

MINUTES OF THE NEWBERG CITY COUNCIL
MARCH 1, 2004
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING - TRAINING ROOM

I. CALL MEETING TO ORDER

Mayor Stewart called the meeting to order.

II. ROLL CALL

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

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was administered with the assistance of Girl Scouts attending the meeting to observe the Mayor's Proclamation of March 7-13, 2004 as Girl Scout Week.

PUBLIC MEETING SECTION

IV. PUBLIC COMMENTS

None.

V. CONSENT CALENDAR

1. Proclamation of the City of Newberg proclaiming the week of March 7-13, 2004 as Girl Scout Week.

Mayor Stewart read the proclamation for Girl Scout Week, March 7-13, 2004. He noted that the Girl Scout organization was founded in 1912 in Savannah, Georgia. Mayor Stewart presented the proclamation to members of the Girl Scouts.

MOTION: Larson/Currier to approve consent calendar. (Unanimous). Motion carried.

VI. PUBLIC HEARING

None.

BUSINESS MEETING SECTION

VII. CONTINUED BUSINESS

None.

VIII. NEW BUSINESS

1. Appointment of Anita Galian to the Library Long Range Planning Committee.

Leah Griffith, Library Director, said this is currently an 8 member committee. They are in need of more members for a total of 11 members. She said she is still trying to get someone from the City of Dundee to serve on the Committee. Ms. Anita Galian was not in attendance. **Ms. Griffith** said she had told Ms. Galian that it was not mandatory for her to attend. Discussion was held concerning Ms. Galian's residency in Willamina and whether or not Ms. Galian's membership on the committee would be reaching too far outside the district. **Ms. Griffith** said that Ms. Galian works for the school district with home school migrant students. This position would be in an ex-officio capacity.

Councilor Pugsley said he has worked with Ms. Galian in her capacity with the school district and believes her to be top notch.

Councilor Larson said he wished that Ms. Galian was in attendance to speak with the Council.

MOTION: Pugsley/Larson to appoint Anita Galian to the Library Long Range Planning Committee. (Unanimous). Motion carried.

2. Motion to fill Newberg Downtown Revitalization Committee member vacancy.

Edward Hixon

Bart Rierson

City Manager Bennett said there is only one position available and that Mr. Hixon was not in attendance tonight. **Mr. Rierson** said that he would ask for the Council's consideration.

Bart Rierson, 1110 Hazelnut Drive, said he has interest in Newberg, worked with David Beam on the City's Riverfront Plan. He is the Chair of the School District Bond Oversight committee and has a lot of interest in what goes on downtown and that there is a cohesive plan. **Mr. Rierson** said he does not sit on the Budget Committee any longer and he was open to negotiations to serve on other committees of the City.

MOTION: Andrews /Larson to appoint Bart Rierson to fill the Newberg Downtown Revitalization Committee vacancy. (Unanimous). Motion carried.

Councilor Soppe asked about other vacancies on City committees. **Mr. Bennett** said that they are keeping a list of applicants not previously chosen to contact as vacancies occur.

3. Adopt **Resolution No. 2004-2488** authorizing the City Manager to enter into an Intergovernmental Agreement to consider land use policies concerning the Newberg-Dundee Transportation Improvement Project (Bypass).

City Attorney Mahr said this is a beginning and does not change any City land use policies. The IGA is to let the Council know that there will be certain policies, land use decisions and overlays proposed that will go through the regular land use process. Both Dundee and Dayton have been presented with agreements and they are also considering them. Once approved, we will consider land use policies, then adopt, then ODOT will go to the county for the agricultural goal exception which will be the main land use policy to address.

City Manager Bennett said it is not a land use issue but an agreement with ODOT to consider the bypass project in the future regarding the modified Route 3J as approved by the Project Steering Committee. The memo from the Assistant Attorney General summarized the draft agreement. A letter from the law firm Miller Nash representing Columbia Empire Farms noted that they believed it to be a land use decision. The Council also received a letter from Sid Friedman from 1000 Friends that agreed with Mr. Condit's (Miller Nash) determination that it was a land use decision if the Council took action on the matter tonight. There was also a letter from Ms. Bonnie Heitsch (ODOT) involving a suggested amendment which would delegate to the City Manager authority to negotiate the Intergovernmental Agreement (IGA), but indicated that the matter would come back to the Council for final adoption.

MOTION: Larson/McBride to approve **Resolution No. 2004-2488** delegating authority to the City Manager to negotiate an Intergovernmental Agreement to consider changes in the City's land use policies in connection with the Newberg-Dundee Transportation Improvement Project (Bypass).

