

**MINUTES OF THE NEWBERG CITY COUNCIL
JULY 21, 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 H. Bennett, City Manager
Terrence D. Mahr, City Attorney
Michael Soderquist, Community Development Director
Barton Brierley, City Planner
Dan Danicic, City Engineer**

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

PUBLIC MEETING SECTION

IV. PUBLIC COMMENTS

None.

V. CONSENT CALENDAR

1. Approve minutes from regular meetings held on May 5, 2003; May 19, 2003; June 2, 2003 and June 16, 2003.

MOTION: Soppe/Currier to approve the minutes as corrected. (5 Yes/1 Absent [Larson])
Motion carried.

Mayor Stewart announced that there would be swearing in of new officers at the Fire Station. Council President Larson and City Attorney Mahr left the meeting to attend the ceremony.

2. **Resolution No. 2003-2457** authorizing the city manager to enter into a contract for the construction of the Crater Lane LID Gravity Sewer and Force Main project in the amount of \$334,973.80.

Councilor Soppe said he has been doing work for the Saunders Company. While he has no present contract or guarantee of future work, it is reasonable to expect that he will continue to do work for them. He declared an actual conflict of interest.

Dan Danicic, City Engineer, presented the staff report. This is the first part of what was originally one project. The other part of the project is the Chehalem Drive Sewage Pump Station. The project was split into two parts and each part was bid separately. The engineer's estimate for the total project was \$828,000. This part of the project was estimated at \$605,160. They solicited bids in accordance with Oregon statutes and received bids from The Saunders Company and Valley River Construction. The Saunders Company was the low bid at \$334,973. The request is to award the contract to The Saunders Company.

Councilor Pugsley asked why there were only two responses.

Council President Larson and **City Attorney Mahr** returned to the meeting.

Discussion was held concerning other contractors who may not have bid because of existing work load.

Mr. Mahr said the Mitchell case regarding the assessments has not been concluded. The Court could throw out the assessments and the City would have to come back with new assessments which could affect the City's ability to bond.

MOTION: Pugsley/Currier to approve the Resolution. (4 Yes/2 Abstain - Larson/Soppe).
Motion carried.

3. **Resolution No. 2003-2458** authorizing the city manager to enter into a contract for the construction of the Chehalem Drive Sewage Pump Station project in the amount of \$338,835.00.

Dan Danicic, City Engineer, presented the staff report noting that this is the second part of the project that was previously discussed. There was only one bid, Clackamas Construction at \$338,835. The engineer's estimate was \$223,129.

Councilor Soppe asked about the bid amount and the bid process.

Bob Knorr, Engineer, said that after talking with the contractor, he felt that they would be hiring a construction company familiar with this type of construction. He was confident that the cost was reasonable. This is a more than the engineer's estimate. However, when the two parts of the project are taken together the total cost of \$673,000 is substantially under the combined estimate.

Councilor Soppe asked if having more than one bid was required? **City Attorney Mahr** said no.

Councilor Currier asked about noise and other issues. The pump will be set in a housing of concrete construction. **Mr. Danicic** said that it will be about 28 feet under ground and should not be a problem.

MOTION: Currier/McBride to approve **Resolution No. 2003-2458** authorizing the city manager to enter into a contract for the construction of the Chehalem Drive Sewage Pump Station project in the amount of \$338,835.00. (Unanimous) Motion carried.

VI. PUBLIC HEARING

1. Public hearing on **Ordinance No. 2003-2585** amending Chapter 50 of the Newberg Municipal Code to authorize the Citizens Rate Review Committee to review and make recommendations regarding the city's storm water system and/or fees.

Councilor Soppe suggested the following change:

1. Section 50.48 (Authority), paragraph (J), 2nd sentence: storm water fees, not rates.

Councilor Andrews asked about Section 50.48 (B) and how it applies to users outside the city. **City Attorney Mahr** explained that the rates may be different because users outside the City would not be paying property taxes to the city.

Jeff Kizer, 315 Elliot Road, Newberg, discussed the following issues:

1. His storm water management fee would be less than was originally proposed, but would still be about \$100 per month.
2. He did not think that a business license fee would really benefit economic development. He felt that the city should improve its customer service if it wanted to sell a business license. He said it is a frustrating process and it is no wonder why businesses go elsewhere. He said that economic development should be left to Chamber of Commerce or private economic development.

