

**MINUTES OF THE NEWBERG CITY COUNCIL
DECEMBER 6, 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
 Leah Griffith, Library Director
 Barton Brierley, Planning & Building Director
 Janelle Nordyke, Assistant Finance Director
 Terri Hafer, Public Relations Officer
 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 – Reported that the 5th Annual Christmas Open House and Bake sale is December 11, 2004. The goal for this year's open house is to raise \$2000.

V. CONSENT CALENDAR

1. Consider approval of **Resolution No. 2004-2550** approving the City Attorney's annual evaluation (2004).
2. Consider approval of Regular Session City Council Meeting Minutes for November 1, 2004 and November 15, 2004.

<p>MOTION: CURRIER/MCBRIDE to approve consent calendar. (6 Y /0 N) Motion carried.</p>

VI. PUBLIC HEARING

1. Public Hearing to consider approval of **Ordinance No. 2004-2612** adopting a procedure for considering demands filed under Ballot Measure 37 and consider approval of **Resolution No. 2004-2547** establishing fees for processing demands under Measure 37.

Legislative Hearing

Mayor Stewart – opened hearing for **Ordinance No. 2004-2612**, called for abstentions.

Staff report presented by – Barton Brierley

Presented proposed ordinance to deal with Measure 37, walked through proposed process. Mr. Brierley noted that there is a potential risk for high costs from illegitimate demands. He reviewed processes and provisions of the ordinance. Reviewed the costs of processing claims: appraisals, notices, hearings, zone changes, records research. Covered options on how to recover the costs. There is a suggested \$7820 deposit incase these costs are incurred.

Questions of Staff

Councilor Currier – \$7820, is that a cap for costs?

Barton Brierley – it is a refundable deposit for possible costs.

Councilor Soppe – \$7820 is a cap? we are not going to charge above if it costs above that?

Barton Brierley – yes, that is correct.

Councilor Soppe – is that written into ordinance? if we intend it to be a cap we should so state.

Barton Brierley – I don't believe it states that specifically.

Councilor Soppe – we can place a lien on properties for this; if we have this right, why do we even ask for deposit ?

Barton Brierley – I think requiring the deposit up front is more direct approach; lien process is costly and may not recover the funds for some time.

Councilor Currier – page 44 #4 - planned development, is this wording for PUD?

Barton Brierley – yes.

Councilor Currier – I thought we were not doing PUD anymore?

Barton Brierley - development code does allow for it.

Councilor Soppe – page 37 #4 - nearby property owner info required by applicant, is there a reason we don't want to be responsible for providing it?

Barton Brierley –until the last year it wasn't that easily obtained from the city; it is an expense to us.

Councilor Soppe - #5 same page - identify if applicant owns other property within 500 feet, why require that?

Barton Brierley – to identify other potential claims and potential solutions.

Councilor Soppe – can the applicant be denied for not providing that info?

Barton Brierley – the application could be; the ordinance allows for the City Manager to accept an incomplete application.

Councilor Soppe –page 37 #10 narrative – describe history of owner, what is the purpose of that?

Barton Brierley – measure 37 talks specifically about claims being filed based on having a family member previously own and then transfer ownership.

Councilor Soppe – what more are we looking for in history?

Barton Brierley – if the applicant was the owner when the regulation passed, were they supportive of the regulation when it passed and now not?

Councilor Soppe – history of land use relevance?

Barton Brierley – maybe buildings have been torn down or built that involves value of property.

Councilor Soppe –wouldn't appraisal report show this information?

Barton Brierley – report usually only shows current property items but not the history.

Councilor Soppe –can't we cite existing regulations instead of requiring copies of them all?

Barton Brierley –it is just easier to provide them; then we don't have to look for them.

Councilor Soppe – why the list of exceptions?

Barton Brierley – would behoove applicant to understand why application does or doesn't meet requirements.

Councilor Soppe - page 41 #b?

Barton Brierley – think about if you are going to give owner money for land; what is the city getting in return?

Councilor Andrews – if individual files claim due to loss of value, how do you make leap from that to we are purchasing property?

Barton Brierley – would be based on ordinance that the city has adopted.

