

MINUTES OF THE NEWBERG CITY COUNCIL
JANUARY 6, 2003
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING - TRAINING ROOM

i. OATH OF OFFICE

Bob Stewart - Mayor
Bob Andrews - Councilor
Bob Larson - Councilor
Mike McBride - Councilor

I. CALL MEETING TO ORDER

City Manager James H. Bennett called the meeting to order. Mr. Bennett swore in Bob Stewart as Mayor and Bob Andrews, Robert Larson and Mike McBride as new Council members.

II. ROLL CALL

Roger Currier (RC)
Doug Pugsley (DP)
Robert Soppe (RS)

Bob Andrews (BA)
Robert Larson (RL)
Mike McBride (MM)

Others Present:

James H. Bennett, City Manager
Terrence D. Mahr, City Attorney
Michael Soderquist, Community Development Director
Katherine Tri, Finance Director

III. PLEDGE OF ALLEGIANCE

The pledge of allegiance was administered.

IV. PRESENTATIONS TO PAST MAYOR & COUNCILOR

Mr. Bennett presented commendations to former Mayor Charles Cox and Councilor/Council President Robert Weaver. Mr. Weaver expressed comments on the charge of the new Council in running the City of Newberg government and working as a team for the benefit of Newberg. He would like to see Councilor Roger Currier serve as Council President.

Mr. Bennett expressed his own appreciation for Mayor Cox's dedication to the City of Newberg and strong will. Mr. Cox said it has been very rewarding for him. He said he felt good about the new Council.

Councilor Currier thanked Mayor Cox and Council President Weaver for the work they have done for the City of Newberg.

- ii. **ELECTION OF COUNCIL PRESIDENT - The City Charter, Chapter IV, Section 20.** *President of the Council provides that the Council will elect a President at this meeting. The President shall act as Mayor if the Mayor is unable to perform the duties of the office or preside at meetings.*

Mr. Bennett reviewed the procedure for the election of the President of the Council.

Councilor Soppe suggested the term of the Council President be less than 2 years (3-4 months or so). Discussion was held concerning the proposed term being consistent with the Charter. The Council would have to reconsider the issue of the Council Presidency as specified in the Charter. The Council could determine how long the individual could serve.

Councilor Currier said the election calls for an election in each odd year. Mr. Mahr said the Council could structure the term. Discussion was held concerning reviewing the position more regularly.

Mayor Stewart addressed continuity which is important for the Council. The Council President may or may not have any duties when the Mayor is absent.

MOTION: Soppe/Currier moved to make the position of the Council President for a 4 month term and then review the process after 4 months. (Unanimous). Motion carried.

Nomination:	Votes:
Councilor Soppe nominated Roger Currier	(1)
Councilor McBride nominated Robert Larson	(3)
Councilor Currier nominated Robert Soppe	(1)
Councilor Larson abstained	(1)

Mayor Stewart declared that Councilor Robert Larson was appointed Council President for a period of 4 months.

PUBLIC MEETING SECTION

V. PUBLIC COMMENTS

Darlyn Adams, 131 Johanna Court, Newberg, Oregon, congratulated the Mayor and Council. Ms. Adams reviewed fund raising events and upcoming meetings for the Animal Shelter Friends. Ms. Adams also reviewed the funds received during the past year. Financial status: \$67,934.18 in the fund. They collected \$17,194 in 2000, \$20,587.15 in 2001 and \$30,182.09 in 2002. She anticipated increased funding in 2003. They will be celebrating their 3rd anniversary in March. Mayor Stewart thanked Ms. Adams for her contributions and funding raising efforts.

Councilor Currier presented information relating to the \$.01 per gallon gas tax adopted in Sandy as an alternative to the proposed street fee. If the City is interested, the City would need to hire a consultant. He would like to review the information and discuss it with him further.

IX. CONSENT CALENDAR

1. Approve minutes from regular Council meetings held on October 21, 2002, November 4, 2002 and November 18, 2002.
2. **Resolution No. 2003-2421** authorizing the reimbursement for expenses related to improving the wastewater treatment system, specifically related to odor control, sludge process and safety (the "Project").

MOTION: Currier/Soppe to adopt the Consent Calendar. (Unanimous). Motion carried.

VI. PUBLIC HEARING

1. Public hearing on the adoption of **Ordinance No. 2003-2576** amending Newberg Development Code Section 151.401, the M-2 (Light Industrial) District outright permitted use list to allow manufacturing, compounding, bottling, processing, packaging, or treatment of food and beverage products (except fish, meat, sauerkraut, vinegar, yeast and alcoholic beverages), and Code Section 151.402, the M-2 (Light Industrial) District conditional use list, to allow manufacturing, compounding, bottling, processing, packaging, or treatment of fish, meat, sauerkraut, vinegar, yeast and alcoholic beverages.

City Attorney Terrence D. Mahr addressed conflicts of interest, potential or actual. There were none.

