



**MINUTES**

Wednesday, January 23, 2019  
Regular Meeting  
Council Chambers, City Hall  
**Approved: April 10, 2019**

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 7:15 p.m.

PLEDGE OF ALLEGIANCE

Konopa led the pledge of allegiance.

ROLL CALL

Councilors present: Mayor Sharon Konopa and Councilors Rich Kellum, Bill Coburn, Bessie Johnson, Alex Johnson II, Dick Olsen, and Mike Sykes

Councilors absent: None

SCHEDULED BUSINESS

Four Chaplains Sunday Proclamation.

Konopa read the proclamation for Four Chaplains Sunday.

Reopened Public Hearing

**7:18 p.m.**

Implementing amendments to the Albany Development Code related to accessory dwelling units.

- a) Amending Ordinance No. 4441 by amending the Albany Development Code, Accessory Dwelling Units, DC-04-18, to meet state minimum standards, and adopting findings (Ordinance A).
- b) Amending Ordinance No. 4441 by amending the Albany Development Code, Accessory Dwelling Units, DC-05-18, exercising local discretion, and adopting findings (Ordinance B).

Open: Konopa reopened the legislative public hearing at 7:20 pm.

A signup sheet was available for the public (see agenda file).

There were emails from the following people on the dais: Marianne Stott, Ray Kopczynski, Willamette Association of Realtors, David Pinyerd, and 1000 Friends of Oregon (see agenda file).

Planning Manager David Martineau reviewed the criteria (see agenda file). He said there have been no changes to the ordinance since the last public hearing on November 7, 2018. Martineau described the current standards in the Albany Development Code (ADC) for Accessory Dwelling Units (ADUs): an ADU can be in addition to or within a primary residence or detached building built before February 1, 1998; one of the residences must be owner-occupied; the ADU can be no more than 50% of the gross floor area of the primary residence or 750 square feet, whichever is less; three off-street parking spaces to serve both residences; all required building permits must be obtained; the ADU must meet setback standards; and there is a maximum height of 24 feet for detached units only.

The two ordinance packages differ as follows: Ordinance A, DC-04-18, adopts the state's minimum standards, so nothing else changes in this section of the ADC, except that it would allow the detached building unit outright wherever a detached single-family residence is allowed, which is the essence of the minimum state standard. Ordinance B, DC-05-18, has discretionary standards, and would allow detached units; expansion of the floor area up to 900 square feet or up to 75% of the primary dwelling unit; and a three-space parking requirement, with one of the spaces allowed to be accommodated on the street. It would also remove the owner-occupancy requirement. Design requirements apply, but only in mixed-use zones where ADUs have to have materials compatible with the primary residence.

Konopa read the mayor's script.

C. Jeffrey Evans, 1899 Marten Avenue SW, said there is no indication that an assessment was done to see if the proposal applies to the fair zoning act, and especially with respect to discriminatory housing for people with disabilities. It needs to be addressed. Some of the limits could make it impossible for someone in a wheelchair or scooter to use, which is critical for rentals since they are required to be compliant. Parking needs to meet requirements to accommodate vans. There is already insufficient parking in the city. There should be a mechanism for someone to request parking on the street to be designated for someone with a disability. There is question about access to rights-of-way (ROWs), like sidewalks, and access to transit stops. These are major deficiencies which could affect the extent to which it is defensible in court. He said Konopa told him that the council relies on the state to have considered those things; but due to past history, he doesn't recommend relying on the state.

Ray Kopczynski, 1303 Tamarack Court SW, is in favor of the enhanced version. He wants to refute some of the things that Camron Settlemier has said in different venues. Kopczynski read portions of his written testimony, which was already on the dias. Kopczynski refuted five of Settlemier's comments: about not being against all ADUs; how they will decimate the character of neighborhoods, historic or not; the cost of buildable lands and the threat of outside developers flipping in Albany without regard to neighborhoods; about whether or not, and why, ADU building is taking place in Albany; and how the owner-occupancy requirement would impact abuse of the system.

Kopczynski read portions of his written testimony, which included Settlemier's example of an older home, referred to as Scenario A, and four points that Kopczynski refuted. It included an example of a ranch home, referred to as Scenario B, and two points that Kopczynski refuted. Kopczynski shared a different scenario which he deems acceptable, as outlined in his written testimony. It involved an ADU being passed through a family and eventually sold to new owners.

Kopczynski spoke about an email he received while he was still a councilor; he had forwarded it to Martineau for a response. Martineau's response is in Kopczynski's written testimony. He said Martineau gave excellent responses and they should be required reading for the council.

