**** THIS MEETING WAS AUDIO TAPED BY THE CITY OF NEWBERG ****

MINUTES OF THE NEWBERG CITY COUNCIL
MONDAY, JUNE 2, 1997
7:00 P.M. MEETING
NEWBERG PUBLIC LIBRARY

I. CALL MEETING TO ORDER

II. ROLL CALL

Charles B. Cox (CBC)
Alfred (Fred) Howe (FH)
Deborah Sumner (DS)
F. Robert Weaver (RW)
Roger Currier (RC)
Donna McCain (DM)
Lisa Thomas (LT)

STAFF PRESENT: Duane R. Cole, City Manager (DRC)
Terrence D. Mahr, City Attorney (TDM)
Bob Tardiff, Police Chief
Katherine Tri, Finance Director
Chuck Liebert, Utilities Manage
Mike Soderquist, Community Development Director
Peggy R. Hall, Recording Secretary

OTHERS PRESENT: Gary Allen, *Newberg Graphic*, Jack Berry, Alan Steiger, Dan Wollam, Larry Hampton, Lon Wall, Jim Morrison, Sid Friedman, Keith Hay, Nadine Windsor, Pati Seitz, Annie Navetta, Darla Baxter, Rick Miller (Genesis HealthCare, Inc.).

III. *PLEDGE OF ALLEGIANCE*

The pledge of allegiance was performed.

IV. CONSENT CALENDAR

1. Approve minutes from regular Council meetings held on April 7, 1997, and April 21, 1997 and Work Session minutes from May 5, 1997 and May 19, 1997.

Mayor Proctor indicated corrections were to be made to the minutes. DRC noted that he would provide the changes to the Recording Secretary.

MOTION: RW/DS to approve the Consent Calendar. (Unanimous). Motion carried.

V. PUBLIC HEARING

1. Public Hearing regarding establishing annexation policy to comply with the initiative.
   Ordinance No. 97-2472 an ordinance amending the Comprehensive Plan text and the Newberg Development Code text to comply with the recently approved annexation initiative.

Mayor Proctor called for abstentions, conflicts of interest or objections to jurisdiction. City Attorney TDM noted that this is a legislative matter before the City council and there is no need to declare conflicts of interest, etc. The matter was referred to the City Council by the Planning Commission pursuant to an initiative measure. The City Manager presented the staff report. TDM further noted that anyone wishing to object to the City Council (jurisdiction) hearing this matter, should so state or their objection may be waived on appeal.

Sid Friedman, 31909 NE Corral Creek Road, Newberg, Oregon, noted that the packet does not contain the Comp Plan amendments as referenced. Planning Manager John Knight indicated that it appears that some of the information is missing. Mr. Knight reviewed with the Council the portions that were omitted due to a printing error. Discussion was held concerning continuing the matter to the July 8th meeting. Mr. Knight presented a brief staff report reflecting that the matter came out of the Planning Commission without a recommendation (3-3 split vote). It was directed to have the matter referred to the City Council for a decision. Mr. Knight reviewed the key issues contained in the changes (strike-outs and italics). The draft before the Council was a combination of the Corvallis and McMinnville ordinances. Mr. Knight reviewed the various Decision packages contained in the packet. Mayor Proctor inquired whether this draft would help eliminate "islands" created by developments. Mr. Knight stated that he believed that it would not exactly eliminate them, but would enable the City and the land owners to work out a solution. TDM stated that as a point of clarification, annexations of any kind would require a vote of the people, even an island annexation issue.

Discussion was held concerning noticing requirements on the property and also newspaper advertisements. Further discussion was held concerning the Comp Plan policy changes.

Mr. Lon Wall, 625 N. Morton Street, Newberg, Oregon, stated that he was in attendance to comment on the Planning Commission's deadlock decision. Mr. Wall asked that in the spirit of cooperation and willingness to do what the voters wanted to be done, the Council should proceed with a more descriptive ordinance. The present draft is does not cover the issues raised by citizens.

Councilor RC noted that in discussions with the City staff, the annexation provision is included in the City Charter and why was an annexation ordinance needed? Mr. Wall stated that there were a number of key points and procedures which were topics of disagreements. The annexation ordinance is a mechanism for the annexation process.

