

**MINUTES OF THE NEWBERG CITY COUNCIL
NOVEMBER 15, 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
	Bob Larson	Robert Soppe
	Roger Currier	Mike Boyes
	Bob Andrews	

Councilors Absent: None

Others Present: James Bennett, City Manager
Terrence Mahr, City Attorney
Dan Danicic, Public Works Director
Barton Brierley, Planning & Building 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 – Presented report on Newberg Animal Shelter. Final report on Western Barbeque and auction, net profit \$12,531. Expenses were 8.48% of the gross. Building fund is now at \$138,200. Have held a brick campaign and have taken in \$237.00 from that so far. We are now planning Christmas open house for December 11 & 12. So far this year we have raised \$38,000, our best year yet.

Councilor Boyes – Wasn't there supposed to be an auction in McMinnville?

Darlyn Adams - Yes that has already been held and we received over \$5000 from that.

Mayor Stewart – Many thank you's for your work.

Roy Gathercoal, 2504 Haworth, Newberg, OR – Mr. Gathercoal gave his history of living and working in Newberg. His point tonight is he is very rooted in the community and he comes to Council tonight as a community member to speak on the accessibility problem here within the City of Newberg. He is here to ask the City to do the accessibility upgrades that need to be done

and are required by law. He stated that it had been more than a decade since these laws were put in place.

1. He would like to encourage the Council to give Mr. Bennett credit and encouragement for any compliance that occurs under his authority.
2. He would like to see the City immediately begin assessment of accessibility challenges in the city as required by law.
3. He would like Council to instruct city staff to make the temporary patches necessary.
4. He would like to see plans to implement training so all city staff can understand the challenges of accessibility and make people feel more welcome.

Mr. Gathercoal wants to make it clear that he is not here to threaten a lawsuit. He thinks the City can start the process on their own. He presented some cases from other areas in Oregon that have had compliance issues. Please direct the City to give this issue some priority.

Councilor Currier – I think we should give City credit for the improvements that it has already made. About 3 years ago we did spend some time and money to make city intersections accessible. I know we are not 100% compliant but I think we have made great improvements.

Roy Gathercoal – really hoping that Council will take some action; gave instances of places in City where there is a problem.

Councilor Currier – Needs to be a priority for the main traveled areas; maybe you can give some assessment of the situation.

Roy Gathercoal – that is what I am asking the City to do.

Councilor Soppe – Thank you for your polite persistence on this subject. Is there anything that the City has put in new in the past few years that is not correct? Are there problems with new construction or is it mostly existing areas?

Roy Gathercoal – Yes, there are some technical issues even with new projects; gave instance at Memorial Park where there are 2 new accessible parking spots but no sidewalk to unload on.

V. CONSENT CALENDAR

1. Consider approval of **Resolution No. 2004-2534** adopting changes to the Water System Development Charge for single family residences equipped with sprinkler systems.

Councilor Andrews – which copy of the resolution are we approving?

James Bennett – explained the resolution is the amended resolution approved at last meeting.

Councilor Soppe – page 7 questions on motion.

2. Consider approval of Regular Session City Council Meeting Minutes for October 18, 2004.

MOTION: Currier/Andrews to approve consent calendar with amendments to resolution and corrections to minutes.
(6 Y / 0 N) Motion carried.

VI. PUBLIC HEARING

1. Consider approval of **Ordinance No. 2004-2611** to prohibit temporary merchants from having drive-up service windows in the C-3 (Central Business) District.
Legislative Hearing

Mayor Stewart – opened meeting.
Called for abstentions, exparte contact; none noted.

Staff Report Presented by: Barton Brierley

Mr. Brierley covered information presented in the packet. Showed with an overhead who would be affected by this. This ordinance brings temporary merchants under the same requirements as permanent businesses and does not affect existing drive-ups only new ones.

Questions of Staff

Councilor Soppe – were the folks that have existing permits notified?

Barton Brierley – yes, and they came to Planning Commission meeting.

Councilor Soppe – this is a change from prohibited to conditional?

Barton Brierley – yes.

Councilor Currier – what happens if he decides to remodel or replace structure?

Barton Brierley – a remodel would not affect it; he could keep permit.