Kopczynski said that he spoke to another councilor about how a council member should conduct themselves when a vote doesn't go their way. The discussion included if and how the mayor's veto of the ADU impacted future council actions and discussions. Kopczynski thinks that because of the way this ADU issue has progressed, and is still unresolved, that the mayor owns this problem. He believes that the councilors have offered compromises, and it hasn't worked. He is strongly in favor of Ordinance B.

For the audience, Konopa explained that the state requires all cities with populations over 50,000 to come up with regulations for ADUs. Our existing code limits size to 750 square feet, and the other option being discussed is 900 square feet. A garage can be added. The existing code requires one off-street parking street spot, but we are discussing removing that parking requirement. Owner occupancy is another sticking point. The decision is not to deny ADUs, but rather to put parameters around how they should exist in our community.

Steve Heyman, 1125 1st Avenue, has lived in Albany for 42 years and has owned his home for 38 years. He is experiencing growth in his neighborhood. The property behind him subdivided and ended up with a two-story house. It has a cascading effect. Another neighbor was told by the owner of the two-story that they were lucky that a three-story had not been built. Heyman described how the neighborhood has changed in a short amount of time. By removing all restrictions, he thinks it will turn into a circus. It may be great for the people who are selling, but he would prefer it to be mostly single-family residential (SFR) with only a few additions as necessary. He thanked Konopa and Councilor Dick Olsen because they share his opinions. He was at the December 5, 2018, council meeting and was shocked at the behavior exhibited by a lot of people. He suggested the council slow down and stick to the state minimum standards, so it doesn't turn into a free-for-all.

Matthew Fitchett, 1140 10th Avenue SW, asked the council to move forward with amended changes to allow 900 square feet and not require on-street parking. There are multiple ADUs on his street, and it hasn't changed the makeup or feel of the neighborhood. He described the size, location, and access to the ADUs. He recently built a garage in his backyard and the curb cut and driveway required for that was a bigger issue for parking than the ADU parking. There are other issues in his neighborhood that he finds much more annoying than the ADUs.

Fitchett said he thinks Konopa's hesitation and repeated veto of the ADUs is her fear that 900 square feet would allow three bedrooms and increase the number of people in the neighborhood. It is possible, but unlikely. He described rentals he is building. He thinks ADUs allow people a second income stream.

Buying non-owner-occupied buildings requires 25% down, and interest rates are typically half a point higher; so for many people this would be unaffordable. If it is owner-occupied, there are other financing tools available making it much more feasible. Many other cultures have multi-generational living in place. He thinks we will have to trend that way too at some point, given the large number of aging baby boomers. He described the house his parents live in and the house he lives in. He thinks moving to a space the size of an ADU would be difficult. He thinks a functional ADU, which would be larger than 750 square feet, could be a tool to make retirement achievable for most middle-class families. He is also a builder and pointed out that he has never been approached to build an ADU in this area. He has helped to build an ADU in Portland; that ADU was used for rental income.

Councilor Rich Kellum and Fitchett discussed the number of cars that are owned by the people in the ADUs in his area.

Councilor A. Johnson asked Fitchett the cost to build an 850-square-foot ADU. Fitchett builds for himself so his numbers would not be a true reflection. The standard is \$135 per square foot, not including system development charges (SDCs) for a nice home. He described ADUs in Portland. He explained why ADUs would be more expensive to build per square foot, like building in tighter areas.

Camron Settlemier, 230 Seventh Avenue SW, said he is not against ADUs, but he is concerned about the impact on neighborhoods and long-term consequences. He feels that owner occupation is key because owners will be more invested in the neighborhood. He has heard people say that ADUs don't cause problems, but the Landmarks Advisory Commission (LAC) will soon be taking up an ADU issue, so it is already having an impact. Looking at the regulations does matter. The increase in the cost of land is driving developers to consider opportunities to maximize value. An ADU can cover 60% of the lot, so after parking is added, there is not much landscaping or yard left. In regards to his earlier comments about out-of-state developers, Settlemier agreed that local people might do ADUs too, but they are generally more in tune with and involved in the neighborhood. Real estate is becoming a commodity and a lot of the investment funding is being driven by people from Asia who speculate in real estate looking for locations to build and make a profit.

Settlemier said that removing owner occupation of ADUs, which is not required by state law, would forever change the character of Albany's single-family zoning districts. He described how outside and local developers could buy, build ADUs, and sell, and how in particular the 900 square feet versus 750 square feet standard would incentivize this practice. They could flip houses without regard to the long-term consequences to the neighborhood. As to claims by real estate lobbyists that ADUs help affordable housing, Settlemier said it doesn't always happen that way, and he explained why. Portland is a case study that shows how under the guise of affordable housing, the availability of entry-level homes will actually decrease. He said, if you care about affordable housing, keep the size limit to 750 square feet and the owner-occupied protections. This would mean that ADUs are built by people who are invested in their neighborhoods, and they would be less likely to be built to maximize profit and more likely to be built for their original purpose, which is an affordable unit for the in-laws.

