

**MINUTES OF THE NEWBERG CITY COUNCIL
JULY 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
Roger Currier
Doug Pugsley**

**Mike McBride
Bob Larson
Robert Soppe**

Others Present:

**James Bennett, City Manager
Terrence Mahr, City Attorney
Michael Soderquist, Community Development Director
Barton Brierley, City Planner
Dan Danicic, Engineering**

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

PUBLIC MEETING SECTION

IV. PUBLIC COMMENTS

None.

V. CONSENT CALENDAR

1. Motion to Approve sound permit application for the Potter's House Christian church music concert.
2. Proclamation declaring July 24-27, 2003 as Old Fashioned Festival Week in the City of Newberg.

MOTION: Currier/Pugsley to approve the consent calendar. (Unanimous) Motion carried.

Ms. Jill Dorell and Ms. Rebecca Green, Old Fashioned Festival Court chaperones, introduced the Court - Krista Phipps, Rebecca Freeman and Melissa Youngberg. City Manager Bennett read the Proclamation.

VI. PUBLIC HEARING

1. Legislative Hearing approving **Ordinance No. 2003-2581** amending the Development Code to modify notice requirements for land use hearings.

City Planner Brierley presented the staff report:

- Notice would be increased from 300 feet to 500 feet from the property boundary.
- Notices would be sent to the actual property address and to the property owners.
- Real estate type signs would be used for land use notice signs:

NEW LAND USE PROPOSED HERE

**See Flyer Box for Details
or Contact City of Newberg
Planning Division
(503) 537-1240**

Discussion was held concerning providing notice addresses (through a title company). **Councilor Soppe** asked if the City had the ability to produce the addresses. Discussion was held concerning errors and invalidation of notification. **Mr. Brierley** said it could mean a decision to renotece.

Councilor Bob Larson asked about how many signs would be posted. **Mr. Brierley** said state laws requires notice within 600 feet of frontage. **Mr. Brierley** said Yamhill County requires 500 feet notification. He said there are other cities that provide signs and have varying notification distances.

Councilor Andrews addressed the costs to the applicants in changing to the posting requirements. **Mr. Brierley** said that applicants could have sign companies make signs for a site (\$40-80 per site). **Mr. Brierley** said that there would be an additional cost of mailing of about 50 more notices mailed out for the expanded radius and about 25 more for the occupants - \$60-65 additional cost to the applicant. The signs would be rented with the only difference being the actual flyer.

Councilor Soppe asked about the cost of \$.85 per notice. He addressed the noticing of owners for the property, but not the occupants.

Councilor McBride asked if there had been people asking about not being notified previously. **Mr. Brierley** said there have always been people asking for information who reside outside the 300 foot area. He said there are public hearings to help promote more interest.

City Manager Bennett said the ordinance does not specifically require notice to individual tenants who can change during the period of the application. The notice would be sent to "Occupant".

Councilor Andrews said the intent of the expansion of the radius is to provide more notice of the land use hearing. Discussion was held concerning website notification of the land use hearing actions.

Councilor McBride said the sign is a good idea, but he has an issue with the notification of tenants. Do most tenants care?

Mike Gougler, MJG Development, 5241 Windsor Terrace, West Linn, Oregon said they are making an undue requirement with the new signs. Who will pay for the signs before they are rented? Discussion was held concerning the notice to tenants. There would be a notice sent to the occupant /renter. **Mr. Gougler** said he makes sure the actual occupants of the area receive a letter introducing the land use issue. He can do so with a 300 foot notice, but it is problematic with a 500 expanded notice area.

Mr. Bennett said that the assessor's records contain the site address which is received from the title company. Discussion was held concerning the construction of the sign or something other than what is proposed.

Lon Wall, PO Box 339, Dundee, OR, indicated that he was on the Planning Commission when this was discussed. They were concerned about additional costs and the extra burden to the City staff. What was intended was get more people notified and properly. He was confused about **Mr. Gougler's** statements concerning notification. He said that legitimate concerns were addressed and he was persuaded that more people want and need to be notified.

