MINUTES OF THE NEWBERG CITY COUNCIL
TUESDAY, SEPTEMBER 2, 2003
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING - TRAINING ROOM

I. CALL MEETING TO ORDER

Council President Bob Larson called the meeting to order.

II. ROLL CALL

Bob Andrews	**Mike McBride**
Roger Currier	**Bob Larson**
Doug Pugsley	**Robert Soppe**

Absent: **Mayor Bob Stewart**

Others Present:

James H. Bennett, City Manager
Terrence D. Mahr, City Attorney
Katherine Tri, Finance Director
Dan Danicic, City Engineer
Barton Brierly, City Planner

III. *PLEDGE OF ALLEGIANCE*

The pledge of allegiance was administered.

PUBLIC MEETING SECTION

IV. PUBLIC COMMENTS

Ms. Schellene Clendenin is the new reporter at the Newberg Graphic. Gary Allen is on vacation.

V. CONSENT CALENDAR

1. Approve minutes from Regular Council meetings held on July 21, 2003 and August 4, 2003.

Councilor Soppe made the following corrections:

- Page 9 of the July 21, 2003. Roll call on Amendment to Motion. It should reflect "unanimous". Councilor Larson was in attendance.
- Page 4 of the August 4, 2003 minutes, paragraph 3, last sentence.. "Even if the estimate for the amount of contaminated soil is low, there will be no additional cost to the City". The last sentence should be deleted and the following sentence inserted: "If it follows what we have expected, there will be no additional costs to the City."

- Page 4, of the August 4, 2003 minutes, paragraph 5. The amount of the daily damages should be $250.00 a day not $250,000. "Mr. Danicic said there would be liquidated damages of $250.00 per day beyond the contract term."

2. Motion to approve a sound permit for the Newberg Harvest Festival on September 13, 2003.

MOTION: Soppe/Andrews to approve the consent calendar as amended. (Unanimous). Motion carried.

VI. PUBLIC HEARING

1. Public hearing to adopt **Ordinance No. 2003-2584** approving annexation of the Fernwood Road right-of-way from Springbrook Road to the east fork of Springbrook Creek, subject to a public vote and **Resolution No. 2003-2453** setting the vote to the May, 2004 election.
(Quasi-judicial Hearing)

Council President Bob Larson called for abstentions, conflicts of interest or objections to jurisdiction. There were none except as noted by Councilor McBride.

Councilor McBride said, as a park district board member, CPRD owns property on the south side of the subject property. **City Attorney Mahr** said it was a potential conflict of interest, not subject to disclosure, but he appreciated Councilor McBride disclosing his involvement with the park district. Councilor McBride does not receive compensation as a park district board member and, therefore, it does not have to be declared.

Mr. Mahr addressed the raise it or waive it rule if appealed to the Land Use Board of Appeal (LUBA). The applicant has an opportunity to address the matter after the record has been closed.

Barton Brierley, City Planner, said the annexation request is for the right-of-way only covering Fernwood Road from Springbrook Road to the east fork of Springbrook Creek. It is within the UGB. Because of the annexation, it requires a public vote set for the May, 2004 primary election.

Councilor McBride asked, if the annexation passes, is the City responsible for improvements or repairs to the road or is it the developer? **Mr. Brierley** said it would be the responsibility of the adjoining property owners.

Councilor Currier asked how improvement of the road would occur and who would bear the cost? **Mr. Brierley** said the property to the north is in the City and the property to the south is in the County. The property to the north will improve the northern part of the road as development occurs. The south side would be left at county standards until it is brought into the UGB and developed.

Mr. JC Walker, 108 Fernwood Road, Newberg, asked for clarification of the election and vote of the people scheduled for May, 2004. He is undecided at this time but will make up his mind in May, 2004.

Council President Larson closed the public hearing. **Mr. Mahr** said the applicant will waive any additional information for the record. Mr. Walker does not live inside the City, he will not be voting on this matter. **Mr. Brierley** said staff recommends adoption.

