traffic signal maintenance agreement with the Oregon Department of Transportation for city-owned traffic signals.

Bailey said this is a renewal of an existing agreement. Public Works uses ODOT as necessary. It's often easier for them to diagnose and fix a signal than for the City to do it, and they can often do it more quickly.

Coburn said he used to do this at EC Electric before he retired. There are some things most contractors cannot do, and that is what this contract covers. He thinks it's a good program and worth continuing.

MOTION: Kopczynski moved to authorize the City Manager to enter into the agreement as requested. Kellum seconded the motion and it passed 6-0.

BUSINESS FROM THE COUNCIL

Johnson spoke about the predatory towing issue. She said Blogger Hasso Hering's column mentioned a citizen complaint that the Council hadn't acted. But unless citizens come forward, the Council may not know about issues.

Coburn said that after Hering's column on funding street maintenance, he got an email from someone who was against the bike path and said the City should use that money for street maintenance. He responded that the bike path is funded by System Development Charges (SDCs), which can't be used for maintenance. The issues can be confusing. Educating the public about SDCs and other funding issues is part of the process.

Coburn also said Siddiqui told him that new apartments are built with only one parking space per apartment, which he believes leads residents to park in his parking lot. Parking requirements are something to consider when we next look at our Development Code. Konopa said she believes the requirement is one and a half spaces per apartment. The more new apartments are built, the worse the problem will become. It's more common now for a multi-bedroom apartment to be occupied by several adults, rather than by one family. Her neighborhood has growing parking problems related to an existing apartment building.

Kellum noted that the same is true for businesses. We are now requiring less parking downtown, and we are adding living spaces above businesses.

Hare said staff is working on a series of issues in the Development Code, including food carts and signs, and they can add parking to the list.

Coburn suggested using the Bryant Park parking area and shuttling people from there to the Carousel or to River Rhythms events. Konopa said we will have to come up with a plan.

Coburn said a citizen contacted him about speeding on Hill Street. Discussion followed about speed bumps.

Konopa discussed whether the Post Office parking lot could be made usable for downtown events. Discussion followed.

Kopczynski mentioned the Library Uncorked event on March 4, 2017. He said it is a worthwhile event and urged people to buy tickets.

Konopa said she attended the League of Oregon Cities (LOC) City Hall Day in Salem. She described updates from legislators, the governor, and the LOC. There might be a transportation package coming forward in the legislature, but no commitments are being made. She has no high hopes for a big windfall of gas tax money. There were updates on the lack of affordable housing. She would not like to see Albany take the same course as Portland to deal with the issue. She is especially concerned about requiring landlords to pay moving costs for no-cause evictions. The no-cause eviction can be a useful tool for landlords when, for instance, there is drug activity going on. She said that non-profits such as Albany Partnership for Housing are able to use no-cause eviction in drug cases to avoid the delays, damage, and court costs often associated with trying to evict a tenant.

Albany City Council Regular Session
February 8, 2017

Kidd said that the Portland ordinance requiring landlords to pay costs was legally challenged today. He said it will be interesting to see how it turns out.

NEXT MEETING DATE: Work Session: Monday, February 20, 2017; Joint Executive Session on February 13, 2017; and Regular Session: Wednesday, February 22, 2017.

ADJOURNMENT

There being no other business, the meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Reviewed by,

Mary A. Dibble, MMC
City Clerk

Stewart Taylor
Finance Director