

**MINUTES OF THE NEWBERG CITY COUNCIL
SEPTEMBER 20, 2004
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING - TRAINING ROOM**

I. CALL MEETING TO ORDER

Mayor Stewart called meeting to order 7:00p.m.

II. ROLL CALL

Councilors

Present:	Mayor Bob Stewart	Mike McBride
	Robert Larson	Mike Boyes
	Roger Currier	Robert Soppe

Absent: Bob Andrews

Others

Present: James Bennett, City Manager
Terrence Mahr, City Attorney
Mike Soderquist, Community Development Director
Dan Danicic, City Engineer
Barton Brierley, City Planner
Russ Thomas, Public Works Superintendent
Chris Mayfield, Fire Marshal
Janelle Nordyke, Assistant Finance Director
Dawn Nelson, Recording Secretary

III. PLEDGE OF ALLEGIANCE

The pledge of allegiance was administered.

PUBLIC MEETING SECTION

IV. PUBLIC COMMENTS

Darlyn Adams - 131 Johanna Ct., Newberg, OR - Funds raised to date \$119,539.17. Gave update on the upcoming auction September 25, 2004 5. Tickets are available for sale for a \$25.00 donation. They have 207 auction items already. There will be a no-host bar and live entertainment.

Mike Boyes - Is this a silent or an oral auction?

Darlyn Adams - There are a couple of oral auction items. The rest will be silent.

Russ Kosters - 101 E. Mtn. View Dr, Newberg, OR - representing residents of Trinity Meadows and Prospect Park. Continuing from Mr. Martin's testimony from last Council meeting. Quoted ordinance regarding LID's. Mr. Kosters finds it difficult, as do the other residents, to understand

how a major collector would not be a benefit for the whole city and not just the residents affected by this LID. We appreciate that the staff has looked at optional methods. How do you determine the boundary and what is a fair and reasonable method? That is still a question in my mind. Mtn View between Villa and College was not done with an LID.

Councilor Soppe - can you give a rough estimate of the benefit of this street to the residents and to the City?

Russ Koster - I can't find any specific benefit over what anyone else from the City receives.

Councilor Soppe - wouldn't you say that you have more benefit than someone who lives across town?

Russ Koster - if I don't have a need, how do you create a benefit for me?

Mayor Stewart - asked Mr. Soderquist to stand. This is his last Council meeting as an employee and he thanked him for all of his service as he is retiring.

V. CONSENT CALENDAR

1. Proclamation declaring the week of October 3-9, 2004 as Fire Prevention Week.

Mayor Stewart - read the proclamation declaring the week of October 3 - 9, 2004 as Fire Prevention week.

MOTION: Larson/Soppe to approve consent calendar.
(5 Yes / 0 No / 1 Absent [Andrews]). Motion carried.

VI. PUBLIC HEARING

1. Consider approval of **Ordinance No. 2004-2602** amending the Comprehensive Plan and development Code to protect the functioning of the Bypass.
Legislative Hearing

Mayor Stewart - Called for abstentions. Ex parte communications.

Councilor Boyes - Has a conflict as he owns property that may be affected by the bypass.

Councilor Soppe - Has possible conflict due to work for clients affected by bypass.

Staff report presented by - Barton Brierley

At last Council meeting you had a motion to approve this ordinance with a 3-1 vote which was not sufficient to pass it. The ordinance in packet reflects changes made at last meeting. The last Planning Commission meeting noted an error in minutes that were included in packet: a motion dealing with housing replacement was eliminated. Planning Commission also made a motion to

amend their recommendation to you. I have copies of the minutes if you would like. Staff recommends passage of Ordinance 2004-2602.

Questions of Staff

Councilor Soppe - DLCD recommended limiting certain types of uses including a bank?

Barton Brierley - a loan facility already exists on Wyooski St.

Councilor Soppe - do you see any problem with the restrictions listed in staff report?

Barton Brierley - ODOT is really the one making the request and they listed uses that they felt were appropriate. We did not intentionally go beyond that list.

Councilor Soppe - my point is if that is the reality then there is no reason not to restrict it. My opinion is we have to protect this area.

Barton Brierley - one of the arguments is that it is a further restriction on uses.

Councilor Soppe - there are a lot of issues that I do not think are relevant to what we are deciding here tonight. Some are the authority of the County. I don't know if we need to state that or not but I think it eliminated a lot of questions for me.