Mr. Jim Morrison, 717 E. Sheridan Street, Newberg, Oregon, commented on the annexation initiative measure presented to the City Council in January, 1996. The co-petitioners asked the City Council to place the initiative measure on the ballot. The Council decided not to place the matter on the ballot without the co-petitioners obtaining the adequate number of signatures to place it on the ballot. Mr. Morrison indicated he presented a draft ordinance to the Council and staff some time ago and the present draft is a water-downed version of what he had proposed. Mr. Morrison stated he has talked with a number of citizens about various issues and what was proposed is a combination of Corvallis, McMinnville and Newberg's policies. Mr. Morrison responded to Councilor RC's comments concerning the Charter Amendment and annexation ordinance.

Mr. Friedman also noted that his previous testimony and letter is attached to the Council's packet for their review which outlines his issues. Mr. Friedman added the McMinnville City Council directed their staff to prepare an annexation ordinance after the passage of their annexation initiative. Mr. Friedman stated that the present draft ordinance needs more information, direction and policy. Discussion was held concerning working with the Development Code and related City ordinances. Mr. Friedman added that City Attorney TDM had provided some good suggestions on contract annexations which could increase City revenues, rather than increase the tax burden (good chance to enhance the City's fiscal position). In conclusion, Mr. Friedman stated that regardless of the who the decision maker is, when a proposal is before a body, it is always better to have more information than not enough.

Discussion was then held concerning small and large annexation requests, how they would be handled and the impacts they would have on transportation, traffic and related City services. Councilor RC inquired about Decision #2 (development plan) as proposed. Mr. Friedman noted that the language in the McMinnville ordinance is well suited to Newberg's ordinance structure. There needs to be some mechanism to ensure the promises and commitments are honored.

Mr. Keith Hay, 15775 Ribbon Ridge Road, Newberg, reiterated the long process the petitioners completed to get the initiative passed. It has been over one year since the initiative was adopted by the voters. The Council must prepare a document to ensure that policies and procedures are completed and sufficient detailed information is supplied to the citizens. Discussion was held concerning noticing policies. Mr. Hay stated that the Corvallis ordinance has withstood the test of time and the citizens of Corvallis have become well informed about the development practices going on in their community. Well informed citizens should not be feared. Mr. Hay further noted that the draft ordinance prepared by Mike Soderquist, Community Development Director, was apparently not provided to the Council. In addition, the draft ordinance prepared by the Chief Petitioners should also be considered.

Ms. Nadine Windsor, 2902 E. Second Street, Newberg, stated that the petitioners worked hard collecting the signatures and speaking with the citizens of Newberg. The citizens was a good strong ordinance which would provide citizens with much needed information as possible.

Ms. Pati Seitz, 31909 NE Corral Creek Road, Newberg, asked that the Council adopt a maximum ordinance in order for the citizens, developers, the Planning Commission, City Council and City staff to make choices based upon maximum information.

Ms. Annie Navetta, 709 E. Sheridan Street, Newberg, stated that she too agreed that the information should be locked in and the process should include provisions for adequate information to be supplied to the citizens. Ms. Navetta urged the City Council to carry out what the voters asked to be done last year.

Ms. Darla Baxter, 3708 N. Terrace Drive, Newberg, supports what Mr. Wall, Mr. Hay and Mr. Morrison had to say about the annexation ordinance.

City Attorney TDM noted that Mr. Stephen Ashby, member of the Newberg Planning Commission provided a letter which was entered into the record concerning the Planning Commission's discussion on the topic. Mr. Ashby's letter was circulated as part of the testimony. Discussion was held concerning the receipt of information during the Council meeting which did not give the Council time to adequately review the document. Mr. Ashby's letter as submitted in Mr. Ashby's absence. Further discussion was held concerning the Council receiving documentation during the Council meeting/deliberation and the Council policies concerning this matter.

Mayor Proctor closed the public testimony and asked for staff's recommendation. Duane Cole, City Manager, indicated that the matter would be continued to the June 16th or July 7th meeting for the Council's deliberation. DRC asked that the Council review the Decision Boxes presented in the Council packet/staff report in order for staff to get a direction to proceed.

