MINUTES OF THE NEWBERG CITY COUNCIL
MARCH 15, 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.

Mayor Stewart presented Finance Director Katherine Tri the Oregon Municipal Finance Officers Association Outstanding Contribution to Public Finance Award.

PUBLIC MEETING SECTION

IV. PUBLIC COMMENTS

None.

V. CONSENT CALENDAR

1. Consider approval of minutes from Regular City Council meetings held on January 20, 2004; February 2, 2004; February 17, 2004; and March 1, 2004.

The Council reviewed with City Manager James Bennett the corrections to the minutes. Duly noted by Mr. Bennett.

MOTION: Currier/Pugsley to approve the Minutes as corrected . (Unanimous). Motion carried.

VI. PUBLIC HEARING

1. Appeal of Planning Commission decision to approve a cell tower at 2151 Alice Way - File No. DR-181-03 *(Quasi-Judicial).*

Mayor Stewart advised that the Council will not be taking new testimony. The Council will deliberate based on the record before it. Mayor Stewart called for abstentions, conflicts of interest or ex parte contact:

Councilor Soppe said that he had attended the Planning Commission meeting and noted that he will make his decision based on the written record. He said that he has done work for Mr. John Bridges and some of the appellants who are also involved.

Councilor Larson said he visited with Jack May at Mr. May's residence and viewed the proposed cell tower location from Mr. May's back yard. Discussion was held concerning Mr. Lance Bailey and Ms. Jessica Bissell who are also part of the appeal. This information will not bias his decision on the matter.

Councilor Pugsley said he knows some of the families affected by the decision but felt it would not affect his judgment in voting on the matter.

Councilor Andrews said he too knows some of the petitioners and stated that he had reviewed the article in the *Newberg Graphic* in the Saturday, March 13, 2004 edition. The viewing of that information will also not affect his decision.

Councilor Currier said he knows the opponents to the cell tower application. He also noted that he talked with Larry Hill about the matter and viewed the letter that was submitted. This information is part of the information located in the packet.

Councilor McBride said he also knows John Bridges and has worked with him in the past. He is also familiar with other persons in connection with the application/appeal.

Mayor Stewart said he knows a number of the persons connected with the application/appeal and also John Bridges. He said it will not affect his decision if he was needed to vote on the matter in the event of a tie vote.

Ms. Pamela Beery, attorney representing the City in this matter. City Attorney Terrence D. Mahr has a conflict of interest. His property is located in the vicinity of the cell tower. Ms. Beery said she represents other governmental agencies in telecommunications and land use matters. She was asked to come and provide advice to the Council in light of Mr. Mahr's conflict of interest. Mayor Stewart asked if anyone in the audience, the applicant or the appellants, had any objection to Ms. Beery representing the City or the statements made by the Council members in regard to ex parte contact, objections to jurisdiction or conflicts of interest. There were none.

Mr. Barton Brierley, Planning Manager, presented the staff report. He said the purpose was to consider an appeal of the Planning Commission's decision to approve the cell tower on Alice Way (with conditions). This is an appeal filed by a group of neighbors and is a record hearing and no new testimony or oral testimony would be allowed by either the proponents or opponents. The property immediately to the north of the project site is outside the city limits and in the county - zoned county residential. The property to the west is within the city and is zoned residential. The property to the south is zoned M-2 (light industrial and is within the city limits). There are several homes in the immediate area as well as industrial uses. The proposed cell tower would be located on a small leased area and would have a fence and hedge around the perimeter. Access to the site would be off Alice Way. The diagram shows what is proposed - 100 foot high cell tower - monopole - with no supporting guide wires. The land use process that this has gone through was originally a Type-2 process (staff review with notice to neighbors). At the conclusion of the design review it was approved with conditions of approval. The neighbors appealed the decision from the first review by the City staff. The Planning Commission heard the objections and the appeal from the opponents. After considering those objections and other evidence, the Planning Commission voted to uphold the staff decision and approve the application with specific conditions. The neighbors then filed an appeal of the Planning Commission's decision which would be heard by the City Council. This is where we are now - to consider the second appeal. This is a hearing to review the record of the Planning Commission's decision. Mr. Brierley noted the following:

- They have included the minutes of the Planning Commission which were approved by the Planning Commission.