MOTION: Soppe/ Pugsley to read by title only and adopt **Ordinance No. 2003-2584** approving annexation of the Fernwood Road right-of-way from Springbrook Road to the east fork of Springbrook Creek, subject to a public vote (Unanimous). Motion carried.

MOTION: Currier/Pugsley to approve **Resolution No. 2003-2453** setting the vote to the May, 2004 election. (Unanimous) Motion carried.

City Attorney Mahr said the May election may not be free because the legislature did not allocate any funds for elections. The City could get stuck with the bill if the legislature does not pay for the May, 2004 election. It could be brought back to the Council for further direction.

2. Public hearing to adopt **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.
(Legislative Hearing)

Discussion was held on Councilor Soppe's standing as a business owner. **City Attorney Mahr** said he is part of a class of business owners such as Councilors Andrews, Currier and McBride. Discussion was also held concerning the matter having been tabled previously to this date.

City Manager Bennett said it was originally presented to the Council and is back with further revisions. The hearing was held on July 21st and the work session on August 6th. Based on the discussions, the revisions are attached with bold and strike-out marks. The City Attorney has made it clearer with provisions consistent with the City's Code. On page 67 is the working draft with outlined changes.

Lon Wall, 625 N. Morton Street, Newberg, Oregon, said he is not up to speed on where it is at this point. He has talked with a few people. Something that is not clear is that this suggestion came out of the Budget Committee to help fund the visitor center. As a general rule, he does not care for a business license. He views this as an issue for the members of the Chamber and the Chamber leadership. He does not recall anyone stating it was a good idea for revenue sourcing. The percentage of the Chamber voting was low. If there was violent objection, he would have thought a higher percentage would have voted no. If the business license does not pass, he was concerned that the City had funds to finance its visitor center. He heard from other business owners as to how it came about.

Council President Larson said the funds would go to the EDRLF fund. It would not go to the Chamber. There is $9,000 that goes to the Visitor Center. **Mr. Wall** said the Chamber came to the Budget Committee asking for additional funds and if the chamber thought more money was needed for economic development, it should be financed through the business community. **Councilor Soppe** said that the business license has been discussed over the last several years. **Mr. Wall** said he was certain that if the Chamber had not come forward, it would not have been addressed.

John Bridges, 515 E. First Street, Newberg, speaking on behalf of the Chamber. They e-mailed another set of changes to Mr. Bennett. He requested the Council consider the following changes:

- 114.01(A) - change "annually" to "in annual income."
- Asks that the application be limited to one page to simplify the process.
- 114.04 (B) (C) - define "temporary merchants."
- 114.06 (B) - change "two or fewer units" to "four or fewer units."
- 114.02 (A) - change "to provide revenue for municipal purposes" to "to provide revenue for economic development, the visitors center and other municipal purposes related to economic development". The Chamber feels that just leaving it at "municipal purposes" is too broad and does not acknowledge that this is primarily for the visitors center and economic development.

Discussion was held concerning exempting business owners that have rentals from having to pay for a business license. **Mr. Bridges** said that would be a compromise, but it would be better if you based it on the income the owners derived from the properties.,

Councilor Soppe noted that any business that makes more than $1000 annually is required to have a license. **Mr. Bridges** discussed the floor of $1,000 and said that it should be raised to $6-7,000 as a compromise.

Mr. Bridges also addressed 114.05 (multiple businesses on same premises). They suggested they exclude operators licensed by the board of cosmetology and real estate agents. More specifically, beauticians who rent a chair in a salon and real estate agents under one brokerage license.

Council President Larson closed the public hearing.

Councilor McBride said that the whole point is that we are trying to create some funds to go into EDRLF to help the community, help the beauticians and realtors that would be making more than a $1,000 per year. **Mr. Bridges** said that a beautician does not make that much, similar to real estate agents. They do not think that these fall into the category of independent contractors.

City Manager Bennett addressed:

- the need for a simple form. It is the intention to have a one page form.
- peddlers and temporary merchants. That language is statutory. They are regulated and defined in Chapter 113 of the city code.

Tape 1 - Side 2: - 7:45 p.m.