DRC reviewed the staff report as it pertains to development agreements, signs, notice requirements. Council members discussed their preference concerning a larger sign to be placed on the property and not just small signs placed around the property. Councilor FH expressed his concerns about hardship situations (such as the Mannings and the Masons) and the 100 ft notice requirements being expanded to 200-300 feet and that it should be consistent for all developments, not just this type of annexation issue. Planning Manager John Knight reviewed the type 3 planning process and other types of processes involved in land use planning. Mr. Knight stated that sign requirements could be included that would detail information on the particular property, but generally would state that there is a pending land use action with the appropriate phone numbers for persons to contact for more information. This would be covered under the quasi-judicial land use process. Further discussion was held concerning discretionary problems and applicable criteria. Councilor Cox inquired about the newspaper advertisements. Mr. Knight added that it is often times difficult to make a more descriptive code in order to balance out the over all projects (consistency).

Mr. Knight stated that he has discussed with the City of Corvallis staff members and they are continuing to work out problems that arise concerning their annexation process. TDM added that the ballot measure and explanatory statement will be provided by the City.

Councilor DS inquired about Mr. Soderquist's draft proposal. Mr. Knight stated that it is almost a mirror image of McMinnville's ordinance (Item No. J -Pg 94 of the packet).

MOTION: FH To table the issue until such time the omitted information is supplied and a more detailed and defined ordinance is provided.

City Manager DRC asked that the Council review the Decision Boxes in order for staff to get a consensus of the direction the Council wished them to take. Councilor FH stated that it was intended to leave the public hearing open until the ordinance is ready to be voted upon. Councilor LT inquired whether the Corvallis staff was contacted in the preparation of the proposed ordinance. Mr. Knight stated that Corvallis was contacted. Discussion was held concerning an ad hoc committee assisting the City in arriving at a proposal. Mr. Knight stated that there were workshops provided by the City in which input was received.

Councilor RC asked that the 6 sq ft sign be replaced with a 9 sq ft sign which would be more legible as well as other appropriate signage on larger parcels. Discussion was held concerning Mr. Soderquist's version being more on "track" with the intent of the initiative and that City staff and an ad hoc committee be appointed to work out the changes. Councilor RC stated that he supports public input and everyone should be entitled to due process. The ad hoc committee could return to the Council with a proposal.

Discussion was held concerning reviewing the various Decision boxes. Councilor LT further commented that the ad hoc committee should consist of city staff, Planning Commission members and initiative petitioners to arrive at a united proposal. TDM stated that he attended the Planning Commission meetings to answer questions. TDM advised that the Council should review the Decision packages and leave the public meeting open until the next available meeting at which time the Council could receive input.

PRIOR MOTION FAILED FOR A LACK OF A SECOND.

MOTION: CBC/RW to review the Decision packages tonight to provide staff and the committee a clearer direction. (5 Yes/2 NO [LT/RC]). Motion carried.

City Manager DRC proceeded to review the decision packages as provided in the staff report.

MOTION: CBC/RW approve Option 2E. (4 Yes/3 No [LT/RC/RC]). Motion carried.

MOTION: LT /FH approve Option 2F.

Councilor FH stated (Councilor LT agreed) the language needed more definition and clarification. Further discussion was held between the Council concerning a clearer way of providing direction to City staff. Councilor RC stated that the staff with an ad hoc committee review the proposals and return to the Council for review and consideration rather go line by line.

MOTION: LT/RC to have Mike Soderquist sit down with some of the petitioners and City staff and work out an ordinance and come up with a recommendation to the Council at the July 7th meeting.

City Attorney TDM clarified the Motion to have the City Manager and Mike Soderquist work with City staff and the ad hoc committee.

Councilor LT so amended/Councilor RW seconded the amendment.

ROLL CALL ON MOTION: (4 Yes/3 No[RW/CBC/FH]. Motion carried.

Discussion was held concerning appointments to the ad hoc committee. Mayor Proctor appointed Lon Wall and Jim Morrison to serve on the committee. Councilor FH inquired about leaving the record open to review the proposals.

MOTION: FH/LT to leave the record open until such time the Council can vote on the issue.

Discussion was held concerning allowing people to respond to the revised proposals.

ROLL CALL ON MOTION: (4 Yes/3 No [RW/RC/DS]). Motion carried.

Further discussion was held among the Council members concerning consistency in City policies.

2. Public Hearing regarding a street vacation for the Third Street right-of-way, between Howard and Blaine. (VAC-10-97)
Ordinance No. 97-2477

Mayor Proctor called for conflicts of interest, ex parte contacts, abstentions or objections to jurisdiction. DRC read a letter from Richard and Mildred Powell in support of the vacation. Discussion was held concerning the closure of Third Street and making it one long block.