- The City did receive two items on written argument on this. The parties were allowed to submit written argument which have been received and are included in the packet of materials for the Council's review. City staff reviewed the materials and noted that no new evidence was submitted with one exception: page 4 of the letter from Mr. John Bridges to Barton Brierley. The language was located in the second paragraph from the top with the sentence beginning "another impact to consider" and the third sentence "it is probable that these property owners... about greenbelt in place.." Mr. Brierley asked the Council NOT to consider this statement in making their decision. The letters are arguments concerning the things that were already included in the PC packet.

The decision on the application must be based on the applicable criteria for approval. The criteria is shown in the staff report concerning the design review and telecommunications facility. The Planning Commission found that the criteria had been met. They did apply a specific condition they felt was necessary to meet the criteria (condition #7). The other criteria are pretty straight forward. Each of the criteria has been met. Telecommunication facilities of 100 feet in height are permitted in the M-2 zone.

The Council's options are to affirm, modify or reverse the Planning Commission's decision. In making that decision, staff recommends that the Council consider the matter and make an oral decision and then give direction to staff on preparing the appropriate findings. Then, staff would come back at the April 5th meeting with the final written findings that would support the Council's decision.

Discussion was held concerning lighting requirements for the cell tower per FAA. The site is not within the airport imaginary surface. That would suggest it would not be an out-right requirement. However, the state aeronautics commission and the FAA could require it. Mr. Brierley said he was not sure of the requirement.

Councilor Soppe said he has concerns about investigations of other towers and the written list of other towers in the area. Ms. Beery said that the Council should limit their review and questions to the written record and not entertain discussion of other areas not already included in the written record.

Councilor Currier asked about the previous application for a cell tower on the site. Mr. Brierley said there was in the record the full findings on the previous tower in the area. Councilor Currier noted that the previous application for the cell tower was for 150 feet and no lighting was required. Ms. Beery identified the location of the language as being on page 96 of the Council packet.

Ms. Beery said she was in attendance to assist the Council in arriving at their decision and she agreed with the staff regarding the process. The Council's questions and their deliberation comments would help provide the appropriate findings to staff. Mr. Brierley said it was staff's recommendations to approve the application.

MOTION: Soppe/McBride to deny the appeal and affirm the staff and Planning Commission decisions to approve the application for the cell tower to be located at 2151 Alice Way - File No. DR-181-03. Staff is directed to provide formal written findings at the April 5, 2004 City Council meeting.

Councilor Currier said he hoped for more input from the surrounding residents and citizens and wished people would get more involved in the earlier stages of the application process.

Councilor McBride said that the zoning for this site had been in place for some time and it is important to adhere to the City's land use regulations in this matter. It is reasonable to go along with it as a permitted use.

Councilor Larson said that the Council's job is not always easy. There were over 150 pages of information for them to review. He did look at the area several times and did meet with one of the opponents and can understand their position.

Councilor Andrews said the government is an active body and it would like to see people express an interest in land use matters and hopefully participate in the process before the fact rather than after the fact which is more of a reactive response. He said the criteria is in place to approve the application.

Councilor Pugsley said the cell tower was a permitted use and appears to be acceptable in the design review code. He supports the resolution.

Councilor Soppe said that it is an approved use in the zone,. There are a number of design criteria to meet. Just because it is a design criteria issue, there are still restrictions. He has concerns over whether or not they have been met. However, the record does not give enough information. He does not find anything that indicates that it does not meet the criteria.

VOTE ON MOTION: (5 Yes/1 No [Larson]). Motion carried.

2. Public Hearing on **Ordinance No. 2004-2596** comprehensive plan amendment and zone change to accommodate a proposed Head Start facility *(Quasi-Judicial).*

Councilor Currier said that he would like a better location map on items like this. Mr. Brierley said he would provide such a location map for future applications.

City Attorney Mahr stated that the testimony should address the criteria contained in the staff report. A person must raise all the issues he/she may have or they may not be raised at LUBA (raise it or waive it). After closing the public hearing, the applicant has one last time to rebut the information presented.