MOTION: Currier/Soppe to read by title only and approve **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.

Councilor Currier said that, because of the issue of the visitor center, he was one of the ones to table the ordinance to this meeting. The Council discussed this matter at length. The room tax was to raise revenue for the City and use it to improve communications with the public through the visitor center . The Chamber was to match these funds and somehow the City was always paying more. The Council discussed the beautician issue at length. As for realtors, they can use multiple listings and have the whole town to sell. As to the 2, 3 and 4 home rentals, he commended staff and the Council for coming up with a solution.

Councilor Soppe said he agreed with Mr. Bridges on some of his issues and asked for clarification of the purpose statement. He asked Mr. Bennett if there was a problem with the wording. **Mr. Bennett** said the language was too restrictive on the city. Discussion was held concerning funding the economic development program. We need to have the flexibility for whatever purpose the Council feels is in the city's best interests. Even under the current agreement with the Chamber to run the visitor center, the Council can make changes in the event it determines a better purpose for the funds . The business license speaks for itself. It is intended to be used for economic development. Mr. Bennett suggested that the language be changed to "for municipal purposes including economic development."

AMENDMENT TO MOTION: Currier to amend Section 114.06 of the Ordinance regarding Exemptions. Motion failed for lack of second.

Councilor Soppe said that a business not located in Newberg should not be required to be licensed.

City Attorney Mahr addressed the example of Hertz rentals in Newberg.**Councilor Soppe** said he was referring to not having a physical place of business in Newberg. Mr. Bennett said if the City gets a code enforcement program, they could change the ordinance. Discussion was held concerning non-residents of Newberg that do some work here.

Councilor McBride referred to Section 114.02. His purpose for agreeing to this was to be able to portray to the business community that it would raise funds for economic development. We need some flexibility if the purpose is not for economic development. He expects to see some way to judge progress in what we are using the funds for. He said he does not want it to go into the General Fund. He would like it narrowed down to specify economic development.

AMENDMENT TO MOTION: Soppe/ to amend the ordinance as follows:
114.01(A) - change "annually" to "in annual income";
114.06(A) - add "raising funds by" to beginning of sentence;
114.06(B) - change "a person whose sole business consists of" to "leasing of";
114.06(C) - change "conducts garage or yard sales" to "is conducting a garage or yard sale".

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

AMENDMENT TO MOTION: Pugsley/McBride to amend Section 114.02(A) and change "municipal purposes" to "municipal purposes related to economic development;. (Unanimous). Motion carried.

AMENDMENT TO MOTION: Soppe/Pugsley to add Section 114.06 (F) to exempt any business without a physical location in the city.

City Attorney Mahr addressed developers who have temporary construction buildings in the city during a project. Discussion continued regarding portable buildings.

Councilor Currier said that it is a governance issue. If you are a business, you need a license in Newberg.

MOTION: Currier/Soppe to approve as amended and read by title only.

ROLL CALL ON AMENDMENT by Councilor Soppe pertaining to Section 114.06(F). (1 Yes [Soppe]/5 No). Motion failed.

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

3. Public hearing to adopt **Ordinance No. 2003-2587** establishing the final assessments of cost for the West North Street Local Improvement District. **(Legislative Hearing)**

Council President Larson called for objections, abstentions and conflicts of interest. There were none.

Mr. Dan Danicic presented the staff report. In April, 2001, the property owners petitioned the City for pavement of the local street. The notice was sent to each property owner. If the final assessments are adopted, the assessments will be sent to the property owners and published in the newspaper.

MOTION: Currier/McBride to adopt and read by title only **Ordinance No. 2003-2587** establishing the final assessments of cost for the West North Street Local Improvement District. ready by title only.

Ms. Pamela Shirts, 505 N. Main Street, Newberg, said she is the mother-in-law of a property owner affected and questions the breakdown of the proposed LID billing. The sidewalks are not put in on north side. They had adequate sidewalks and the project was to be completed by the City. Ms. Shirts said that she did the clean-up on the streets. It went from a two way road to a one way road. The original assessment was for a two lane road to save costs and the tree. She does not see the breakdown of the costs.

