

MINUTES OF THE NEWBERG CITY COUNCIL
MONDAY, FEBRUARY 1, 1999
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING-TRAINING ROOM

I. CALL MEETING TO ORDER

Mayor Cox called the meeting to order.

II. ROLL CALL

Roger Currier (RC)	Alfred Howe (FH)
Donna McCain (DM)	F. Robert Weaver (RW)
Lisa Helikson (LH)	Brett Veatch (BV)

STAFF

PRESENT: Duane R. Cole, City Manager (DRC)
Terrence D. Mahr, City Attorney (TDM)
Barton Brierley, Planning Manager
Peggy R. Nicholas, Recording Secretary

OTHERS

PRESENT: Kelli Highley, Pat Haight, Sid Friedman, Pauline Ogden, Virginia Jungwirth, Norm Witherbee, David Bragg (Pastor of Living Truth Fellowship), Warren Parrish,

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. COMMUNICATIONS FROM THE FLOOR

Ms. Kelli Highley, 619 S. River Street, Newberg, Oregon, discussed the information concerning the golf course (information she viewed on the internet).

Ms. Pat Haight, 501 E. Illinois, #12, Newberg, Oregon, discussed cell phones usage by City staff members. Ms. Haight said that there are people in the community that are monitoring cell phone conversations. Ms. Haight discussed Otis Springs and the availability of a source for water for developers. Ms. Haight referenced a letter concerning tertiary (third) use of water.

DRC discussed the golf course proposal (Chinook Development). DRC said he does not remember the date of the letter, but believed it to be at least 7 years old.

Ms. Virginia Jungwirth, 410 S. School Street, Newberg, discussed water quality (lead and copper in the drinking water). Ms. Jungwirth asked for a follow-up on where in town the samples were tested and what was the status of the results. Ms. Jungwirth said it was her

understanding that the City offices drink bottled water, but the schools use water from the City pipes.

DRC said he will check with staff and provide the information to Ms. Jungwirth and the Council at the next meeting.

V. CONSENT CALENDAR

1. Approve City Council minutes from Regular meetings held on August 3, 1998; August 24, 1998; September 8, 1998; September 21, 1998; October 5, 1998; October 19, 1998; November 2, 1998; and December 7, 1998 and Work Session held on January 11, 1999.
2. Appointment of Budget Committee Members:
Deborah Sumner
Paula Fowler

MOTION: RC/LH to approve the consent calendar. (Unanimous). Motion carried.

Ms. Pauline Ogden, 1115 James Street, Newberg, Oregon, discussed water quality. The City should have protected the City's water source against the Baker Rock application to transfer water rights from Yamhill County to Marion County. Several citizens protested at the Water Resource Board concerning the Baker Rock application. Ms. Ogden said that the Water Resource Board would transfer Baker Rock's water rights to Marion County (she received a copy of a letter). Ms. Ogden also addressed concerns over water problems due to increased developments. Mayor Cox said the City is not giving up its water rights.

Ms. Kelli Highley, 619 S. River Street, Newberg, Oregon, expressed concerns over the river water right expansion. Ms. Highley inquired about the amount charged for legal services and if the City cannot do Gearin's Ferry and Marion County denies the water applications for Well 7 & 8, where does the City go from there?

DRC reviewed the process with the Council.

VI. PUBLIC HEARING

1. Public hearing on a Comprehensive Plan Amendment. **Ordinance No. 99-2505** amending the Newberg Development Code and Newberg Comprehensive Plan policies regarding residential design standards.

Sid Friedman, 14286 NE Old Moore's Valley Road, Yamhill, representing 1000 Friends of Oregon and Friends of Yamhill County, said he supports the City staff and their recommendation with the following notations. Mr. Friedman provided a letter in support of his comments:

1. Accessory residential dwelling units (Granny flats) are now permitted as an outright use and conditional in other zones. It would be in the best interest of everyone to allow them outright in R-1, R-2 and R-3 zones (all). They are attached to single family residences. The cost

to an applicant to process a Conditional Use Permit (CUP) application is higher than an outright permitted use. Do not believe that single family owners (R-1) should be penalized financially or incur more expense. Hope that they adopt with amendment as suggested.

