

**MINUTES OF THE NEWBERG CITY COUNCIL
AUGUST 16, 2004
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING - TRAINING ROOM**

I. CALL MEETING TO ORDER

Council President Larson called the meeting to order at 7:06 p.m.

II. ROLL CALL

Councilors

Present:	Bob Andrews	Roger Currier
	Mike McBride	Robert Soppe
	Mike Boyes	Robert Larson

Absent: Mayor Bob Stewart

Others

Present: James Bennett, City Manager
Terrence Mahr, City Attorney
Mike Soderquist - Community Development Director
Dan Danicic, City Engineer
Barton Brierley, Planning Manager
Dawn Nelson, Recording Secretary

III. PLEDGE OF ALLEGIANCE

The pledge of allegiance was administered.

PUBLIC MEETING SECTION

IV. PUBLIC COMMENTS

Darlyn Adams, 131 Johanna Ct., Newberg, OR – Newberg Animal Shelter Friends – We raised \$385 at Old Fashioned Festival booth. Our biggest fund raiser for the year is coming up: the Wags–Whiskers BBQ/auction scheduled for September 25th at the Chehalem Armory, a donation of \$25.00 per ticket. In response to an article in The Graphic on August 7th, we received a check for \$1,000 from a lady who said she was impressed with the article. We now have \$116,679 in the building fund. Our goal is to raise \$10,000 net from the auction. Our next meeting is August 26 for any one who would like to attend. Our entry in the parade took 2nd place. We will have a trophy case in the new shelter to hold our 3 trophies to date.

V. CONSENT CALENDAR

1. Consider approving minutes from the Regular Council meeting held on July 6, 2004, Joint City Council and Planning Commission meeting held on July 8 and Regular Council meeting held on July 19, 2004.

Page 35, 7/19/04 minutes, spelling correction.

MOTION: Currier/Soppe to approve minutes from the Regular Council meeting held on July 6, 2004, Joint City Council and Planning Commission meeting held on July 8 and Regular Council meeting held on July 19, 2004.
(6 Yes /0 No). Motion carried.

VI. PUBLIC HEARING

BUSINESS MEETING SECTION

VII. CONTINUED BUSINESS

VIII. NEW BUSINESS

1. Consider **Resolution No. 2004-2511** regarding a hardship request by the Aspen Estates Water Association to connect to the City water system.

Dan Danicic - reviewed staff report covering the application letter and the City's response listing the conditions that would be imposed on the Water Association as provided in the packet. The application does meet requirements for hardship application.

Questions of Staff

President Larson – what is the fee they will be charged?

Dan Danicic - \$3,500.00

Councilor McBride - What size line is going to be put in?

Dan Danicic – a standard 8" line.

Councilor McBride - what is the existing line that goes out there - a 2"?

Dan Danicic - there is an existing 2" line for the other water district.

Councilor Currier - when they disconnect from well are they going to be required to put a back flow device on their line?

Dan Danicic - I'm not sure how the other districts are set up but I believe that there is a back flow attached to the meter.

Councilor Currier - I would assume that we would have something for protection against contamination.

Councilor Soppe – on page 45 it states they are going to pay all SDC's except sewer. You said if they connect to sewer they will then pay. Where is that stated?

Dan Danicic – they would have to pay to connect.

Councilor Soppe - I just want to make sure this doesn't come back on us and they say they don't have to pay.

James Bennett – that is covered under city policy.

Councilor Soppe – on page 45 under item 6, if they still have water service in place when annexed we are not going to require them to upgrade?

Dan Danicic – that would be a condition of annexation.

Councilor Soppe – is it your opinion that will happen?

Councilor Boyes - page 7 – it talks about billing. Are they going to get individual bills?

Dan Danicic - to get individual billing their meters will have to meet standards.

Councilor Boyes - if they don't meet our standards they will have to put in new meters?

Dan Danicic - correct, they will have to put them in.

Councilor Boyes - could they use their wells for their yards?

Councilor Currier – are County standards and City standards for system designs pretty much the same? So would there be much of an issue?