Councilor Currier asked City staff to make it simpler to understand. **Mr. Kizer** said that he would leave a typed version of his comments.

Mr. Mahr said he recommended adoption as indicated. **Councilor Currier** said that it appears to be just a housekeeping issue.

MOTION: Currier/Soppe to read **Ordinance No. 2003-2585** by title only amending Chapter 50 of the Newberg Municipal Code to authorize the Citizens Rate Review Committee to review and make recommendations regarding the city's storm water system and/or fees (Unanimous). Motion carried.

2. Public hearing on **Ordinance No. 2003-2586** amending the Newberg Municipal Code to add a new chapter (Chapter 114) regulating business licenses and establishing a business license fee.

City Attorney Mahr said that anyone subject to the fee should declare a potential conflict. **Councilors Soppe, McBride, Currier** and **Andrews** indicated that they have potential conflicts of interest due to their business ownership in the City.

Tape 1 - Side 2:

City Manager Bennett explained that the Budget Committee and the City Council adopted a budget this year that provided additional funding for the visitors center and for the economic development coordinator position. In order to do this, they recommended establishing a business license fee. The proposed ordinance establishes the requirement of a business license for businesses within the city and sets the annual license fee at \$50.

Councilor Currier said the intention was to review the business license fee at the end of the year to see if the additional revenue had resulted in more economic development. Discussion was held concerning home businesses and temporary merchants. The ordinance applies to temporary merchants as well as other businesses in the City.

Councilor Currier said it would allow street vendors to solicit business without a license. He said that appears to be a glitch in the code. Are we justifiably going to charge them a fee? **Mr. Bennett** said the reason for the larger fee is that it requires a lot more information to approve a permit for a street vendor than a standard business owner. The fee of \$75 is a fair and equitable and non-discriminatory charge. There are also constitutional issues.

Councilor Currier addressed licenses to be issued by the City of Newberg and why are we doing the work and giving a portion of the money received to the visitor center? **Mr. Bennett** said it was approved as part of the budget.

Councilor Soppe addressed Section 114.01(C) and whether this applies to employees only or to some business operators as well. It needs to be clarified.

Councilor Andrews addressed lemonade stands, kids mowing lawns, piano teachers, etc., similar type home businesses. Discussion was held concerning consultants. He said he is also struggling with whether the ordinance applies to private and public schools, colleges, day care. He was handed an amended copy and has not had a time to review the changes.

Mr. Bennett discussed the problem of enforcement in licensing every business that operates in the city. The City has no way of knowing about many of the outside vendors and home occupation businesses. The City would like to be able to include all of them. Realistically, they are trying to capture the businesses within the City of Newberg who potentially will benefit from collecting the business license fees to increase visitors coming to the community and deal with economic development issues within the City. They are trying to raise a certain amount of revenue. Discussion was held concerning enforcement. He said most people will contact the City concerning their business.

Councilor Currier said it would benefit existing businesses as noted in the yellow pages or telephone directories.

Councilor Soppe noted a typographical error in 114.07(B): the "8" should be removed. The letters belong to paragraph 7.

1. Section 114.05 - sentence is too long. Mr. Bennett said it would be revised.
2. Section 114.06 (D) regarding leases two or few units of residential real estate within the City. He asked for clarification

Mike Gougler, 5241 Windsor Court, West Linn, a developer in the City, proponent for the storm water rates. Given the conditions, he cannot begrudge the City for collecting the fees within the first year to be able to design a good system.

Mr. John Bridges, representing the Chamber of Commerce, 515 E. First Street, submitted some revisions recommended by the Chamber. He said the Chamber represents a wide variety of opinions. His ideas were referred to the economic development committee. The task force group met early on. Essentially, they see the business license as a motivator. The purpose is for economic development:

- Section 114.05 - Multiple Businesses section. He thought Festivities (floral shop, coffee shop) would pay two fees. Other places could have an incorporated business which will do business under a different name. There could also be problems with businesses who do multiple things.
- Section 114.07 and 7(a-d) is an attempt to get at enforcement, rather than just generate revenue.
- The task force group felt they needed a continuous dialogue. They need to analyze from their perspective how it is working. The economic development force asked about delaying the establishment of the license fee.