2. Design standards for multi-family development. Building and site design. Contains certain guidelines in those areas. He would propose that a minimum of 50% required "points" for an application to be approved. In other words, ½ points would have to come from building and site design. The City could insure good quality of design.

He urged the Council to adopt and commended the staff for a job well done.

Mr. Barton Brierley discussed the staff report on the residential needs design standards. The City contracted with an architectural firm. Another consultant developed guidelines to encourage a good development (highly and low rated). They proposed a series of amendments. The Planning Commission analyzed and reviewed the information and recommends the following changes:

1. Allow Accessory dwelling units as permitted uses in the R-2 and R-3 zones, and as a conditional use in the R-1 zone.

2. Change planned unit developments from a permitted use to a conditional use in R-1, R-2 and R-3 zones.

3. The Commission discussed private streets. The Development Code does not provide for private streets.

4. Create design standards for multi-unit residential projects. The development would have to meet certain design standards. Developments would be scored on a "point" system, each development would have to score a certain number of points to be approved.

5. Modify standards for alteration of historic landmarks. These changes add guidelines for review of alterations and additions to historic landmarks. The criteria addresses certain design elements such as setbacks, garages, carports, fencing and porches.

6. Modify residential front yard parking requirements. The changes allow multi-unit residential developments to have garage access directly off the street, similar to many single family and duplex developments.

7. Modify fencing requirements for mobile home parks. Changes require a masonry wall around a mobile home park.

Mr. Brierley said the Planning Commission has discussed these issues. The Staff and Planning Commission recommend the changes. Discussion was held concerning excluding R-1 zones and the accessory dwelling units being permitted. Mr. Brierley said it would not be compatible with single family residential areas. It would be subject to the neighbors review and Planning Commission approval as a conditional use permit. Discussion was held concerning how the points are applied and the appeal process to the Planning Commission.

Councilor RC asked about the appeal cost of \$500.00. Discussion was held concerning the masonry wall surrounding manufactured home parks and mobile home parks and the difference between these two housing types. Mr. Brierley said the Development Code uses both terminology, but the Development Code treats them the same. Discussion was held concerning R-4 zoning definition. Mr. Brierley said that part of the proposal which was reviewed by the Planning Commission was to divide R-3 into R-3 and R-4. Currently, the R-3 zoning would allow a tri-plex to be built in an R-3 zone.

Councilor LH asked about a higher cost for a conditional use permit (\$1,000) and the design review without a conditional use permit (\$250).

Councilor FH said it may be appropriate to go through page by page and ask questions. It was discussed to move the matter to a separate meeting to thoroughly discuss the proposal.

Councilor FH continued with his concerns:

1. Page 89 ("compatibility issues"). Mr. Brierley said it deals with the single family residential neighborhood (one family per lot). High densities were not anticipated when the neighbors purchased the lot.

2. Page 94 - dwelling units (accessory and attached). Difference between dwelling unit accessory and dwelling unit single family attached. Mr. Brierley said there are specific standards that are required by the dwelling units. Mr. Brierley reviewed some of the standards. Discussion was held concerning not having the Development Code referenced. Hoping to create density in some residences. The suggestion is that we can tighten up the definition to draw a distinction between the two definitions. Mr. Brierley said he can do that. Discussion was held concerning Site Design Elements and Building Design Elements. Are there items under Section 1 and 2 that need to be included at all times, ones that would be "nice" to have, and ones that would need to be present all the time? Did the Planning Commission discuss all being mandatory and some not being optional? Are there things incorporated in the document, that he foresee which could be mandated (multi-unit residential projects?).

3. Page 96 - Discussion was held concerning other systems or procedures that the City uses to judge the standards for multi-unit residential developments. Mr. Brierley said setbacks, parking, etc., basic designs were considered.