James Bennett - the method that we are using to adopt this makes it clear that it only affects the jurisdiction of the City of Newberg.

Councilor Currier - question from Planning Commission minutes August 26, 2004. Is there something written into this ordinance now that has to do with this housing question reference?

Barton Brierley - no, this just shows the vote from the minutes.

Councilor McBride - this just shows the minutes we didn't have last time.

Terrance Mahr - read ordinance by title only including the amendments.

Discussion of Councilors

Councilor Currier - I have to agree with comments from County Commission. This could create adverse affects on property. Someone could lose an option to develop a property over something that may not come about. Disagree with this.

MOTION: Soppe/Larson to amend list of prohibited uses in **Ordinance No. 2004-2602** amending the Comprehensive Plan and development Code to protect the functioning of the Bypass, by adding the following: Drive-in theaters, Auction yards, Retail Bakery, Building Material Supply, Driving Range, Feed & Seed Store, Miniature Golf, Skating rink.
(3Yes /1 No [Currier] / 1 Abstain [Boyes] / 1 Absent [Andrews]). Motion carried.

Discussion of amendment motion

Councilor Soppe - I feel that they should be excluded and they need to be stated as exclusions.

Return to discussion of Ordinance as amended

Councilor Soppe - Below grade option that planning commission mentioned as a concern I'm not going to make an amendment. I feel we can work on it during development phase of bypass. Will wait on other issues.

Mayor Stewart - if meeting is still going in an hour might bring back on agenda for phone call from missing councilor.

Councilor Currier - can Mayor do this?

James Bennett - yes.

MOTION: Larson/McBride to approve **Ordinance No. 2004-2602** amending the Comprehensive Plan and development Code to protect the functioning of the Bypass as amended.
(3Yes /1 No [Currier] / 1 Abstain [Boyes] / 1 Absent [Andrews]). Motion failed.

2. Consider approval of **Ordinance 2004-2608** approving the addition of Tax Lot 3218AB-00900 to the Crater Lane LID.

Quasi-Judicial Hearing

Mayor Stewart - Called for abstentions. Ex parte communications.

Terrance Mahr - read legal issues

Staff report presented by - Dan Danicic

Matter of house keeping. It is prudent for this property to be part of the Crater Lane LID. Next council meeting will have final proposal for LID. This parcel would only pay for Pump Station assessment.

Roger Currier - the advanced financing was only on sewer not the pump station, correct?

Dan Danicic - that was for the water line.

Councilor Soppe - I didn't understand the part about not being involved with the gravity feed.

Dan Danicic - there is no frontage on this property so they don't have to hook to gravity feed.

Councilor Soppe - there frontage is zero because there is no sewer in front of property. What about property to south? It is unlikely that we will extend line to the south for hookup.

Dan Danicic - yes, they would have to hook up to another line if annexed.

Councilor Soppe - were all the other residents informed that this property would only be paying for pump station?

Dan Danicic - we did not formally send notice to everyone in current LID. That will come with the notice for the assessments.

Councilor Soppe - my concern is that the others will object that they will not pay a frontage fee.

Dan Danicic - that will be addressed at assessment hearing.

Councilor Larson - Fiscal impact on Coyote homes will be 32,000. Have other owners already been assessed?

Dan Danicic - no, that is an estimate. The others will come out later they will receive notice.

Terrance Mahr - read ordinance by title only.

MOTION: Currier/Larson to approve **Ordinance 2004-2608** approving the addition of Tax Lot 3218AB-00900 to the Crater Lane LID.
(5 Yes / 0 No / 1 Absent [Andrews]). Motion carried.

3. Consider approval of **Resolution No. 2004-2533** adopting supplemental Budget #1 for the fiscal year 2004-05.

Legislative Hearing

Mayor Stewart - Called for abstentions. Ex parte communications.

Staff report presented by - Janelle Nordyke

Reviewed budget changes as presented in packet.

Questions of Staff

Councilor Currier - is there any chance that we will receive less than \$15,000 from transfer?

Janelle Nordyke - it won't be zero, but I can't guarantee the amount.

Councilor McBride - what is the purpose of audit from NW Natural Gas?

Janelle Nordyke - to make sure they are giving us the correct amount of franchise fees.

Councilor Boyes - this book we received - is this part of the supplemental budget?

