

MINUTES OF THE NEWBERG CITY COUNCIL
APRIL 5, 2004
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING - TRAINING ROOM

I. CALL MEETING TO ORDER

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

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.

PUBLIC MEETING SECTION

IV. PUBLIC COMMENTS

City Attorney Mahr stated that the record on the T-Mobile cell tower is closed and no new requests or testimony related to that application can be accepted.

James Baker, 2120 Thorne Street, Newberg, discussed the relevant design criteria for cell towers in general and made recommendations to the City Council on ways that the criteria could be met by camouflaging cell towers to look like trees.

V. CONSENT CALENDAR

1. Consider approval of minutes from Regular City Council meeting held on March 15, 2004.

A correction was made to the second sentence of page 2 of the minutes as follows: "He said that he has done work for Mr. John Bridges and some of the appellants who are also involved."

MOTION: Currier/McBride to approve the minutes of the March 15, 2004 City Council meeting. (Unanimous). Motion carried.

2. Motion to approve a Proclamation declaring April 11-17, 2004 as Public Safety Telecommunications Week.

City Manager Bennett read the Proclamation. Mayor Stewart presented the Proclamation to the supervisor of the Dispatch Center, Mary Newell.

VI. PUBLIC HEARING

1. Public hearing for Aaron Way appeal of the prohibited parking requirement set by the Traffic Safety Commission. Consider adoption of **Ordinance No. 2004-2598. (*Quasi-judicial hearing*)**

Mayor Stewart called for abstentions, bias, ex parte contact. Councilor Currier talked with a citizen who did not say she was in favor or against. He gave her information on who to contact at the City. He could not remember her name.

Councilor Andrews said he was former chair of the Traffic Safety Commission but would be making his decision based on the record.

Mayor Stewart noted that at the time the subdivision was approved, he was working as the City's building official but that would not have an impact on his decision in the event he would have to break a tie.

Mike Soderquist, Community Development Director, reviewed the history of the Aaron Way subdivision which started back in 1998 with an application for the subdivision and was finally approved by the Council on June 6, 1998. Signage was required to be posted on Aaron Way designating a fire lane and prohibiting on-street parking. However, this requirement was overlooked and the signage was not installed.

Fire Department Division Chief Frank Douglas said there is no question that Aaron Way is a fire lane with no parking on both sides, but that it did not get correct signage. The issue of private streets which had been prohibited by the City came up during the subdivision hearings. The developer and the Fire Chief said that they could have a private driveway as long as it met code (not necessarily width) and had overhead clearance with a hammer-head at the end. The fire lane literally is part of the fire protection system for the homes. When the Planning Commission denied the development, the developer looked to the Fire Chief for options. At the July 6, 1998 city Council meeting, the Fire Chief said he could support the private driveway concept. Last July, parking issues surfaced, partly because it was never posted, and complaints kept coming to the City and that is why the matter is here before the Council tonight.

Councilor Soppe asked if the term "fire lane" assumes a specific width? **Chief Douglas** said that a fire lane can be designed in different ways: for example, with parking on one side which is wider and the other side where the curb is red being the fire lane. **Councilor Soppe** said he was concerned about setting up the area for the fighting of fires. What is the allowed amount? If a fire truck has to set up, there has to be room to maneuver. **Chief Douglas** said that it depends upon the type of equipment that is used.

Councilor Pugsley asked if painting is sufficient to designate no parking on the curbs or do we need signs? **Chief Douglas** said that it would be preferable to have at least one side where the curbs are painted red. Discussion was held concerning maintenance of the painting of the curbs.

Councilor Currier asked if the City had looked at the impact on residents' homeowners insurance if parking was allowed on the street? What liability would the City be exposed to?

Councilor Larson addressed the alternating parking spaces proposal. **Chief Douglas** said that it would have a higher propensity for success. The fire truck ends up at the end and is able to turn around effectively.

Councilor Andrews asked whether the width of the street meets City Code and the 1997 Fire Code? Discussion was held concerning the insurance ratings for the area and/or the City.

Councilor McBride said that, if there was a loss and if carriers found out there was not access, the City could also be named in the suit because it was allowed.