Councilor Pugsley asked if the task force was okay with the violation fine of \$100. **Mr. Bridges** said they had no problem with the fine.

Councilor Soppe asked about handling businesses that are temporary in nature such as all of the fund raising that goes on in the community (car washes put on as charity events). Leave the term for temporary businesses open.

Mr. Glen Post, 415 N. College Street, Newberg, said he is in support, but has some questions. He said he was not aware that it was on the horizon. His wife is a hair dresser and a private contractor. Does she need a business license? What about the antique mall? Does each person that contracts there need to have a license? He has a home based business as a representative for a business in Australia. He is not sure whether he would have to pay a business license. He is part of Newberg Community Theater. Does it have to pay a business license. Does he need a license for a non-profit corporation? What about a circus? He would be available to work on the issue. He said that it is high time the City had a business license.

Leonard Rydell, 601 Pinehurst, Newberg, said he is a home business owner. The city should make it easy to own a business. He is a land surveyor. The City of Lake Oswego made him buy a business license for a development. He has three professional licenses. He discussed exemptions and having churches pay fees. The home business is approved by the fire chief. He said that it seems there would be too much paperwork to run a business in Newberg.

Councilor Pugsley addressed the standard of living being different from that of Lake Oswego. **Mr. Rydell** addressed making it easy for people to own businesses.

Councilor Soppe said that the City of Newberg does not have a reciprocal license with the City of Lake Oswego. He said it seemed simple to pay the \$50 fee and satisfy the business license requirement for businesses based in Newberg, not just doing business in Newberg. Discussion was held concerning about simplifying the process. **Mr. Rydell** said there seems to be too much paperwork. There is a better way to stimulate businesses.

Tape 2 - Side 1:

Mike Boyes said that he thought there was a business license when the budget passed. He built his life and business on trust and honesty. There was no article in the Graphic about the business license until after it was passed by the budget committee. In the Graphic, it noted how the City was pulling the wool over the eyes of the citizens/business owners. Discussion was held concerning whether Suburban West Maintenance was to be billed for the fee. He was not allowed to bid on the city's maintenance contract. The Chamber has failed Chamber business people by not informing them. The Chamber has no email rules. Anything sent to the Chamber can be used publicly. He addressed the comments made by Chamber board members. Excerpts related to promotion of tourism and economic development, but also to promote fresh and positive images. He also addressed comments made from Chamber Board members about unemployment issues and deteriorating buildings and other areas which are in poor condition, including programs. **Mr. Boyes** said he votes no on the City license.

Mayor Stewart said the Council are not spokespersons for the Chamber and if **Mr. Boyes** has comments they should be directed to the Chamber.

Councilor Soppe addressed the Council's goal of citizen involvement. These are public meetings and the city has informed the Chamber of upcoming events.

Mr. Gougler said the purpose of the business license is to ensure we maintain the economic development function within the City. That function has already produced many times the amount that is anticipated to be raised by the license. He tries to spend as much money locally as possible. Local contractors and merchants get priority. He hoped it was consistent with the idea. Discussion was held concerning affirming home businesses, not having to provide proof.

Mr. Glen Post, citing the "one business, one location", asked for clarification of his separate entities located at his residence. Does he have to pay separate licenses?

Mr. Bennett addressed the following points:

- The Council should not lock themselves in to a specific amount or percentage that would go to the visitors center.

- The multiple businesses provision is intended to cover an individual who owns businesses at different locations in town. It is not about multiple tenants in a single building, like a shopping center. Discussion was held concerning franchise issues.
- The application requirements are necessary to ensure that the building is safe and the business is appropriate for that type of building.

Discussion was held concerning about multiple businesses - each business has to pay.

MOTION: Soppe/Larson to read **Ordinance No. 2003-2586** amending the Newberg Municipal Code to add a new chapter (Chapter 114) regulating business licenses and establishing a business license fee by title only.

Councilor Currier questioned the one license, under one name, at one location. He thinks that they should throw out the business inspection because the occupancy permit already covers it. As for coming up with revenue for economic development in the community, maybe we need to table it out for two more meetings and hold a work session to wordsmith the idea.