Mayor Stewart - no, that is a resource for you.

Councilor Larson - last year we paid the PERS liability. For the new budget, how is everything covered for PERS under the new rate?

Janelle Nordyke - we are paying interest for the first 3 years then we start to pay on principal.

MOTION: Currier/Soppe to approve **Resolution No. 2004-2533** adopting supplemental Budget #1 for the fiscal year 2004-05.
(5 Yes / 0 No / 1 Absent [Andrews]). Motion carried.

BUSINESS MEETING SECTION

VII. CONTINUED BUSINESS

1. Consider approval of **Resolution No. 2004-2527** authorizing the City Manager to sign an Intergovernmental Agreement concerning the process to consider changes in land use policies concerning the Bypass.

Mayor Stewart - is there any reason we can't go ahead with this item?

James Bennett - no.

Mayor Stewart - read resolution **2004-2527**.

Terrance Mahr - restated conflict of Councilor Boyes' personal residence being within the bypass corridor. This conflict could also apply to this resolution.

Staff report presented by - Barton Brierley

Reviewed schedule of progress for bypass.

Questions of Staff

Councilor Soppe - according to the schedule in the attachment have we completed everything we are supposed to have completed by now?

Barton Brierley - no, there are some things that have not been completed yet.

Councilor Soppe - I recognize schedules change. My concern is about the termination clause. It concerns me that ODOT could say that we have already blown the schedule? How do we not put ourselves in the position that ODOT would say it is our fault we are behind?

Barton Brierley - I would say that it is ODOT that is behind schedule at this point.

Councilor Soppe - I would suggest that we need to make an effort to keep the schedule more updated.

Mayor Stewart - they are in this project with us. I have no qualms.

James Bennett - the schedule is flexible.

Terrance Mahr - you could ask City Manager to update schedule when he signs the agreement.

Councilor Soppe - the alternative mode land use issue - I would like to see that this doesn't get brushed aside.

Ruby Tronson - 1009 S River St., Newberg, OR - not sure how bypass will affect my property. Concerned that we aren't cut off from the river and that we have access with overpasses or underpasses. And that they don't cut out commercial lands from this area. Also concerned that the bypass will increase the industrial land and that will downgrade the residential areas that are existing.

Discussion

Councilor Currier - this thing could be tied up for many years and things could change and someone could miss a good business opportunity in this area. What about park behind manufactured park? It is not a legal park. I can't go along with this.

Councilor McBride - I would say that we should proceed with this. I don't want to be part of the past that messed this up. We need to proceed forward. It is a worse disservice to do nothing at all.

MOTION: Soppe/Larson to approve **Resolution No. 2004-2527** authorizing the City Manager to sign an Intergovernmental Agreement concerning the process to consider changes in land use policies concerning the By-pass.

(4Yes / 1No [Currier] / 1 Absent [Andrews]). Motion carried.

VIII. NEW BUSINESS

1. Consider approval of **Resolution No. 2004-2531** amending Resolution No. 2004-2503 authorizing the City Manager to enter into an agreement with Tualatin Valley Workshop, Inc. for janitorial services in the amount of \$73,796.00.

Staff report presented by - Russ Thomas

Previous stated amount in June was erroneous. Went back to negotiations to include things left out.

Councilor McBride - does this allow us to go back out to bid?

Russ Thomas - when the disabled persons law went through, we went through a learning curve about this. Process from this point is once approval is received from Council then we develop contract and they have to go to the State for approval.

Councilor McBride - how many times are they going to be cleaning the buildings?

Russ Thomas - it is outlined in the bid.

Councilor Larson - what is the term of contract?

Russ Thomas- 2 years.

Councilor Boyes - do they follow same bidding procedures as public?

Russ Thomas- no, they are not required.

Councilor Boyes- is 30 day notice given?

Russ Thomas- have to work with State rules.

Councilor Boyes- why do you have to change current system?

Russ Thomas- we did not know that the law had changed when we put the bid out.

Councilor Boyes- I talked to State coordinator and asked why we have to go this way. I think it could be less expensive if we went to public bid. Her comment was 'tough' and some cities will pay more because of this.

Councilor Soppe - as you mentioned we went out to bid before we knew about the new law. Did original RFP include the missing items?

Russ Thomas- it was included as an option; that is where the confusion came in.

