MINUTES OF THE NEWBERG CITY COUNCIL
MONDAY, JULY 6, 1998
7:00 P.M. MEETING
NEWBERG PUBLIC SAFETY BUILDING-TRAINING ROOM
(401 E. THIRD ST.)

I. CALL MEETING TO ORDER

Mayor Proctor called the meeting to order.

II. ROLL CALL

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

CITY STAFF:
Duane R. Cole, City Manager
Terrence D. Mahr, City Attorney
Katherine Tri, Finance Director
Michael Sherman, Fire Chief
Mike Soderquist, Community Development Director
Peggy Hall, Recording Secretary

OTHERS PRESENT: Warren Parrish, Matson Haug, Kelli Highley, Todd Sadlo, Jim Records, Pat Haight, Joe Young, Tola Young, Julie Codiga, Tim Codiga, Richard Engnell, Dennis Van Lieu, David Young, Gary Williams, Anita Parker, Skip Staniway, Chris Lauinger, Robert Lauinger and Matson Haug.

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CONSENT CALENDAR

1. Approve minutes from Regular Council meeting held on June 1, 1998.

Councilor FH said numerous corrections were noted and requested that approve of the minutes be postponed to the next City Council meeting.

2. Proclamation declaring July 23-26, 1998 as the 1998 Old Fashioned Festival in the City of Newberg.

Mayor Proctor read the Proclamation. Mayor Proctor introduced the Old Fashioned Festival Court with chaperone Jill Dorrell.

3. Presentation of CAFR Award to Finance Personnel

The City received a financial reporting achievement award due to the work done by City staff and Katherine Tri, Finance Director. A representative from the State Representative of Government Finance Officers Association presented Katherine Tri with the award. The City has received this award for the past 6 years.

4. **Resolution No. 98-2123** directing the Fire Department's Pumper/Ladder Specifications Committee to request formal bids for the construction of a one (1) 100' Aerial Quint and two (2) Triple Combination Pumpers

Chief Sherman presented the staff report. Chief Sherman noted that the savings to the City would be approximately $70-$80,000. Chief Sherman introduced Don Schmidt and noted that he would be working with the contractors.

MOTION: CBC/LH to adopt **Resolution No. 98-2123**. (Unanimous). Motion carried.

V. PUBLIC HEARING

1. Public hearing on appeal of Planning Commission decision regarding an approval of a 16 lot subdivision to be known as West Woods.
   Applicant: Joe & Tola Young
   Location: East end of Nicholas Way
   Tax Lot: 3218CA-600, -201
   Resolution No. 98-2126 upholding the decision of the Planning Commission to deny approval of the subdivision.

Mayor Proctor called for ex parte contact, conflicts of interest. Councilor RC said he lives within three blocks of the project. Councilor FH said he drove by the site today. TDM asked if Councilor FH had anything to share that would have an impact on his decision. Councilor said that on Lauren Court, the place where the houses will be placed, it appears that there will be significant work there, which is not already apparent through the maps. TDM asked if there were any objections to the Council hearing this matter.

Mayor Proctor announced it was a quasi-judicial public hearing. The record is open for new testimony and information and those testifying must address the applicable criteria and limit their testimony to that information. Now is the time to raise it or waive it because it cannot be addressed later. The City Attorney stated that the applicant has an additional 7 days to submit rebuttal. Discussion was held concerning waiving their right. Julie Codiga said she was concerned about the location of Lauren Court and the roadway coming into the development

Mr. Mike Soderquist said staff is recommending affirming the Planning Commission's decision to deny. On June 16th, the applicant's filed an appeal to the Commission's decision. The 120 day rule applicability was discussed. The project application was filed on May 7th. The criteria is based on driveway standards and the basis for staff approval was the City Manager's memo of March 3, 1997. The other issue was dealing with the cul-de-sac-length, grading and drainage, donation of property to CPRD, and the applicant applied for lot line adjustment. The issue focuses on the March 3, 1997 memo and its interpretation.

