

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, November 9, 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, Bessie Johnson, Ray Kopczynski, Dick Olsen, and Floyd Collins.

Councilors absent: Councilor Bill Coburn was excused.

Konopa welcomed Deputy City Attorney Jessica Henson to the dais. She said it's the first time in her years on the dais that she's had a woman sitting in the lawyer's seat. Henson introduced herself.

PROCLAMATIONS

Small Business Saturday.

Konopa read the proclamation as outlined in the agenda packet. Albany Downtown Association (ADA) Executive Director Peggy Burris said the ADA is planning a Shop Small Saturday on November 26 and encouraged citizens to participate. She said that when a dollar is spent at a local merchant, 60 cents of that dollar stays local. At a big box retailer, 6 cents stays in the community, and 20 cents at a chain store. She said she's excited that there are no vacancies on First Avenue except the Century Building, which is in remodel status.

Albany Charitable Toy Run.

Konopa read the proclamation as outlined in the agenda packet. Bill Root, 2634 NW Valley View Drive, said the Toy Run started with other groups around the Valley about 30 years ago here in Albany. When it was disbanded a few years ago, members of the Association for Motorcyclists of Oregon board decided they didn't want to lose the Toy Run. Now five people put it on with help from the Christian Motorcycle Association, the Road Maggots, the Eagles, and Walmart. He thanked the City of Albany for helping with a fire apparatus to lead the parade and police officers to guard the route, along with Public Works personnel to block Broadalbin Street for parking. He invited everyone to come to Walmart for the event.

SCHEDULED BUSINESS

Business from the public.

There was none.

Public Hearing

Water and Wastewater Rate Adjustment and Stormwater Service Charge Implementation

Resolutions:

- 1) Setting rates for stormwater management services.
- 2) Setting rates for water use and repealing Resolution No. 6411.
- 3) Setting rates for wastewater system use and repealing Resolution No. 6498.

Open: Konopa opened the public hearing at 7:28 p.m.

Utility Services Manager Mark Yeager said the hearing is about three linked resolutions for implementation of stormwater service charges and reductions in water and wastewater service charges. He reminded the Council that they have been discussing stormwater service charges for several years, and the resolutions reflect their direction. The water rate reduction is two percent, and sewer rates are to be reduced by six percent. If adopted, all of the rates would be effective March 1, 2017.

Konopa asked if anyone in the audience wished to testify on the proposed resolutions. No one did.

Close: Konopa closed the public hearing at 7:33 p.m.

MOTION: Councilor Floyd Collins moved to adopt the resolution setting rates for stormwater management services. Councilor Ray Kopczynski seconded the motion.

Councilor Rich Kellum said he would like to see a bigger rate reduction for users who can prove their water doesn't go into the City's system. He specified that he wants the reduction only in the variable part of the rate, not the base rate.

VOTE: A vote was taken on the motion and it passed 5-0, and was designated Resolution No. 6547.

MOTION: Collins moved to adopt the resolution setting rates for water use and repealing Resolution No. 6411. Kopczynski seconded the motion, which passed 5-0, and was designated Resolution No. 6548.

MOTION: Collins moved to adopt the resolution setting rates for wastewater use and repealing Resolution No. 6498. Kopczynski seconded the motion, which passed 5-0, and was designated Resolution No. 6549.

City Manager Wes Hare reminded the audience of the extensive discussion about this topic over several years. Tonight's process looked quick and painless but is not. Staff has done a good job working through issues and finding compromises that would not unduly burden ratepayers.

First Reading of Ordinances

Henson read ordinances 1) through 7) for the first time in title only:

- 1) AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) TITLE 18, BUILDING CODE ADMINISTRATION AND PROPERTY MAINTENANCE.
- 2) AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 7.08, DISORDERLY CONDUCT, BY DELETING SUBSECTION 7.08.050(1).
- 3) AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 7.84, PUBLIC NUISANCES.
- 4) AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 9.04, MAINTENANCE OF PROPERTY, BY CREATING NEW SECTION 9.04.045, UNSANITARY CONDITIONS.
- 5) AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 18.30, PROPERTY MAINTENANCE, SECTION 18.30.105, EXCESSIVE VEGETATION.
- 6) AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) TITLE 7 BY ADDING NEW CHAPTER 7.83, DERELICT STRUCTURES.
- 7) AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) TITLE 7 BY ADDING NEW CHAPTER 7.85, CHRONIC NUISANCE PROPERTY.