Dan Danicic – actually the City's standards are more stringent.

Councilor Larson - how many people are here for this item - show of hands?

Councilor Andrews – on page 38 there is a condition to have a fire hydrant on the corner of Hwy 240 and Chehalem Dr. Is this requirement of rural or city fire department?

Chris Mayfield –it is a requirement of City fire department.

Councilor Andrews - how can we put restriction on someone outside City limits.

Chris Mayfield - we can make requirements on anybody inside our response district.

Councilor Andrews - correction on pg 39, item 4 should read August 26. Also on page 42, item 6.

Dan Danicic - we originally requested they upgrade entire system to city standards. Now we are requiring a schedule of when they will do the upgrades.

Councilor Andrews - subsequent to annexation?

Dan Danicic - yes.

Councilor Andrews - can you show on the diagram on page 47 what line you are planning to extend?

Dan Danicic - the line follows Hwy 240 west from the city limits to the current location of the community well.

Councilor Andrews – there will be a bridge crossing?

Dan Danicic - yes, Chehalem Creek.

Councilor Andrews - on page 48, item b.3, is it your judgment that this is in close proximity to existing services?

Dan Danicic - yes.

Councilor Boyes - what is the time frame to complete?

Dan Danicic - that would be up to Aspen estates. John Bridges could address that.

President Larson -opened public testimony.

John Bridges, 515 E First St, Newberg - representing Aspen Estates Water Association. The problem here is there are significant quality and quantity problems with their water. The quantity in that area has dropped dramatically since 70's. They have quality of water that is extremely salty, and it destroys equipment. Most of the residents have replaced their water heaters twice since 1996. Two new wells to supplement have been drilled: one was dry and one well is 75' below current well with greater salinity about twice as much as the current well. Mr. Bridges then passed around a picture to show how dirty the water is. The City and the Aspen Estates Water Association have worked hard to come to these conditions presented. You had concerns about page 45 item #5 in regards to sewer. In the future page 45 item #2 makes it clear that they will take care of it. As far as the LID issue and what the City requested of the Association in item #6 to replace the water system when it fails, it doesn't make sense at this time to replace it. There is a hardship on each of the owners to go forward with this agreement. The fact that they are willing to make the financial commitment to go through with this \$3,500/ea and the water line connection goes to show how bad their water situation is. We have a number of owners present here tonight. We have limited number that will speak so as not to overload you. To Councilor Andrews: it will only cost \$2,500.00 for the hydrant. All owners recognized the benefit and are willing to pay for. It will provide tremendous peace of mind.

Councilor Soppe - thank you for clarifying issues. Were you involved with original development? If water quality was decreasing in the 70's, what was the expectation for the future when this development was built?

John Bridges - my understanding is, at the time they went to develop, developer went to annex and bring up to city standards, but City was reticent . This declining static level over a period of time is not an exact science and not observed every year. It is a hindsight issue of looking back at declining water.

Councilor Andrews – The majority of the property owners are OK with hydrant cost?

John Bridges - yes, I had a meeting with most of the owners. 17 were present and voted 17/0 to obtain water line. There is a misunderstanding about 2nd hydrant being required. It assumed there was a 8" line in place and there isn't. It would cost \$70,000 for the second hydrant.

Councilor Currier - it never came to Council about annexation. It was a staff decision. I discussed with City Manager at that time. It was a given that, if something happened like this situation, it would be set up to connect.

John Bridges - I am pretty confident that they won't use their well even for watering the grass.

Councilor Boyes - if annexed, would they be required to have a 2nd hydrant?

Chris Mayfield – yes, but at that time the infrastructure will already be there and it won't cost as much for hydrant.

Rich Waldren - 700 NE Chehalem Dr, Newberg, OR - Mr Waldren explained why salt water is present in this area and about what has been happening with the water level. We can't drill deeper and if we did we would probably end up with more salt water and a good possibility that the cavern we are tapped into would collapse.

Councilor Larson - how are you coping - with bottled water?