Barton Brierley presented the staff report on the development code amendment for food processing services in the M-2 zone. Jarrett Rose came to the City in October/November and said he had a person interested in relocating to his business complex who had a beef jerky and meat smoking operation. The Planning Commission agreed to initiate the change, held a public hearing, and recommended the text amendment. Mr. Brierley reviewed the current uses allowed in the M-2 (Light Industrial zone). The options are to change the use to either a conditional use or a permitted use. Caravan Coffee moved into an M-2 zone. The Planning Commission decided to request an emergency measure to allow Mr. Rose's tenant to expedite the process.

Councilor Soppe asked how the use is handled in other industrial zones and why the use was originally prohibited in the M-2 zone? Mr. Brierley replied that it was most likely an oversight because the use is allowed in the other industrial zones.

Councilor Andrews asked for clarification on whether the use would be classified as a permitted use in the zone or as a conditional use? Mr. Brierley said that it was proposed to be a conditional use due to the potential impacts from odors issuing from the use.

Councilor Pugsley asked for clarification on the recommendation of the Planning Commission and additional review of other ordinances by the Planning Commission on further corrections to the Code.

Councilor Currier addressed the affect the change would have on other M-2 areas in the vicinity of residential and/or mobile home parks. Mr. Brierley reviewed the various areas of the City which are zoned M-2. Discussion was held concerning the allowance of odor without further regulation and measuring the

level of odor. Mr. Brierley said that the conditional use standards would have some teeth to handle upcoming issues.

Councilor Soppe asked why the Council needed to declare an emergency. Mr. Brierley said that the Planning Commission wanted to expedite the change so that the proposed beef jerky/meat smoking business would not move elsewhere. The use should not have been prohibited originally. If an emergency is not declared, it would be an additional thirty days before the ordinance would take effect and the applicant could apply to go before the Planning Commission for a conditional use permit.

Councilor Larson asked why manufacture of alcoholic beverages would require a conditional use permit.

Tape 1/Side 2-

Jarrett Rose, 15755 S. Beef Bend Road, Tigard, owner of the industrial park by the airport. He said that most zones are progressive and what is a conditional use in an M-1 is usually a permitted use in the next higher zone. The most inclusive zone is an M-3. The reason for the emergency is that the Planning Commission addressed the hardships of starting a new business. Discussion was held that the Planning Commission was right in suggesting that the use be a conditional use for certain businesses who may occupy the property.

Lon Wall, 625 N. Morton Street, Newberg, said that this was the last hearing he attended as a Planning Commissioner. There is an issue of the emergency portion approved by the Planning Commission being because there was a specific applicant who wanted the law changed. He is not saying that there is something wrong with this.

Mayor Stewart closed the public hearing. Staff recommends adoption of the ordinance.

MOTION: Currier/Pugsley to read Ordinance 2576 by title only. (Unanimous). Motion carried.

Councilor Pugsley stated that he agreed with staff's recommendation to adoption the Ordinance.

MOTION: Currier/Pugsley to adopt **Ordinance No. 2003-2576** amending Newberg Development Code Section 151.401, the M-2 (Light Industrial) District outright permitted use list to allow manufacturing, compounding, bottling, processing, packaging, or treatment of food and beverage products (except fish, meat, sauerkraut, vinegar, yeast and alcoholic beverages), and Code Section 151.402, the M-2 (Light Industrial) District conditional use list, to allow manufacturing, compounding, bottling, processing, packaging, or treatment of fish, meat, sauerkraut, vinegar, yeast and alcoholic beverages. (Unanimous). Motion carried.

BUSINESS MEETING SECTION

VII. CONTINUED BUSINESS

None.

VIII. NEW BUSINESS

1. **Resolution No. 2003-2422** interpreting Newberg Code Section 36.54A, dealing with the assessment of publicly owned property in the Crater Lane Local Improvement District.

Mike Gunn, attorney for the Mitchells, addressed the legal action they have filed against the city. By this resolution, the Council is attempting to justify its method for assessing properties within the LID. The Mitchells disagree. The Council does not have an ax to grind with the Park and Rec district or the School District. Discussion was held concerning how the assessment was done. He does not agree how the City is assessing the properties. The assessments for the CPRD property of 1 acre and the 3.4 acreage of the School District are based on actual flow and the amount of sewage generated. Every property owner except CPRD and the School District is being calculated using an estimate.

Councilor Currier asked how a larger lot is assessed because the property can be divided into two properties. Mr. Gunn said that in the R-1 zone a property is assessed based upon square footage on the lot regardless of the number of residences.

Councilor Soppe addressed assessing the park and school properties differently. CPRD is being assessed upon 1 acre. The School District is 3.148 acres. CPRD and the School District have agreed that the property owners should not be charged at 100% of the total square footage. Councilor Soppe believed that the majority of the School District property was already developed.

City Attorney Terrence D. Mahr reviewed the interpretation of the Ordinance. He said he would recommend that the standard is to use a fair and reasonable method for determining and apportioning the actual costs. Mr. Mahr reviewed the language contained in the Code (Section 36.54A). The Mitchell's position is that this is not fair and reasonable. The Courts would address the validity of their position.

Councilor Soppe asked what development could be seen on the School District property. Mr. Brierley said that the School District property is full of buildings and parking lots.

