

CITY OF ALBANY
CITY COUNCIL WORK SESSION
Municipal Court Room
Monday, October 10, 2016
4:00 p.m.

MINUTES

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 4:00 p.m.

ROLL CALL

Councilors present: Mayor Sharon Konopa and Councilors Floyd Collins, Dick Olsen, Ray Kopczynski, Bill Coburn, and Rich Kellum.

Councilors absent: Councilor Bessie Johnson (excused).

BUSINESS FROM THE PUBLIC

None.

STORMWATER UTILITY REPORT

Report on public outreach.

Utility Services Manager Mark Yeager reviewed the information provided in the staff memo. In June 2016, Council directed staff to conduct public outreach following the repeal of the stormwater utility ordinance adopted earlier in the year. There were two major target areas: general outreach, which included an open house, utility bill stuffers, the stormwater website, and articles in City Bridges; and targeted outreach, which included meetings with the Chamber of Commerce, Rotary clubs, and 13 affected businesses.

Yeager explained that, generally, presentations were well received; there was good dialogue with questions and answers; and most people understood what the needs are, but no one was interested in paying any more for services. Yeager noted that for those companies experienced with stormwater, meaning they do business in other communities that have stormwater fees, it was relayed to City staff that the proposed rates were very reasonable compared to those other communities.

Discussion followed related to the suggestions and comments received at the business/industry meetings, which are outlined in the staff report. Yeager highlighted a few of the items on which staff would like Council feedback:

- The scope of the non-single-family residential (NSFR) credit program. The original proposal to Council was a maximum of 25% credit, and many businesses felt that was not enough of a credit.
- Clarification as to whether gravel areas should be considered pervious or impervious area. Currently, gravel is being considered as impervious.
- A decision as to whether properties that don't drain directly to the system should have to pay stormwater charges.

Yeager referred to the Service Charge Impacts table on page 5 of the agenda packet. He stated that the table attempts to show how changes to the NSFR credit program would affect rates in order to maintain revenues, including the option to distribute costs among all customers (including single-family residential) or just the NSFR customers who would be eligible for the credits. Discussion followed.

Councilor Rich Kellum voiced concerns over providing credits for retention, filtration, or other facilities that don't reduce actual costs to the City for operating the system. He feels that credits should be focused toward actions people can take to reduce the demand on the system, which would lower actual costs, such as reducing impervious surface area. Yeager explained that one principle behind a credit program is that from a legal standpoint, providing an opportunity for customers to manage their billing, which may or may not pencil out for everyone, allows the utility to be defensible. He stated that staff is not in favor of an extensive credit program in part because of the staff expense with maintaining and monitoring or inspecting the inventory of credits.

Councilor Floyd Collins pointed out that certain costs for operation of the system are fixed, such as with installation of pipes. He noted that regardless of what an individual property is doing to receive credits, the pipe size remains standard and hard costs remain the same. He also stated that while you may see improvements to quality, there is not likely to be a reduction in quantity; and, while there may be a difference in the timing of when the runoff occurs, the City wouldn't install its system betting on the timing of that runoff. He added that what drives the cost of stormwater systems is peak runoff volume.

Public Works Engineering & Community Development Director Jeff Blaine agreed with Collins, adding that when you look at the cost of the system, it is a citywide cost for operation; and when you narrow it down to each individual property, 99% of the time, an individual property is not going to have a meaningful impact on the

costs of the system. He explained that staff would have to review each request for credits and determine whether the facility installed has a potential benefit to the city; those may not necessarily be things that are quantifiable. Discussion followed.

Councilor Bill Coburn agreed with Collins' point regarding fixed costs that are shared citywide. He gave the example of a homeowner who is able to make his home completely solar-powered; but there are still power lines running in front of the home that have to be maintained.

Councilor Dick Olsen asked for examples of the types of systems that would qualify for credits. Yeager advised that retention/detention ponds that manage how much water comes off of the site would be one option, although those type of systems are fairly ineffective in our region for capturing all water from the property throughout the entire rainy season. Olsen asked who would determine whether a system qualifies. Blaine explained that it would be based on adopted standards for quality/quantity improvements. He stated that it is important to remember that the improvements must go above and beyond minimum development requirements. Olsen said he was adverse to staff having to make judgment calls as to whether or not a system would qualify, and it's something he'd like to stay away from.

Councilor Ray Kopczynski, Coburn, and Collins agreed that the City should offer some general credit options on installations going forward, but not for previously completed infrastructure. Olsen was in agreement to provide credits not to exceed the staff recommendation of 25%. Kellum believes that credits should be offered based on actual costs. He said that he also finds the issue of disallowing credits for prior improvements to be a particular sticking point.

Council directed staff to continue with their recommended 25% credit maximum.

Konopa commented related to the notion that a resident should not have to pay stormwater fees if their property doesn't drain directly to the storm system. She said she would point out to those residents that there is a street in front of their property and all of the roads that they travel around town for work or shopping, that entire network and the storm drains as part of those roads need to be maintained.