Councilor Soppe – page 42 to Terrence Mahr, there are no serious legal issues? What about us being able to collect reasonable attorney fees.

Terrence Mahr – the statute allows us to; so we are going forward with it in the Ordinance.

Councilor Soppe - 38.108 private cause of action – do we have any precedent whether we allow that on other issues we deal with?

Terrence Mahr – no, this is the first that we have had to deal with state statute giving cause of action.

Councilor Andrews – 38 38.104 I don't see where the ordinance provides for the designee it talks about here.

Barton Brierley – 38.101 gives definition of designee.

Councilor Andrews – p 36 if City Manager elects to deny application, that doesn't mean issue is done with?

Barton Brierley – that is correct; they can file a claim.

Councilor Andrews - p 37 concerned some of these requirements are overkill.

Barton Brierley –all the information is pertinent.

Councilor Andrews- how many claims have we had filed?

Barton Brierley – none, so far.

Mayor Stewart – to Councilor Andrews, you understand we do already require some of this information with some of our processes now.

Barton Brierley – under current processes those are some of the same things that the applicant has to provide.

Councilor Andrews – claim could arise from an action 10 years ago?

Barton Brierley – yes.

Councilor Andrews – p 39 benefit to public #3, explain.

Barton Brierley – all our ordinances are designed to benefit the public in some way.

Councilor Andrews – how does that apply if there has been a diminishing of property value?

Barton Brierley – Council has to decide how it would best benefit the public; you may feel the applicable regulation is so important that you may want to pay compensation instead of modifying regulation or you may want to modify regulation. We are talking about zoning that has consistent regulations.

Councilor Andrews – where in measure 37 is that a criteria that we may use?

Barton Brierley – it is in your decision .

Councilor Andrews - p 40 the criteria - where is it stated in Measure 37?

Barton Brierley – Measure 37 does not specifically say you have to look after the public.

Councilor Andrews – bottom of the page is that redundant?

Barton Brierley – that is just the general reasons if you are going to deny claim.

Councilor Andrews – page 41 (c)(3) what is purpose?

Barton Brierley – the particular ordinance may or may not be applicable to future buyers.

Councilor Larson – p 37 appraisals – applicant already needs to submit appraisal; why do we need to charge more?

Barton Brierley - \$2000 fee would not cover the appraisal; the deposit would. Appraisals vary widely in cost. There can be quite a gap in the owner appraisal versus the purchaser appraisal just like the water tower property.

Councilor Larson – what was the cost of the appraisal for water tower?

Barton Brierley – I don't remember; the last one we purchased was \$1500.

Councilor Currier –p 38 #12 – what happens to property in urban growth boundary that the county has taken and now is in the city?

Barton Brierley – measure 37 demands can only be filed for actions the city has taken.

Councilor Soppe – p 38 #12, why are we requiring them to tell us about all of the issues?

Barton Brierley – we were trying to get at 2 different things here; did they apply for a change and it was denied; second part was enforcement of the regulation.

Public Testimony

Roger Grahn – 23287 LaSalle, Sherwood – there is media hype all around this issue; I very much believe it is mostly going to be residential claims in rural areas. Argument whether government is going to give up it's approach and give into what the people want. This staff approach subverts the measure completely. I believe it will open up for litigation. These fees are to discourage applications. Issue of purchasing property rights doesn't agree with how can you purchase something you have taken away.

Councilor Soppe – Mr. Grahn, the procedures that staff has set for us, do you think they are reasonable setting aside the fees?

Roger Grahn – a couple of little issues don't have specific information in front of me.

Councilor Soppe – as far as fees it is your opinion that the City should bear the costs?

Roger Grahn – in large part I do. I don't see Newberg as having big claims, except maybe in the overlay zones.

Mayor Stewart – closed public testimony.

Barton Brierley – presented recommendation of staff.

Councilor Currier – I want to make clarification, this is only establishing a procedure to file Claims. Fees are separate; we can alter those later.

Terrence Mahr – correct.

Councilor Currier – in respect to Roger Grahn's comment, he could file claim, wait 6 months and then just take it to circuit court; why are we doing this?