Rich Waldren - shower with system water and drink bottled water. The system water kills certain plants. There is not only health issue but it is very hard on pipes and equipment we use.

Councilor Larson - why have you waited so long to come to us?

Steve Dawson, 950 NE Chehalem Dr, Newberg – when we water the grass it doesn't do much, it kills plants and is nasty to drink.

Council Member Discussion

Councilor Soppe - I have had objections in the past to these kind of items but I think this is an excellent example of give and take. Staff did a good job getting this together.

MOTION: Currier/McBride to adopt **Resolution No. 2004-2511** regarding a hardship request by the Aspen Estates Water Association to connect to the City water system.
(6 Yes /0 No). Motion carried.

2. Consider **Resolution No. 2004-2528** supporting the City's grant application to the State of Oregon for funding of the Gateway Enhancements Project.

Barton Brierley – this is a follow up to previous meeting. This item will adopt a resolution to send in with the grant. Mr. Brierley reviewed what the grant would cover. The costs estimated at \$399,100. 90% would come from grant and remainder would be staff time and a generous commitment from Newberg Early Birds Rotary for \$20,000. Staff recommends you adopt.

Questions of Staff

Councilor Currier - on page 60 grant estimates historical monuments electrical at \$50,000?

Barton Brierley – the largest cost of the electrical is getting service to site. Monuments are internally illuminated.

Councilor Currier - has there been any thought to placement on this side of the bridge?

Barton Brierley - actually they will be on the west end of the bridge.

Councilor Currier - any thought of approaching PGE to drop a line from pole and put in underground line?

Barton Brierley - good suggestion.

Councilor Currier – maybe we could talk to PGE public relations try to get them to help us out. We could put up a plaque.

Councilor Larson - could say the same about the land from ODOT. Who else could they sell the land to? Were there any negotiations?

Barton Brierley - a lot of discussion. ODOT is bound by regulations to sell the land at market value. This is only our estimate of the value.

Councilor Larson - it could be less?

Barton Brierley - we are hoping to have room to negotiate.

Councilor Soppe – if we approve this get the grant, you would come back to us with hard estimates?

Barton Brierley - we would get bids and come back to Council for approval of contracts.

Councilor McBride - are we going to have an appraisal of land?

Barton Brierley- we aren't necessarily required to have that done, but could do it.

Councilor McBride - if appraisal were done, would it lower price we would have to pay? Do we intend to have appraisal?

Barton Brierley - we intend to negotiate price, if an appraisal would help that, we would do it.

John Bridges, 515 E First St, Newberg, Chair of Newberg Downtown Revitalization Committee & President of Newberg Early Birds Rotary – NDRC has looked at this since urban renewal district. We were fearful of who would buy the property from ODOT if City didn't get it. We were afraid adjoining property would get land instead. David Beam worked with ODOT. Since the Hancock completion, we have tried to get them to donate it, but they are under legal obligation to sell for market value. They will do appraisal to come up with number based on what they paid for Hancock right of way. This will be Early Birds Rotary's first individual project if we are able to do this. We are excited about our own unique project.

MOTION: Currier/Andrews to adopt **Resolution No. 2004-2528** supporting the City's grant application to the State of Oregon for funding of the Gateway Enhancements Project (6 Yes /0 No). Motion carried.

3. Consider motion directing the City Engineer to prepare an Engineering Report for a Local Improvement District for the Construction of Mountainview Drive between Main Street and Crater Lanes and the half-street improvement of Crater Lane frontage along the Local Improvement District limits.

Dan Danicic - reviewed staff report. It is hard to go out to citizens and ask them to write this big a check so we used meetings with homeowners to give them information. This motion is to proceed with preparing the engineering report. Report will determine cost and recommend assessment methodology. We would come back in about 2 months. Then Council can decide whether to accept report and set a date for a public hearing to initiate the LID. At all these meetings the public has a chance to speak.

Questions of Staff

Councilor Andrews - what do you estimate the cost of the engineering study?

Dan Danicic - don't expect it to cost more than \$5,000 at this point.

