

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

I. CALL MEETING TO ORDER

Mayor Stewart called the meeting to order.

II. ROLL CALL

Bob Andrews

Bob Larson

Doug Pugsley

Roger Currier

Mike McBride

Robert Soppe

Others Present:

James H. Bennett, City Manager

Terrence D. Mahr, City Attorney

Michael Soderquist, Community Development Director

Barton Brierley, City Planner

Katherine Tri, Finance Director

III. PLEDGE OF ALLEGIANCE

The pledge of allegiance was administered.

PUBLIC MEETING SECTION

IV. PUBLIC COMMENTS

Darlyn Adams - 131 Johanna Court, Newberg, sold \$1,900 during brick campaign. The auction is Saturday April 26th. The goal is to net over \$6,000. There will be live entertainment with a barber shop quartet. The fund is now at \$75,904.67. The cost of the dinner tickets is \$20.00.

V. CONSENT CALENDAR

1. Visitor Information Center Report from Newberg Area Chamber of Commerce. (Ann Dolan, Chamber Director and John Miller from Yamhill Valley Visitors Center)

Ms. Ann Dolan and John Miller presented the report of the Visitors Center. Their directory provides a list of essential services with phone numbers. Ms. Dolan talked about some upcoming events and other developments, including the bypass. Discussion was held concerning the expense of operating the Visitors Center. Ms. Dolan said it has been running between \$23,000-

\$26,000 annually. Also discussed were the reasons for the decrease in visitor contacts (possibly because of economy and 9/11 events). Ms. Dolan noted, however, that the web hits were about 3 times more than normal. .

Mr. John Miller, Executive Director of Yamhill Valley Visitors Association , provided information on promoting tourism and raising the economic climate of Yamhill County. There are about 50 members ranging from wineries and hotels to monasteries, carpet cleaners, etc. There are different levels of membership, such as the casino and the hospital to name one or two. They have a wish list of marketing activities which is done by effort and little money. They are supporting themselves. They are competing with other locations in Oregon. They are trying to implement over-night packages. They have started an initiative petition (second attempt) which is now with the County DA for an 8% lodging fee County wide. Newberg would continue to receive 6% and 2% goes to the County). The disposition of the funds will be different: 5% to hotel operator for collecting, 5% goes to County for administration and 25% goes to the County for tourism support of activities and infrastructure (roads, etc.) 10% will be allocated for grants to other entities in the County which do tourist related activities and the remainder would go to non-profit organizations which promote tourism.

2. Appointment of Ad-Hoc Committee for Newberg Animal Shelter Friends.
3. Motion to approve the proposed Intergovernmental Agreement between the City of Newberg and Marion county for the striping of selected City streets during 2003.

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

VI. PUBLIC HEARING

1. Public hearing on the adoption of **Ordinance No. 2003-2577** approving the requested comprehensive plan amendment from COM (Commercial) to PQ (Public/Quasi Public) and zone change from C-2 (Community Commercial) to I (Industrial) on tax lot 3216-1902 (Mustard Seed Property).

City Attorney Terrence D. Mahr, City Attorney, read the quasi-judicial hearing process rules (raise it or waive it rule). The applicant can have additional 7 days to address the record once it is closed. If so, the Council cannot deliberate on the matter. It is not the first evidentiary hearing on the matter. There is a right to have the record remain open.

Councilor Bob Andrews said he previously sat on the Planning Commission and heard the matter (ex parte contact).

Mr. Barton Brierley, City Planner, presented the staff report and provided over-head maps of the zone change and comprehensive plan amendment proposals. The purpose of the changes are not only to allow the hospital, but to restrict uses such as grocery stores and gas stations from being developed on the property. One of the concerns is the potential for increased traffic on the total site. The applicant showed by changing all 3 parcels to the institutional zoning to allow the hospital, they would have less traffic than a store and gas station on the Mustard Seed lot. It is

staff's recommendation to adopt the Ordinance.