Terrence Mahr – reasons for process are to fairly measure claim, establish record of procedure; more liability if we do the whole thing in circuit court; would advise that, if applicant submits letter and says they are not going to submit application, we should still run it through the process so that we would have a record.

Barton Brierley – if we don't have a process in place, then the neighbors can appeal decision.

Councilor Soppe – page 47, #10 talks about allocating; do we need to make any statement of what fund it will be paid out of?

Terrence Mahr – we can set that up at a budgetary level.

Councilor Currier made motion to pass Ordinance 2004-2612, Councilor Larson seconded

Discussion of Councilors

Councilor Andrews – if we follow process and deny the claim, they can still challenge and then still have to pay the legal fees.

Barton Brierley – yes.

Terrence Mahr – only have to pay attorney fees if they were successful.

Barton Brierley – if City had process in place, I would hope the Court would have leniency in reasonable attorney fees.

Councilor Soppe – if someone takes us to court and they are unsuccessful, the judge has to award attorney fees to us? it is not automatic?

Terrence Mahr – the judge is the one that determines the reasonable attorney fees.

Councilor Andrews – to Terrence Mahr – p 42 review of decision - that is what we would like to have, but can we impose that?

Terrence Mahr – we can ask for that; will it be successful? I don't know. We would like it to be in the writ of review.

Councilor Andrews – I like the process and think we should require some basic information; then they can give additional info when needed instead of mandating all these procedures. Page 35 38.102 - would like to see prefiling conference fee deleted.

Councilor Andrews – moved to amend ordinance with prefiling conference fee to be deleted, Councilor Soppe seconded

Councilor Currier – can we make it contingent with next resolution? it deals with the fees.

Councilor Soppe – we are dealing with two different issues here; should there be a filing fee and should it be paid before conference?

Barton Brierley – we charge that for other applications like zoning changes.

Councilor Soppe – to Councilor Andrews - if it is only \$100 do you still want to delete it?

Councilor Andrews – you charge for other applications like zone changes?

Barton Brierley – yes.

Councilor Andrews withdrew amendment; Councilor Soppe withdrew second.

Terrence Mahr –in response to Councilor Andrews page 36 (b), we amended “shall” to a “should” and did not make it mandatory; we also took out any reason for denial for incompleteness of application.

Councilor Soppe – I am not a fan of Measure 37 but we need to look seriously at what the vote was. I sure don't like this but we need to follow this.

Councilor Currier – in the 1000 Friends letter, it states compensation claims should be processed in public. Don't know that I agree with that in this case.

James Bennett – City has the requirement to determine the impacts of Measure 37 for the good of the public.

Councilor Currier – do you have any comment on Mr. Friedman's comments?

James Bennett – all processes we do are public.

Councilor Soppe – other than the City Manager denying the claim, all other things go to the Council where they could take testimony; so I am comfortable there will be a public process. should we require noticing nearby property owners? what is the expense of noticing?

Barton Brierley – need to notify property owners within 500 feet; the cost is \$80-\$120.

Councilor Soppe – I think that is reasonable expense to cover the bases.

James Bennett – it is our discretion to absorb that expense.

Councilor McBride – let's let the staff make that decision.

Councilor Currier – think the notification of the neighbors is more of an issue when it deals with the use of the land. When public comes in and gives testimony, is it used as evidence in the case if it goes to writ of review?

Terrence Mahr – it would all be part of the record that would go to circuit court.

Councilor Soppe – would like to amend page 39(b)(1) to make it a requirement of the city manager, not at his discretion; Councilor Currier second.

Terrence Mahr – the mechanics of how this ordinance works is the City Manager's denial is a stop gap. Once manager moves on to next step that is when you want to notify adjacent property owners. Maybe make it discretionary to notify at the City Manager level and mandatory at the City Council level.

Councilor Soppe – think the attorney is correct withdraw amendment/Councilor Currier withdrew second. Page 40(3) description should be from page 39 (b)(1).

Councilor Soppe – motion to amend ordinance to add language in 39(b)(1) to page 40(e); Councilor McBride seconded

Terrence Mahr – gave suggestion of wording.

MOTION: SOPPE/MCBRIDE to amend **Ordinance No. 2004-2612** to add language in 39(b)(1) to page 40(e). (6Y / 0 N) Motion carried.