Councilor Soppe addressed the additional costs and how the developer was to obtain a list of site addresses. **Mr. Wall** said that the title companies will more or less do it for free or a minimal charge. He said the new signs only required a limited amount of information and the cost of restocking the flyers was a much lower cost.

Roger Grahn, 23287 LaSalle, Sherwood, OR, said he was opposed to parts of the proposal. Increasing the notification is not really an issue except for smaller parcels. The change of the sign is an issue and who is the responsible party to maintain the number of flyers in the box which may or may not be stolen. He said occupants only have a right to the use of the property, but have no legal status at all. If there are apartments, how are the notices handled when someone says they were not given notice. He said it is an undue burden upon the applicant.

Councilor Pugsley addressed the good faith effort that is required. **Mr. Grahn** said he has concerns about occupants who do not have a legal right to the property.

Mart Storm, 22965 Sunnycrest Road, Newberg, said that if they go to the title company and get a certified list, they cannot use that for renters. There is no database for renters. The City can put it in the ordinance, but there will be problems. There is no way to identify the occupants/renters of properties. The cost was born by the developer in the City of Dundee. There have been prior appeals on property notification. As far as the sign goes, people will probably say that they are going to be confused with real estate signs. There are also issues relating to flyers not be available. The existing system is working and he has not heard of a large number of people beyond the 300 foot notification wanting to be notified, but going further increases what it takes to get the project completed.

Mayor Stewart closed public testimony on the ordinance.

MOTION: Larson/Pugsley to read by title only and to approve **Ordinance No. 2003-2581** amending the Development Code to modify notice requirements for land use hearings.

Councilor Soppe addressed the sign quality, integrity and contents.

Tape 1 - Side 2:

Discussion was held concerning the real estate type sign not being consistent with other city activities. Further discussion was held involving maintaining the flyers in the box.

Councilor Pugsley addressed the property owner listing and the site addresses not being consistent with former notification for hearings. Discussion was held concerning databases available to provide appropriate listings.

Councilor Currier said that he does not agree with the flyer box idea. The City should use sturdy posts but using a real estate sign blends too much into the surrounding area and the ordinance does not cover size and color, etc. He does not agree with changing the signs. Regarding obtaining lists for occupants and getting notice to each occupant. He does not think the occupant notification is required. He said the signs should be the same and the 500 foot expansion is not required. **Mr. Brierley** said the increased cost is about \$70 for each land use application. Discussion was held concerning vandalism to signs. **Mr. Brierley** said that usually when the applicant posts the sign, the City will check the sign to see if it has fallen down or been vandalized) and the City staff will contact the applicant. **Mr. Brierley** said the standard real estate cross-arm sign is about 18" x 24" (anything larger would be too much for the post). The proposal would pay for their construction. The applicant would pay a rental fee of \$5 per sign.

City Attorney Mahr addressed the notification of occupants and that there will be issues on who is the occupant and what is a good faith effort. There is a theory that local residents in an area will see a sign that has been posted and learn of a land use application that way. Owners are notoriously absentee and that is why they are doing notices in writing

Mayor Stewart said that upon notification of occupants, there is no assurance that the occupants will be able to read the notice (non-English speaking occupants).

Councilor Soppe said the sign could come up with better standards and the actual sign hang from the cross-bars. He likes the flyer because of the extensive information. He is concerned as to whether the sign will be adequate. He likes moving the noticing area out to 500 feet. On the occupant issue, notices can be printed in English and Spanish. There is no guarantee that the list may be obtainable and accurate. Discussion was held concerning the burden of cost and risk of invalidation.

Mayor Stewart said that there is difficulty in the sign being affixed permanently. He agrees with the size of the sign now. He likes the way the existing size signs fit into a slider.

Councilor McBride discussed making the process easier for the business community and he would like to see a different and sturdier sign design.

Councilor Pugsley said that the City's website is an opportunity for notification. The Council discussed maintaining the sign size and redesigning the sign to reduce vandalism. The 4 x 4 post could be painted a bright color (other than white).