Councilor Currier inquired about the standards for the institutional zone. Which uses are allowed out-right within the institutional zone? Mr. Brierley said there are fewer uses permitted under the institutional zone. Discussion was held concerning setbacks and other requirements, water and sewer, frontage on Hwy 99W. Mr. Brierley said there is some question whether the water line is actually there. Field work will be done, and it will have to be along the frontage as part of the development. Councilor Currier addressed the building height with certain setbacks. Mr. Brierley said that, in the C2 zone, there is no building height limitation unless adjacent to a residential district. It is changing to an institutional zone with a maximum height of 75 feet except within 50 feet of an interior line, property lines abutting public streets/railroad rights of way, etc. There is a complicated standard with the institutional zoning which is more restrictive than the C2 zone as to height restrictions. Discussion was held concerning the final height of the building structure. Are there waivers of the zone standards that can be approved by staff? Variances are Type 2 applications that require notification of surrounding property owners, meet the criteria for variances and go to staff for approval.

John Bridges, 515 E. First Street, Newberg, Oregon, representing Providence Hospital.

Councilor Soppe addressed the 300 new jobs proposed. Discussion was held concerning filling the positions with local people - percentage of employees at the current hospital that are residents and non-residents. Mr. Bridges said he did not have that information, but could provide it to the Council at a later time. He estimated that a substantial number of the employees were residents of Newberg. Accessory uses proposed at the new facility are conditionally allowed in the C-2 zone. Discussion was held concerning whether or not a medical center would be constructed. The conference center would not be allowed under the C-2 zone. The ancillary service building would be a facility which may sell or rent medical devices (hospital beds, wheelchairs, walkers, etc.).

Councilor Soppe reviewed the innovative, energy efficient, and aesthetically pleasing facility. Discussion was held concerning applying for certification of the design. Mr. Bridges said the nature of the hospital industry is different from 10 years ago (67% of patients they are dealing with are out-patient). They plan to try and maximize flexibility for the future development of the hospital campus.

MOTION: Pugsley/Currier to read Ordinance No. 2003-2577 by title only. Motion to adopt Ordinance No. 2003-2577 approving the requested comprehensive plan amendment from COM (Commercial) to PQ (Public/Quasi Public) and zone change from C-2 (Community Commercial) to I (Industrial) on tax lot 3216-1902 (Mustard Seed Property). City Attorney Terrence D. Mahr read the Ordinance by title only. (Unanimous) Motion carried.

2. Public hearing concerning the regulation of the City Storm Water System and the establishment of a Storm Water Management Fee. Adopt **Ordinance No. 2003-2571 regulating the City Storm Water System**; establishing a Storm Water Management Fee for the maintenance, operation, debt service and construction of the City Storm Water System and establishing an effective date.

Councilor Currier said that he had discussed the ordinance with Mr. Lewis and Mr. Vergets and most people are wanting to discuss the fairness of it and complain about it. The Homebuilders Association also talked with him about the fairness of approving agreements for the two churches without charging SDCs.

City Attorney Terrence Mahr said that constituents can contact councilors in regard to legislative hearings. In this case, councilors are considered to be impacted by the ordinance the same as all other citizens and, therefore, do not have to declare a conflict of interest.

Ms. Katherine Tri, Finance Director, presented the staff report:

Conduct a public hearing to consider adopting) Ordinance No. 2003-2571. The ordinance is No. 2571 and not 2471 as noted in the staff report. Ms. Tri reviewed the public hearings held starting in September 9, 2002 and two public meetings with citizens. They met with the Chamber and held another public meeting on February 11, 2003. They met individually with many major rate payers notified by letter. The Citizen Rate Review Committee met 6 times with consultants and staff to make recommendations and numerous updates to the information presented. The ordinance:

- Allows for future adoption of a storm water management fee
- Provides for storm water facilities that reduce impacts on the storm water system
- Uses same administrative process for establishing or reviewing fees as that for water and sewer services - citizens rate review process.
- Allows for credits for non-residential customers with on site-storm water facilities which reduce the use of the system
- Requires standards to be maintained.