There was also general agreement by Council to consider gravel as impervious surface area.

Funding implementation options.

Yeager reviewed the second staff memo, as outlined beginning on page 14 of the agenda packet. He stated that when staff and Council began this process, it was envisioned as a two-step process to first, adopt an ordinance creating the utility, then followed by a resolution adopting rates. Staff is now looking for Council to determine what process they want to use moving forward. The staff memo outlines three options; one is a restart of the process that began in April 2016. Yeager noted that if the ordinance were referred again, Council and staff would have to determine how to handle it at that point. The second option is to modify the sewer rate resolution to incorporate new stormwater service charges. After conferring with the City Attorney's Office, it was determined that this was an option. The third option would be to raise sewer rates to secure additional funding for stormwater services.

Kopczynski voiced support for the first option as it isolates the issue and makes everything transparent, rather than having fees hidden within the sewer rate process.

City Manager Wes Hare noted that if Council sees it as a foregone conclusion that the ordinance would be referred, they could always choose to refer the item to the voters up front as a way to avoid a referendum. Konopa stated that while it sounds like a nice idea to take this to the voters, if the vote is not in support of the stormwater utility and the City has to move ahead anyway, Council may be worse off in terms of public perception. Konopa said she is in support of the second option, to rename the fund to Wastewater/Stormwater Fund, which would keep things transparent but Council could move ahead with implementing the program.

Collins agreed with Kopczynski that stormwater should be treated as a separate utility, in the same manner as the Water and Sewer Funds. He said if the stormwater rate is buried in with wastewater fees, then there is no equity.

Coburn also agreed that Council should move forward with the first option. He said he sees value in keeping things clean and separate; noting that the solid waste issues are yet to be resolved, and should it become necessary to raise sewer rates to deal with that issue, it is preferable to keep stormwater issues separate.

Olsen shared Konopa's concerns over going to the voters. He would also like to move ahead with establishing a stormwater utility.

Kellum stated that he would like to hold off on any new stormwater program until the City has hard facts from the Department of Environmental Quality (DEQ) as to the requirements of the MS4 Phase II permit. Collins said he would normally agree, but takes exception in this case; if there are any delays with DEQ, the City loses all of the momentum built for this issue over the last two years. He also noted that he will not be on the Council after January 2017, so the new Council will not have the benefit of all of his prior knowledge. Discussion followed related to the timing of when the City might expect to receive permit requirements from DEQ.

Blaine explained that the cost recovery proposed at this time is to replace current expenditures; if the Council were to wait for permit requirements to implement a stormwater program, then the City is possibly looking at a much more extensive initial program and increased revenue requirements. Part of this issue is the regulatory requirements, but the other major piece is the \$100 million in stormwater assets that Albany has not been maintaining at an adequate level. Blaine said he doesn't want Council to lose sight of the fact that Albany has a significant infrastructure investment that we're struggling to maintain.

Council agreed to proceed with the first option as outlined in the packet, to adopt an ordinance to create the stormwater utility followed by subsequent adoption of a stormwater rate resolution.

Draft stormwater rate resolution.

Yeager referred to the staff report and draft rate resolution, beginning on page 16 of the agenda packet.

Discussion followed related to the implementation dates of new stormwater fees and Council's options should they decide to defer implementation beyond the March 2017 target.

Konopa asked for clarification on how the surface area will be determined for single-family residential tiers. Yeager explained that surface area would be based on the footprint of the main structure and any attached structures; driveways are not considered in the tier evaluation but were figured in the calculation for total citywide impervious surface area that was used to calculate the base charge.

Yeager noted that the NSFR credits presented in the draft should be consistent with Council's direction at this meeting.

Kellum asked about the credit option provided to schools; what will the City be discussing? Yeager advised that the City would provide education to help students understand what the stormwater system is, how it works, etc. Kellum questioned why the same credit wouldn't be extended to other groups that provide outreach and education such as the Expo Center or City Hall. Yeager explained that this is primarily targeted toward young students; the credit is in exchange for the school allowing access to the students, time on the curriculum for City education efforts, and helping the City to comply with the permit requirements. Yeager noted that credits will be based on a mutual agreement; both the City and the school have to agree on the terms.

Coburn asked whether a final decision had been made to have tiers for the single-family residential category. Discussion followed. There was agreement by Council to have tiers in order to pay some recognition to the fact that there are varying sized homes.

Coburn also asked about previous discussions to proportionately reduce sewer rates when stormwater rates are implemented and wanted to know where that reduction is taken into account. Yeager explained that either concurrent with adoption of the stormwater resolution or at a time designated by Council, staff would bring back resolutions for sewer and water to reduce rates; reductions would not be part of this action, they would be separate resolutions. In response to a question from Coburn, Yeager advised that the average increase is \$2.95 net impact for the average water and sewer customer.

