



APPROVED: February 8, 2012

CITY OF ALBANY
Albany Revitalization Agency
Council Chambers, 333 Broadalbin Street SW
Wednesday, January 11, 2012
7:15 p.m.

MINUTES

Agency Members present: Sharon Konopa, Jeff Christman, Bessie Johnson, Floyd Collins, Ray Kopczynski, Dick Olsen, and Bill Coburn

Agency Members absent: None

Staff present: Urban Renewal Manager Kate Porsche, Public Information Officer/Management Assistant Marilyn Smith, Community Development Director Greg Byrne, Public Works Director Mark Shepard, City Attorney Jim Delapoer, City Manager Wes Hare, and Finance Director Stewart Taylor

CALL TO ORDER

Chair Floyd Collins called the meeting to order at 7:15 p.m.

ROLL CALL

APPROVAL OF MINUTES

December 14, 2011, minutes

Member Ray Kopczynski moved to approve the December 14, 2011, minutes as presented. Member Bill Coburn seconded the motion, and it passed 7-0.

SCHEDULED BUSINESS

Business from the Public

Tom Cordier, 2240 Park Terrace NW, said that the agenda includes appointments for the Central Albany Revitalization Area (CARA) Advisory Board, but he doesn't know who they are. He would like some kind of biographical sketch for those being appointed. It would help the public to understand who those people are and also, for those being reappointed, he wants to know how they voted on the Promenade, which was a 7-7 tie. Mayor Sharon Konopa said the vote on the Promenade was 12-2.

Collins explained that all CARA Advisory Board applications are advertised and the applications were reviewed by the City Council in November. The applications become part of the agenda packet. The agenda packets are available in the City Manager's Office and also are posted to the City's website. The voting history of members would be listed in the minutes of the various meetings they attended, which are also posted on the website.

Appointments to CARA Advisory Board

Collins pointed out the revised list of appointments on the dais (see agenda file).

Mark Spence	(Mayor Konopa's reappointment)
Kate Foster	(Councilor Kopczynkis's new appointment as a reappointment)
Gordon Kirbey, Jr.	(Councilor Christman's reappointment)

MOTION: Kopczynski moved to accept the appointments. Member Jeff Christman seconded the motion.

Kopczynski explained the reason the list was revised. On Monday, he was contacted by Greg Hamann from Linn-Benton Community College (LBCC), who respectfully removed his name from the list due to a conflict with meetings. The CARA Advisory Board meetings are scheduled for the same time as LBCC meetings. Kopczynski asked Kate Foster to be on the Board again, and she agreed.

Member Bessie Johnson asked if there was a limit to how many Committees one person can serve on at the same time. Konopa said that the only limitation is that a person cannot be on the Planning Commission and the Budget Committee at the same time. Generally, folks are not on more than two committees at the same time.

VOTE: A vote was taken on the motion, and it passed 7-0.

BUSINESS FROM THE AGENCY

Collins asked City Attorney Jim Delapoer if CARA or Albany Revitalization Agency (ARA) are subject to the provisions of initiatives or referendums. Delapoer said generally speaking, no. The initiative-referendum power is a mechanism by which the voters can enact or repeal laws; so the threshold requirement for an application for initiative or referendum is that it must be a law. The City's initiative and referendum ordinance says people can enact upon all local laws by the initiative or referendum process. Later on, it speaks to the ability to use the referendum process for a resolution. Case law is clear that local laws are not only ordinances; they can also be resolutions and that whether something is done by ordinance or resolution is not the dispositive determiner of whether or not it is a law.

Delapoer said that generally, there are two kinds of things cities do: make legislative decisions to adopt local laws and make administrative decisions. As the courts decide which is which, one of their favorite criteria is one that the Supreme Court uses: If there was originally a law adopted which put in place a structure under which subsequent decisions are made, the subsequent decisions are administrative decisions and the original decision is the law. In the case of the urban renewal agency, the City adopted an urban renewal plan through an ordinance. That original ordinance creating the plan and the area was law and could have been referred. When that law was adopted along with a plan, the plan had a list of projects with dollar amounts. Decisions made by the ARA, for example, are if the time is right to fund a particular project, and if the ARA wants to incur debt to do so. These are administrative decisions under the framework of a prior ordinance which adopted the plan. In other words, the ARA does not have the power to adopt laws; they are not a legislative body, rather they exist to administer the urban renewal agency which was created by the City Council. So, individual funding decisions of the ARA, such as the Promenade, are not subject initiative or referendum.

To Collins' broader question as to whether the ARA is subject to an initiative, Delapoer replied that he doesn't think the existing ARA is subject to having its administrative decisions reviewed by initiative either. He doesn't think it is possible to pass a new law that substantially makes the administrative decisions of the Agency. The voters could say no more renewal agencies, but that is a different question. He can say with some certainty that the decisions of the Agency are not subject to referendum and the decisions of the Agency are not subject to initiative. The decisions of the City Council with regard to formation of other agencies, however, would be subject to initiative or referendum. The distinction is if they are adopting a law or administering a law that was already adopted.

Collins said that he read the ballot title for Clackamas County. The ballot title says voters want to vote on any substantial modifications to the existing plan or future formation of an urban renewal district. He asked, "So if the City wanted to substantially alter the existing urban renewal plan, could that be subject to initiative?" Delapoer said he cannot opine too precisely to what would happen to a future initiative. The fact is, an initiative could be filed and could still be challenged later. If it were challenged, it would depend on if the courts determined it was legislative or administrative. His understanding about Clackamas County is that most of what will be affected will impact future agencies rather than the current agency.

NEXT MEETING DATE

The next meeting of the ARA is January 18, 2012, at 5:15 p.m.

ADJOURNMENT

Hearing no further business, Chair Collins adjourned the meeting at 7:30 p.m.

Respectfully submitted by,



Mary Dibble, MMC
Deputy City Clerk

Reviewed by,



Kate Porsche
Urban Renewal Manager