Councilor Soppe asked if there was a legal issue with not notifying the occupant. **Mr. Mahr** replied that the problem is what is the best data base to use? The assessor's records are not necessarily current. The City would have a burden of making sure the list is correct.

Councilor Andrews said he would vote no on the ordinance. He is struggling with the notification to the tenants. They need to come up with a sign that is unique. Discussion was held concerning the language being more easily understood.

Mr. Bennett said the problem is that the signs keep falling down, not their effectiveness. He said the issue on the notification of the occupants is to get the notice out to more residents of the affected area, but logistically, it is a difficult thing to do and withstand a challenge. The State notice does not include occupants in land use language. The expansion of 500 feet may be a good idea. The ordinance can be modified.

Discussion was held concerning placing a land use hearing sign in an apartment complex which is within the 500 foot radius.

MOTION TO amend: Soppe/Currier that the language other than the language of expanding notice to 500 be eliminated. Retain 1A and delete 1B through 1F. Motion Carried. Unanimous.

MOTION as amended: 4 Yes/2 No (McBride/Larson). Motion carried. Clarification of motion requested by Councilors Larson and McBride. Votes changed to Yes. Vote is unanimous.

2. Quasi-Judicial Hearing approving **Ordinance No. 2003-2584** and **Resolution No. 2003-2453** approving to annex the Fernwood Road Right-of-way from Springbrook Road East to the eastern fork of Springbrook Creek subject to a public vote.

Councilor Soppe received an inquiry about the correct date and time of the hearing. **City Attorney Mahr** said that the notice stated July 2nd rather than July 7th and the City has to renotify. **City Planner Brierley** confirmed that there is an incorrect date. The Council has the option to receive testimony tonight or wait until the rescheduled hearing date.

JC Walker, 108 S. Fernwood Road, Newberg, said he lives adjacent to the site. His concern is what is involved and the financial impact of this project in relation to his property? **Mr. Walker** said that he was told the road was going to be widened.

Mr. Brierley said the annexation would only annex the road right of way. At some point in the future, properties adjacent to Fernwood Road that are within the UGB may want to annex and develop their property. At that time, they will be required to improve Fernwood Road and do curbs and sidewalks.

Gweneth Rader said she has enjoyed having the road closed. There are deer that graze on her property.

Due to the noticing error, **Mr. Brierley** said the new hearing would be September 2, 2003.

BUSINESS MEETING SECTION

VII. CONTINUED BUSINESS

None.

VIII. NEW BUSINESS

1. Approve **Resolution No. 2003-2448** initiation of an amendment to the Development Code to modify City of Newberg's annexation policies.

City Planner Brierley said that this is not a direct change to the policies. Staff is asking for the Council to see if they want to initiate the process and have it come back to the Council at a later time. **Roger Grahn** asked the City to look at the annexation application procedures, specifically the issue of requiring concept development plans. Discussion was held concerning annexation requests going to the voters, election requirements and the benefits. How are annexations presented to the voters? Discussion was held concerning classification of properties relating to connection to city water and other related services. The voter annexation requirement cannot be changed without further voter approval.

Councilor Currier said that if this is true, why do we have a resolution to initiate the process? **Mr. Brierley** said that permission has to be obtained from the property owners, the Council and the voters of the City.

Councilor Soppe asked whether the request is to help initiate the process can be done by motion and not by a resolution. The resolution is a better tracking record. **Mr. Brierley** said the charter requires changes in the annexation process to be made by the voters.

Mart Storm, 22965 Sunnycrest Road, Newberg, said he agrees that the conceptual plan for the annexation process is time consuming and is forcing up costs for available land. He encouraged the Council to take a hard look at it and would like to be involved in the process.

Councilor Soppe asked for clarification of **Mr. Storm's** comments. **Mr. Storm** said that there are issues relating to small acreages.

Roger Grahn, 23267 LaSalle, Sherwood, said he agreed with **Mr. Storm**. He presented some examples of different industrial uses that could go on the same site and how difficult it would be to come up with a conceptual development plan for the voters.