DRC reviewed the Development Code definitions: driveway, private drive, private street, service drive. Discussion was held concerning definitions and interpretations involving parcels similar to this type of development. The policy is intended to specifically be addressed in the street and roadway standards. The City Manager's memo intended to provide access to parcels that require infill.

Councilor DS said that the Commission apparently was un-clear on the definition of driveway standards. Mr. Barton Brierly said the Commission was not comfortable with the driveway, as proposed and that the minutes reflected a 4-3 vote.

Councilor FH said the original recommendation from staff was to approve the project. Then the Commission directed staff to prepare written findings. The proposed findings were developed by the Planning Commission. Mr. Soderquist said that staff prepare justifiable findings in favor and against the project. Mr. Brierley said that staff was to prepare findings and bring a decision to have the Council consider. Drafted findings that would support the decision of the Planning Commission. The original Commission packet contained findings in favor of the project.

Councilor RW asked for clarification of the code as it pertains to driveways, providing appropriate right-of-ways and compliance with the City's code. Mr. Soderquist said that his mission at the Planning Commission meeting was that the memo was written after the Development Code was amended. DRC reviewed the drive, private street and other definitions.

Councilor RC reviewed the Capital Projects Committee involvement in the process which included support for inter-connecting streets rather than cul-de-sacs or hammer-heads; 32 ft. width streets, and, not allowing private streets.

Councilor FH (page 11) appeal of Type III decision. On the application it notes a Type II decision. Mr. Brierly said that typically items going to Planning Commission are Type II. Discussion was held concerning the lot line adjustments that occurred. Mr. Brierly said the lot line adjustment took place around Nicholas Way, between the large parcel and the stream corridor. The corner of Lot 10 seems to be beyond stream corridor boundary and Mr. Brierley said it is a very small amount and it is not viewed as a problem. Councilor FH also addressed the findings dealing with ratio and lot area calculations.

Councilor RC read from Planning Commission minutes reflecting a lack of enforcement on private streets (any activity on the street - illegal parking, etc.).

Councilor DM said that private street issues has been a problem because when property owners purchase property, enforcement activities are not provided by the City.

Mayor Proctor said she would allow 4 minutes for testimony from each person.

Ms. Richard Engnell, 2925 NE Penderhill Road, Newberg, expressed concerns in which denial of this subdivision will give a direction to staff to interpret the City's Code as not allowing a private drive. Mr. Engnell also discussed private driveways, flexibility, changes in allowance or exemptions from regulations. Mr. Engnell also mentioned that a minor partition was made and allowed.

Ms. Theresa Kittleson, 1009 N. Main Street, Newberg, said she resides to the lot south of the property which is adjacent to the subject property. Ms. Kittleson said that her family is in favor of the project because of the proposed upgrading of N. Main Street.

Mr. Dennis Van Lieu, 121 Nicholas Way, said he moved to the area with the appeal of the private drive. Mr. Van Lieu said that the density of the proposed project allows for larger lots and fewer homes and he encouraged the Council to approve the project.

Mr. David Young, 110 Nicholas Way, Newberg, said he attended some of the staff meetings with his mother, Tola Young. Mr. Young said that his mother cooperated with what staff recommended and the criteria has been met. Mr. Young said that they would prefer 16 homes rather than 30 homes. The City should not change the process in the middle of the project.

Mr. Greg Williams, 115 Nicholas Way, Newberg, said he has lived in the surrounding development for a couple of years. Mr. Williams said he agreed with the concerns about parking, but felt that the applicant and the City should work together to make Newberg a better place.

Mr. Tim Codiga, 128 Nicholas Way, Newberg, said he too does not want to see additional houses from 16 to 30. There has not been a problem with parking. Discussion was held concerning the criteria that was before the Commission and encouraged the Council to approve the subdivision.

Ms. Julie Codiga, 128 Nicholas Way, Newberg, said she listened to the tape of the Planning Commission meeting. She indicated that the Commission closed the public testimony and then additional discussion was held. Staff supported the proposal and the subdivision. It was, however, unclear as to the direction of the Planning Commission. Ms. Codiga noted that City guided the applicant through the process.