Settlemier said code changes need to be considered. He read from Chapter 2 of the Albany Comprehensive Plan, which addresses open spaces, natural resources, historic structures, and land uses. He thinks some of the conditions being proposed for ADUs could be in violation of the plan, and it would have an even greater negative effect on single-family zones that are outside of the historic overlay district. Changing the zoning is a bait-and-switch tactic that would not protect neighborhoods.

Kellum asked, when you said that people from Asia who speculate in real estate are coming into market in big way, do you mean generally in the US, Oregon, or Albany? Settlemier said he is not aware of them specifically in Albany, but they are on the west coast. They are market fund advisors who go out and look to invest wherever they can. Kellum pointed out that we are talking about Albany.

A. Johnson asked Settlemier how many young people he has talked to about this. Settlemier said, not many. A. Johnson said that he has talked to many, and they say they can't afford to live in Albany because of the rental prices. If parents had a 900-square-foot ADU, and it would keep young people here, wouldn't we want that? Settlemier said, if it was owner occupied, yes. A. Johnson asked, if I had the resources to build an ADU, hired a property manager, and then moved to California, would that be acceptable to Settlemier? Settlemier said it is a slippery slope and suggested multiple things to consider.

Chad Robinson, 1107 10th Avenue SW, said we live in a great town in a great state. Investors, whether local or out of state, wouldn't be looking at this if we didn't have a housing issue. He lives in a house with an ADU behind it, and he wouldn't have bought the house if it hadn't had the income of the ADU. It

will allow him to do renovations and pay his house off faster. He enjoys downtown Albany, the residences and businesses, and has enjoyed seeing the improvements made. He would like to see all houses with large lots, but the reality is that there are a lot of people coming to Albany and there needs to be affordable housing. If you limit ADUs to 750 square feet, then you might see an issue of the fabric of the neighborhood eroding. If you allow ADUs to be larger, you will allow small families, single parents, multi-generational housing, etc. Smaller ADUs would bring lower-income rentals, transitional housing, and higher turnover. If the setbacks and other regulations allow for a larger unit, then we would attract more diversity to the neighborhoods. Also, when thinking about Portland and the parking situation, you are ignoring the traffic situation. If you can get more people to the downtown core, it helps alleviate the traffic congestion in other areas.

John Robinson, 2500 Del Rio Court SE, is a general contractor in Albany and has been in business for 13 years. He is interested in ADUs because he has contacts that want them built, and he is interested in private property owners' rights. It is the property owners that pay taxes that fund the operation of government. He shared a story of building to fit a multi-generational situation. This solves many problems and allows for aging in place.

Robinson said his focus was on four areas that Konopa has expressed concern over: square footage, owner occupancy, parking, and the number of ADUs built. He distributed a handout with three pages (see agenda file). He researched neighboring cities with populations similar to Albany's. Page 1 of his handouts show the results. Only Keizer limits square footage to 750. He has been working on design plans for an ADU slightly larger than that, in the shape of a square. He described the difference between building to fit a square versus a rectangle. The 750 square feet would limit flexibility. He prefers 900 square feet to allow for more flexibility. As to owner occupancy, only three of the cities required it; six do not. Senate Bill 1051 recommended against requiring owner occupancy because of enforcement issues. The City's planning division and city attorney have agreed because of the legality of such a requirement. Cities that do require it may face court challenges.

Robinson said he was quoting from a metro ADU zoning report from September of 2018. He did not give the document to the clerk for the record. He stated that the report said that eliminating owner occupancy requirements also minimizes code enforcement concerns about tenant residency status; and stated that this is not regulated for any other type of residence. Four cities require one onsite parking space; two cities have no onsite parking requirements; and three allow a substitution of street parking if it is available. He spoke about Corvallis' requirement.

Robinson said he was quoting from the March 2018 guide for implementing Senate Bill 1051 from the Oregon Department of Land Conservation. He did not give the document to the clerk for the record. He stated that when an additional off-street parking space requires a new or widened curb cut, it removes existing on-street parking, resulting in no net gain of parking supply. He said this is like robbing your neighbor of their ability to park on the street. As to permits, the first seven cities issued six or fewer in 2018; the two cities with the most permits are larger than Albany. Robinson described what other cities have done to cap or waive SDC fees in order to encourage ADUs.