4. Page 101- Historic Landmarks - Are buyers notified that this zoning information is given to them (requirements made available for purchasing). Mr. Brierley said they are not on the respective deeds. TDM said there is required language on the deeds which note that the prospective purchasers should check with the local planning departments for applicable zoning and uses.

5. Page 102 (Type III processes). Guidelines would be Type III process.

6. Page 105 - Any advantage other than fiscal advantage for the City having accessory dwelling units as conditional uses as opposed to outright allowed use (R-2 and R-3)? Mr. Brierley said the advantage is that it discourages it from happening and retains the character of R-1 neighborhoods.

7. Page 106 - Statement under Comp Plan revision. Mr. Brierley said that higher density leads to more affordable housing and it generally equates to less cost per dwelling unit.

8. Page 109 - Findings. Are the proposed changes consistent with the old Housing Goals rather than the new Housing Goals? Mr. Brierley said it is both, but the new is complying with more specificity.

9. Page 110 - (D) Accessory Residential Units. Pros and Cons were discussed by the Council.

Councilor FH said that he is very impressed with the staff and Commission's fine job and they all should be commended.

Councilor RC asked if the definition on page 110 (free standing standards) should be addressed with accessory or attached standards? Mr. Brierley said the first dwelling unit could be redefined (detached single unit) and the dwelling unit accessory could be modified to include detached or attached, but it must be on the same lot.

Mr. Brierley said staff would propose alternate language. Changing the definition of accessory dwelling unit to include a dwelling unit which is also detached to a single family dwelling. Further discussion was held concerning "self contained dwelling unit".

Councilor FH said it is another reason that we would not want this in R-1 (multi-dwelling units) in one block. An accessory dwelling unit could be freestanding, but a dwelling unit single family attached, must be attached by definition. Mr. Brierley said they could occur in a well planned and well thought out R-1 neighborhood.

Councilor FH - page 147 (4. Unbuildable lands). Mr. Brierley said that a buildable lands inventory has been completed. Councilor FH asked for the information for further consideration. Mr. Brierley said this was a part of a larger analysis.

Councilor FH (page 157) - To be reviewed later.

Councilor FH (Page 160) - Transportation to be reviewed later.

Councilor FH (Page 165) - Discussion was held concerning a motion for a 6 or 12 month review. Mr. Brierley said the Planning Commission wanted to have the standards adopted, use them for 6 months, then report back to the Planning Commission to see how they were rated, then again in 12 months. Councilor FH asked if it was adopted by the Planning Commission, does the language have to be included in the sunset clause? Mr. Brierley said the policy that they wanted to see in the 6-12 month period, was not codified in the ordinance. Mr. Brierley said they could include it in the adopted language.

Councilor RC discussed maintaining the conditional use permit for the R-1 zone. He is very supportive of maintaining R-1 integrity in the City.

Councilor LH said she too feels it should be maintained. Are there are hardship options/provisions? Mr. Brierley said the conditional use could be a hardship application which

would be subject to Council approval.

Councilor RC asked for clarification of the \$1000 fee. Mr. Brierley said there is not a hardship provision. DRC said the Council could be the policy decision maker who could waive the fee. Discussion was held on the process for applicants to appeal the issue to the Council **before** the application is obtained. Councilor FH said there is a definition difference (dwelling unit accessory and attached), the homeowner has to live in the primary residence. The attached should be allowed in R-1 zone. If design standards could be developed for this type of construction, it could be possible (compromise position).

Councilor RC said he had his mother move in with him, if he went out and built a unit attached to his house for her to live, there may have been some problems with surrounding neighbors. The City may need to look at each situation on an individual basis.

Councilor FH said that an accessory unit can be detached from a primary residence, but not allowed to be a permitted use in R-1. However, the single family attached would be an allowed use in an R-1.

Councilor RW said he would be ready to adopt the Ordinance with the changes made.