Councilor Soppe - at some point we do have an option that we say that we gave a fair shot to these people and it didn't work out. What are our options then?

Terrance Mahr - if we say that these folks don't work out, there are other qualified individuals in this program that we will have to go back and try.

Russ Thomas- 11 organizations qualified.

Councilor Soppe - did we put it out to them?

Russ Thomas- only two of the qualified organizations responded.

Terrance Mahr - the rules were fairly new and the State was helpful going through the process.

Darren Rahier - 5155 SW Natchez St, Tualatin, OR - current provider - this is a change of scope of work from what we are doing. I think that would have to go back out for bid.

Mayor Stewart - we would love to look at bids but state law says we have to go with special organization.

Darren Rahier - doesn't occur to me that they meet the current parameters. If does fail, you are not required to go back to another disabled facility.

Terrance Mahr - the answer is yes we would have to go back to them. Patty Beams is the person to talk to at the State.

Darren Rahier - even if their bid is higher, you have to take it? That makes no sense.

Councilor Soppe - we have discussed numerous times and we are not thrilled with this either. I have suspicion that we will try to do something through other avenues. My suggestion would be, if you have an association you belong to, try to get legislation changed.

Councilor Boyes- do you get 30 days notice?

Darren Rahier - I believe so.

James Bennett - all the resolution does is authorize me to enter into agreement with organization.

Councilor Boyes- the budget only allots \$60,000 where are we going to get the extra money. I asked Kathy Tri and she said that we would pull it out of another fund. I would like to see where this extra money is going to come from. I don't see anything in the supplemental budget today.

James Bennett - there will be another supplemental budget.

Councilor Boyes- how do you just pull it out of the air?

James Bennett - we will have to find it.

Councilor Boyes- why can't this other outfit work within the realm of our budget? I asked Ms. Beams how they figure these prices. She said they don't always go out and look at property, just square foot it.

Mike Soderquist - page 77 shows currently \$69,000 is available in the budget.

Russ Thomas- may not need supplemental budget because of delay in entering into new contract.

Councilor Currier - hope somewhere that it gets worked out and they have to be competitive in their bids.

MOTION: Larson/Soppe to approve **Resolution No. 2004-2531** amending Resolution No. 2004-2503 authorizing the City Manager to enter into an agreement with Tualatin Valley Workshop, Inc. for janitorial services in the amount of \$73,796.00.
(4Yes / 1No [Boyes] / 1 Absent [Andrews]). Motion carried.

Councilor Soppe moved to have a special meeting to deal with bypass issue. The motion died for lack of a second.

Discussion of how Councilor Andrews would be available via conference call between 9:00 - 9:30pm.

Councilor Soppe - requested the Mayor to call for a half hour break

Mayor Stewart - called for half hour break at 8:45pm to reconvene at 9:15pm

Meeting Reconvened at 9:14pm

Mayor Stewart - we are going to reconsider adopting **Ordinance No. 2004-2602**.

Councilor Andrews joined meeting via speaker phone.

Councilor Soppe -I would like to make sure Councilor Andrews is aware of amendment made tonight.

Terrance Mahr - re-read **Ordinance 2004-2602** by title only with amendment included.

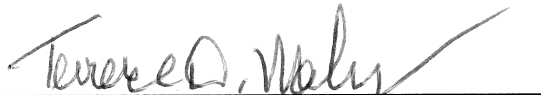
James Bennett - amendment from previous meeting is in this version of ordinance.

MOTION: Soppe/Larson to approve **Ordinance No. 2004-2602** amending the Comprehensive Plan and development Code to protect the functioning of the Bypass as amended.
(4Yes /1 No [Currier] / 1 Abstain [Boyes]). Motion carried.

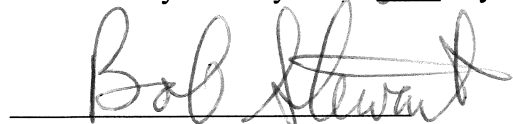
X. ADJOURNMENT

MOTION: Soppe/Andrews to adjourn meeting at 9:20 p.m.
(6Yes / 0 No). Motion carried.

ADOPTED by the Newberg City Council this 18th day of October, 2004


Terrence D. Mahr, Acting City Recorder

ATTEST by the Mayor this 21st day of October, 2004.


Bob Stewart, Mayor