Mr. Brierley presented the staff report. The property is on Crestview Drive along Springbrook and Mountainview Drive (Aspen Way and Zimri Drive). The proposed site is in the middle between the Austin office complex and Mountainview School. The land which is zoned M2- light industrial is being donated by the Austins. The Head Start facility would not be permitted in an M2 area so it would have to be changed to a PQ (Public/Quasi Public) zoning designation. A limited use overlay would prohibit residential buildings/uses on the site unless they were directly associated with the principal use of the lot. The Planning Commission recommended approval.

The application would accommodate the Head Start facility. The use would fit in with the neighborhood which is adjacent to Mountainview School, Mabel Rush Elementary , the Newberg High School and other related uses. It is separated from the existing ADEC complex by the railroad tracks. The concept site plan includes a future connector street to separate the project from other industrial uses in the area. Staff recommends the Council's adoption of the Ordinance.

Councilor Pugsley said that the Head Start Program was seeking a Community Development Block Grant.

Councilor Larson felt that the property location was not ideal for the Head Start facility, but it cannot go wrong with donated property.

Councilor Andrews asked Mr. Brierley if he knew the status of the Block Grant application. Mr. Brierley said he did not, but would get the information to him.

Councilor Pugsley discussed the impact of converting the property to a public use and reducing the inventory of industrial land. Mr. Brierley said there was a greater deficit of public land than industrial land to be addressed.

Mr. Mahr asked if the applicant wanted to address the record. Mr. Michael Eichman, Director of Yamhill County Head Start, said he brought in a model of the facility which is similar to the Dayton and Sheridan facilities. He said it would be beneficial to run this facility with ICF (concrete foam block) which was energy efficient and has a state-of-the-art air filtering system.

Councilor Pugsley inquired about the number of children the facility would accommodate. Mr. Eichman said that the current facility would not be at capacity, but they had hoped they would grow into it and provide more service to the Newberg community which has the lowest student per population ratio in the county. They are looking to expand to 56 students or so.

Mayor Stewart said he viewed the other facilities in Dayton and Sheridan as the City's building official - not as the Mayor. He wanted to clarify any misconceptions in Mr. Eichman's statements. He also had not viewed those facilities for about 2 years.

Tape 1 - Side 2:

Ms. Claudia Cantu, Yamhill County Head Start, said the CDBG application will be submitted in June, 2004. The grant amount is $600,000 and the cost of the building is $1.2 million. Mr. Mark May also of the Head Start program was also in attendance to answer any questions.

Discussion was held concerning the process time for the grant application.

Mr. Mahr said the applicant could take an additional 7 days to respond to any comments by the Council or comments made by staff. Or the record could be closed and the applicant could waive its 7 day rebuttal period. The applicant waived the 7 day waiting period.

MOTION: Pugsley/Larson to read by title only and approve **Ordinance No. 2004-2596** comprehensive plan amendment and zone change to accommodate a proposed Head Start facility. (Unanimous). Motion carried.

3. Public Hearing on **Ordinance No. 2004-2597** authorizing the City of Newberg to sell a limited Tax Pension Pool Bond, Series 2004 *(Legislative).*

Mayor Stewart called for abstentions, conflicts of interest and objections to jurisdiction. There were none.

Ms. Katherine Tri, Finance Director, presented the staff report. Staff debated a long time before bringing it to the Council. PERS has about a $7 billion shortfall of the 30 year funding of the pension plan. The City's actual shortfall is about $2.2 million. A number of jurisdictions have been financing unfunded liability. More recently they pooled their funds in an attempt to sell pension bonds which are not tax free. The City could include themselves along with other jurisdictions such as Gresham, Bend, Brookings and Medford, among others. Lake Oswego is considering the pension bond program. There are other counties and school districts also considering this method of financing. They could sell the bonds and save a lot of money. PERS charges 8% on unfunded liability and it is time to take advantage of low interest rates of about 6%. If the pension plans earns more than 8%, the pension costs could go down; if less than 8%, costs could go up. Over all savings is only about $1.5 million dollars over a 20 year period. It is a positive impact to the City's General Fund. It is a good time to do it. The decision, however, is the Council's.

Councilor Soppe said he was confused about the language in the request for council action pertaining to the background and the side fund. The side fund's earnings are less than 8%. Ms. Tri said it is anticipated that the side fund will earn an average of 8% over the 24 years. The City is obligated to pay the 8% on its unfunded liability to PERS.