MOTION: RC/DM to amend Ordinance No. 99-2505 noting the language that DRC has made concerning one or more rooms with independent self contained dwelling units, detached or attached be allowed to an existing family dwelling. (6 Yes/1 No [FH]). Motion carried.

Mr. Brierley clarified the definition by adding the word "or attached" to the dwelling unit accessory. Discussion was held concerning the definition of duplex, tri-plex and accessory units. Mr. Brierley said there are specific standards a dwelling unit must meet .

MOTION: FH/ to amend the motion to create a 4th category similar to the dwelling unit accessory, which cannot be detached, and would be a permitted use in R-1. **MOTION FAILED FOR LACK OF SECOND.**

Mr. Brierley reviewed the definition of dwelling unit accessory detached: (one or more rooms with private bath and accessories, detached from an existing or new single family dwelling), with the following amendments: Attached dwelling units are permitted in R-1 zone, and detached dwelling units are also allowed as outright permitted uses in R-2 and R-3 zones (but not allowed in R-1).

Mayor Cox closed the public hearing.

MOTION: RC/LH to read Ordinance No. 99-2505 by title only as amended. (Unanimous). Motion carried. TDM read Ordinance No. 99-2505 by title only with the text amendment (A) to dwelling accessory unit (page 94 of packet): (5 Yes/1 No [FH]). Motion carried.

Mayor Cox called for a five minute break at 8:40 p.m., the meeting reconvened at 8:45 p.m.

Councilor RC recognized Matt Grove (Troop 265) who had been working toward a citizenship badge. Mayor Cox presented a City pin to him.

3. Public hearing on **Resolution No. 99-2163** Specifying the Schematic Design for the City Hall Remodel and Addition project and identifying a financing options, plus other instructions to staff.

Ms. Kelli Highley, 619 S. River Street, Newberg, said she believed that the City buildings are precious commodities. Discussion was held concerning using certificates of participation to fund the project. Ms. Highley said she would like to see the matter go before the vote of the people.

Ms. Pat Haight, 501 E. Illinois, #12, Newberg, said she was really upset about the situation. Ms. Haight said the people have mandated that the City Hall building be left as it is. Ms. Haight addressed the financial projections contained in the staff report. Ms. Haight said there are other more important things that are in dire need of repair (streets, water treatment plan, etc.), and the City Hall project is not a priority to the community.

Mr. Norm Witherbee left the meeting prior to providing testimony.

Mr. Warren Parrish, 31909 NE Wilsonville Road, Newberg, said he is a proponent for the Resolution. He is in favor of the City Manager's proposal for the certificates of participation. He would like to address the addition on the west. He would not vote for Scheme No. 4 which is the demolition of the building.

DRC presented the staff report and the need to decide whether or not to go forward with the project. Discussion was held concerning general bond financing. Staff is recommending scheme #2. The Council also needs to decide on financing and to complete the design on the guaranteed maximum price. Discussion was held concerning the 50% voter approval requirement. DRC reviewed the language in the Resolution (paragraphs 1-4) on page 190.

Councilor RC said he liked that all administration and community development staff would be located in the same building. Discussion was held concerning deleting a service ramp.

Councilor RW voted against the idea for spending a lot of money for the property, but he is going to back the decision of the Council.

Councilor FH said if the Council decided not to proceed with the project, how much money has the City spent to date? DRC said about \$150,000.00. The \$150,000 would be wrapped in the cost. If the Council chose not to proceed, the City would have to pay the costs back somehow. Discussion was held concerning the Community Development Department already paying rent on another location. Further discussion was held concerning funding the project.

Councilor FH said the comments referencng that the citizens do not have input is absurd. The citizens have the opportunity to express their opinions. The voters do have an opportunity to speak. There have been two measures which required a double majority (existing police and fire building and public safety building).

Councilor LH said she is concerned with the certificates of participation and how they affect other budgets of the City. The decision will be made after the budget process. The City needs to set an example for the downtown redevelopment process. She also supports Scheme #2.