Robinson said that based on his research, he doesn't foresee a lot of ADUs being built here. He thinks one would cost \$80,000 to \$100,000. Financing is difficult. He read the underlined points on page 2 of the handouts he provided. Robinson said page 3 of the handouts is from a Metro ADU zoning report from September 2018; it documents ADU adoption rates over 18 years. The statewide average is one ADU per 2,000 people; in Albany, 53,000 people could equal 23 ADUs over 18 years. The data confirms that, outside of Portland, there are not a lot of ADUs being built. In summary, he doesn't see a lot of ADUs being built here; he has no problem with the 900-square foot limit; he sees no problem occurring due to non-owner occupancy; and no problem with parking. He suggested the city council pass the original ordinance.

Holly Sears, 645 Waverly Drive SE, spoke on behalf of the more than 500 members of the Willamette Association of Realtors. They are in support of Ordinance B. The overarching point of testimony already provided to the council is that Albany is considered by the state to be a severely rent-burdened city. That means that 27% of renter households spend more than 50% of their income on housing. We are in a housing crisis. ADUs won't entirely solve it, but it is a tool in the toolbox to alleviate the housing burden. The only caveat is that if there are too many restrictions on ADUs, they will not help to alleviate the problem. She encouraged the council to not adopt the requirement for owner occupancy because it would be difficult to enforce and would be burdensome for those who rely on the ADU as a source of income, especially for the elderly population.

Sears said they have heard a lot about investors coming in and flipping houses to use as rentals. She recalled that this topic came up about three years ago in Salem, prior to Senate Bill 1051. She corresponded with a Salem staff person and learned that while there were concerns at the time, they have not come true for their city and the law has been in effect for 2.5 years. Salem has no owner-occupancy requirement and their maximum is 900 square feet with no additional parking spaces required.

Sears said that other multi-family dwellings such as duplexes and apartments don't have owner-occupancy requirements, so they don't see why ADUs should be treated any differently. 900 square feet is a reasonable size. She pointed out that just because 900 square feet is allowed doesn't mean they would all build to that; they could be smaller. As to parking, the Department of Land Conservation and Development's guide on ADUs points out that requirements for parking are one of the biggest barriers to ADUs in communities. Making room for off-street parking requires a new or widened curb cut, which then removes existing on-street parking space, with no net gain in parking supply. Last year, there were only six ADU permit applications in Albany. The cost to build an ADU is substantial and is already a huge barrier. She asked that the council not add to the list of burdens on Albany renters.

Mike Quinn, PO Box 2437, is a developer, investor, and contractor in Albany. He hears about greedy builders making a profit. He said they have to make a living and that it is market-driven. He spoke about the popularity of our area for people moving in. The more the council stifles growth, the more demand goes up, and then tax assessments increase. He spoke about assessable properties in Linn County increasing almost 16 percent in one year. He doubts out-of-town developers are ready to jump in to Albany and explained why. Quinn spoke about the \$750,000 Albany receives as a Metropolitan Planning Organization (MPO) and suggested the council use that to investigate this subject.

Wayne Scheler, 34819 Knox Butte Road E, spoke in favor of Ordinance B. This would help the housing shortage. As to the size and accessibility for the disabled, ADUs would better serve them than tiny homes. As to other cities, he said to look at Albany and not compare us to other places. For regulating the owner-occupied aspect, when the owner sells the home, it would be hard to regulate who occupies the ADU.

Teresa McGuire, 2844 NW Arlington, distributed a letter (see agenda file). She did live in Portland for 30 years and she is very happy to be back in Albany. She described her career of building homes and currently owns rentals in Corvallis. She believes this is about character and what that should look like for our town. There are valid points with affordable housing from the aspect of senior living. As to street parking, she agrees that curb cuts can take away other spacing. She described parking in her neighborhood. If there is no curb and gutter there could be water quality issues. She read portions of the agenda packet that addressed standards for Albany neighborhoods. She doesn't think ADUs are tied to the street. She spoke about how building a two-story ADU would impact how the sun shines on the neighbors, and how it would overshadow the privacy barriers between homes.

John Klock, 830 NW Riverbow Avenue, said that Hickory Hills is a small subdivision in North Albany. In the last 10 years, there have been several things added to the area: a park-and-ride, a Bonaventure assisted living facility, about 20 homes, the Hickory Hills apartments, and others. North Albany Road has become congested along with Highway 20. The bridge is constantly backed up. He asked, for ADUs, what is the sustainability 40-60 years down the road as it relates to walkability and open spaces. He is concerned.

Christine Halkey, 1595 Waverly Drive SE #201, said that the points of view from both sides so far have been from property owners. She is a renter and may never own a home. Affordable housing is important to her. She is in favor of ADUs but is concerned about the lack of off-street parking in any neighborhood because relying on the on-street parking leads to safety issues. People can step out between cars and suddenly appear out of nowhere.