MOTION: Kellum moved to read ordinances 1) through 7) for a second time in title only. Collins seconded the motion, which passed 5-0.

Collins reminded the Council that for Ordinance No. 3), they were acting on a revised version on the dais (see agenda file), which includes an exemption for land used for agricultural purposes.

Henson read ordinances 1) through 7) a second time in title only.

MOTION: Collins moved to adopt ordinances 1) through 7) (to include the revised version of Ord. No. 3) on the dais). Kopczynski seconded the motion, which passed 5-0. The ordinances were designated, in order of their approval, as follows: Ordinance No. 5877, Ordinance No. 5878, Ordinance No. 5879, Ordinance No. 5880, Ordinance No. 5881, Ordinance No. 5882, and Ordinance No. 5883.

Konopa thanked staff for their hard work on the ordinances, and said she is looking forward to seeing positive results from them.

Amending Albany Municipal Code (AMC) Chapter 13.21.160, Methods of Charging Parking Violations.

Konopa said ordinance number 8) on the list is on the dais (see agenda file). There have been two revisions to this ordinance. The correct one is the one with "\$20" marked in.

Assistant City Manager/Chief Information Officer Jorge Salinas said the newest revision has a new section he forgot to include at Monday's work session. The new section increases fines by increments over time if not paid.

Henson read the ordinance on the dais for the first time in title only: AN ORDINANCE AMENDING ALBANY MUNICIPAL CODE (AMC) CHAPTER 13.21.160, METHODS OF CHARGING PARKING VIOLATIONS.

MOTION: Councilor Bessie Johnson moved to have the ordinance read a second time in title only. Collins seconded the motion, which passed 5-0.

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

MOTION: Collins moved to adopt the ordinance and Johnson seconded it. The motion passed 5-0 and was designated Ordinance No. 5884.

Amending Section 5.08.026 of the Albany Municipal Code establishing regulations for recreational marijuana uses and facilities in the City of Albany.

Konopa said ordinance number 9) on the list is also on the dais (see agenda file). The ordinance updates previously discussed regulations on placement of recreational marijuana facilities in Albany.

Kopczynski said he had a procedural question on what would happen if the ordinance results in a 3-2 vote, since Councilor Bill Coburn is absent. Konopa said only a first reading is scheduled for tonight. It takes a unanimous vote to have a second reading in the same meeting.

Henson read the ordinance for the first time in title only: AN ORDINANCE AMENDING SECTION 5.08.026 OF THE ALBANY MUNICIPAL CODE ESTABLISHING REGULATIONS FOR RECREATIONAL MARIJUANA USES AND FACILITIES IN THE CITY OF ALBANY.

Kopczynski said, since the existing code works well and in view of the overwhelming vote, we have no good reason to change the code. He said the proposed ordinance would zone most marijuana businesses out of Albany. He has several questions. He asked, would the proposed ordinance intentionally stop any of the current four dispensaries from adding recreational marijuana sales to their business?

Konopa said City Attorney Sean Kidd wanted to be present for any discussion of the ordinance, and suggested having discussion at the meeting when the second reading would be done. Kopczynski said he wanted his questions on record. He said there is a City Attorney present tonight. She can choose to defer the questions to Kidd. Henson said she would defer the questions to Kidd.

Kopczynski said his second question is, if so, which ones? Hare said he doesn't think it requires an attorney to say that the proposed ordinance is more restrictive than the current rules, and at least one dispensary could not convert to recreational sales, if the ordinance were adopted as currently worded.

Kopczynski asked, if the ordinance language has the effect of intentionally blocking a business from engaging in a legal enterprise, doesn't that mean they are being zoned out? Kellum said no, they have an existing business, but they wouldn't be able to change that business to a different type of business. Kopczynski said the proposed ordinance would intentionally change the rules to preclude the business.

Kopczynski said at a minimum, recreational marijuana sales should be allowed in any industrial zone. Staff gave three potential siting options to Council some time back. He would like to see high-resolution photo maps of the boundaries of the three options. There is no reason to rush. He said, we can do some of these things after the beginning of the year. Why do them now, given the overwhelming mandate from the voters?