Mr. Bennett said that the sale of the bonds is scheduled for May. We will formally request from PERS our actual unfunded liability amount. That will be the amount we are going to sell - which would be no more than $2.2 million. They would pay the money in May and would give us new payroll rates for June 1st.

Ms. Tri said it was staff's recommendation to approve the Ordinance. City Attorney Mahr said the enactment date would be the 30th day after the date the Ordinance goes into effect unless the Council declares an emergency according to the City's Charter. Ms. Tri noted that we needed to declare an emergency to take advantage of the next scheduled bond sale. She was not sure if PERS could provide the necessary information in time if we have to wait 30 days. Mr. Mahr said that a new section could be added to declare an emergency and make the Ordinance effective upon passage.

MOTION: Currier/Andrews to amend Section 12 to make the effective date immediately upon passage in order for the City to allow additional time for PERS to respond to the City's request for processing prior to the date scheduled for bond sales (May, 2004). (Unanimous). Motion carried.

MOTION: Pugsley/Andrews to read the Ordinance by title only, as amended, and approve **Ordinance No. 2004-2597** authorizing the City of Newberg to sell a limited Tax Pension Pool Bond, Series 2004. (Unanimous). Motion carried.

BUSINESS MEETING SECTION

VII. CONTINUED BUSINESS

None.

VIII. NEW BUSINESS

1. Review of Newberg 911/Dispatch Service options.

City Manager Bennett presented the staff report on the dispatch options available to the Council. Both Police Chief Robert Tardiff and Fire Chief Michael Sherman were in attendance to answer any questions. He said the process began last year in June when the Council was approached by staff to look at options in contracting out dispatch services to see if there were any budget or revenue benefits and/or to provide better service. Initially, that option focused on the Washington County Consolidated Communications Association (WCCCA). After a number of months of discussions with WCCCA to see if it was feasible to provide services to the City, late last year (October) they did receive the go ahead from WCCCA and entered into further negotiations. The City of Dundee was then contacted and a number of meetings with WCCCA occurred over the past few months.

As a result of these meetings, the City of Dundee determined that it was not feasible for them because of the cost. That precipitated their looking at other options and they contacted YCOM to get a proposal to provide dispatch services. The reason Newberg did not consider the YCOM option initially was due to the failed efforts last year to agree upon a consolidation of the two dispatch centers in Newberg and McMinnville. The legislature had backed off their commitment to fund the consolidation of the dispatch centers. The costs to the City of McMinnville to consolidate the center in Newberg did not pencil out so the matter was dropped. There was no point in pursuing it again.

Nevertheless, the City approached YCOM to get a proposal following the action by the City of Dundee. The staff report tries to compare apples to apples in evaluating the WCCCA and YCOM options. Discussion was held concerning the relationship with the City of Dundee. A report by the Police Chief and a supplemental report by the Fire Chief was contained in the staff report on how the process was undertaken and the recommendation by staff. Mr. Bennett said it has been a unanimous recommendation that the City should retain its own dispatch center and services at Newberg. They would recommend a continuance for a minimum of three years before the Council consider any other options again. Chiefs Tardiff and Sherman were in attendance to answer specific questions and address certain aspects of the proposal.

It is a difficult process when looking at contracting services - whether we can do it cheaper or better. The affected staff in the Police and Fire departments are concerned about what the future holds for them. Nevertheless, it is the responsibility of the Council and staff to look at the issue whether it is for dispatch, library or wastewater services. We have an obligation to the public to provide efficient and cost effective services.

Mayor Stewart received a petition from 69 officers from Yamhill County, McMinnville, Dundee, Sherwood, Sheridan and Newberg who were all in favor of the local 9-1-1 Center to remain in Newberg.

Councilor Soppe said the process started with the concept that the State would not fund two 9-1-1 centers in the County. Mr. Bennett said the State favored consolidation as a cost saving measure, but they withdrew the funding to pay for it. Most counties have dropped their efforts to . Councilors Soppe asked if the state could revisit the funding for consolidation. Mr. Bennett said it could happen, but he is concerned about the 3-4 year wait if something of that magnitude comes about. Discussion was held concerning how difficult the process was in making the determination of what to do. Discussion was held concerning other options for future budgetary matters for the 9-1-1 Center.