Councilor Soppe – concerned with wording on page 41 (b).

Councilor Andrews - motion to amend ordinance to remove sentence in page 41 (b): "If the City Council chooses to pay compensation, the owner shall enter into an agreement with the city regarding future demands and the property rights that the city is purchasing;" Councilor Currier seconded.

Councilor Soppe – motion to change page 38 #12, no second.

MOTION: ANDREWS/CURRIER to amend **Ordinance No. 2004-2612** to remove sentence in page 41 (b) as stated. (5Y / 1 N [Currier]) Motion carried.

MOTION: CURRIER/LARSON to approve **Ordinance No. 2004-2612** adopting a procedure for considering demands filed under Ballot Measure 37. (6 Y / 0 N) Motion carried.

Mayor Stewart – at 9:25 called for a 5 minute break.

Mayor Stewart – opened hearing for **Resolution No. 2004-2547**, called for abstentions

Staff report presented by – already presented by **Barton Brierley** in Ordinance 2004-2612.

Public Testimony

Roger Grahn – I would like to reiterate the more the fees and the more difficult the process becomes the more likely the process will be ignored. I agree with staff in trying to remove frivolous claims. The fees you have set invite problems.

Councilor Soppe – do you have problem with \$2000 cost of filing claim?

Roger Grahn – it is high; most of these claims are going to be relatively straight forward.

Mayor Stewart – closed public testimony.

Barton Brierley - recommendation of staff to adopt resolution with added wording giving City Manager option to waive application fee.

James Bennett – gives City Manager option to waive some or all of the fee and or deposit.

Councilor Boyes – \$2000 fee, how did we come to that amount?

James Bennett – if you look at similar applications for land use, the fees are in that \$1500-\$2000 range.

Councilor Currier – page 57 (3) change wording to “up to.”

Terrence Mahr – there isn’t a fee set out in legislation itself; discussed other cities fees.

James Bennett – until we process a claim or two we won’t know how much it will cost.

Councilor Soppe – it shows flat \$2000 fee with no variance.

Councilor Currier - motion to approve **Resolution No. 2004-2547**, Councilor McBride seconded.

Councilor Currier motion to amend **Resolution No. 2004-2547** by adding wording by Barton Brierley, Councilor Boyes seconded.

<p>MOTION: CURRIER/BOYES to approve amendment to Resolution No 2004-2547 by adding wording provided by staff. (6 Y /0 N) Motion carried.</p>

Discussion of Councilors

Councilor Soppe – I think it is important that we look at what measure 37 was meant to do. I

think the cost to getting that done should be minimal. I am not in favor of deposit. I can understand there should be some fee. I would be in favor of cutting \$2000 in half.

Councilor Soppe – motion to amend Resolution No 2004-2547 to cut fee in half and delete deposit, Councilor Larson seconded.

Councilor Currier – I don't think we need to delete fees. I think the leniency is there at the City Manager's discretion.

Councilor Larson – I would be embarrassed if it came out this city was going to charge these Rates. I think it should be \$1000 processing fee and \$100 pre-filing fee.

Councilor Soppe – I don't think it should be discretionary of City Manager. I don't think they need to pay.

Councilor Boyes – should be set fee instead of how much the City Manager could charge.

Councilor Andrews – Councilor Soppe is a \$1100 fee total what you are proposing?

Councilor Soppe – yes.

Councilor Andrews – I think processing fee should be \$500. If we adopted amendment referring to deposit, will that go away?

Councilor Andrews – motion to vote on the issues separately, Councilor Soppe seconded.

MOTION: SOPPE/LARSON to approve amendment to Resolution No 2004-2547 to make claim processing fee \$1000.
(4Y / 2 N [Andrews, Currier]) Motion carried.

MOTION: SOPPE/LARSON to approve amendment to Resolution No 2004-2547 to delete deposit for processing claims.
(5Y / 1 N [Currier]) Motion carried.

Barton Brierley - # 4 also discusses deposit would suggest removing it also

MOTION: CURRIER/MCBRIDE to approve **Resolution No. 2004-2547** establishing fees for processing demands under Measure 37. As amended.
(6 Y / 0 N) Motion carried.