Discussion was held concerning maintenance of the private streets.

Mrs.. Tola Young, 901 N. Main Street, Newberg, said they were here to appeal the Planning Commission's decision. Mrs. Young said she worked with the City staff to arrange for approval of the subdivision. Mrs. Young also noted that City staff mentioned that the criteria addressed by the Commission was not contained in the draft minutes. Mrs. Young said that she believes that some Commission members may be prejudiced. Mrs. Young read from a statement which apparently contained statements made by Commissioner Haug at the Planning Commission meeting.

Discussion was held concerning allowing the appeal fees to be waived.

Mr. Joe Young, 901 N. Main Street, Newberg, discussed how the process was handled and how it takes citizen involvement to make the process work. Mr. Young said that his wife did meet with many City staff members from planning, engineering and building. She even met with Fire Chief Michael Sherman to make sure it met with the fire code. Mr. Young said that they had full support of City staff. Mr. Young also noted that he felt that City staff appeared to be bias.

Ms. Pat Haight, 501 E Illinois, #12, Newberg, discussed the issue of developing private streets. Ms. Haight asked who will police the property? Ms. Haight then inquired about the Chehalem Park & Recreation District (CPRD) involvement with the property/creek. Ms. Haight asked why the applicant was not required to go through the process to make the street a public street rather than private street.

DRC said fire and police personnel will respond to emergency calls and to issues relating to parking that is blocking emergency access purposes.

Councilor FH asked questions of the applicants relating to affordable housing, lot size comparisons of properties on Nicholas Way, potential traffic problems and CPRD's involvement in the donation of property by the applicant.

Councilor CBC asked why staff was originally in favor of the process and not the variance process. Mr. Brierly said that the Code allowed for a 400 foot cul-de-sac. He looked at the development for fire safety. One of the advantages over a longer cul-de-sac, is that it provides two turn arounds. The original recommendation was to allow for this option. Discussion was held concerning the criteria of the development code and application for a variance (eliminate lots or have smaller lots closer to Main Street). Mr. Brierley said an option would be to not have six lots at the end of Erin Way or to shift some of the density and then have lots closer to N. Main Street.

Chief Sherman said that there were prior disagreements with issues dealing with properties and owners on Nicholas Way. They were later resolved. The fire code design standards are being reviewed but do not provide much room for compromise, based upon the fire code requirements. Parking is an issue, but the standards were applied and adopted and, discussion was held concerning appropriate signage in the area.

Councilor RC said that he would be in agreement with the project if the cul-de-sac was extended by an additional 50 feet. Discussion was held concerning causing undue expense for the applicant.

Mayor Proctor called for a five minute break at 9:05 p.m. The meeting reconvened at 9:15 p.m.

Discussion was held concerning clarification of the reduction of the cul-de-sac from 450 to 333 feet.

Mrs. Tola Young discussed the cul-de-sac length, street widths and signage.

Councilor RC entertained a discussion with Joe Young about the cul-de-sac length and fire equipment access. Mr. Young said his wife went to the fire department who signed off on the project. Mr. Young said that there is access to this property and arrangements were made to accept the greenway section. Discussion was held concerning water rights. Mr. Young said the project development relied on what was told to them by City staff. If the system or process needs to be adjusted, it should be done so as to not penalize the applicant once they have received approval from the City staff and expended unnecessary costs.

Mrs. Tola Young discussed the variance procedure. Any variance or change in the design would require them to start all over.

Mr. Richard Engnell, 29295 NE Penderhill Road, Newberg, said he was concerned about the direction of staff in interpreting the Code and not allowing more than two lots to serve one drive.

DRC said that the Resolution and findings included in the Council packet would reverse the Planning Commission's decision.

Councilor DS said she appreciates the Planning Commission's input, but believes that there appears to be an honest misunderstanding with the staff.

City Attorney TDM said he reviewed the rebuttal period to allow the Council to deliberate. Mrs. Young said she would like the original Planning Commission minutes to be included in the record and would like the Council's decision.