Kellum said there are only two questions. One is, shall we or shall we not allow recreational marijuana sales? The public has said yes overwhelmingly. The second question is, shall we allow recreational marijuana sales next to children? That has been the issue from day one, when the recreational marijuana law was written with a limit of one thousand feet from schools. There are two possible reasons why the law was written with that distance. One is to make people think they were protected so they would vote for it. The other is because the federal government said, if you protect kids we won't come after you for breaking the law. He said if we use the thousand-foot limit there wouldn't be any place in Albany for any marijuana sales. We already had a three hundred-foot limit set up for adult businesses for the express purpose of protecting children, so that's the one we used.

Kopczynski said that Konopa has stated "on camera" that the reason she doesn't want the one location to sell recreational marijuana is not because of children but because of its visibility. Konopa said there are apartments across the street from that location and there are children in the apartments. She said she never likes to have money influence Albany political campaigns. A lot of money came in from out of state in this last election. She said we will never know the true sentiment of Albany voters because of the out-of-state money.

Kopczynski said the voters have spoken. He was surprised to have some money offered to the campaign he started. The campaign worked and the investment will bring benefits to Albany. It takes money to run an effective campaign. He said, we won, and now we all have to abide the will of the people. Discussion followed.

Konopa said the proposed ordinance will come to another meeting of the full Council for a second reading. Johnson said she will be out of town from December 3 through 15, 2016. Collins reminded the Council of the work session tentatively scheduled for Monday, November 14, 2016. The second reading will be scheduled for that meeting.

Councilor Dick Olsen said the way he reads the ordinance, separation is from lot line to lot line. He asked if it would make more sense to measure from building to building instead. He also asked, what's the rush to do this right now?

Konopa said the reason to do it now is to give the dispensaries direction that will help them plan. Kopczynski said if we leave the regulations the way they are now, all four existing dispensaries could add recreational sales. Kellum said he knows of someone who wants to put a grow operation in Albany. The sooner prospective businesses know what the rules are, the easier it is for them to choose a property. Kopczynski said existing rules allow them to do that now. Kellum said yes, as long as you're okay with having marijuana operations next to kids. Discussion followed.

Konopa said we need to get this resolved. It's been going on for over a year.

Collins said he remembers that when we first started discussing medical marijuana everyone in the room at the time who wanted a medical marijuana dispensary said they were not interested in adding recreational sales. Now that we are allowing recreational marijuana, the businesses say they want to do recreational sales.

Johnson said she has been researching Aurora, Colorado. Aurora is restricting the amount of odor that can leave properties. Marijuana operations that produce odor can be fined. Odor might be one reason to restrict marijuana locations in Albany. She will give the Councilors copies of Aurora's ordinances. She thinks people who want to go into the business need to buy property knowing what they'll be able to do. Regulations can help the business. She said she agrees with Konopa and Collins that we need to provide prospective businesses with information they need as soon as possible. Discussion followed.

Konopa said the ordinance will come back next week for the second reading.

Adoption of Resolutions

Authorizing the Fire Department to apply for the U.S. Department of Homeland Security Fiscal Year 2016 Assistance to Firefighters Grant on behalf of Albany Fire Department, Lebanon Fire District, and Tangent Rural Fire Protection District to purchase a bariatric-equipped ambulance for the shared ALS Single-role Medic Unit program.

Fire Chief John Bradner said the Fire Department is asking the Council to authorize them to apply for a grant to purchase a bariatric-equipped ambulance. Kellum asked if there is a downside to this request. Bradner said no.

MOTION: Collins moved to adopt the resolution. Kopczynski seconded the motion, which passed 5-0 and was designated Resolution No. 6550.

Olsen asked how big is "bariatric?" Bradner said the current ambulance cots go to 700 pounds. Five hundred pounds and over is considered bariatric.