2. Public Hearing to consider approval of **Ordinance No. 2004-2613** amending the Comprehensive Plan and consider approval of **Resolution No. 2004-2549** approving file S-47-04, a subdivision for property located at 1901 N. Main Street, Yamhill Tax Lot 3218AB-2000.

Quasi-Judicial Hearing

Mayor Stewart – opened hearing, called for abstentions.

Councilor Soppe – I have driven by and looked at property.

Terrence Mahr – gave legal announcements.

Staff report presented by – Barton Brierley

Reviewed information in the packet. Comprehensive plan designation change from Park to R1, modify stream corridor on property, approve 5 lot subdivision. Planning Commission reviewed and made changes and recommends approval.

Public Testimony

Roger Grahn – this property when it was still in the county was designated R1; when brought into city limits added park because they thought part of the property unbuildable and thought the lot was bigger than what it was. In this day and age no property is unbuildable anymore. Turns out lot is much smaller; only room for 5 lots. The creek on the property is no more than storm water ditch; my original proposal was to put stream in pipe. The presented plan has been approved by the environmental people.

Councilor Soppe – big concern is with the stream - 2 different drawings.

Roger Grahn – the stream was moved in Planning Commission meeting. I take issue with 2 items: one is my requirement to waive Measure 37 rights.

Councilor Soppe – don't understand your comment on item 2.

Terrence Mahr –when we first looked at this we thought the overlay was going to be a standard requirement in zone changes. Usually the developer has the right to purchase this upon zone change.

Mayor Stewart – closed public testimony.

Terrence Mahr – legal announcements.

Roger Grahn – waived right to respond.

Barton Brierley - staff recommends adoption of ordinance and resolution.

Councilor Larson – motion to adopt Ordinance 2004-2613, Councilor Boyes seconded.

Councilor Discussion

Councilor Soppe – is staff comfortable with stream modifications?

Barton Brierley – I am as long as they do what they say in the application; the stream corridor there is already heavily impacted so I think there is potential there for improvement.

Councilor Soppe – do they have to get approval from staff for these changes?

Barton Brierley – yes.

Councilor Currier – commented on letter from owner.

MOTION: Larson/Boyes to approve **Ordinance No. 2004-2613** amending the Comprehensive Plan for property located at 1901 N. Main Street, Yamhill Tax Lot 3218AB-2000.
(6Y / 0 N) Motion carried.

Councilor Andrews – what is Exhibit C?

Barton Brierley – should be shown as pages 110-113.

Councilor Soppe – motion to approve Resolution 2004-2549 as corrected, Councilor Larson seconded.

MOTION: Soppe/Larson to approve **Resolution No. 2004-2549** approving file S-47-04, a subdivision for property located at 1901 N. Main Street, Yamhill Tax Lot 3218AB-2000.
(6Y / 0 N) Motion carried.

3. Public Hearing to consider approval of **Ordinance No. 2004-2614** to amend zoning map from Community Commercial (C-2) to Light Industrial (M-2) for tax lots 3220AA-302, -702.

Quasi-Judicial Hearing

Stewart – opened public hearing, called for abstentions.

Terrence Mahr – legal announcements.

Staff report – Barton Brierley

request is change of zoning that is allowed in the mixed comprehensive plan. Action Equipment is currently located in Newberg but they have outgrown their existing site. They have looked for sites in Newberg to relocate; we have been helping them to locate sites. This site meets there needs very well. The planning commission does recommend approval of this zone change.

Questions of Staff

Councilor Larson – is this company going to be asked to pay for extending Hancock St.?

Barton Brierley – yes.

Councilor Soppe – who was notified?

Barton Brierley – properties within 500 feet.

Councilor Soppe – were there any objections?

Barton Brierley – urgent care owner had some concerns, but they talked after meeting and I think they are comfortable with it now.

Councilor Andrews – p 201, fire department comments. I don't see any.

Barton Brierley – application was routed to them; can't confirm whether they responded; need to look .

Public Testimony

Councilor Soppe – you had a discussion with owner of urgent care?

Dan LaVine, owner Action Equipment – I don't believe he has any problems; he has been invited over to look at existing facility.