Councilor FH expressed concerns about the staff's different recommendations and perhaps to address this type of issue in the future, when producing findings for the Council, to include original staff recommendation to the original material and those of the Planning Commission be kept separate. Councilor FH said that since none of the neighbors have opposed this development, and it appears that the Youngs have bent over backwards to meet the codes, it should be approved. The Codes sometimes conflict with each other. He will vote in favor of over-turning Planning Commission's decision in terms of fairness.

Councilor RC presented information concerning options and alternatives, but would like to ask staff to work with the Council and the Commission to resolve issues.

Mayor Proctor said she supports the project. Discussion was held concerning the $600 appeal fee. Councilor DM said that the project is not a standard cul-de-sac and the Youngs have the safety concerns of the people that live there by going through the extra effort to provide a good development. Discussion was held concerning the findings.

MOTION: RW/CBC to approve **Resolution No. 98-2126** and reverse the decision of the Planning Commission in favor of the application with changes as noted by City Attorney TDM in the findings for approval. (Unanimous). Motion carried.

VI. CONTINUED BUSINESS

None.

VII. NEW BUSINESS

1. **Resolution No. 98-2121** authorizing the City Manager to sign an agreement with Newberg Area Chamber of Commerce.

Councilor FH said there was a correction to be made to Exhibit "A" as to the City's Visitor Information Center.

MOTION: RW/DS to adopt **Resolution No. 98-2121.** (Unanimous). Motion carried.

2. **Resolution No. 98-2122** establishing the fee schedule for the new Permit Center.

Councilor RC asked about the dollar sign ($) added to the column for $1/Day. Mr. Soderquist said one of the goals was to make the Community Development Department self supporting in providing services to the community.

MOTION: FH/RC to approve **Resolution No. 98-2122**. (Unanimous). Motion carried.

3. **Resolution No. 98-2124** accepting the official vote from the County on the Gail/Chehalem Park and Recreation District annexation.

MOTION: RW/CBC to approve **Resolution No.** 98-2124. (Unanimous). Motion carried.

4. **Resolution No. 98-2125** authorizing the City to enter into a lease with the Community Action Program of Yamhill County to operate a homeless shelter at 615 N. College Street.

Councilor FH removed himself due to his employment with YCAP. Mayor Proctor stated that Dan Wollam, Director of YCAP, was not able to attend. Discussion was held concerning postponing this or proceeding without Mr. Wollam.

Councilor RC said that there is already a policy decision that the City would not support social services . Councilor RC said this, in effect, supports social services which is in contrast to what the Council decided to do in accordance with the budget. Councilor RC said the facility should be maintained and operated by a City agency rather than a County agency such as YCAP. Discussion was also held concerning providing free services (sewer and water) to the facility.

MOTION: RW/LH to table to the matter to the August meeting and encouraged Mr. Wollam to appear (6 Yes/1 Abstention [FH]). Motion carried.

5. Presentation on the history and status of the City Hall remodeling.

Representatives from SERA Architects provided a presentation (Anita Parker - Skip Staniway) reflecting the City's growth needs and over-all projects (key elements):

1. Develop opportunities for a master plan (government center).

2. Long term value - opportunity to capitalize on assets the City has.

3. Strengthen the historic character of the City - the hub of the community (make the building special for the community).

4. Needs change - phasing plan.

Ms. Parker further clarified and described the past and future prospects of the project which would enhance the centralization of Newberg. Ms. Parker described the various phases (scheme's) which allowed for more lighting and other aesthetic elements of the design. Discussion was held concerning the costs involved.

Discussion was held concerning elevators, new mechanical, seismic upgrades for fire, life and safety purposes. DRC reviewed bond issues and elections which would require a 50% approval and 50% turnout to be approved. Discussion was held concerning placing the matter on the November ballot. DRC also addressed general obligation and revenue bonding. DRC also provided information concerning the VFW building and the City's interest in the property. DRC said that a strategic direction to take would be to also talk with Stan Bunn concerning his property that is adjacent to the City Hall building and return with a proposal to the Council at the August 3rd meeting.