Consent Calendar

- 1) Approval of Minutes
 - a) September 26, 2016, Work Session minutes.
 - b) September 28, 2016, Regular Session minutes.
- 2) Approving application and accepting and appropriating funds for the Fiscal Year 2016-17 State Hazardous Materials Emergency Preparedness Grant on behalf of the Mid-Valley Local Emergency Planning Committee for a hazardous materials response exercise and responder training. RES. NO. 6551
- 3) Accepting and appropriating funds for the Fiscal Year 2016-17 State Homeland Security Grant for training and disaster response equipment for the community emergency response team at the Linn-Benton Community College campus. RES. NO. 6552
- 4) Readopting the Investment Policy and repealing Resolution No. 6459. RES. NO. 6553
- 5) Readopting the Risk Management Policy and repealing Resolution No. 6460. RES. NO. 6554
- 6) Readopting Financial Policies and repealing Resolution No. 6461. RES. NO. 6555
- 7) Linn Interagency Narcotics Enforcement (LINE) Intergovernmental Agreement.

MOTION: Kopczynski moved to approve the Consent Calendar as presented. Collins seconded the motion. Olsen said he had a question about item #7. Kopczynski and Collins agreed to remove item #7 from the motion. The motion to approve the Consent Calendar with item #7 removed for discussion passed 5-0.

Olsen asked, if federal law enforcement is involved, will we have to crack down on marijuana? Police Chief Mario Lattanzio said one Drug Enforcement Agency (DEA) agent will be assigned, but marijuana is not their primary focus. He said there are crimes involving marijuana that are against the law, but we are enforcing state law, not federal law. Hare said that at a conference some time back, he heard the U.S. attorney say that federal law agencies' policy is not to prosecute ordinary usage of marijuana. They would prosecute marijuana activity with gang involvement or where it leads to violence. Hare said he is not aware of any federal prosecution of recreational marijuana use in Oregon.

MOTION: Olsen moved to approve item #7. Collins seconded the motion, which passed 5-0.

Appointing Steven Borst to the Library Board.

MOTION: Johnson moved to approve the appointment. Kopczynski seconded the motion, which passed 5-0.

Reports

Reclassifying one Planner II position to Planner III in the Community Development Department.

Public Works Engineering and Community Development Director Jeff Blaine said that they are requesting the reclassification to reflect the expectations of the position. Johnson asked if the position would stay in the bargaining unit. Blaine said yes.

MOTION: Collins moved to approve the reclassification. Kellum seconded the motion, which passed 5-0.

Adding a regular part-time Maple Lawn Preschool Instructor position in the Parks & Recreation Department.

Parks & Recreation Director Ed Hodney said the memo in the agenda packet makes this sound more complicated than it is. This position was previously filled by a contracted instructor. They can't go back to a contract for this position because it gets a lot of supervision, so they are converting it to a City position. Johnson asked what the contractor was paid. Recreation Programs Manager Katie Nooshazar said the contractor received more per class than the City employee will, but the City employee will receive proportionate benefits. The contractor got more money but no benefits and had to take on liability as a self-employed person.

MOTION: Kellum moved to approve the request. Kopczynski seconded the motion, which passed 5-0.

Intergovernmental agreement with City of Adair Village for webmaster services.

Salinas said the agreement is on the dais (see agenda file). Hare declared a conflict of interest. He has a family relationship with someone from City of Adair Village. Salinas said the agreement is the same as the information given at the work session last Monday. Adair Village requested help with their web services and Albany has a very good webmaster. He will give Adair Village about 40 to 50 hours at his full rate, plus mileage.

MOTION: Kellum moved to approve the request. Kopczynski seconded the motion, which passed 5-0.

BUSINESS FROM THE COUNCIL

Johnson said she and her husband recently took their dirty pickup to a car wash. The car wash refused to wash the truck because the dirt was considered environmentally hazardous waste. So they washed it at home and the dirt went into the storm drain. She said some regulations are ridiculous.

Kellum said the stolen portable sawmill has been recovered.

Konopa discussed the arrangements to use the trolley for the Veterans Day Parade.

The next meetings will be: Regular Session on November 14, 2016; Work Session on December 5, 2016; and Regular Session on December 7, 2016.

Management Assistant/Public Information Officer Marilyn Smith said the new city flag will be in the parade, behind the West Albany marching band.

ADJOURNMENT

There being no other business, the meeting was adjourned at 8:29 p.m.

Respectfully submitted,

Reviewed by,

Allison R. Liesse
Accounting Specialist

Stewart Taylor
Finance Director