City Attorney Terrence D. Mahr said that Councilor McBride is declaring a conflict of interest (Mitchells are clients of his insurance business) and has not participated in the discussion for that reason. If the Council vote would affect the Mitchells' business, that is the standard for an actual conflict.

MOTION: Currier/Larson to adopt **Resolution No. 2003-2422** interpreting Newberg Code Section 36.54A, dealing with the assessment of publicly owned property in the Crater Lane Local Improvement District. (5 Yes/1 Abstention [McBride]. Motion carried.

2. **Resolution No. 2003-2414** updating the current Public Records Fee Schedule to reflect current costs.

Mr. Brierley said the fee increases are due to additional costs incurred by the City and staff in copying and preparing documents..

Councilor Currier said for a clarification of the \$.25 per square foot charge for reproducing maps. Mr.

Brierley said that he will make such a clarification on the fee schedule.

Councilor Andrews asked for clarification on GIS (Geographic Information Systems). Is the fee schedule applicable only to the Community Development Department. Discussion was held concerning other City departments which have similar fee schedules. Ms. Tri, Finance Director, said that other departments update their fee schedules.

Councilor Soppe addressed small adjustments being made by City staff. Mr. Brierley said that many of the fee schedules have consumer price index adjustments built in. Discussion was held concerning the time period of when adjustments are generally made (3 years or so), and having the Council review the future changes. Mr. Mahr said that it is an administrative function versus a legislative function. The Council cannot set the prices higher than allowed. The Council could allow the City Manager to set the fee schedules with or without Council approval.

Councilor McBride addressed the copying charges seeming higher than actual costs. Mayor Stewart addressed the various costs which are in addition to normal copying costs. Mr. Brierley said City staff thoroughly reviewed copying costs. Discussion was held concerning fee schedules in the City's ordinances or resolutions which are subject to adjustment.

Councilor Soppe agreed with giving the City Manager authority to proceed administratively in similar instances and notify the Council at certain times.

MOTION: Larson/Pugsley to adopt **Resolution No. 2003-2414** updating the current Public Records Fee Schedule to reflect current costs (Unanimous). Motion carried.

3. **Resolution No. 2003-2417** authorizing the submission of a grant application by the City of Newberg to the Oregon Department of Transportation Enhancement Fund for the Newberg First Street (Highway 99W) Enhancement Project.

Mr. Barton Brierley said the grant would be for items such as pedestrian pathways, streetscaping and other downtown improvements like street lighting). The application would include old fashioned street lights being placed on First Street. Discussion was held concerning the cost to the taxpayers or the City. The project would continue from Meridian Street to Main Street. The project would include pedestrian curb extensions (bulb-outs) on Blaine, School and Main Streets. The grant application requires a local match (\$10.27% to be funded locally). For every \$9 given by grant, the City would have to contribute \$1.00. The grant is \$409,000. The local match would be \$21,000 in staff time, \$12,000 from EDRLF and \$10,000 from the general fund (room tax revenue). These amounts are not in the current budget. It is anticipated it would be in next year's budget (City contribution). Staff recommends adoption of the grant application.

Councilor Larson said that, once the new street lights are installed, the old street lights are exchanged and recycled.

Councilor Soppe confirmed the City Council is only authorizing the grant application. Discussion was held concerning using some of the EDRLF fund principal. Mr. Soderquist said the street lights are not owned by the City but by PGE.

Councilor Pugsley asked whether the room tax was expiring. Ms. Tri said no it was not. The previous grant for the bulb-outs (audio walk signals and crossing signals) will be reported on at a later date. Mr. Soderquist said they prepared a report on the audio walk signals. M. Bennett said he would provide a copy of the report to the Council.

Tape 2-/Side 1:

Discussion was held concerning the room tax revenues being expended to help pay for various projects throughout the City. Ms. Tri said the money is available in the EDRLF to be used in these types of situations. Discussion was held concerning potential erosion of other planned activities by City staff if this project was allowed. Mr. Brierley addressed prioritizing the projects. Ms. Tri said that this would be a street capital project budget item. There is nothing in next year's budget for capital improvements (no gas tax monies available for projects). Discussion was held concerning SDC type projects.

Discussion was held concerning adopting the grant application only.

MOTION: Currier/McBride to adopt **Resolution No. 2003-2417** authorizing the submission of a grant application by the City of Newberg to the Oregon Department of Transportation Enhancement Fund for the Newberg First Street (Highway 99W) Enhancement Project (Unanimous) Motion carried.

X. EXECUTIVE SESSION

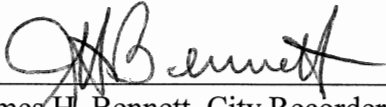
1. Executive Session pursuant to ORS 192.660(1)(h) relating to pending litigation cases:
 - a. Gulf Insurance Company v. City of Newberg
 - b. Mitchell v. City of Newberg

This meeting was held before the Council meeting.

XI. ADJOURNMENT

MOTION: Currier/Soppe to adjourn at 8:45 p.m. (6 Yes/. Motion carried.

ADOPTED by the Newberg City Council this 3rd day of February, 2003.



James H. Bennett, City Recorder

ATTEST by the Mayor this 25th day of February, 2003.



Bob Stewart, Mayor