MOTION: RW/DS to read **Ordinance No. 97-2477** by title only. Mayor Proctor read **Ordinance No. 97-2477** by title only. (Unanimous). Motion carried.

3. Public Hearing regarding a vacation procedure to vacate a one foot reserve strip within Oak Knoll Subdivision. (VAC-11-97) - PROPOSAL HAS BEEN WITHDRAWN NO PUBLIC HEARING REQUIRED.

Mayor Proctor announced the matter has been withdrawn and no hearing would be held.

VI. COMMITTEE RECOMMENDATIONS/REPORTS FROM COUNCI MEMBERS

None.

VII. CONTINUED BUSINESS

1. Authorize a letter of intent to enter into an agreement with Yamhill County for construction of a part of the Newberg Public Safety building. (STAFF IS WORKING OUT THE DETAILS WITH YAMHILL COUNTY. A VERBAL REPORT MAY BE PROVIDED AT THE MEETING. PAGES 151,152 AND 153 ARE NOT IN THE AGENDA.)

DRC indicated that he has been working with Yamhill County staff concerning an intergovernmental agreement to be presented at the June 16th (or later) Council meeting. The matter is presently tabled.

2. Authorize a letter of intent to enter into an agreement regarding land at Roger's Landing.

MOTION: RW/FH to authorize the letter of intent concerning Roger's Landing. (Unanimous). Motion carried.

3. **Ordinance No. 97-2478** amending the Transient Room Tax ordinance and **Resolution No. 97-2055** authorizing the expenditure of $14,700 for a Visitor's Center.

Discussion was held concerning pg. 176 reflecting the change from "shall" to "may" in Section 2 which identifies $14,700 for a visitor center as well as identifies the Chamber as the operator. DRC stated that the City projects increased revenues from the two new motels in town. Councilor RW inquired about people coming up with ideas concerning future funding for the Chamber and not just through the City. Councilor DM reviewed the room tax revenue adjustments. Councilor LT provided information she obtained concerning other cities and how they dealt with budget problems. Councilor DM stated Lincoln City received approximately $2 million in room tax revenue, but one has to look at Lincoln City's location to compare it with Newberg. Councilor members discussed how the City Hall and other City buildings are in need of repair.

MOTION: RW to proceed with the $14,700 budgetary figure for the City's visitor center and ask that the Chamber manager the visitor center for this year only and they should seek alternative funding for future years. The City will work with the Chamber in the transition and to help in obtaining additional funding. **(MOTION FAILED FOR LACK OF SECOND)**

MOTION: DS/CBC to approve and read **Ordinance No. 97-2478** by title only with the corrections previously noted in Section 2 indicated by DRC. (6 Yes/1 No [RW]), Motion carried.

MOTION: CBC/DS to approve **Resolution No. 97-2055**. (6 Yes/1 No[RC]). Motion carried.

MOTION: DS/DM to have the Mayor, the President of the Council and members of the Chamber meet to discuss the direction of the visitor center and seek alternative sources for future funding. (6 Yes/1 No[FH]). Motion carried.

VIII. NEW BUSINESS

1. **Resolution No. 97-2053** approving the Personnel Rules and Regulations.

MOTION: RW/DS to approve **Resolution No. 97-2053** approving the City's Personnel Rules and Regulations. (Unanimous). Motion carried.

2. **Resolution No. 97-2054** awarding the Dayton Avenue Pump Station and Wastewater Treatment Plant Electrical improvement project contract to DND Electrical Contractors, Inc. and authorize the City Manager to enter into agreement with DND Electrical Contractors, Inc. in the amount of $38,796.05.

Community Development Director Mike Soderquist provided the staff report. Mr. Soderquist stated the bids are reasonable and low and it is staff's recommendation to proceed with DND Electrical Contractors, Inc. Mr. Soderquist and Ms. Tri indicated that they believe DND Electrical Contractors, Inc. has previously worked on City projects before.

MOTION: DS/CBC to approve **Resolution No. 97-2054.** (Unanimous). Motion carried.

3. Development Code Interpretation - Assisted Living Facility (Genesis Healthcare Inc.) as a conditional use in the C-1 zone.