Councilor Andrews asked if the insurance companies use the uniform fire code? **Councilor McBride** said an insurance underwriter would know.

Councilor Pugsley said that, under the alternating parking option, there would be numerous opportunities for violations.

Mayor Stewart said the City does not have a code enforcement officer and, even if it did, Aaron Way is a private street outside the City's jurisdiction. **Chief Douglas** said it would have to be clear in the CC&Rs of the subdivision.

Councilor Soppe discussed the alternating parking option and asked what is the standard length for on-street parking spaces? Doesn't it vary depending on the type and location of access onto the street?

Councilor Andrews said that the standard length for on-street parking is 25 feet. Discussion was held concerning driveway approaches. **Chief Douglas** said that it would be tight, but the fire trucks are able to negotiate the turn-around if two cars are parked there. But with the ladder truck, it would be tough. **City Planner Brierley** said that 22 feet is the standard. If access is restricted, you need an 8 foot clear area between stalls. Discussion was held concerning garbage truck access. **Chief Douglas** said that the garbage trucks would not be able to enter Aaron Way.

James Lancaster, 170 Aaron Way, Newberg, addressed and provided written materials to the City Council. On August 4, 1999, the final plans for the subdivision was approved with three "no parking" signs on the street. In late 1999, the improvements were constructed, but developer did not install signs. The developer did not disclose that the street was to be restricted as to parking and did not implement the requirements. The real estate agent did not disclose it. The Fire Marshall's oversight led to a condition where some residents expected to be able to park on the street. The value of the properties on Aaron Way will decrease substantially if they are not permitted to park on the street. Overnight guests cannot park there and it does impact the use of their property. It would be very difficult to police parking violations on the street. There would also be an impact to Lauren Court if everyone on Aaron Way has to park there (12 spaces and 16 properties). They have a petition from the residents on Lauren Way and they do not want people parking on their street. They are asking for fair and equitable standards. Aaron Way is in the middle of pack in terms of width for private streets in Newberg. Other private streets allow some parking. There is no need to completely prohibit parking. The compromise plan designates specific locations for both cars and fire apparatus and keeps curbs vacant for egress and ingress. It is a win-win. The City has looked at the plan and finds it acceptable and workable.

Councilor Pugsley asked Mr. Lancaster if they have a homeowners association? They do not have one, but there are CCR's and a private drive maintenance agreement.

Tape 1 - Side 2:

Councilor Soppe said the developer failed to install the signs, but **Mr. Lancaster** said the City failed to enforce the requirement. Discussion was held concerning whether the City has approved any other private street other than Aaron Way after Aaron Way was built. **Mr. Lancaster** said that he was not aware of any. Discussion was held concerning residents not being informed and the developer failing to install the signs. They are asking for relief, have been put in a bad place, and are looking to find a solution. It does not change the fact that they bought under certain assumptions.

Councilor McBride asked if he was one of the first ones to buy a home on Aaron Way? **Mr. Lancaster** said that there was an existing home already - owned by the developer - and there was another one under construction. The realtor, also a relative of the developer, did not disclose the parking restriction.

Jeff Gouger, 140 Aaron Way, Newberg, said that the no parking requirement is clear and there should not be any compromise. Discussion was held concerning a compromise. All 6 residents and the Council must agree to it. It is not about livability and parking for a home business. He does not think they should compromise for a home business. Every house has a 2 car garage and driveway. Before Traffic Safety approved minimum parking, the home business operator told him to park his car in his garage. Discussion was held concerning towing and that dispatch said they could not enforce because it was a private drive.

Councilor Currier said that under the home business regulations, if the neighborhood notes problems, they can ask for a hearing for a home business review.

Councilor Pugsley said that a compromise has to involve all parties. **Mr. Gouger** addressed problems with parking from customers or people visiting.

Councilor Andrews said there are 6 residences. How many favor no parking? Four. How many people no parking on one side? Two. The nature of the business is a hair salon.

Councilor Soppe asked if he was aware of the restrictions on the street. **Mr. Gouger** said that he does not park on the street.