Lon Wall, 625 N. Morton Street, Newberg, said the annexation procedure is not broken, why try to fix it? The annexation law is already more lenient than other cities, such as Corvallis. In McMinnville, it has worked quite well. The original Council that adopted the annexation process, thought that citizens would vote against annexations. He does not agree. In McMinnville, they only have voted down one annexation. The annexation law is a veto for the citizens and the system is working well. The annexation procedure is not a burden. Discussion was held concerning why Newberg's annexation process is not as stringent as others.

Grace Schaad, 31525 NE Schaad Road, Newberg, discussed the Lewis & Clark proposal of 190+ houses. If annexation does not require a development plan, it will not be a good idea. The citizens have voted yes for these annexation policies.

MOTION: Larson to approve **Resolution No. 2003-2448** initiation of an amendment to the Development Code to modify City of Newberg's annexation policies. Motion failed for lack of second.

MOTION: Currier/McBride to table indefinitely. (5 Yes/1 No Larson). Motion carried.

2. Approve **Resolution No. 2003-2454** approving a hardship request for water service outside of City limits for property at 23895 NE Sunnycrest Road.

City Engineer Danicic presented the staff report. The fiscal impact is an increase in revenue from the sale of additional water.

Councilor Andrews said the property was connected to the water district at one time. Would there be any changes to the existing infrastructure? **Mr. Danicic** said there is existing infrastructure available. In making this agreement, does this create a covenant when the property is transferred to another owner? Is there an expectation that the property would be annexed?

Councilor Soppe asked if SDCs would or would not be paid. **City Manager Bennett** said that as a policy in the future, at the time of annexation, the property owner should pay all applicable SDCs (water, sewer, storm water, park, transportation). As previously applied, they would pay only the water SDC. **Councilor Andrews** said that at the time of the water connection, the owner would pay only water SDCs.

Councilor Pugsley discussed the requirement to submit documentation of alternatives or state that there are none. The documentation has not been provided.

Councilor Currier said he urges the Council to not change the policy in this case and deal with application as presented. If they are going to change the policy for the future, do so after the fact.

James Cooper, Sunnyacres Water Company, 23945 NE Sunnycrest Road, Newberg, said the house had previously been hooked up to the water district. The prior owner, **Mr. Christensen**, subdivided the property into 4 parcels. He sold three of the lots and had the water district transfer the water connection from the old house to his new house.

MOTION: Currier/McBride to approve **Resolution No. 2003-2454** approving a hardship request for water service outside of City limits for property at 23895 NE Sunnycrest Road.

Beverly Ver Mulm, 23895 NE Sunnycrest Road, Newberg, addressed the water testing on her property and that they have been using a water softener with a filter. **Councilor Soppe** asked if **Mrs. Ver Mulm** had problems with paying the sewer, transportation and storm water SDC charges if annexed. His concern is that there would be a property sale before annexation occurs.

Mrs. Ver Mulm said she would not have a problem with this.

MOTION: Soppe/Pugsley to amend the previous motion to require that, at the time of annexation, any applicable SDCs will be paid to the City.

Councilor Pugsley said that, at the time of annexation, sewer would be required anyway. Storm water (\$250) and transportation (\$1,450) and park (\$650) SDCs would be required. What triggers the SDC charges now is building permits. Annexation to the city is an increase in property value.

Councilor Soppe said that whatever SDC's fees are in place at time of annexation they would need to be paid. We would have a position with leverage.

ROLL CALL ON AMENDMENT TO MOTION: 3 Yes (Soppe/Pugsley/Larson)/3 No (Currier/McBride/Andrews). Mayor Stewart voted No breaking the tie. Motion failed.

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

3. Approve **Resolution No. 2003-2455** asking Yamhill County Commissioners to place the Newberg-Dundee Library District on the May 18, 2004 ballot.

Library Director Leah Griffith, introduced **Allyn Brown**, Chairman of Library Committee. **Mr. Brown** said he is also a business and property owner supporting the formation of the Newberg Library District. The City should be thankful that the founding fathers presented the library such as it is. A community without a library is lacking social resources.