DRC presented the staff report. DRC also noted that his grandfather lives in a similar facility in Milton Freewater. DRC reviewed the present allowed uses. Discussion was held concerning proper notice and hearing procedures. DRC added that the City's letter to Mr. Miller concerning the City's issue is part of the Council packet for their review. Mr. Miller, President of Genesis Health Care, stated that Genesis operates a number of assisted living facilities in Oregon. The assisted living situation is an alternative to nursing homes. Mr. Miller provided testimony concerning the reasons why this facility should be allowed and the Development Code amended. The assisted living facility is based on independence, quality of life, commitment and respect. The typical age that would utilize this type of facility is around 75-85 years old. The proposed facility, if allowed, would provide a retail services to afford the residents of the facility, as well as surrounding residents, the opportunity to transact their business affairs. Mr. Miller stated that the proposed sight is outside the City limits. The facility is hoped to provide numerous services.

Council members expressed their concerns about the location but agreed that the concept was a great idea. Discussion was held concerning available parking (14 spaces not being enough). Mr. Miller provided additional mapping information to the Council on the location of the various retail businesses that would be located on the property.

Councilor FH stated that he agreed with the concept and thought it was a wonderful way to approach problems senior citizens are having. Councilor FH inquired why Genesis made application for an amendment to the Development Code rather than ask for a zone change or variance. Discussion was held concerning the process for handling zone changes or variances. Councilor DM further stated that the area is zoned for commercial at some time. Mr. Miller added the health care service providers are ever changing their ways of thinking to provide better services for their customers/clients. Discussion was held concerning C-1 zoning requirements.

Pamela (land use planning engineering firm) representing Genesis Healthcare, Inc. provided additional testimony concerning the request for the C-1 amendment. She indicated that the City's NW Newberg Specific Plan addresses this type of designation and is consistent with the recent IO zoning. Discussion was held concerning the reason for requesting the amendment versus a zone change to a C-2 to C-3. Councilor LT stated the Planning Commission information reflects that the request is not appropriate. Mr. Miller stated that they are caught in a catch-22 situation with a residential component and a commercial component. Pamela addressed similar problems with the Charbonneau development (300 acres- medium density and high density with a large commercial component). Unfortunately, they have had difficulty in keeping the commercial component viable. DRC stated that the increased traffic will be addressed with the infill of development in the area. Councilor RC noted concerns involving: 68 bed vs. 60 bed facility, variance for conditional use, IO zoning, in-fill, business relocation, commercial values, C-2 or C-3 uses. It appears that the commercial portion is allowable, but the residential portion is not. The neighborhood would have to agree to the zone change. Further discussion was held concerning other alternatives utilizing the IO zoning and possible interpretation alternatives.

Councilor FH stated he was uncomfortable with Mr. Simon's letter (representing Genesis Healthcare, Inc.). TDM noted that Mr. Simon is arguing a reasonable interpretation. There are many issues affecting this type of decision. Discussion was held concerning the land use process concerning this type of project which includes design review.

MOTION: FH/DS to uphold the Planning Commission's interpretation of the Development Code. (Unanimous). Motion carried.

Further discussion was held concerning Genesis Healthcare, Inc.'s alternatives and the applicability of the IO zoning designation. Councilor DS suggested that they talk with City staff on working out the best solution because it is a good idea. TDM agreed that the IO zoning concept could be addressed to accommodate state of the art projects/facilities such as this. Mr. Miller stated the mechanism is the process and not the location. TDM stated that he would be meeting with Genesis Healthcare representatives and their counsel. Pamela further stated that Genesis would also meet with neighborhood residents prior to submitting their application.

MOTION: LT/DS to have staff work with Genesis HealthCare, Inc. representatives in working out a solution to make the facility work in Newberg. (Unanimous). Motion carried.

Discussion was held concerning further discussing this issue at a City Council retreat.

IX. REPORTS FROM CITY MANAGER AND OTHER AGENCIES

None.

X. COMMUNICATIONS FROM THE FLOOR

None.

XII. ADJOURNMENT

MOTION: DS/RW to adjourn at 9:47 p.m. (Unanimous). Motion carried.

ADOPTED by the Newberg City Council this 7th day of July, 1997.

Duane R. Cole

Duane R. Cole, City Recorder

ATTEST by the Mayor this 18 day of July, 1997.

Donna Proctor

Donna Proctor, Mayor