Mayor Stewart – closed public hearing.

Terrence Mahr – legal announcement.

Dan LaVine – waived right to respond.

Councilor Larson – motion to approve Ordinance 2004-2614, Councilor Soppe seconded.

Councilor Discussion

Councilor Currier – we went through lengthy process for apartment complex on this piece of Property; nothing has ever worked on this piece of property because of the overlays. I think this is a great use of property.

Councilor Andrews – to Terrence Mahr & Barton Brierley, p 193 (3) typo omitted the word “to” in front of “an M-2 zoning designation.”

MOTION: Larson/Soppe to approve **Ordinance No. 2004-2614** to amend zoning map from Community Commercial (C-2) to Light Industrial (M-2) for tax lots 3220AA-302, -702. (6Y / 0 N) Motion carried.

BUSINESS MEETING SECTION

VII. CONTINUED BUSINESS

1. Council to receive public comments and discuss two initiative petitions to repeal the Local Improvement District (LID) Code section and amend the Charter.

Mayor Stewart – opened for comments.

Roger Grahn, 23287 LaSalle, Sherwood – I am opposed to removing LID programs; it is an important tool for the City. With LID you can overcome one or 2 minority parties.

Councilor Currier – given fact of what we did a year ago if we don't do the improvements, we take money away.

Roger Grahn – I think when you do it that way you get everything done piece meal. The requirements continue to change.

Councilor Currier – in defense of City, Main St. project is a patchwork of city and county.

Russ Koster, 101 Mountain View Dr, Newberg – we definitely have an opinion on LID's. They do have a usefulness. If used correctly and by the proper people. You have to receive a benefit. The process could be refined a bit.

Councilor McBride – if you don't think it should be abolished, what are you going to do about the petition?

Russ Koster – I have stayed away from the petition issue. I will not support it.

Councilor McBride – really irritated by this; going to have problems with future LID's that are really needed to make improvements.

Councilor Boyes – I would like to say the same thing.

Mayor Stewart – every one involved had their feelings hurt.

Councilor Currier – I had verbal contact with several residents in the area; a group of people were scared by some numbers that were thrown out there; should have maybe had firmer numbers before we started process.

Russ Koster – it really started with the non-remonstrance verbiage; none of my neighbors understood how the LID was going to affect them. Maybe the process should be looked at how to soften the blow from the beginning.

James Bennett – in order to defeat the initiatives, some public effort would have to be made.

Councilor Andrews – item #42 in charter, if election were successful, wouldn't that eliminate our ability for any kind of special assessment?

Terrence Mahr – yes, however there are other charter provisions that allow us to do things under state statutes.

Councilor Andrews – the other piece of the initiative is moot because this takes away all special assessments.

Councilor Soppe – what is the dollar cost to the City for this election?

James Bennett – approximately \$1 per voter.

VIII. NEW BUSINESS

1. Consider approval of **Resolution No. 2004-2545** accepting the Engineering Report for the proposed Mountainview Drive LID and setting a Public Hearing for Council to consider the formation of the LID.

Staff report presented by – Dan Danicic

This is one of the most important steps in the LID process. We have had 4 meetings with residents. Engineering report covers many details. Covered what the improvements would be as presented in the report.

James Bennett – City has learned a lot with this and worked with residents to come up with reasonable assessments and a solution that works well for everyone. Happy with the way things have worked out. The City Attorney will go over agreement.

Terrence Mahr – reviewed amended resolution from staff as given to councilors.

Questions of staff

Mayor Stewart – we would have to amend resolution to include language.

Councilor Soppe – is the resolution before us the one we are approving or the amendment?
In proposed amendment page 2 where did \$35000 number come from?

Terrence Mahr – came from discussions with Russ Koster and others; this represents the estimate of the oversizing of the road.

Councilor Soppe – the oversize cost was \$21660; \$13340 is goodwill?

Councilor Andrews – on amended resolution do we need to put in dollar amount for lots 7,8,9?

Terrence Mahr – you would have to add it as an amendment.

Councilor Currier – if we picked up a dollar amount for this, is there a possibility of grabbing it out of SDCs?

James Bennett – it would come from transportation SDC.