Mona Farmer said she may be moving to Albany. She originally felt one way, but after tonight's testimony she has gone the other direction. When she looks to buy a house, she doesn't want to buy a one-story with a two-story looking down on her. She suggested that ADUs could have limitations on height and restrictions on what can be built. She lives in the country and has been surprised to get notices from the county when neighbors wanted to make changes. Her point is, the neighbors were given consideration. She spoke about helping a friend to find a lot for dual living, and when the property was for sale it was very competitive because there is a market for that type of housing. She thinks that neighbors should have input over the design of the ADUs in their neighborhood.

Michael Fox, 520 19th Avenue SW, said he lives in a big house. He spoke about ADUs going up next to him. His experience is that they anchor the neighborhood. They are not suppressing property values, rather they are buoying them because many of the other properties are distressed and might have been

torn down for redevelopment if the ADUs had not gone in. He has not seen issues with parking, and his neighborhood includes an apartment that uses on-street parking. As to the housing crisis, his house has gone up in value such that if he were purchasing it now, he would not be able to. Rather than imposing additional restrictions, he suggested the City offer incentives for people to want to stay in their homes.

Anne Ketter, 1210 Washington Street SW, is concerned about affordable housing. She doesn't see ADUs as a solution. She spoke about a lack of planning for affordable housing in Portland and Corvallis where the demand is high. This is just a Bandaid and won't fix the bigger problem. We need a bigger, better plan and approach to long-term solutions.

Dave Pinyerd, 1116 11th Avenue SW, asked why so many are testifying for making the change if there will be so few built? It seems that if the change is made, many builders will be excited about it, even though they say they don't want to build ADUs. He asked why there is a need to drop the owner occupancy requirement. He asked, if ADUs are so expensive to build, how will owners be able to rent to low-income tenants? He doesn't see how that is being addressed. He is not sure why we are in such a hurry to change the ordinance to make larger ADUs when there are so few being permitted and there is so little data on what their impact will be. He spoke about other cities that required owner occupancy.

Debra Bangler, 3225 14th Avenue SE, lives in a small ranch-style home. There are two ADUs in her neighborhood that are two-story, and she said it sickened the rest of the neighborhood. They wondered where they got the permits. The acreage is usually 50 x 100 feet and they value their large lots. They are a close-knit community and she doesn't know why there needs to be more density in their desirable neighborhood. She doesn't see ADUs as an answer. She thinks they are trendy now, but she said that we have yet to see good or bad of ADUs.

Konopa said five letters had been submitted and were on the dais. Staff explained that those five letters, along with documents that were handed directly to the clerk during this meeting, will become part of the official archived agenda, which is available through the public records request process.

Staff.

Staff had no additional information.

Konopa closed the public hearing at 9:03 p.m.

Konopa read the statements regarding the Land Use Board of Appeals (LUBA) appeal period.

City Attorney Sean Kidd read Ordinance A for the first time in title only: AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE TEXT AND ADOPTING FINDINGS AND DECLARING AN EMERGENCY.

MOTION: Councilor Bill Coburn moved to have the city attorney read the ordinance a second time in title only and Olsen seconded it. The motion failed 2-4 with Sykes, B. Johnson, Kellum, and A. Johnson voting no. It requires a unanimous vote of the council for a second reading in the same meeting.

This item will come back to the next regular session for a second reading.

Kidd read Ordinance B for the first time in title only: AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE TEXT AND ADOPTING FINDINGS AND DECLARING AN EMERGENCY.

Kidd pointed out that the titles of both are identical; only the exhibits are different.

MOTION: Kellum moved to have the city attorney read Ordinance B for a second time in title only and B. Johnson seconded it. The motion passed 5-1 with Coburn voting no. It requires a unanimous vote of the council for a second reading in the same meeting.

This item will come back to the next regular session for a second reading.

Citizen speaker – soccer teams

9:12 p.m.

Logan Hoffman, 4211 Somerset Drive NE, representing the youth soccer team in the audience, spoke about soccer fields. Hoffman is the director of a nonprofit soccer organization called Total Futbol Academy (TFA) Willamette. In the last three years they have grown from 90 members to 300. They are more than a soccer club, providing mentorship, direction, and opportunities regardless of socioeconomic background. In 2018

they provided over \$12,000 in scholarship assistance to low-income youth. They partner with South Albany High School to make sure seniors graduate with high GPAs. Some of the students receive soccer scholarships. They also partner with Jackson Youth Services to provide sports opportunities for students with physical and mental disabilities. They also provide economic and social engagement opportunities.

Hoffman said that organizations like this help the City to meet its strategic goals and are preparing the next generation of leaders. There is a lack of facilities for youth, particularly at the city level. Greater Albany Public Schools does all they can to help, but they are overloaded. Hoffman said he was surprised that there is not a single field in Albany that can be rented for soccer or football. The only field is Timber Linn.