Mr. Danicic said they worked with the property owners and neighbors concerning the parking, the redesign and the narrower street.

Councilor Soppe asked for clarification of the reduction in costs. Discussion was held concerning the final result of a one way street being "different" because both sides would not have to be done.

Discussion was held concerning the bulb out (right by the PGE pole). This section has not been completed **Mr. Danicic** said he will have public works take a look at it. **Councilor Soppe** said that he would like to have staff work with Ms. Shirts' issues. Discussion was held concerning original estimate of one lane road. **Mr. Danicic** reviewed allowance of parking on both sides. Discussion was held concerning no parking signs on North Street. **Mr. Danicic** said there is a traffic safety meeting scheduled to address the no parking in the area.

Councilor Andrews addressed the meeting notification date. Does the notice of the "lien date" for purposes of petitioning for installments meet September 10th date. Mr. Danicic said they have worked with the Finance Department concerning compliance with September 10th date.

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

Council President Larson called for a 5 minute recess at 8:40 p.m. - meeting reconvened at 8:45 p.m.

BUSINESS MEETING SECTION

VII. CONTINUED BUSINESS

1. Report from Library Director on information regarding **Resolution No. 2003-2455** adopting the formation of the Newberg-Dundee Library District with a permanent tax rate.

Ms. Leah Griffith, Library Director, presented the staff report. She reviewed the Dundee City Council's comments and thoughts about possibly being out-voted by the District. They opted for a survey which resulted in 87% not in favor of a library district at this time. The committee looked at the survey and decided that there was not sufficient time to meet the May, 2004 election campaign for the ballot. It would not be able to happen with the potential changes. The concept of the library district is not dead. She said that the Library Committee recommended that the issue be shelved at this point and a long range planning committee be started to address the issues from the Dundee survey including funding issue of service to residents vs. non-residents. The board will be meeting next week to develop the planning committee. The Dundee council will vote on the resolution on September 8th.

Councilor Pugsley asked about funds available for surveys. Discussion was held concerning grants (16-17-18 years ago) the city received to study a library district. He believed that Dundee was not interested at that time as well. There are some areas (N. Santiam, Lyons, Jefferson) who are also looking at doing a library district - same as Eugene.

Councilor McBride asked why not exclude Dundee and then get some information to Dundee and they can decide at another election? That is how the Park District did it. Dundee was not part of the district. **Ms. Griffith** said that could be what happens. She said it is a timing issue.

Councilor Andrews addressed "over the counter fees" (non-Newberg resident) and use of other services of the library. Do they need another Newberg card? Ms. Griffith said not at this time. However, it could be part of the long range planning strategy. The library is expanding services. There is a potential of change to the fee structure.

VIII. NEW BUSINESS

1. **Resolution No. 2003-2463** adopting the 2003 Restatement of the City of Newberg Employees Retirement Plan.

Ms. Katherine Tri, Finance Director, presented a restatement of the City's retirement plan Council adopted June, 2002. They sent it to the IRS for blessing to maintain the tax status of the plan. It is critical. They finished the process and the City received a positive determination letter with changes regarding clarification and wording and consistency in how they administer the plan. The attorney in Eugene worked with the actuary. IRS requires the City to adopt TEFRA, DEFRA and Retirement Equity Act.

Councilor Andrews asked if there were any substantive changes in the plan with the amendments. **Ms. Tri** said that there were not changes in benefits.

MOTION: Andrews/McBride to adopt **Resolution No. 2003-2463** adopting the 2003 Restatement of the City of Newberg Employees Retirement Plan. Motion carried. (Unanimous).

IX. EXECUTIVE SESSION

None.

X. ADJOURNMENT

MOTION: Currier/Andrews to adjourn at 9:01 p.m. Motion carried.

ADOPTED by the Newberg City Council this 20th day of October, 2003.

JHBennett

James H. Bennett, City Recorder

ATTEST by the Mayor this 30 day of October, 2003.

Bob Stewart

Bob Stewart, Mayor