Councilor RC asked for clarification of the \$200,000 for all studies, etc. DRC said these are current costs. The word "value" engineering was discussed in terms of cutting corners and paying later. The biggest dollar value idea under Scheme #2 was deferring the roof and sheathing replacement. To not build the roof and totally remove it with a new structure while the building is vacant, is not right. Discussion was held concerning the other items reduced through the value engineering process. Councilor RC suggested that the City demolish the structure and rebuild it in a "historic" fashion rather than cut corners.

Councilor FH said the Resolution identifies the approval of Scheme #2 and bringing back a financing package.

MOTION: RC/FH to adopt the Resolution with Scheme #2, Option 1, language amendments provided by DRC reviewed. (5 Yes/1 No [RC]). Motion carried.

4. Public Hearing on **Resolution No. 99-2161** issuing a recommendation of denial of a Conditional Use Permit for Living Truth Fellowship located in the Urban Reserve Area.

Mr. David Bragg , Pastor of Living Truth Fellowship, 201 S. Harrison, Newberg, discussed concerns with the City staff's recommendation for denial. Mr. Bragg said the roads and setbacks would be addressed in the future. The City said the Church would not be a participant. The Church is an active participant. The City tax payers would have to pay for some of the development (they are rate payers). The proposed development does meet the County requirements as set forth. The Church is not a multi-million dollar developer. The City needs to recognize social and spiritual needs rather than financial ones. He urged the Council to vote against the Resolution recommending denial.

Councilor DM discussed future connections to City water and sewer services. Mr. Bragg said it would be to their advantage to hook up to the City services.

Councilor FH asked if there was anything in the findings that he could contradict? Mr. Bragg said the primary issues including roads being too narrow, sewer and water not available were all correct. The land does not have a well. Discussion was held concerning water availability and quality (aquifer testing). Mr. Bragg said they would need the availability of water and would be working with a water drilling company. He said the search for water would be concurrent with the County application.

Ms. Pat Haight, 501 E. Illinois, #12, Newberg, said she is offended by the City in recommending denial and questioned how City staff can make a decision for the Council. She urged the Council to vote "no" on the resolution denying the request. Mayor Cox said staff has not decided for the Council, but is providing background information which reflects findings for denial.

Mr. Sid Friedman, 14286 NW Old Moores Valley Road, Yamhill, Oregon, spoke as a citizen and not representing any agency. He said the Council's decision should be based upon on the principles of planning. When urban reserves were adopted, the terms of understanding, purpose and function of the URA as administered are set out and should be followed. He is in full agreement with City staff. The function of an urban reserve is to preserve property for the

longer term urbanization of the City. He supports the resolution as provided by staff.

Mr. Brierley provided overheads. Mr. Brierley said the City wants the church inside the City. The question is a matter of timing since the site is not ready at this time. Mr. Brierley reviewed the URA process.

1. Applicant requests application.
2. Council holds a legislative hearing.
3. Applicant will file application with County.
4. The County makes a decision through their respective process.
5. The applicant appeals, if chooses to do so, through a County process (Planning Commission Board of Commissioners, etc.) or to LUBA.

Mr. Brierley reviewed Exhibit 1C (Criteria and Submittals for City Recommendations Regarding Development in the URA). The urban reserve area is where the City will eventually expand. In the meantime, low level development can be approved. Discussion was held concerning excerpts from the (NUAMC Agreement) which pertain to URA. Discussion was held concerning the services (no municipal sewer). The water main fronts the property, but because the property is located outside of the City limits, they cannot connect. The streets are only 16 feet wide. Mr. Brierley said the Church may not be able to come up with the financing to make the necessary changes. The property is not available for services and there are other property sites available to relocate. Mr. Brierley said it was staff's recommendation to deny the request and recommend denial to the County.