Councilor Andrews – with this one temporary merchant, if he remodels and becomes a permanent business, then would he have to apply for a conditional permit?

Barton Brierley – yes, and he would have to have walk-up business also to get it.

Councilor Boyes – who were all temporary merchants?

Barton Brierley – we did notice all temporary merchants in town; there are around 25 right now in the whole town but only one in this C-3 zone.

Councilor Boyes – who are we talking about?

Barton Brierley – Speedy Espresso in Pasquale's parking lot.

Councilor Boyes – why are you making this effective in just the downtown area?

Barton Brierley – to make the downtown area less auto oriented and more pedestrian oriented, to encourage pedestrian traffic.

Councilor Boyes – so if the taco stand at the old US National Bank site moves, they would be affected by this? or is it just businesses with drive thru's?

Barton Brierley – this only applies to drive thru's.

Public Testimony

None

MOTION: Larson/Soppe to adopt **Ordinance No. 2004-2611** to prohibit temporary merchants from having drive-up service windows in the C-3 (Central Business) District.
(6 Y / 0 N) Motion carried.

BUSINESS MEETING SECTION

VII. CONTINUED BUSINESS

None.

VIII. NEW BUSINESS

1. Consider approval of **Resolution No. 2004-2536** requesting a hardship water connection for service outside of the city limits.

Staff Report Presented by: Dan Danicic

Reviewed information provided in packet, reviewed criteria for hardship application and found that it meets criteria.

Questions of Staff

Councilor McBride – why in packet do we have information about a trust?

Dan Danicic – because property is in trust, it provides information that they are the owners and have the right to ask for hardship.

Councilor McBride – just because it is in a trust we need this extra documentation?

Dan Danicic – yes.

Councilor Boyes – is this one of many that are going to be asking to hook up or are most of them hooked up?

Dan Danicic – many are already hooked up.

Councilor Boyes – how many more can they hook up?

Dan Danicic – we don't know; we don't keep track of the water district's lines.

Councilor Andrews – you indicate in the information there is no reason water is not drinkable?

Dan Danicic – correct.

Councilor Andrews – I did not see volume you were talking about .

Dan Danicic – we have a well log from the state that shows what the well produced when it was dug.

Councilor Andrews – owners said they can't drill a new well; is there any documentation to back that up?

Dan Danicic – state water master could probably corroborate that.

Councilor Andrews – you stated in your report that the NW water district without improvements may have problems and you don't see this as an issue.

Dan Danicic – we do not track and certify their lines; we don't feel we can state for a fact that there will be no problems.

Councilor McBride – there is a water line that is 4-5 years old in that area, so it is fairly new.

Councilor Currier – that is the one that services Dillon Rd. I believe the State came in and assessed that whole area when we gave hardship to Honey Lane residents for that area.

Dan Danicic – I haven't seen that report.

Councilor Soppe – the map up on the overhead, what is checker boarded line?

Dan Danicic – that represents a stream channel.

Councilor Soppe – so we don't know where the lines for the water districts are. I am concerned that a couple of the conditions are not met; are we clear in ordinance about water quality being a main issue and how this meets that?

James Bennett– that is point well taken; in past hardship requests for that area there has been testimony of the effects of bad water on equipment, not just the taste.

Councilor Soppe – to the quantity problem, you said they can not drill a new well; is there professional opinion to back that up?

Dan Danicic – with what is going on in Aspen Estates, I think we can assume it would not be possible.

Public Testimony

Art & Marlys Johnson, 23900 NE Dillon Rd., Newberg, OR – think that staff covered situation well. Quantity of water is quite low; the well done in 1976 was recorded at 5 g/m but

actually produced 3g/m. As new homes were built in the area the quantity and quality did go down. We started by installing a water softener. Then added iron filter; the back flush from that drains the well down. There is line right past our driveway to hook up to. Water district doesn't feel it will be a problem. Had water douser come out a few years ago and she said there wasn't much water in the area. Couldn't see spending money to drill a dry well.

Councilor Soppe – have other alternatives been investigated. I have concerns; give me some other information that would convince me.

Art Johnson – A new home to the NW of us did get hardship and they are just across road.

Councilor Soppe – technically they haven't quite met standards but there is enough information that I would approve it.