Jeremy Odam, 149 Aaron Way, Newberg, said it was his last appeal. They have gone back and forth on the issue. Somebody said to take a proactive approach. They did. He drafted the original plan. Allows 6-7 spots and took it to Jim Bennett, Michael Sherman, Dan Danicic and Terry Mahr (March 25th). The draft is rough and basic, not professional. It was his understanding that the Fire Chief liked the idea and identified three spots for staging areas for fire trucks. Last Friday staff returned with modified draft showing 4 spots. He thought it was a win-win situation for everyone. It addressed both arguments. It did provide 4 designated parking stalls. He went to the two owners that were opposed to parking (Mr. Gouger and Steve Amenrud) and it was the first time in a long time that they have come close to agreeing. But not everyone is okay with it now. Last night they were. The Fire Chief went down and measured it, changed the draft and said it would work. Engineering also reviewed it. It is not about parking for his wife's hair salon but preserving livability. Four designated parking spaces would do it. For the first time in 4 years they would have

structured parking. He encouraged the Council to support the compromise that has been reviewed by the City staff. When it is all done, they can go back to being neighbors. Bottom line, he tried to do the right thing. He met with the Fire Chief and the neighbors.

Councilor Currier said that it would be better to have parking on one side of the street instead of a winding slalom. **Mr. Odam** said there are 3 staging areas and the Fire Department would have all the room they would need. Discussion was held concerning whether staff “endorsed” or found the compromise “workable”.

Councilor Larson said there are two plans: the one first submitted by Mr. Odam and the revised plan prepared by City staff. **Mr. Odam** said that he parks in the driveway.

Councilor Soppe asked what was between the sidewalk and the street. There is no parking strip. Referred to parking spaces as guest spots. What are “guests”? **Mr. Odam** said that guests need some place to park. Discussion was held concerning revising the CCRs to require the 6 families to work together and come up with a plan to pay for signage and painting.

Councilor McBride asked if he was aware when he bought that there may be problems with parking. He asked the developer and he said that the City may restrict parking. His wife’s business is a one chair salon. It allows his wife to stay home with their children.

Councilor Currier asked about how the owners would work together to maintain the street. **Mr. Odam** said the CCRs were never developed and posted. The developer dropped the ball and left them out to dry.

Councilor McBride asked if they have neighborhood meetings. No.

Steven Amenrud, 160 Aaron Way, Newberg, provided photos. He has lived there the second longest. Parking was good for a while until the beauty salon opened and there were people blocking driveways and people parked on both sides of the street. The complaints were to the City and 4 of 6 owners don’t want parking. There are other streets with narrow parking. They were built long before the new codes and do not have parking on one side or another. Things were missed during construction. The Fire Department ruling should be upheld. If this requirement is changed, what will happen next? He saw the alternative parking and does not see that it will work. The area is not large enough and also showed they could use his driveway as a staging area. They need no parking and a fire lane. Stop 20-30 cars a day using the street and keep the businesses downtown where they belong. If they do have parking on the alternative plan, who will police it? Who owns the open space at the end of the street? CPRD.

Mike Simpson, Traffic Safety Committee Chair, 1106 N. Sitka, Newberg, said that, in the minutes, it states that in the appeal the TSC upheld their original decision and that was not how it happened. They could reverse the decision, change or affirm. They did originally vote to have parking on the one side, but with new testimony and new evidence, they changed the original decision to keep no parking on both sides.

Lon Wall, 621 N. Morton, Newberg, said that he was on the 1998 Planning Commission. It is a private street and not a private driveway. The Planning Commission was given a directive to consider Aaron Way to be a private driveway after the Council ordered that no more private streets be approved.

Tape 2 - Side 1:

The decision by the previous Council for no private streets was a good decision. Listen to the Fire Department and emergency personnel and people involved with health and safety. If the fire trucks cannot get access or it is awkward for them, it is not a good situation. His opinion is that if any compromise involves potentially jeopardizing a fire truck, property or house, forget it.

City Attorney Mahr said he had no further comments. Staff does not have a recommendation as noted by Mike Soderquist. The question was asked if, in adopting the ordinance, they would be upholding the status quo of no parking on both sides of the street? **City Manager Bennett** said yes.

Councilor Soppe said he was trying to interpret the as-builts showing three no parking/fire lane signs. Were the locations specific or were they examples of typical locations for signs? **Mr. Soderquist** said that the final locations were to be approved by the Fire Marshall and the as-builts showed only typical locations for the signs.