Mr. Mike Gougler, MJG Development, representing Werth Family LLC, 5241 Windsor Terrace, Lake Oswego, Oregon, said he would like to support the Resolution as amended and he would recommend that the Council begin the process immediately. There are a number of issues to be addressed during the negotiation process. Mr. Gougler said that he believed that approval of the Resolution as amended is the position of the Chamber.

Ann Dolan, Executive Director of the Newberg Area Chamber of Commerce, 115 N. Washington, Newberg, Oregon, said she was in support of the resolution as amended. There are a number of issues within the agreement that need specific attention and she would like to be a part of the discussions if at all possible.

Charlie Harris, 19400 NE Jacob Road, Newberg, member of Yamhill Parkway Committee. The IGA as drafted, despite what ODOT wants to you believe will require land use changes. The IGA commits the City to take alternative 3J. This itself is a land use action. There are certain provisions of the IGA that are not only onerous but in favor of ODOT by making the City take on additional expenses that ODOT would not have to pay for.

Examples: ODOT work is in the project expense and the City's work is at City's expenses. ODOT does not have to be in compliance with local requirements. ODOT is only concerned with transportation factors not impacts on Newberg residents. The proposed alternative goes through

south Newberg (low income). The IGA must follow requirements of Title 6 of the Fair Housing Act. Also, he would strike the provision on intervention by third parties.

Councilor Soppe asked Mr. Harris if the IGA noted that the City should pay for maintenance of Hwy 99W. Discussion was held concerning the maintenance. **Mr. Harris** said that regarding the maintenance costs, if and when the project is built, the costs may or may not be passed on to the City of Newberg. This would be the time to get this straightened out. The state should commit that it would continue to pay for it. Discussion was held concerning jurisdiction of Hwy 99W. Is it to be the City, County or State jurisdiction?

Councilor Soppe doubted whether this was a land use decision. He has read that the City has to consider it, but it does not have to agree to do anything right now but to look at the proposal. The Council's decision tonight is to agree to consider land use changes and is not a land use decision. **Mr. Harris** said it is assuming that Alternative 3J is the basis for this discussion.

Mayor Stewart said the motion is to continue discussion with ODOT on the necessary land use changes.

Councilor Currier said on the proposed IGA talks about Alternative 3J's design. Further discussion was held concerning Section II (3) in that the agreement was focused on local approval of the Alternative 3J proposal. He said that it appears to him to be a land use decision.

Susan Walsh, 1000 Trillium Lane in Newberg, agreed with Mr. Harris. The proposal talks about alleviating traffic congestion and reducing time to travel to Portland. She said that it will not happen because the road fills up right away now and it will just maintain the status quo.

Councilor McBride asked what the solution is if not a bypass? **Ms. Walsh** said she cannot solve the problem. You have to have public transit as a key element. And you are not going to get any relief due to building more houses and more cars. **Mayor Stewart** said that public transportation is part of the discussion.

Leslie Lewis, Yamhill County Commissioner, announced that the Yamhill County Transit Committee meets the 2nd Wednesday of every month and that a report on public transit in Yamhill County is to be concluded by June 30, 2004. The meetings are held in Room 32 at 7:00 P.M. at the Courthouse and are open to the public. **Ms. Lewis** said that she was not sure if the Newberg Graphic publishes the meetings, but there are notices in the News Register and articles in the newspaper about the Committee.

Donnald Alexander, 1112 N. Klimek Lane, said he resides outside the city limits and that he was concerned that the bypass does not answer the regional problem. It was attempting to address a problem that could be handled later. For example, he spent 45 minutes going from Hwy 217 to King City and then from Newberg to McMinnville it took only 20 minutes. Some of the issues he addressed:

1. ODOT is proposing a high speed continuous flow movement from Dundee to Newberg. A high speed freeway is very noisy and the citizens are the ones going to have to live with it.
2. ODOT is proposing that the City take on the expense of upkeep of frontage roads not in city limits and providing an overpass for the bypass.

3. Access to the river would be limited and there would be environmental impacts to the river. There are eagles in the area which have left and the neighborhood is already being destroyed.

4. ODOT is saddling the City with closure of Klimek at Hwy 99W and a frontage road which runs along the south part of Klimek lane and goes to Corral Creek (also not in the city limit). Take a real good look at what is going and do what is good for Newberg and not what ODOT wants.