MOTION: Currier/Pugsley to table the matter for two meetings to allow for further discussion and hold a work session. 5 Yes/1 No [Soppe]). Motion carried.

Mayor Stewart agreed with having a work session before it comes to a final vote. This will allow Council to get questions answered and work on changes to the ordinance.

Councilor Currier said the Council should work with the public and take comments concerning the adoption of the ordinance.

Tape 3 - Side 1:

BUSINESS MEETING SECTION

VII. CONTINUED BUSINESS

None.

VIII. NEW BUSINESS

1. **Resolution No. 2003-2456** adopting monthly storm water rates, effective August 22, 2003.

Mr. Dan Danicic, City Engineer, reviewed the staff report. He said two years ago they started discussion of a storm water management fee with the Citizens Rate Review Committee. They conducted four public meetings and brought to the Council an ordinance which initiated the program, but did not set the fee. Discussion was held concerning the implementation. No credits for the first year would be made. He addressed storm water design standards and defining the scope of capital improvements. From a fiscal standpoint, the fee will raise \$238,000 per year. It is an important program to be implemented.

Councilor Pugsley said he hoped that the multi-family are not paying proportionately more than a single family home. **Mr. Danicic** said they are not charged per unit. **Mr. Pugsley** said he wanted to encourage multi-family housing and was concerned that they were assessed fairly.

Councilor Andrews asked how the funds would be utilized. **Mr. Danicic** said that the revenue would be used for maintenance and public works, with a small amount to be used for finance and part of his salary. Discussion was held concerning the revenue going to storm water maintenance/management and not another expense or fund.

Councilor Andrews asked about credits under 53.40. No credits would be issued for the first year (as recommended by the ad hoc committee). They are for mitigation of impacts on the storm water system.

MOTION: Soppe/Pugsley to adopt Resolution No. 2003-2456 adopting monthly storm water rates, effective August 22, 2003.

Councilor Soppe said he would prefer \$2 for both single-family residential/duplex and multi-family/non-residential, but give multi-family/non-residential a 25% credit. He does not want to give the impression that the fee is a one year thing. He added that the language should be clarified that the fee takes effect on August 22, 2003.

AMENDMENT TO MOTION: Soppe/Andrews to change the multi-family/non-residential fee from \$1.50 per month to \$2.00 per month and to give a 25% credit during the first year of the fee to multi-family/non-residential properties.

Councilor Currier questioned why do the 25% mitigation?

Councilor Soppe said he wants to charge the same without mitigation for multi-family and non-residential properties. Give them 25% the first year and set a base rate for everyone. It gives them a year to decide how to invest their money.

City Manager Bennett said he disagreed with the change for non-residential and multi-family residential properties. The way it is set up now is balanced with each group paying about the same number of total dollars. He said we should stick with original plan and keep the rates as proposed and use the one year time to address other issues that may arise.

ROLL CALL ON AMENDMENT TO MOTION: (1 Yes [Soppe]/5 No.) Motion failed.

Discussion was held concerning the original motion to accept the resolution as presented and the effective date or "from" date of adoption. It should be effective date of resolution. Intention is to have one year.

AMENDMENT TO ORIGINAL MOTION: Andrews/Pugsley to change the sunset of the fee from one year from the date of adoption to one year from the effective date of the resolution. August 22, 2003.

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

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

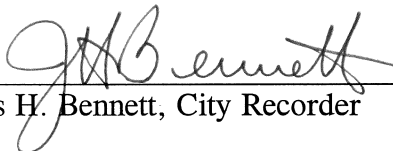
IX. EXECUTIVE SESSION

1. Executive Session Pursuant to ORS 192.660(1)(d) Relating to Labor Negotiations.

X. ADJOURNMENT

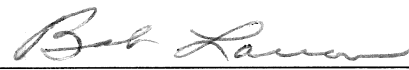
Mayor Stewart adjourned the meeting at 9:20 p.m.

APPROVED by the Newberg City Council this 2nd day of September, 2003.



James H. Bennett, City Recorder

ATTEST by the Council President this 15th day of September, 2003.



Bob Larson, Council President