Councilor Andrews –with this info I am satisfied there is a line out to supply this hardship and that the quality and quantity issues have been addressed.

MOTION: Soppe/Larson to adopt **Resolution No. 2004-2536** approving a hardship water connection for service outside of the city limits (6 Y / 0 N) Motion carried.

2. Consider approval of **Resolution No. 2004-2544** authorizing the City Manager to allocate parking in City-owned Public Parking Lots.

Staff Report Presented by: James Bennett

This is a resolution dealing with parking lot on Second St between Howard & College Streets. Currently the lot is split between long term parking and 2 hours. Over time it has become apparent that there needs to be tweaking of number of spaces for long term. There is more of a need now that the small parking lot behind the VFW is used for only city owned vehicles. Also merchants would like to see increase in unlimited time spaces.

Councilor Andrews –in a previous Ordinance didn't Council delegate this authority to city manager to set time limits?

James Bennett – no, that never made it into the Ordinance; it was proposed but never approved. It was set up so that Council had the authority.

Councilor Andrews – Where are the 6 parking spots adjacent to city hall?

James Bennett – along Buckley's building .

Councilor Andrews – are there 2 spots in alley way?

James Bennett – no longer.

Discussion of how the spots are designated now and how to change them.

James Bennett – after we make the changes we will monitor it for a few months and from time to time to make sure we get correct mix.

Councilor McBride – is this coming to us because of 2001 ordinance that Council set up? Why can't we delegate this? I think the City Manager could make decision.

Councilor Currier – in 2001 there was discussion of doing exactly that. Council & City Manager at time felt that Ordinance needed more substance for towing and such; that is why it became a Council action.

Councilor Soppe – is it unreasonable burden on City Manager to put into ordinance that you will report to Council when you make these changes?

James Bennett – I would report them to you anyway.

Public Testimony

Kristen Horn, 610 E. Sheridan, Newberg, OR – I support this parking issue completely, but caution City about going to far the other way as far as the percentages. It is a tough situation because we are going the opposite direction as other cities in that they don't allow business owners and residents to park in their core parking lots. I would hate to see it turn into a residential parking lot.

Councilor Currier – it is not the only lot down town.

Kristen Horn – yes, but I don't see the lot on Hancock as being real effective supporting the core downtown. It services Hancock.

Discussion of Councilors

Councilor Soppe – pg 54 typo error: delete d off of allocated in the first line of "The City of Newberg resolves as follows".

Terrence Mahr – where it contradicts code, we may need an ordinance.

MOTION: Andrews/Currier to amend **Resolution No. 2004-2544** by directing that an ordinance be prepared and submitted to the City Council authorizing the City Manager to set the time limits for parking in City-owned parking lots.
(6 Y / 0 N) Motion carried.

MOTION: Currier/Larson to adopt **Resolution No. 2004-2544** authorizing the City Manager to allocate parking in City-owned Public Parking Lots as amended.
(6 Y / 0 N) Motion carried.

3. Consider a motion to approve an increase in System Development Charges for water, wastewater, and storm by 8%.

Staff Report Presented by: Dan Danicic

This comes around every year as provided by code. Last year there was a 3% increase; this year cost index has gone up 8%. This would be effective December 31, 2004. Net affect to a new single family residence is an increase of \$512.00.

Councilor McBride – does this apply to all new construction? What if a resident moves across town and builds a new home?

Dan Danicic – it applies to all new construction applications.

Councilor Currier –so if they apply before 12/31/ they will save \$512.00?

Councilor Boyes – does CPRD have systems development fee?

Barton Brierley – parks is about \$1,020; total SDCs for single family house is about \$6,400 not including the park fee.

Councilor Andrews – we see a nice increase for WWT but small for storm sewer. Why?

Dan Danicic – each charge is being increased by 8%; storm starts out smaller so it has a smaller dollar increase.

Councilor Soppe –why did you put in a cut off on applications?

Dan Danicic – there is a certain time we need to process applications.

Councilor Soppe – so it could take more than 2 weeks?

Dan Danicic – you are correct .

Councilor Currier – would it change much if you changed wording to “received completed application by December 18, 2004 it meets criteria for lower fee.”