Public Comments

Russ Kusters, 101 E Mtn. View Dr, Newberg - in the meetings with staff we appreciated their help. I have letters signed by 46 of us opposing the process that is going on right now.

My purpose is to give background on information we were given at the meetings. There is some controversy over non-remonstrances. I would like Council to be informed as to what happened in the meetings.

Councilor Soppe – I would like to clarify your comment. You referenced the 7/14 meeting.

Russ Kusters – about the amount of assessment or the boundary?

Councilor Currier - you were talking about the difference between the two non-remonstrances. One has more specific language in it. Are you telling me as a homeowner you didn't ask about these?

Russ Kusters - am I assuming that I would have had no assessment? Yes and I would like to remonstrate against the boundary.

Councilor Currier - I find that hard to believe. Everyone realizes when we do improvements you have to help pay for them.

Russ Kuster – there is a gap between approving of development and having to pay for it. When we look at the two, why wasn't it in the first remonstrance that you have to pay?

Councilor Currier – it is understood that at the time of development you can either build the improvements or agree to a waiver of remonstrance. In those agreements, we have historically seen that the property owner has to pay for in front of their house. Unfortunate that the developer sometimes takes easy way out.

Russ Kuster - it is my understanding that the developers both wanted to, but the City didn't feel street needed to be improved at the time. The church has also been denied approval to build the street. Struggling with who benefits.

Councilor Currier - can honor your feelings that you are being pressed into this because of other development. But at the other end of the road, there is work already being done on an extension.

Russ Kuster - the LID is not required to do those developments. We would like to sit down and talk about it.

Larry Nibler, 15495 NE Quarry Rd, Newberg - member of St. Peter's Church – I am shocked at proposal because of cost, time frame and burden to home owners. We were held hostage to get our building permits. We had to donate 2 parcels for right of way of road and then sold 12 lots to fund project. We have already paid a great deal and now we are being assessed for Mtn. View for the benefit of greater Newberg. There is no benefit to us. The timing is bad. It is coming at time when we weren't expecting it, when we have started phase 2 of the church addition. Staff said Mtn. View extension was not anticipated. When we applied for permits staff said nothing of road expansion and they already had plans at that time. It is far more money than we anticipated. We do not have more property to sell to benefit Newberg citizens.

Councilor Larson - you have a driveway that would come out on Mtn. View in the future. You would benefit from that.

Larry Nibler - our access is on Main Street.

Councilor Larson - if Mtn. View is paved you would use that apron though.

Larry Nibler - no, it is not on our plans to have access on Mtn View from our parking lot.

Councilor Soppe – I am unclear on part of argument. There is argument that there is no obligation to pay for this road. But were willing to pay earlier if you did it on your own.

Larry Nibler - we had handcuffs on us.

Councilor Currier - follow up to that part of when the developer was going to develop all of the property, that you could develop at your cost. When you donate the right of way, the city has to provide for Davis Bacon and that is why the cost goes up. And we can't give property back once donated.

Theron Renne, 2515 N Main St, Newberg - Trinity Meadows subdivision - I am another person who did not understand what a non-remonstrance agreement was. All of my neighbors were shocked that we would be assessed. What I am hearing from city staff is we should have come to city for answers. I am also chair of building committee at St. Peters. I have had questions about assessments for Crater Lane portion. There is public record with the Church that they have made agreements with City and how Crater Lane was always going to be church responsibility to improve. We may deserve another meeting for clarifications. I ask that you not approve at this time.

Councilor Soppe - did you purchase property from the Church and nothing was passed along to you about a non remonstrance agreement. The Church had the information but didn't pass on to you?

Bart Rierson, 110 Hazelnut Dr, Newberg - we all agree that LID is good tool for City. It would be a shame to lose such a useful tool. Ultimately I think we need to ask ourselves what is fair. I think it is more obvious along Main Street when you see unimproved property. I think part of problem stems from lack of communication between developer and realtors. The language is the problem. Some say owner won't object to improvement, but it says nothing about having to pay for it.