Tape 2 - Side 2:

Mr. Brown said that the City's library is in trouble and it is not meeting the needs of the community that it could because of funding. There are discouraging statistics contained in the staff report. There is a demand for services however. The City is sponsoring a program for non-residents. There is a lot of flak about charges to non-Newberg residents that do not cover the costs of services. The purpose is to try and get a handle on the problem and get a stable funding base for the necessary services for a functioning library. The proposal would be to ask the Yamhill County Commissioners to form a new taxing district similar to the Park and Recreation District with a tax rate of \$.65 which would provide the funding needed. To make this fair for both the residents of the City of Newberg and the new district, they would ask the City to agree to a number of things:

- The City would lease the library for 99 years at a \$1 per year.
- The City would agree to reduce the property tax on Newberg citizens \$.65 per \$1,000 per assessed value for a period of two years following the passage of the measure. So the property owners would not be paying double for the same services.
- The City would contract with the new district for the first six months of operation to allow the district to obtain its revenues to operate from the County Tax Assessor.

- Approve the economic feasibility statement.

Ms. Griffith said that Andrew Carnegie donated funds in the US and other English speaking countries. There are Carnegie libraries in Scotland and other locations.

Councilor Currier addressed citizens receiving the library services for free. Discussion was held concerning the amount of \$.65 per \$1,000 was based on a house value of \$135,000.

Councilor Soppe addressed the lease for 99 years. Nothing is mentioned about the Library annex. The committee agreed to pull the annex and Carnegie Court out of the lease. They are just dealing with the library and its contents. The library does not have the option to expand the building. Councilor Soppe said that the library would not collect any property taxes initially for 2004-2005, but the citizens would temporarily pay the expenses of the library for 6 months and they will start paying the city back after the 6 month period. Mr. Bennett said the City can cover the expenses of the library for that period. He said that he endorses the proposal which would expand and improve library services.

Councilor Currier addressed outside users. He walked into a Wyoming library and spent \$1 in total costs. They had not purchased books over a 6 month period. The staff did not have medical benefits.

Mayor Stewart said he has talked with other cities that do not have libraries. The City has a good staff and a good library.

MOTION: Pugsley/Larson to approve **Resolution No. 2003-2455** asking Yamhill County Commissioners to place the Newberg-Dundee Library District on the May 18, 2004 ballot. (Unanimous) Motion carried.

Councilor Andrews asked for clarification of the process to form the district, when it would go into effect, when the two years would run from. He noted that the agreement doesn't specify the term of the lease of the library.

AMENDMENT TO MOTION: Andrews/Pugsley to amend Paragraph #4 and provide for a 99 year lease at \$1.00 per year.

Councilor Currier asked about leasing the building and all maintenance? Discussion was held concerning a general agreement that the library district would take the whole building. It is anticipated that the lease would contain maintenance.

Councilor Larson said that the economic feasibility study shows that the district would take over maintenance operations and supplying library materials.

Mr. Brown said they will be taking it to the County Commissioners and the City of Dundee and would appreciate approval of the amendment.

Councilor Soppe asked, if the district does not pass in May, 2004, is there anything that would need to be changed for the November election? The library district operation would not start until July, 2005. They would come back with a similar resolution.

Councilor Pugsley encouraged the Council to affirm the request.

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

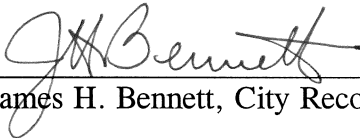
IX. EXECUTIVE SESSION

None.

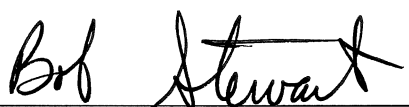
X. ADJOURNMENT

MOTION: Andrews/Larson to adjourn at 9:40 p.m. (Unanimous) Motion carried.

ADOPTED by the Newberg City Council this 18th day of August, 2003.


James H. Bennett, City Recorder

APPROVED by the Mayor this 10th day of September, 2003.


Bob Stewart, Mayor