VIII. COMMUNICATIONS FROM THE FLOOR

DRC asked that the Council review the asphalt plant decision of the Yamhill County Planning Commission which have a hearing scheduled for July 16, 1998. Mayor Proctor stated that there were a number of people in attendance who wished to discuss the asphalt plant issue before the County Commissioners. DRC said he would like the Council to consider the options dealing with a similar use in heavy industrial zone, the zone change of the existing property and the Willamette Greenway. DRC provided the following options:

1. Accept the County's decision and do nothing.

2. Authorize the Mayor to send a letter requesting that the City Attorney send a letter asking for reconsideration of additional legal issues and open the hearing in order for the City Attorney to address these issues.

3. Authorize City staff to appeal the matter to LUBA on the issues of similar use, discretionary conditional use and design review standards.

Discussion was held concerning the surrounding property and compatibility. Councilor FH said that the Council's decision should be a unanimous denial recommendation to the County and the letter to the County should include all Council members. Further discussion was held concerning taking the matter to LUBA. Councilor RC questioned whether or not the discussion was legal in that the matter was not posted on the agenda before the Council.

MOTION: FH/RC to direct staff to prepare a letter to request the County's reconsideration for the Mayor's signature and that of the entire City Council. (Unanimous). Motion carried.

Mr. Bob Lauinger, 2213 Willow Drive, Newberg, said he felt the City has opened itself up for environmental impacts in dealing with transporting petroleum products. Mr. Lauinger said there will be problems with bad odors.

Mr. Todd Sadlo, 1532 SE 36th Avenue, Portland, said he was the attorney representing Baker Rock. Mr. Gary Baker, President of Baker Rock and Jim Records are also in attendance to answer questions the Council may have. Mr. Sadlo said the applicant has met the criteria and have addressed all the issues which were presented at the City and the County. Mr. Sadlo said they are moving the plant to enlarge the plant in order to lower asphalt prices for the area. Mr. Sadlo said the market they want to serve is in Newberg and the surrounding area.

Councilor RW said he is concerned about transportation which includes the use of river traffic.

Ms. Kelli Highley, 619 S. River Street, Newberg, said she asked that the Council appeal the decision of the County. Ms. Highley said that she is familiar with the operation and was concerned about the traffic impact for the area, the close proximity to the schools and the degrading of the neighborhood.

Mr. Warren Parrish, 30450 NE Wilsonville Road, Newberg, asked about the hours of operation and the enforcement of the truck route. Mr. Sadlo said the hours of operation would generally would normal business hours unless otherwise necessary. Mr. Sadlo said the enforcement of the truck route would be done by the City.

The Council noted that they would have the letter prepared for signature as requested.

Discussion was held concerning the water rates and SDC charges involving the Werth property development.

Mr. Matson Haug, 1524 Hess Creek Court, Newberg, said that he was not biased in his statements made at the Planning Commission concerning the Young property. Mr. Haug also read a prepared statement concerning the local access channel (Channel 9) and requested that the Council reconsider videotaping the Planning Commission meetings.

Councilor DM said she purposely tried not to watch the Planning Commission meetings in order not to be influenced or biased to what they are doing.

Mr. Warren Parrish, 30450 NE Wilsonville Road, Newberg, asked that a public address (PA) system would also be beneficial to people being heard at the meetings. Mr. Parrish also asked the Council to consider allowing the Planning Commission to continue to review Type II planning decision processes. Mr. Parrish also asked the Council not to place the City Hall remodel on the ballot as it could affect the passage of the Central School remodel project. Mr. Parrish said that the City needs to come to a decision about public and private streets.

IX. EXECUTIVE SESSION

An Executive Session held pursuant to ORS 192.660(1)(a) Relating to the Employment Contract with the City Attorney was held prior to the City Council meeting.

X. ADJOURNMENT

MOTION: RC/DS to adjourn at 11:25 p.m. (Unanimous). Motion carried.

ADOPTED this 1st day of February, 2003.

Duane R. Cole

Duane R. Cole, City Recorder

ATTEST by the Mayor this 22nd day of February, 2003.

Charles B. Cox, Mayor