Konopa said it is a growing sport. Teams are always competing for time in the same facilities. It is not just a soccer issue, as it impacts other sports as well.

Hoffman said that this lack of space was noted in the Parks Master Plan. He hopes that when Parks does their next planning session, this is included. These kids deserve facilities and opportunities. Discussion followed about American Youth Soccer Organization's use of Timber Linn Park.

Hoffman represents 400 kids. He said GAPS allows them to reserve fields, but they have difficulty reserving other fields. He suggested they explore collaborative public and private partnerships, and possible grant opportunities.

A. Johnson added that in his role as a referee, he has seen teams kicked off of fields because of conflicts. It is an issue for adult referees as well and makes it difficult to schedule.

#### RECESS

The meeting recessed for a break at 9:22 p.m.

#### RECONVENE

The meeting reconvened at 9:32 p.m.

#### Public Hearing

Adjusting lease rates for Albany Municipal Airport t-hangars and tie-downs.

Open: Konopa opened the public hearing at 9:33 p.m.

A signup sheet was available for the public (see agenda file).

Transportation Superintendent Jon Goldman said the council last set rates in 1984. The Airport Advisory Commission thought this would be a good time to raise the rates, so they will be incrementally increased. Discussion followed.

No one wished to speak.

Close: Konopa closed the public hearing at 9:35 p.m.

MOTION: Johnson moved to adopt the resolution and Kellum seconded it. The motion passed 6-0 and was designated Resolution No. 6760.

#### Adoption of Resolution

**9:35 p.m.**

Adopting minimum standards for the Albany Municipal Airport.

Goldman said Albany airport uses federal dollars and grant assurances through Federal Aviation Administration (FAA) Airport Improvement funds (AIP), one of which prohibits exclusive rights. The resolution adopts minimum standards for commercial aeronautical activities. He explained how it levels the playing field. It is not a requirement, but the FAA highly recommends imposing standards.

Coburn asked if the Fixed Base Operator (FBO) sells fuel. Goldman said yes. Discussion followed.

A. Johnson asked if the insurance is reviewed annually. Goldman said the insurance rate has been the same for a few years. Insuring the hangars is the responsibility of the lessee and each is insured for \$500,000.

MOTION: Coburn moved to adopt the resolution and Kellum seconded it. The motion passed 6-0 and was designated Resolution No. 6761.

Business from the Public

9:38 p.m.

Chet Houser, representing Monteith Historical Society, said the society works with half of the hotels in Albany and was recently asked what kids can do in Albany during the school break in February. Houser said they took that as a challenge and will use some of their City Transient Lodging Tax allotment to put on a celebration for Oregon's 160th birthday. He described the event and invited the council (see agenda file). He discussed activities planned for that day by the fire department, Albany Regional Museum, and the Cumberland Activity Center.

David Abarr, 625 Fourth Avenue SE, didn't attend the January 9, 2019, Council meeting, but watched the video. He was concerned about unfair characterizations made during the discussion about citizen advisory boards. He said he serves on the Landmarks Advisory Commission (LAC) because he loves Albany. Albany has the second largest inventory of historic homes in Oregon, and the most varied architecture in the entire state. He read the LAC mission statement (see agenda file). When he was first appointed, he received a thick binder of standards. The characterizations that were made on January 9 made it sound as though the members make haphazard decisions not based on process or fact.

Abarr read standards provided by the National Park Service, which is part of the Department of the Interior, about four distinct approaches to historic properties. His concern is that if members are to be appointed to the LAC, that councilors use sense in making the appointments, so that they are the best fit for the citizen advisory groups.

Abarr said he was quoting statements made by Kellum. He did not give the statements to the clerk for the record. Abarr said he is concerned that Kellum suggested there are no facts or standards involved in the LAC's decision making, and about Kellum's suggestion that appointed members should include citizens who are dissatisfied with a decision the group may have made, in order to have objectivity.

Kellum pointed out that the Department of the Interior standards are suggestions, not laws. Discussion followed. Kellum's point is that the LAC should include members who are objective in order to achieve a balance. Abarr's point is that the LAC should have people who understand and embrace the LAC's mission statement and are willing to apply the suggested standards.

Discussion followed about whether or not the city council thinks there is objectivity on the city's advisory boards.

Mike Quinn, North Albany, spoke about Hoffman's testimony about the need for soccer fields. He suggested several options that the council should consider.

Quinn wants the council to direct City staff to change encroachment widths to a sliding scale. He spoke with Transportation Systems Analyst Ron Irish and Irish liked his sliding scale idea. Quinn described how it would work. It would be market driven. Konopa asked staff to report back to the council on this issue.