Councilor Currier – if we were to look at \$2000 reduction would that be beyond what we would have to look for?

James Bennett – that is within your discretion and that is the number that was suggested.

Councilor McBride – I would like to thank staff. I appreciate their work, hope that this will help process.

Public Testimony

Russ Kusters, 101 Mountain View Dr, Newberg – I can't tell you how much we appreciate the effort. I know you have a lot of things to deal with, not a lot easy. This has been a tough issue. Engineer's report is fantastic. Thank you for the effort, there has been a lot of hours invested in this. I do have a concern if City doesn't go forward with improvement because it is out of their budget, how does that affect this agreement?

Terrence Mahr – code provides for that because we are held to budgetary requirements.

Russ Kusters – where does that put everyone with the assessments?

James Bennett – we would put it on hold until we felt that we had to funds to proceed.

Russ Koster – it is not going to comeback and add more to our assessment?

James Bennett – we would have to wait until we had the funding; it wouldn't change your assessment.

Russ Koster – could we have that in language.

Discussion of how this guarantee should be handled for the residents benefit.

Russ Koster – the issue of the non-remonstrance being satisfied, what about for those paying up front?

Mayor Stewart –is it lien or right to lien that is being filed?

Terrence Mahr – not sure of methodology.

Janelle Nordyke – they have 30 days to pay in full so lien goes on the property when assessment letter goes out.

Councilor Larson – motion to approve Resolution 2004-2545, Councilor Currier seconded.

Councilor Discussion

Councilor Andrews – motioned to amend resolution with staff language, Councilor McBride seconded.

MOTION:Larson/Soppe to amend **Resolution 2004-25** to include language read by staff.
(5Y / 1 N[Soppe]) Motion carried.

Councilor Soppe – Is it inappropriate to approve methodology tonight? we originally discussed it would be approved in January.

Councilor Larson – agree.

James Bennett – not necessarily, you can do it tonight.

Terrence Mahr – noted correction page 3(n).

Councilor Soppe- motion to amend #3 of resolution, no second.

Councilor Currier – not necessary to create another method if we accept 'b' methodology.

Councilor Soppe – I understand what numbers represent. \$67000 to church; but they were quoted \$79000 8 years ago so they are getting a break. With the engineer's assessment of Trinity Lane at Crater Lane, I think we need to keep in mind what we are giving away.

Councilor Currier - motion to amend assessment for lots 7/8/9, reduce by \$2000 each on the Crater Lane assessment, Councilor McBride seconded.

MOTION: CURRIER/MCBRIDE to amend **Resolution No. 2004-2545** for lots 7/8/9, reduce by \$2000 each on the Crater Lane assessment.
(5Y / 1 N[Soppe]) Motion carried.

James Bennett – this is only to the Crater Lane assessment.

Terrence Mahr – item (m) to be placed as item 7 in resolution.

Councilor Andrews – I would like to qualify my vote on this; this is not intended to set a precedent for the future.

MOTION: LARSON/CURRIER to approve **Resolution No. 2004-2545** accepting the Engineering Report for the proposed Mountainview Drive LID and setting a Public Hearing for Council to consider the formation of the LID. As amended.
(5 Y / 1 N [Soppe]) Motion carried.

2. Consider approval of **Resolution No. 2004-2548** approving internal financing for two Crater Lane LID members: Patrick and Janice Harris and Phyllis and Dennis L. Buckley, Trustees, using funds from the Sewer SDC Fund.

Staff report presented by – Janelle Nordyke

There were only 2 property owners who asked for financing. Normally we go out to a bank but small amount so we are asking to fund it in-house.

Questions of Staff

Councilor Soppe – out on open market we would be charged 5% why are we charging 4%.

Janelle Nordyke – the normal market isn't quite 5%.

Councilor Soppe – are you saying they should be able to go out and get less than 5%?

Janelle Nordyke – I think they could.

Councilor Currier – motion to approve Resolution 2004-2548, Councilor Larson seconded.

MOTION: CURRIER/LARSON to approve **Resolution No. 2004-2548** approving internal financing for two Crater Lane LID members: Patrick and Janice Harris and Phyllis and Dennis L. Buckley, Trustees, using funds from the Sewer SDC Fund
(6 Y / 0 N) Motion carried.