Councilor Andrews asked the City Attorney about the private road maintenance agreement. Does the indemnification of the City in the agreement hold the City harmless from future claims? **Mr. Mahr** said that it very well may and he would review the agreement further.

Councilor Currier said it relates to a private driveway.

Councilor Pugsley said that when the neighborhood is caught up in conflict, regardless of the decision, they should discuss alternate solutions. It comes down to safety issues, though, and we have to worry about setting a precedent.

Councilor Currier said he was concerned about the liability for the City and the safety of lives, not necessarily homes that can be replaced.

Councilor Larson said he would like to see the option alternative as proposed by the Fire Department.

Councilor Soppe addressed the as-built drawings. One of the residents said that he was told there may be restrictions to parking. This was not implemented by the developer. It is unfortunate this led to the disputes of the neighbors. We may not know when the need for a fire truck will occur, but there is no other reasonable option than the original no parking.

Councilor Andrews said that it is unfortunate that this dispute has come up. We do have the action by the former Council which specified no parking on either side. He has concerns about community safety if we do not abide by this. He would want to see the impact on the insurance and/or the community if we modified the Uniform Fire Code.

MOTION: Pugsley/Soppe to approve **Ordinance No. 2004-2598** and read by title only. **City Attorney Mahr** read Ordinance No. 2004-2598 by title only. A yes vote will uphold the TSC decision with no parking on Aaron Way. A no vote will defeat the ordinance (5 Yes/1 No [Larson]). Motion carried.

BUSINESS MEETING SECTION

VII. CONTINUED BUSINESS

None.

VIII. NEW BUSINESS

1. Motion to approve appointment of Edward Hixon to fill Newberg Downtown Revitalization Committee vacancy.

Mr. Barton Brierley said he had received the resignation of Lou Larson from the Downtown Revitalization Committee and Mr. Hixon has applied to fill that vacancy..

Mr. Edward Hixon said that he and his wife own the business known as 614 located at 614 E. First Street. It is a retail business they opened in November. Since then, he has determined that his business really depends quite a bit on foot traffic and that he has a vested interest in increasing foot traffic. Mr. Hixon said he has no previous volunteer work. He attended last month's meeting of the Committee.

MOTION: Pugsley/Larson to approve appointment of Edward Hixon to fill the vacancy on the Newberg Downtown Revitalization Committee. (Unanimous). Motion carried.

2. Consider adoption of **Resolution No. 2004-2490** which adopts findings in support of the Council's oral decision to approve a 100-foot high monopole (cell tower) at 2151 N. Alice Way.

Mr. Barton Brierley presented the staff report. The Council held a record hearing at the last meeting and asked staff to prepare a resolution and modified findings which are included in the packet. Staff recommends adoption of the findings.

MOTION: Currier/Andrews to approve **Resolution No. 2004-2490**.

Councilor Soppe discussed the finding for the criterion that a good faith effort be made to demonstrate that an existing tower cannot accommodate the proposed transmitter. He stated that the applicant is required to contact owners of existing towers whether they are within the city or not. He suggested an amendment to the last sentence of the finding by adding the words "in the greater area" following "due to their location." Discussion on the amendment followed.

MOTION: Soppe/Pugsley to amend the Resolution to add the words "in the general area" following the words "due to their location" in the last sentence of Finding III(A).

Councilor Currier said the amended language was too vague.

Councilor McBride said that he did not favor changing the interpretation.

Councilor Pugsley said that the amendment does not limit the interpretation of the finding.

Councilor Larson said that he is not in favor of the amendment.

ROLL CALL ON AMENDMENT TO MOTION: (1 Yes [Soppe]/5 No). Motion failed.

Councilor Larson said that T-Mobile can find a cell tower location that is not adjacent to a residential area.

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

IX. EXECUTIVE SESSION

None.

X. ADJOURNMENT

MOTION: Currier/Soppe to adjourn at 9:00 p.m. (Unanimous). Motion carried.

ADOPTED by the Newberg City Council this 17th day of May, 2004.


James H. Bennett, City Recorder

ATTEST by the Council President this 19th May, 2004.


Bob Larson, Council President