Councilor Larson said it was for information only. Mr. Bennett said the Council would need to make a decision on which option they wanted to pursue.

Councilor Andrews asked earlier if used some bonded indebtedness to fund our 9-1-1 center? Mr. Bennett said the bond was used to build the police station facility and some of the equipment for the center.

Councilor Pugsley said the process was certainly necessary to review from time to time. He also remembered Chief Tardiff's initial proposal to meet with WCCCA and that we were looking at cost savings and service and quality issues. We need to go into this again in the future.

Councilor Larson said he was pleased to hear the City Manager's comments regarding the budget as being workable.

MOTION: Andrews/Larson to retain the existing Newberg 9-1-1 Dispatch Center and further to wait a minimum of 3 years before revisiting the matter.

Councilor Currier said it was appropriate for the Council to consider the matter. The Council asked staff to look at all options involved. With all the variables, he wanted to say that at no time has he seen anything directed to him for the City to go with a specific option. It has always been the pros and cons of each. Through that whole process, he wanted to say that the staff has always been in favor of keeping the dispatch center, even if it costs a little more to do this. He has not seen anything derogatory or misdirected concerning the police or fire department personnel and believed the report to be honest and forthright. He stands behind the employees and commends them for providing such honest information.

Councilor Soppe said there are several important things. He never heard that we were not getting excellent service. That is not a problem. Money is really the driving force. $160,000 savings is a big deal, but he sees enough technical issues that the cost savings would not be enough. It appears that

Dundee has not yet made a decision. Mr. Bennett said they have not taken a vote and the City has discussed ways to keep Dundee's dispatch with Newberg. But they are in a big money crunch. We have a problem with Dundee if they do not go with us. One of the big pushes in government is to contract everything out and it is a good example of how it is not that simple and may not be the right way to go. It will be brought forward in the budget session.

Councilor McBride said that, at the beginning, he was looking at the issue as a way to save money. The turning point was that there is an economic impact to the community from breaking up the team that overrides the cost savings. Keeping local jobs is more important than saving money. He too whole heartedly agrees with the staff recommendation. It is a top notch team and they work well together.

The Council gave the dispatch officers a round of applause for their contributions to the City.

VOTE ON MOTION: (Unanimous). Motion carried.

2. Consider **Resolution No. 2004-2489** appointing Boldt, Carlisle & Smith, LLC, as the City's auditors beginning the fiscal year ending June 30, 2004 for a period of three (3) fiscal years with a possible two (2) year extension.

Finance Director Tri said the Pauly Rogers firm has been the City's auditor for the past 6 years. The City went out to bid for auditing services and interviewed four firms. Discussion was held concerning the criteria that was used to enable the City to make a choice. They went out to bid and received 8 bids and interviewed 4 firms. The interview committee set the criteria for selection of the firm. The successful bid turned out to be less than what the City is paying now and we need to do a single audit this year because of grant applications.

Councilor Andrews asked about the fiscal impacts for future years. The cost would be $18,500 in next year's budget plus the cost of a single audit, if needed. Discussion was held concerning mandated single audits because of the City's involvement in grants in excess of $500,000. What was it that made this proposal stand out? Their experience and the recommendations of their clients. They are pleased with the results and the costs are lower than what the City is currently paying.

MOTION: Currier/Andrews to approve **Resolution No. 2004-2489** appointing Boldt, Carlisle & Smith, LLC, as the City's auditors beginning the fiscal year ending June 30, 2004 for a period of three (3) fiscal years with a possible two (2) year extension. (Unanimous). Motion carried.

IX. EXECUTIVE SESSION

1. **Executive Session** pursuant to ORS 192.660(f) to consider information or records that are exempt by law from public inspection.

The Executive Session of the Council was held prior to the City Council meeting.

X. ADJOURNMENT

MOTION: Currier/McBride to adjourn at 9:15 p.m. (Unanimous). Motion carried.

ADOPTED by the Newberg City Council this 5th day of April, 2004.

JH Bennett

James H. Bennett, City Recorder

ATTEST by the Mayor this 8th day of April, 2004.

Bob Stewart

Bob Stewart, Mayor