3. Consider a motion to approve a “Food for Fines” and “Amnesty Week” at the Library, December 14-18, 2004.

Councilor Currier – motion to approve “Food for Fines and Amnesty Week”, Councilor McBride seconded

Leah Griffith – moving to new system, want to clear up old fines to avoid problems. Allow people to return books with no fines and pay outstanding fines with food donations.

MOTION: CURRIER/MCBRIDE to approve a “Food for Fines” and “Amnesty Week” at the Library, December 14-18, 2004.
(6 Y /0 N) Motion carried.

4. Consider a motion to adopt the Newberg Public Library 2004-2009 Long Range Plan.

Staff report presented by - Leah Griffith

I am going to turn over presentation to Berk Moss.

Berk Moss – 1215 E 4th St, Newberg –The committee met almost 20 hours to work on plan, the use of the library is growing twice as much as the population. Per capita basis the library is average size in Oregon. Mr. Moss went on to review report presented to Council in packet.

Councilor Currier – page 15 discussion of census.

Leah Griffith – Hispanic is not a race; it is combined with white.

Councilor Larson – page 8 it says you want to be open 7 days a week in 2008. What are the current hours?

Leah Griffith – 5 days a week/40 hours/week.

Councilor Andrews – maybe you alluded to but did not see any attempt to form library district in the county?

Leah Griffith – page 9 Item4.5 – we did not put that as a priority because of the experience last year; we wanted to form a plan to use resources available. If we put too much emphasis on expansion it would redirect intention of moving along with plans.

Councilor Soppe – I didn’t see anything about revising out of district rates.

Leah Griffith – didn’t include specifically; it is a budget item.

Councilor Soppe – there was a previous plan?

Leah Griffith – this is the 3rd plan.

Councilor Soppe – how did we do on the other plans?

Leah Griffith – a lot of previous plan hinged on forming district.

Councilor Soppe – you plan to increase services to Latino community?

Leah Griffith – when we started this plan we had very poor service to Latino community; during forming of plan we have been able to reprioritize staff; by end of the fiscal year we will have one of the best services to Latino service. We have already seen a 20% increase in Spanish users.

Councilor Larson – page 10 funding grants you said \$100,000.

Leah Griffith– it is a goal to receive those monies; that figure was put in to give us something to reach for; we are looking at the realities of budget and know we are going to have to look to grants.

Councilor Larson – you or staff have experience in grant writing?

Leah Griffith - yes and we have some volunteers also experienced.

Councilor Currier – David Beam was hired as a grant writer; are you utilizing him?

Leah Griffith –we have talked with him and will be in the future.

Councilor McBride – is it easier to get grants for libraries than other municipality sections because of education.

Leah Griffith – it depends; it is easier to get grants for specific projects rather than just basic budget covering.

Councilor Andrews – motion to adopt Newberg Public Library 2004-2009 Long range Plan, Councilor Currier seconded

MOTION: ANDREWS/CURRIER to adopt the Newberg Public Library 2004-2009 Long Range Plan.
(6 Y /0 N) Motion carried.

5. Consider a motion to fill three Planning Commission positions with the most qualified candidates.

Trisha Clark	James Ferrell
Daniel Foster	John Allan Lawson
Douglas “Todd” North	Devorah Overbay
Nick Tri	

Mayor Stewart called upon the applicants to address the Council on why they would be a good choice for the Planning Commission. All applicants addressed the Council except for Douglas “Todd” North who was not in attendance. Council members also asked questions of the applicants.

Councilor Andrews – motion to appoint Nick Tri, Councilor Soppe seconded

MOTION: ANDREWS/SOPPE to appoint Nick Tri to the Planning Commission.
(6 Y / 0 N) Motion carried.

Councilor Boyes – motion to appoint Daniel Foster, Councilor Andrews seconded

MOTION: BOYES/ANDREWS to appoint Daniel Foster to the Planning Commission.
(3 Y / 3 N[Soppe, McBride, Currier] Mayor voted yes) Motion carried.

Councilor McBride – motion to appoint Trisha Clark, Councilor Currier seconded