The City is committed to a public education program and has included funds for such purpose. There are 52 needed capital projects at a cost of over \$7.3 millions and 62 current areas within the city which are prone to flooding due to lack of maintenance. Street and sewer funds primarily subsidize the storm water fund when a problem occurs. Recommendation of staff is to adopt the Ordinance.

Councilor Bob Larson asked about the \$366,000 per year charge. The packet said it should bring in \$479,000. Discussion was held concerning the difference being used for future projects. They are not ready to start the projects and may have to sell bonds depending upon the size of the project.

Councilor McBride asked if SDC charges are only for piping, etc. for new projects. The capital improvement plan is adopted through the master storm drainage plan (updated every 5 years). The City may not spend SDC on operations and maintenance and funds have to be dedicated.

Tape 1 - Side 2:

Mike Gougler asked that his comments be distributed to the Council. The Chamber has directed him to state that the City does need to do something about the storm water drainage system.

Councilor Soppe addressed Mr. Gougler's letter and suggested that action on the ordinance be suspended until it can be revised. He said that it does not have specific enough rules that provide flexibility in handling street widths, bio-swales and other issues that affect a comprehensive storm water system. The surcharge should be based on size of water meter. Discussion was held concerning the burden of the proposed fee. The surcharge is intended as a vehicle to generate an immediate cash flow for immediate problems and does not address the problem of equity. There is a concern about whether using hard surface is a fair and reasonable measure. There is not enough provision for mitigation or remediation to avoid a large expense on as it is currently written. Discussion was held concerning the geology and topography which would provide a certain amount of water filtration before it gets to the catch basin. The Code needs to be revised to provide a way to address the specific needs of a particular site. Discussion was held concerning sunsetting the fee. We have two components maintenance and capital projects both of which are dependent upon the fee schedule. It seems we have a built in sunsetting process due to the rate review board.

Councilor Pugsley addressed the ability to amend the storm water management plan and adopt rules that would give staff more flexibility to address mitigation of storm water and to work out problems. The purpose was to empower staff and it would be nice if they have sufficient engineering or planning staff to handle future problems.

Mr. David Paxton, 812 Green Valley Drive, Newberg, said that after having attended 3 meetings, the City seems to have changed horses in mid-stream. Measure 5 restricts the amount of revenue to be raised by local governments. Discussion was held concerning county and state governments in the same situation. The utility fee is a thinly disguised method for altering Measure 5. He requested at the meeting on 09/26/02 whether there would be a public vote - he has not received an answer. Section 4.3 requires a public vote. At the 02/11/03 - utility was hardly mentioned but the word "fee" was. Is it a utility or a fee? We had storm drainage beginning with the 1893 charter. It referred to it in the 1950 charter. The Charter in Section 4.3 clearly authorizes the City to set up a brand new type of utility. Only problem to use that authority is that it requires a public vote. Discussion was held concerning providing for a lesser standard. He delivered to Mr. Bennett a letter requesting that any ordinance state its authority for imposing a fee. Article 11 of the State Constitution provides for the amendment of the Charter. He does not believe the City has the authority.

Mr. David Craig, 19788 NE Sunnycrest Road, Newberg, Springbrook Industrial Park and resident:

He does not believe the program is fair to local businesses. Under the proposal, they would bear 66% of the total cost of the program. All public properties have been omitted from the calculation because they are part of the storm water system. We are all part of the system. Discussion was held concerning other users. It places an undue burden on the community. Businesses are being asked to pay for the majority. He would like to suggest a better way to fund. The Oregon recession has claimed many businesses. The City has enjoyed a 3% tax increase because of the passage of Measure 50. It would be a good time for the City to establish funding from the annual increase in the general fund. If the City dedicated this increase for 1 year, it would be about \$525,000 for the storm water utility. The savings in administrative fees would be substantial giving the City time to deal with the issue. All it would take is some belt tightening by the City. Businesses are taxed enough. The City should make due with what they have.