Denton Brown, 800 E. North St., Newberg - here on behalf of Sally Strong who can't be here. Sally lives on Crater Lane 2 lots south of Mtn. View. When she purchased her property she got a discount because developer knew that street would be improved in the future. She agreed to her improvements, but doesn't feel she should have to pay for Mtn. View.

Councilor Soppe - to your knowledge was she aware of non-remonstrance?

Denton Brown - I don't know.

Councilor McBride - where does she live again?

Denton Brown - lot #8 on the map that was shown.

Joe Brugato, 1720 Elderberry Ct., Newberg - I am representing myself only as a citizen and parish member. I urge you to find another way to fund process. Mr. Brugato then presented information on non-remonstrance how certain cities have found it to be not a good method for funding. The City engineer says our people agreed to pay. That is not accurate. It was extortion. We could not get building permit. Newberg Citizens have shown many times they want to be involved in major decisions. The homeowners preferred solution is to recommend a motion to come up with another way to fund.

Councilor Soppe - tonight is only the start of the project.

Joe Brugato - I know a little bit about what the City is doing. You cannot pass this tonight without us being toast by December.

Councilor Soppe - what is it about creating this engineering report that is such a problem?

Joe Brugato - you are starting process tonight. If we don't shut it down now, we will be toast by December.

Councilor Currier - in my previous comments I was not doing a family assault. Just commenting from minutes. In regards to your comments about other Cities, not every city uses the same process to get to the same end.

Joe Brugato - we researched the whole state and non-remonstrances are history.

Councilor Currier - You have admittedly said you are a voice of one. I would have a rough time abolishing an entire system on the voice of one person.

Joe Brugato - your statement that I am only a voice of one sounds like previous Mayor.

Councilor Boyes - I look at it this way. I have seen a number of different cost estimates for this LID. Why are you against just doing the report to get a more accurate idea of costs?

Joe Brugato - in only 3 days the estimated costs increased tremendously. I plead with you to not put the engineer to work. Can't you wait a couple of months? You are not going to start the project right away.

Councilor McBride - I would like to comment on the urban renewal initiative. I asked you to come up with alternative solution. Councilor McBride expressed concerns with Mr Brugato's ways of going about things.

Council Member Discussion

Councilor Soppe - I have a lot of questions but none of them block me from starting the process to do the research. Hard time dealing with one individual asking to get rid of process.

President Larson - there will be more meetings. This only gets the ball rolling.

Councilor Andrews - When you bring back engineering report, is there any reason that report can't give more than one methodology?

Dan Danicic - we could certainly look at that. A lot of the comments that came up at public meetings referred to different methods. The costs will stay the same, but the variable of who pays how much might change.

Councilor Andrews - I would favor motion if the report contains that info.

Councilor Currier - almost all LID's I have seen are based on lineal footage or square footage of

property.

MOTION : McBride/Soppe to adopt motion directing the City Engineer to prepare an Engineering Report for a Local Improvement District for the Construction of Mountainview Drive between Main Street and Crater Lanes and the half-street improvement of Crater Lane frontage along the Local Improvement District limits.

(6 Yes /0 No). Motion carried.

IX. EXECUTIVE SESSION

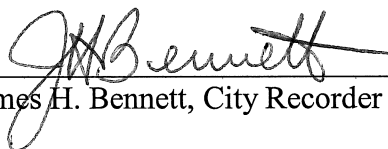
1. Executive Session Pursuant to ORS 192.660(1)(h) Relating to Litigation Likely to Happen.

X. ADJOURNMENT

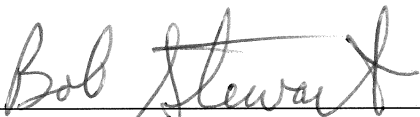
MOTION: McBride/Soppe to adjourn meeting at 9:04p.m.

(6 Yes /0 No). Motion carried.

ADOPTED by the Newberg City Council this 7th day of September, 2004


James H. Bennett, City Recorder

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


Bob Stewart, Mayor