Councilor Soppe said that the comment about the city being saddled with maintenance of the roads was not something that he found. Mr. Alexander said that they are on page 8 and you need to read between the lines. Councilor Soppe said that the document says that the City is going to analyze it but nothing indicates that the City would have to pay for it. Discussion was held concerning the intent of the IGA.

Sid Friedman 1000 Friends of Oregon, apologized for his earlier interjection concerning the procedural issue as he had not been at a Council meeting for some time. He said the IGA was not in itself a land use decision. The final decision would be of course. He agreed with both Mr. Gougler and Ann Dolan that the public should have an opportunity to review it, but it should be brought back through the regular land use process. He argued that a high speed expressway is not needed. There would be lower impact to neighborhoods with a narrower road with a speed limit of 35 MPH because spacing is shorter and you can get more cars through an area at a given time.

Discussion was held concerning no third party beneficiaries which essentially says the City may execute an IGA with ODOT in which they mutually agree, but no one else would have recourse to do anything about it.

There was also discussion on the POST recommendation for a high speed expressway and whether alternatives have been considered and who makes the final decision.

Mayor Stewart said the Council has concerns of their own that they are bringing to the table. They need to continue negotiations.

Councilor Soppe said that if the IGA as written is clearly a land use decision as noted by Mr. Friedman, the City Manager should continue to negotiate and bring back a final draft to go through the land use process.

Alan Fox from ODOT said he was available to answer any questions if needed.

Charlie Harris said that, if there is an open invitation, he would be willing to participate in the process. **Mayor Stewart** said he would take that into consideration and thanked him for his offer.

Bonnie Heitsch (Department of Justice) representing ODOT, was also available to answer any questions.

Councilor Pugsley asked if similar type agreements (IGA's) have been appealed to LUBA? **Ms. Heitsch** said that none of them have gone to LUBA but none of the other projects have been this large. ODOT is embarking on a two tiered document in that the corridor will be defined first and the design will come later. An IGA is required with ODOT and the local jurisdiction to determine the planning process for the project.

Councilor Soppe asked for ODOT's legal opinion of whether or not the IGA is a land use matter? **Ms. Heitsch** said that it is ODOT's opinion that the IGA is not a land use matter.

Discussion was held concerning additional public testimony. Mayor Stewart asked if there were any additional comments from the public.

Dave Haugeberg, 1359 NE Willis Road, McMinnville asked for clarification about the IGA and whether it commits the City to anything other than negotiating the process. He noted that there are a number of environmental issues to be discussed during the next phase of the project.

Councilor Currier said he disagreed with the third party beneficiary language in the IGA. He commented on the impact to people's homes from the construction of the bypass and the increased noise level that would result from the bypass. Moving traffic at any speed will affect the people around it.

Councilor Soppe asked for clarification on the motion. The way he reads it, it says that the Council agrees to continue to negotiate on the IGA, but that it is not a land use decision.

Councilor Pugsley said that he agreed with the amendments to have the City Manager negotiate the IGA using a process that ensures a lot of public involvement.

Councilor McBride said that concerns can be met as they go along. They need to proceed and the bypass will eventually help the area. He was born and raised here and agrees with some of the concerns that have been raised and wants himself and the Council to be involved.

Councilor Andrews said he is favorable to the amendment and believed by amending the resolution and getting it clarified, corrected, mitigated as appropriate, it is what needs to be done right now. He was in favor of the motion.

Councilor Currier said it helps everyone except for the people whose homes are being destroyed in the process. He disagreed and believed that it will just be helping the coastal traffic and those en route to the casinos.

Councilor McBride called for the question. Mayor Stewart said the motion was to approve the Resolution as amended.

ROLL CALL ON MOTION: adopt **Resolution No. 2004-2488** (as amended) delegating authority to the City Manager to negotiate an Intergovernmental Agreement to consider changes to the City's land use policies in connection with the Newberg-Dundee Transportation Improvement Project (Bypass). (5 Yes/1 No [Currier]. Motion carried).

IX. EXECUTIVE SESSION

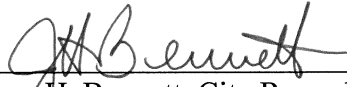
None.

X.

ADJOURNMENT

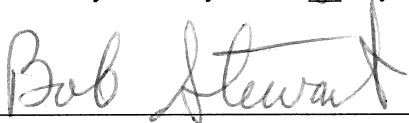
MOTION: Soppe/McBride to adjourn at 8:10 p.m. (Unanimous). Motion carried.

APPROVED by the Council this 15th day of March, 2004.



James H. Bennett, City Recorder

ATTEST by the Mayor this 18 day of March, 2004.



Bob Stewart, Mayor