Quinn suggested the City change the billing mechanism for water and sewer for builders. He spoke about how Albany processes new meter requests as compared to Millersburg. He gets charged money every month and he doesn't use the service. He made suggestions about how to change the process. Konopa asked staff to report back to the council on this issue.

Camron Settlemier, 230 Seventh Avenue SW, read from the Albany Comprehensive Plan (ACP), Chapter 2, Goal 5, regarding open space, scenic and historic areas, and natural resources. Settlemier read further about how citizen groups have been involved in the process and been instrumental in support projects. The LAC was created in part to develop education and funding programs to protect historic resources. He read from Article 7 of the Albany Development Code (ADC), regarding the historical overlay district as a means for the City to formally recognize and protect its historic and architectural resources.

Settlemier said he takes offense at some comments by councilors. LAC members dedicate their time to uphold the City's preservation goals as stated in the Comprehensive Plan. They do so by following the rules of ADC Section 7. Decisions are not based on personal bias, rather they use these City documents as guidance. It makes no sense to appoint people to the LAC who want to tear things down and go against the ADC and ACP. It mocks those who have spent their professional and personal energies on the LAC. He spoke about the LAC voting record for 2018, and the mayor's duties. Taking the mayor's appointing duties away is vindictive and has no place in our city government.

Settlemier showed the council a picture of him and his brother. He spoke about growing up in downtown Albany. He described the different places he has lived and concluded that Albany has something special. He showed a second picture of his house in downtown Albany. A third picture shows him as a child, window shopping in the downtown area. The Monteith district still has today the things that he loved as a child growing up here. Future generations deserve to enjoy Albany's heritage. He said, this is called stewardship, and it is the reason why we should not appoint people to the LAC who want to tear buildings down.

Adoption of Consent Calendar

**10:11 p.m.**

- 1) Approval of Minutes
  - a) December 3, 2018, City Council Work Session.
  - b) December 5, 2018, City Council Meeting.
- 2) Adoption of Resolutions
  - a) Accepting a 50-foot wide sanitary sewer easement as part of SS-17-01; Linn County Map and Tax Lot No. 11S03W05DA 00400. RES. NO. 6762
- 3) Recommendations to OLCC:
  - a) Approval of a full on-premises sales, commercial, new outlet liquor license application for DTG II, Inc., located at 211 First Avenue W.
  - b) Approval of a limited on-premises sales, change of ownership liquor license application for Tone Thai, LLC., located at 236 First Avenue W.

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

Award of Contracts

**10:12 p.m.**

- 1) Authorizing staff to enter into contracts with Clair Company, Inc., and NW Code Professionals for on-call building inspection and plan review services.

Building Official Manager Johnathan Balkema said the Building Division uses on-call inspectors to backfill for staffing. Currently, they are using on-call inspectors for commercial plumbing inspections. This council action would add capacity in the event that the current vendor was unable to meet the need. A Request for Proposals (RFP) was put out in December. Four RFPs were received, and staff selected two, Clair Company Inc. and NW Code Professionals.

B. Johnson asked if the City has enough people with the proper certifications. Balkema explained that each discipline has to have a certification from the state of Oregon. There is a shortage of A-level electrical and A-level plumbing inspectors. We don't have the plumbing inspectors, so we rely on contracts for that service.

Kellum asked if the vendors we would be contracting with are qualified by the state. Balkema said yes. Discussion followed.

B. Johnson asked if City staff is trying to get the certifications. Balkema said the current City staff are not qualified, but with each recruitment the City advertises for people with the certification.

MOTION: Sykes moved to adopt the resolution and Kellum seconded it. The motion passed 6-0 and was designated Resolution No. 6763.

- 2) Authorizing staff to enter into a contract with Braun Industries, Inc., for the purchase of two medic units.

Fire Chief John Bradner said Albany Fire Department (AFD) needs to replace two aging medic units. This request is for an exemption from the competitive bid process. This is a cooperative purchase through an existing contract, as outlined in the staff report. AFD staff did a side-by-side comparison of the major manufacturers of medic units and identified through that process the one that best meets our needs. They were evaluated on a number of things including cost. Braun Industries, Inc. was the clear winner, and the local vendor is Hughes in Springfield. Lebanon looked at the agreement and they are also purchasing one, so the cities were able to save \$9,000 on each unit.

MOTION: Sykes moved to adopt the resolution and Kellum seconded it. The motion passed 6-0 and was designated Resolution No. 6764.

Approval of Agreement

10:22 p.m.

Approving an Intergovernmental Agreement (IGA) with the City of Lebanon to haul excess solids from the Lebanon Wastewater Treatment Plant to the Albany-Millersburg Water Reclamation Facility.