Councilor Andrews – are you saying that this pertains to the permit application whether or not it is complete?

James Bennett – we are referring to building permit application.

Discussion of what wording really means. Not complete until staff says it is completed.

James Bennett – the determination of complete is not done at time application is dropped off but at a later time.

Councilor Currier – need wording to say that a “completed application” means approved by staff.

James Bennett – if you are concerned maybe just make it December 1st to give enough time.

Discussion of concerns about staff being able to process overload of applications that could result from this.

Councilor Soppe – how long does it usually take to process an application?

Barton Brierley – 3 weeks.

Terrence Mahr – this question comes up every year; this is transition language we use every year.

Councilor Andrews – if that is the case I can accept this.

Councilor Boyes – is there public notice given out on this.

Dan Danicic – yes.

Councilor Soppe – drop my objection after Mr. Mahr explained this is the wording used every year.

MOTION: Soppe/Currier to approve an increase in System Development Charges for water, wastewater, and storm by 8%.
(6 Y / 0 N) Motion carried.

4. Consider a motion to table Council action to the December 6, 2004, City Council meeting concerning two initiative petitions to repeal LID Code section and amend the Charter.

Staff Report Presented by: Terrence Mahr

These petitions were received last Friday and we haven't had the chance to gather the information regarding them to present to you yet.

Councilor Soppe – if we do table this item, does it affect their ability to get on the March ballot?

Terrence Mahr – no.

Jo McIntyre – I have been working with homeowners on this issue and there are a couple of errors in your motion to postpone. The other chief petitioners are Linda Warren and Sally Strong. I seriously object to executive session on this issue. The homeowners have never discussed a lawsuit so there is no reason to discuss this in secret. Homeowners here have right to know what is on your mind.

Mayor Stewart – I have been in 3 different sessions with Joe Brugato a chief petitioner who has threatened a lawsuit.

Jo McIntyre – he has always said he represented himself.

Mayor Stewart – when he first started speaking on the subject he did say he was representing the homeowners.

Councilor Soppe – (to Jo McIntyre) your main objection is the absence of the other chief petitioners names on the page?

Terrence Mahr – the homeowners filed an amendment after circulation.

Jo McIntyre – the chief petitioners were added before circulation.

Councilor Soppe – (to staff) please add the other names for when we see this again, but Ms. McIntyre you agree that Joe Brugato is one of the chief petitioners?

Jo McIntyre – yes.

Councilor Soppe – do you agree or disagree that Mr. Brugato has threatened to sue?

Jo McIntyre – that is irrelevant to whether you consider petitions and when you discuss them.

Councilor Soppe – you did not answer my question. Do you agree or disagree that Mr. Brugato has threatened to sue?

Jo McIntyre – I can not speak to that. I was not at meetings.

Councilor Currier – when Mr. Brugato first came to meeting there was a threat of litigation. If that is true, does that represent a threat of litigation, Mr. Mahr?

Terrence Mahr – yes, since he is a chief petitioner. He has said litigation would follow if LID went through while petitions pending. I think the statute is clear if you have pending or threatening litigation we have the right to discuss in executive session. I believe there is enough to support executive session discussion of this item.

Councilor Andrews – staff is recommending this be on agenda for December 6th as a regular session agenda item?

Terrence Mahr – you have 30 days to consider options.

MOTION: Andrews/Larson to table Council action to the December 6, 2004, City Council meeting concerning two initiative petitions to repeal LID Code section and amend the Charter.
(6 Y / 0 N) Motion carried.

MOTION: Currier/Andrews to recess for 5 minutes before returning to executive session.
(6 Y / 0 N) Motion carried.

IX. EXECUTIVE SESSION

1. Executive Session Pursuant to ORS 192.660(2)(h) to consult with Counsel relating to current litigation or litigation likely to be filed on Mountainview Dr. LID.

Executive Session held during work session and continued after regular session.

X. ADJOURNMENT

MOTION: McBride/Soppe to adjourn meeting at 10:20 p.m.
(6 Y / 0 N) Motion carried.

ADOPTED by the Newberg City Council this 6th day of December, 2004



James H. Bennett, City Recorder

ATTEST by the Mayor this 9th day of December, 2004.



Bob Stewart, Mayor