Councilor Currier asked for a copy of the statement Mr. Craig made. Mr. Craig said he would provide a copy.

Councilor Pugsley addressed the cost of living increases for the City. Discussion was held concerning reductions in business income.

Councilor Soppe said the other publicly owned properties and roadways are not being taxed. Discussion was held concerning the 3 % increase in property tax revenues which is part of the \$3.2 million received by the City. He encouraged Mr. Craig to attend the meetings. Councilor Soppe said he will email Mr. Craig about the meetings.

Mr. Jeff Kizer, owner of property located at 315, 317, 319 Elliott Road, said he was impacted by the proposed storm water fee. He testified that 3 business on the site are down in gross and net volume in 2002 and 2001. He said that a public taxing authority wants to reach into his pockets with no possible end in sight and the fee could be increased. He said the informational mailers estimated the storm drain fee will manufacture \$575,000 revenue per year - \$200,000 which is for new construction projects and \$300,000 will add additional people for inspections and installation and performing existing maintenance projects. The City has no business doing new construction projects. The public works crews already have existing public works projects. He does not favor new fees with an already struggling business structure and adding more people to the payroll of the City. The private sector should be allowed into the competitive bidding process. Discussion was held concerning the passage of a serial levy. Maintenance and repairs should come out of existing budget.

Councilor Soppe asked about the serial levy and whether it would amount to more or less revenue.

Michael Gunn, 201-B N. Meridian, Newberg, attorney representing Glenco, LLC (Newberg Hardware), Tony Wilson (NAPA) and other businesses. He is also a business owner. He said that he does not believe it will pass legal muster. Discussion was held concerning statement of 10/22/02 that "The City of Newberg is considering the establishment of two new utilities to address budget shortfalls. These utilities are Storm Water and Transportation".

From a practicality standpoint, he attended a town hall meeting (60-70 people with some Council and staff in attendance) where the group was against the proposal. He said staff is recommending adoption and he does not know it would add almost 5 people to the payroll. There is no sunset provision and he can understand the complaints. If the City needs the money and this is on property, what is problem to go with a serial levy. If the voters speak, he and everyone will live with it. This is not a situation where the voters have authorized it. His position is that it should not be enacted at the present time. These are not good economic times.

Councilor Soppe noted that the fee could be considered a property tax because it is based upon the amount of the impervious surface on the property. This is the responsibility of the property owner, not the tenant. But the fee would be paid on the utility bill, sometimes by the property owner and sometimes by the tenant. Discussion was held on an alternative way of charging the fee. The City considers storm water a utility.

Councilor Currier stated that most business owners don't live within the city limits. If the matter was put to a vote, would the businesses be comfortable having the voters decide the issue?

Mayor Stewart asked Mr. Gunn if he agreed that if he uses the City's storm water system he should pay for it just like for water and sewer. Mr. Gunn said that asking people to pay for something like that should be put to a vote of the people.

Leonard Rydell, 601 Pinehurst Drive, Newberg, design engineer, stated that he wrote a guest editorial on the proposed fee for the Graphic. Discussion was held concerning shrinking revenues and demand for services. The ordinance provides for shoring of the hole in the capital budget. Before it is passed, we need to think what it is we are trying to accomplish. Great opportunity to do something. Does storm water runoff cause property damage? Very little, if any. Mr. Rydell reviewed the editorial statement in the Newberg Graphic. Discussion was held concerning hazards. The storm water system needs to be managed. Discussion was held concerning the Council, consultants and the Rate Review Committee having provided recommendations but having done little to solve the problem other than to use bigger pipes. He suggests postponing the matter. Discussion was held concerning information on storm drains and how the State and other communities are handling them - pay for what they need and pay for what they use.