Collins took time to acknowledge staff for the work they've done so far and to recognize that it's taken a lot of thought, talking to other communities to learn what has worked and what hasn't worked. He believes that should be part of the narrative of adopting this program – staff and Council aren't creating this out of thin air; we're taking advantage of what other communities have already done.

Yeager said that staff needs direction from Council as to whether or not to provide a waiver program for property owners who claim their properties do not drain directly to the stormwater system, therefore they should not be responsible to pay stormwater fees. Yeager stated that the details about where they discharge are irrelevant, it's all part of the stormwater system, it's all part of what the City has to manage. The administrative process of trying to evaluate every property is going to be extremely complex and expensive. If we recognize there are some properties that don't drain to the system, there has to be a decision about what is considered the system, if it's all of the pipes, all of the creeks, all of the ditches. Yeager said that based on that, it is hard for him to see how someone can make the argument that they don't use or benefit from the system. He said that staff looked at what other communities do, and they generally do not provide reductions based on where a property drains. Staff also spoke with the consultants on this matter and were advised that this is not something Council should be considering; but based on some of the complaints lodged with Council, it's being discussed.

Kellum said that properties should at least pay the base charge because they're using the street system; but if it can be demonstrated that the stormwater from a property doesn't drain to something maintained by the City, they shouldn't have to pay the usage fees. Konopa pointed out that should the stormwater drain straight to a creek, for example, if there's any sort of erosion or degradation, the City is responsible to fix that, so there would be an impact to the system even in those cases.

Hare commented that he foresees an endless web of arguments from property owners related to this issue if it's opened this up to interpretation. Kopczyński believes that staff has done a good job addressing this issue on

pages 18-19 of the agenda packet. Blaine said that in lengthy discussions with former City Attorney Jim Delapoer, it was determined that the City has some degree of responsibility along every creek in the city and at various points. Yeager added that the MS4 Phase II permit covers all waterways in the city, which is the simplest answer.

Coburn agreed that the City still has the responsibility to maintain the system, so all users should be paying. Collins said that waivers would not be feasible to implement. Konopa said it sounds like there is no Council support for waivers then. Kellum responded that he actually does support waivers. He's said he is thinking of a specific situation with properties that are adjacent to the river and their runoff goes directly to the river. He doesn't believe the City should be charging them for runoff that the City isn't managing. Discussion followed. Blaine commented that with Kellum's riverfront situation, he would argue that the property is still benefiting; they are buying into the system with that charge to ensure that the runoff from everyone upriver from them is being managed appropriately so that it does not become a problem for their property.

There was a majority agreement among Council not to provide a waiver program.

BUSINESS FROM THE COUNCIL

Coburn asked whether Council could expect a report on the previously mentioned solid waste issues along with an update on Albany-Millersburg Talking Water Gardens. Bailey advised that staff is currently working through both items; a consultant is helping staff with an alternative for the solids problem, which will be coming back to Council later this year.

Kopczynski gave a report on the tour of the St. Francis Hotel that took place earlier in the day with students from the University of Oregon as part of the UO Sustainable Cities Initiative program, which he said went very well.

CITY MANAGER REPORT

First Avenue train trestle.

Hare said that Transportation System Analyst Ron Irish has looked at the possibility of having embedded LED lights in the warning sign, similar to what has been installed on Gibson Hill Road for the pedestrian crossing. He said another suggestion from Irish was to have heavier stock on the metal that hangs below the chains. Hare added that while staff recognizes there's an issue, there are a fair number of warnings already in place; there seems to be an increasing number of people who are missing the warning systems. He said it is possible that improvements to the roundabout have changed traffic flows. Hare said that Google and Garmin have both been contacted to make sure that the warnings are in their systems.

Collins pointed out that additional lighting on the trestle may help. Irish explained that when the lights were first installed on the trestle, they were on the bottom and kept getting broken. He added that the wire that runs across the bottom of the trestle breaks when someone hits it, and that's what prompts the railroad to come out and inspect the trestle. Collins said perhaps just brighter lights are needed. Coburn commented that the existing lights are not aimed correctly and definitely could be brighter. Irish said the railroad has expressed an interest in changing the lights, but they're not sure whether they have the money. Hare believes that if the City waits for the railroad to take care of this issue, it won't happen. He would advocate moving forward with low-cost options if there are no objections from Council.

Council directed staff to do what they can to improve warnings for the trestle.

Hare noted that he will be absent from the October 26, 2016, City Council meeting, but Assistant City Manager/Chief Information Officer Jorge Salinas will be in attendance. He added that the City was selected again to receive fellows from Southeast Asia; two to four of them will visit within the next month.

ADJOURNMENT

There being no other business, the meeting was adjourned at 6:09 p.m.

Respectfully submitted,

Holly Roten
Administrative Assistant I

Reviewed by,

Wes Hare
City Manager