Wastewater Superintendent Kristin Preston said that Lebanon needs help with excess solids due to capacity issues that occurred during the winter. We had a previous IGA from last year which accounted for about 3% of our solids. They didn't need emergency hauling last year, so we didn't receive any at the Water Reclamation Facility (WRF). That previous IGA with Lebanon expired in December 2018, and they have asked for another agreement. The WRF is still able to accept a limited amount, so we have proposed a similar IGA. Staff reported that the cities of Albany and Lebanon have a good relationship. She explained the details of the IGA.

Preston said this IGA accounts for increases if Coffin Butte raises its rates. She explained each city's facilities and their handling of solid waste.

MOTION: B. Johnson moved to adopt the resolution and Sykes seconded it. The motion passed 6-0 and was designated Resolution No. 6765.

Appointments

10:28 p.m.

- 1) Citizen advisory groups.

MOTION: Olsen moved to approve the appointments and reappointments as outlined in the staff report. Kellum agreed to second the motion if it is amended to remove the LAC.

WITHDRAWN: Olsen withdrew his motion.

Olsen said LAC needs to be appointed.

MOTION: Kellum moved to approve the appointments and reappointments as outlined in the staff report, except for the LAC. Coburn seconded the motion.

Coburn said he was under the impression that staff would be bringing information back about the appointment process. City Manager Peter Troedsson said staff is looking into the appointment process. Staff needs to look at what functions remain for LAC and what the impact would be of not appointing them this evening. Staff is concerned that the LAC has land-use decision-making authority but is still named "advisory." Troedsson provided the history of the LAC's evolution. He said if the council wants to make a change in the process it can be done, but it will take some research and time. Discussion followed.

Coburn pointed out that the two LAC actions are reappointments, so they can continue to serve anyway, based on Ordinance No. 5655. Discussion followed.

Coburn thinks there is room for thought and discussion to find a solution that would allow for a cross section of the community, and still have the mayor make the appointments. Discussion followed.

Kellum wants to make people understand what is and is not acceptable conduct when they are members of boards and commission.

A. Johnson pointed out that the people on boards and commissions are volunteers and we should respect that. This can't be solved today, so he supports approving the appointments now and having staff review the process.

Kidd said he researched how appointments to landmarks committees are made in other Oregon cities. Almost all are made up of people who are well-versed in historic preservation and have a passion for it and are appointed by the mayor. The difference in Albany is that other cities' landmarks committees are advisory only; they do not make land-use decisions. In 2000, the council delegated authority to the LAC to make land-use decisions because they were overwhelmed, and therein lies the rub. Kidd gave some history of how the LAC worked before 2000. Discussion followed.

WITHDRAWN: Coburn withdrew his second of Kellum's motion.

There was no second to Olsen's motion.

MOTION: Coburn moved to approve the appointments and reappointments of the citizen advisory groups as outlined in the staff report and Olsen seconded it. The motion passed 4-3, with B. Johnson, Kellum and Sykes voting no.

2) Memo regarding the appointment of Kellum to the Hospital Facility Authority (HFA) Board

There was a staff report on the dais (see agenda file).

MOTION: A. Johnson moved to appoint Kellum to the Hospital Facility Authority. Sykes seconded the motion and it passed 6-0.

Report

Adoption of the Strategic Plan for FY 2019 through FY 2023.

Deputy City Manager/CIO Jorge Salinas said the document includes some minor updates.

MOTION: Sykes moved to adopt the Strategic Plan FY 2019. A Johnson seconded the motion and it passed 6-0.

BUSINESS FROM THE COUNCIL

10:46 p.m.

Konopa said she and Troedsson will be in Salem for the League of Oregon Cities (LOC) City Day.

RECESS

The council recessed for a short break at 10:47 p.m.

RECONVENE

The council reconvened at 10:49 p.m.

RECESS TO EXECUTIVE SESSION TO DISCUSS PENDING LITIGATION OR LITIGATION LIKELY TO BE FILED IN ACCORDANCE WITH ORS 192.660(2)(h).

The council recessed to executive session at 10:49 p.m.

RECONVENE

The council reconvened to regular session at 10:58 p.m.

MOTION: Johnson moved to authorize the city manager to work with Cable Huston LLP to file a petition for judicial review in Linn County for the NPDES MS4 Phase II stormwater general permit issued November 30, 2018. Coburn seconded the motion and it passed 6-0.

NEXT MEETING DATES

- Monday, January 28, 2019; 4:00 p.m. Work Session

ADJOURNMENT

There being no other business, the meeting was adjourned at 11:00 p.m.

Respectfully submitted,

Reviewed by,

Mary Dibble  
City Clerk

Peter Troedsson  
City Manager

*Note: Staff handouts referred to in the minutes as (see agenda file) are available on the website in the "Staff Handouts" column.*