Tape 2- Side 2:

Clyde Thomas, representing George Fox University. He is not necessarily an opponent. The university mitigates storm water runoff generated by both the university and adjacent properties whose storm water drains onto the university. Something needs to be done to address storm water needs.

Mayor Stewart closed the public testimony. The recommendation of staff is to approve the ordinance.

MOTION: Soppe/Pugsley to adopt the Ordinance with a revision that the actual fee structure is not left to an administrative decision and is set by Council.

Discussion was held concerning the Citizens Rate Review Committee recommending storm water rates like it does for water and sewer so long as it clear that the Council will actually approve the rates.

Councilors Soppe and Pugsley withdrew their motion.

MOTION: Soppe/Pugsley to adopt **Ordinance No. 2003-2571** and read by title only regulating the City Storm Water System; establishing a Storm Water Management Fee for the maintenance, operation, debt service and construction of the City Storm Water System and establishing an effective date.

Councilor McBride said we need to have more time to discuss this. He is not in a big hurry to pass this. He is a business owner and he will be affected. He understands there is a need. He feels we need to refine this more and to consider more options since most of us are new to Council.

He attended the February meeting and there were quite a few questions and misunderstandings. He would like to get past the utility fee definition. He would urge that we not pass the ordinance until we have had a chance to discuss it more.

Councilor Currier said he keeps hearing the need for a serious discussion to allow staff to address specific needs and changes and he urged the Council not to adopt the Ordinance. He knows the City has needs. One of the items in the Chamber letter presented by Mike Gougler is that it is not a full funding for the storm water system. Discussed establishing a water meter fee. He is wondering if people would go to a water meter fee same as a fire truck fee. It is an alternative to consider. He urged the Council to look at tabling to a definite time to consider other proposals, a month out or so, and to reconsider the whole thing before we make a drastic mistake. With reduced incomes and a weak economy, people cannot handle new fees.

MOTION: Currier/McBride to table the matter to the May 5, 2003 Council meeting. (4 Yes /2 No [Soppe/Pugsley]) Motion carried.

City Manager Jim Bennett asked for clarification of the specific items staff was to return to the Council with for their review and consideration.

Councilor Currier asked if there was any way that the people who submitted information could sit down with staff and make suggestions and written comments.

Councilor Soppe said he was concerned about what information we want that is not covered in part of the ordinance: the structure of the fee, what it is to be charged on, etc. Discussion was held concerning the implications of what needs to be addressed before the entire process is finalized.

Councilor Andrews said he would like to see an appeal process for single families and better definition of what are appropriate design standards for storm water facilities. He was concerned about the effective date of the ordinance (30 days after passage) which could be extended to 60-90 day. He was also concerned about making appropriate revisions to Code Section 50 (Citizens Rate Review Committee) to include the storm water fee and ensure that it is the Council who approves and/or changes it.

Mayor Stewart called for a 5 minute recess at 8:55 p.m. The meeting was reconvened at 9:00 p.m.

BUSINESS MEETING SECTION

VII. CONTINUED BUSINESS

1. Update on Privilege Tax - report from Finance Director.

Katherine Tri, Finance Director. The City received its revenue check for calendar year 2002 from the PGE privilege tax for \$176,196.97. The tax has been dedicated to paying the General Fund portion of the debt on City Hall. The remaining debt service is \$145,529.74. They are

pretty much on target with the privilege tax.

Councilor Soppe addressed retirement of the bond early. Ms. Tri said the bond was structured by paying more principal in the first five years - saving the City interest in the long run. Discussion was held concerning the ending date of the privilege tax (October 2004). It is a 20 year bond. There are some call provisions which are out there aways.

Councilor Andrews asked about what would happen if PGE is sold. Ms. Tri said that she is not sure what would happen. Discussion was held concerning the franchise fees. Mr. Bennett said the controlling entity would be obligated to pay the franchise fee.