Councilor FH said that according to the NUAMC agreement, the Council can make a recommendation and that recommendation can also include suggested further criteria for consideration. Any reason to oppose any County recommendation that the upgrades would need to be made before construction can begin. DRC said that this is an issue along with the conditions outlined in the (NUAMC) agreement as specific criteria. The project does not meet the specific criteria. The problem staff is having is that it does not meet with the County and City agreement criteria, nor does it meet the long range planning needs of the City.

DRC said staff can arrange for approval, but the criteria has not been met. Councilor FH said the County may approve the project as proposed even though the City denies the application. Discussion was held concerning additional language requiring the County to mandate certain things to be conditioned upon approval.

Councilor RC said the Church participants are rate and tax payers. The City does have a number of churches and the City provides for the spiritual needs of the City. Discussion was held concerning hardship water connections.

Councilor LH said that if the Council does not conform with the agreement between the City and the County, the Council should follow the direction as set out in the criteria.

MOTION: RC/BV to approve the Resolution.

Councilor FH said the cost of land adjacent to or outside the City limits is generally less expensive.

ROLL CALL ON MOTION: (Unanimous). Motion carried.

Mayor Cox called for a break at 10:18 p.m. The meeting reconvened at 10:25 p.m.

VII. CONTINUED BUSINESS

1. Status report on Water System Master Plan - Well 7 & 8 and Gearins Ferry work implementation.

Mike Soderquist, Community Development Director, presented the staff report concerning the pursuit of Wells 7 & 8 and the preliminary work to define the feasibility of development of a well field in the Gearin's Ferry area. The timing has been driven by recent litigation in Clackamas County (LUBA) which was not a positive outcome.

Councilor RC questioned the studies prepared by the consultants not approved by a bid process. Discussion was held concerning professional services being procured by request for proposals. Councilor FH asked whether or not the consultants provided a time line for the process of completing the study. Mr. Soderquist said it would be 1-2 years.

The Council thanked Mr. Soderquist and his staff for the update.

VIII. NEW BUSINESS

1. Motion to authorize the City Manager and staff to proceed with public participation process for the Northside Road alignment study and authorize the City Manager to enter into a contract with Trudy Rippe for an amount not to exceed \$40,000 to develop the public participation plan and facilitate the process.

Ms. Kelli Highley, 619 S. River Street, Newberg, said she does not see the necessity for spending \$40,000 for a public participation consultant.

DRC said the road follows Springbrook along the alignment to Mountainview, and on to College and Hwy 99W. Councilor RC discussed alternatives (along Hwy 219/Buckley's addition). DRC reviewed the reasons for providing information and service to the City in order to achieve a level of delivery. DRC said it is a tremendous project to provide information to the community. Engineering studies will be prepared to arrive at a decision to determine which road is the best alternative.

Discussion was held concerning holding a special election. DRC reviewed how prior attempts to inform the community appeared to be as "open" as what was hoped.

MOTION: RW/DM to approve the motion. (5 Yes/1 No [RC]). Motion carried.

Resolution No. 99-2162 adoption of City Council Group Agreements and Guidelines.

DRC said he would make the changes referenced in the work session. Discussion was held concerning amendments and comments: rules, guidelines, reconsideration of motions, majority of members, non-agendized items, consent calendar and qualifications to hold office.

Councilor FH asked if the language could be consistent with qualifications for residing in that Council member's specific district.

Councilor RC reviewed the structure of the Council (page 251). Discussion was held concerning the elimination of subcommittees.

MOTION: FH/ BV to approve the Resolution with noted changes. (5 Yes/1 No [RC]). Motion carried.

2. Announcement regarding the appointment of the Finance Committee members.

Donna McCain, Chair
Lisa Helikson
Bob Larson
Rebecca Ratcliff


X. ADJOURNMENT

MOTION: RW/DM to adjourn at 11:02 p.m (Unanimous). Motion carried.

ADOPTED by the Newberg City Council this 17th day of May, 1999.


Duane R. Cole, City Recorder

ATTEST by the Mayor this 7 day of June, 1999.


Charles B. Cox, Mayor