VIII. NEW BUSINESS

1. Adopt **Resolution No. 2003-2438** authorizing hardship connection request for property located at 23895 NE Dillon Road based on the applicant's inability to meet all of the required criteria.

Mr. Mike Soderquist, Community Development Director, said that the Rasmussens are building a house on property that they own on Dillon Road, outside the UGB and URA. They dug a well on the property and the well failed shortly after. They are requesting a hook-up to the local water district. The findings were prepared by the engineering staff. There is no recommendation. The NW Water District has a water line on Dillon Road.

Councilor Pugsley asked what the limits are on granting a hardship. Discussion that it applied anywhere the City provides water.

Councilor Soppe asked if the hardship were granted and years down the road annexation occurs, would owners be required to pay SDCs? Mr. Bennett replied that they would pay all system development charges, connection fees for water service at the time of connection.

Councilor Currier addressed prior decisions to not collect SDCs from developments outside the City limits. Councilor Soppe asked whether the applicant would be required to pay sewer, transportation and storm water SDCs. Discussion was held that upon annexation, they would have to pay sewer SDC charges. Discussion was held concerning a consent to annex.

Councilor Andrews asked about the NW Water District's relationship with the city. They are purchasing water from the City, but they own the water lines which they maintain. The District said they are willing to allow the Rasmussens to connect. The Rasmussens would have to pay for the extension of the lines.

Mr. Mahr said the District cannot add on users without the City's approval and annexation to the City. The Water District owns the lines and the City has no investment in the added distribution of the lines. The District is charged 1.5 times the normal rate. Discussion was held concerning capacity.

Councilor Currier asked for clarification of water service availability for Honey Lane and Dillon Rd. The whole segment from Morton (west) marked "Twenge" does not have City water. When citing the ordinance, it talks about hardship to an existing structure. In this case, this well was

drilled in November, 2002 and went dry within days of installation, but they continued to build the structure - not exactly an existing structure.

Tape 2- Side 2 -

Chris and Shawn Rasmussen, 23895 NE Dillon Road, Newberg, said the water main currently runs under their driveway. As far as the construction, the well was built in November, 2002. They began the construction of the house, foundation, roof and electricity - ran the well for a little bit - and the well went dry. They had a house through framing, plumbing, electrical, windows, doors, and did not know the well was bad. They slowed construction down dependent upon what happens with their request. They have a letter from their well driller about their attempts to drill a well and showing that the adjoining property had drilled 4 bad wells. There are surrounded by bad wells. They agree to annexation and accept all costs. They are active in the community and he is a police officer in Hillsboro. He is active with the Newberg Police Department also.

Councilor Currier said the point is how far do we keep going with the water service. Everyone knew that there was no water in Honey Lane. Chris Rasmussen said she was not aware of the water well problem. Discussion was held concerning their not knowing of the water well situation. Chris Rasmussen said he would not have began construction if he knew of the water situation. Councilor Currier reviewed the prior problems with another property owner.

Councilor McBride said that is no reason to deny people the use of water.

MOTION: McBride/Larson to adopt Resolution No. 2003-2438 approving a hardship request for a water connection for property located at 23895 NE Dillon Road.

Councilor Currier said that we are now setting a precedent with existing and new structures and possibly overreaching the City's policies. Mayor Stewart stated that the Rasmussens have followed the rules. Councilor Currier said the ordinance states "residence" and possibly sets a precedent.

Councilor Soppe asked the Rasmussens when they purchased the property. They replied that it was in September, 2002, and they started looking into the feasibility of water prior to purchasing the property. They saw green lawns and did not believe there was a problem with water (most property owners had wells). They did not do a full exhaustive search. The water came in at about 5 gallons per minute. Discussion was held concerning investigating the well water search prior to purchase. The well was done in November (around Thanksgiving). When did they find out about other wells in the area and/or other wells being in a poor state? Discussion was held concerning annexation and the avoidance of payment of SDCs upon annexation. Mr. Rasmussen said that as property is annexed into the City, it requires vote of the people. He will not be an opponent of annexation and agreed that they would pay SDC's which would otherwise be avoided.

VOTE ON MOTION: (4 Yes/2 No [Soppe/Currier]) Motion carried.

Mr. Bennett discussed the City providing services to properties outside the City. He said that the City's water system is different than now than when the current water policy was adopted.

The City originally had 5 wells (. The City now has 7 wells and there are 4 additional wells on tap doubling the size of the water system. Conditions are changing. Discussion was held concerning the City's capacity. It may be a good time to see if the policy still meets our needs.

Councilor Currier said the prior City Manager signed a document with Sumitomo to provide them with City water. He wants to make sure the Council considers the long reaching implications of changing the policy.

2. Adopt **Resolution No. 2003-2436** which repeals Resolution No. 2003-2419, which re-authorizes the Newberg Downtown Revitalization Committee and its by-laws by expanding the membership from 7 to 9 members.

MOTION: Andrews/Pugsley to adopt **Resolution No. 2003-2436** which repeals Resolution No. 2003-2419 and re-authorizes the Newberg Downtown Revitalization Committee and its by-laws by expanding the membership from 7 to 9 members. (Unanimous) Motion carried.

3. Adopt **Resolution No. 2003-2437** authorizing the City Manager to revise the existing contract agreement with MJG Development, Inc. (MJG) for the Fernwood Road Repair Project, with the approval of the City Attorney as to form and content.

Mr. Soderquist said that Mr. Mike Gougler of MJG was in attendance. About a year and a half ago, Fernwood Road failed and had to be closed. In June, 2002, the previous Council approved a fix to the road to be constructed by MJG Development which is developing the Springbrook Oaks Development. In November, they reinspected the road and determined that additional damage to the road had occurred and a new design to repair the road was needed. The new plan would include removal of a portion of the road fill and the culvert, new engineered fill and asphalt paving and a larger culvert at least 54" in diameter. It would also include installation of a 12" waterline in Fernwood Road.

Councilor Soppe requested a clarification that the cost of the project would not exceed \$100,000 and that this should be specifically stated in the agreement.

Councilor Soppe asked how the city would have proceeded if work had begun under the prior agreement and it was determined that more work needed to be done. Mr. Bennett said it would be like any other capital improvement project and would have come back to the Council to approve any additional work and payment. Discussion was held concerning the crossing of Fernwood by the Bypass. It is unknown if this would be an at grade, raised or depressed crossing.

Councilor Andrews reviewed the working agreement previously entered into for \$87,000 and which is now adding the additional 12" pipe. Discussion was held concerning an additional \$13,000 for putting in a waterline to serve the area.

Mr. Gougler said the road is the proverbial tar baby. There have been continuous problems since the road first failed in getting necessary State permits to replace the culvert and work within the creek. They are ready to do the work. They have the plans ready as soon as Mr. Danicic is back

to stamp the application.

Councilor Pugsley asked about the conclusions of law (page 135) waiving competitive bids and whether time is of the essence? There would be a cost savings to complete the project by the end of summer.

MOTION: Currier/Pugsley to adopt Resolution No. 2003-2437 authorizing the City Manager to revise the existing contract agreement with MJG Development, Inc. (MJG) for the Fernwood Road Repair Project, with the approval of the City Attorney as to form and content. (Unanimous) Motion carried.

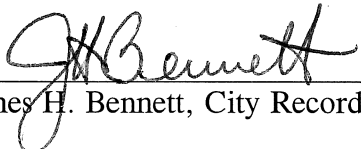
IX. EXECUTIVE SESSION

None.

X. ADJOURNMENT

MOTION: Currier/McBride to adjourn at 10:00 p.m. (Unanimous) Motion carried.

ADOPTED by the Newberg City Council this 19th day of May, 2003.


James H. Bennett, City Recorder

ATTEST by the Council President this 20th day of May, 2003.


Bob Larson, Council President