NEWBERG CITY COUNCIL MINUTES
MAY 15, 2006
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING - TRAINING ROOM

I. CALL MEETING TO ORDER

Council President Andrews called the meeting to order.

II. ROLL CALL

Members Present:	Council President Bob Andrews	Roger Currier	Dawn Nelson
	Mike Boyes	Robert Soppe	

Members Absent: Mayor Bob Stewart (Excused)

Staff Present:
James Bennett, City Manager
Terrence Mahr, City Attorney
Dan Danicic, Public Works Director
Kathy Tri, Finance Director
Barton Brierley, Planning and Building Director
Kathleen Bochart, Recording Secretary

III. *PLEDGE OF ALLEGIANCE*

The Pledge of Allegiance was performed

IV. CITY MANAGER'S REPORT

Mr. Jim Bennett presented the City Manager's report.

PUBLIC MEETING SECTION

V. PUBLIC COMMENTS

Darlyn Adams, Newberg Animal Shelter Friends, stated that the Mega Yard and Plant Sale raised $5,667 and the fund now has a total of $201,327. The next will be on May 25, 2006 at 7PM at the Public Safety Building.

Councilor Soppe asked if bids had been received yet for work on the animal shelter.

Ms. Adams stated that they are waiting on the electrical and the plumbing specifications.

VI. CONSENT CALENDAR

1. Consider a motion approving City Council Regular Session Minutes for April 17, 2006.

MOTION: Currier/Soppe to approve City Council Regular Session Minutes for April 17, 2006 as corrected. (Unanimous) Motion carried.

VII. PUBLIC HEARING

1. Consider adopting **Ordinance No. 2006-2644** amending the Comprehensive Plan changing 1901 N. Springbrook from Low Density Residential to High Density Residential and Zoning Map amendment from R-1 to R-3.

City Attorney Terry Mahr explained the rules of the quasi-judicial hearing, including those related to public testimony and appeals.

Councilor Currier stated that he had ex parte contact with John Larson recently but there was no discussion held relating to this topic.

Barton Brierley presented the staff report. The applicant has made two requests. One is to change the Low Density Residential (LDR) designation to High Density Residential (HDR) designation and the other is to change the zoning map from R-1 to R-3. This site has been chosen for a 15 unit housing complex for developmentally disabled adults. Mr. Brierley stated that staff recommends the adoption of Ordinance No. 2006-2644.

Councilor Soppe asked if the applicant is going to help pay for the storm drainage improvements needed to address the issues of adjacent properties.

Mr. Danicic stated that the storm drainage for this area is part of the Mountain View Drive S-Curve project so it will be paid for by SDC's.

Councilor Soppe asked if he expected the applicant to help pay for the storm drainage improvement costs.

Mr. Danicic stated that he did not at this time.

Mr. Brierley stated that there could be some extension of the lines that they may need to pay for.

Councilor Soppe asked if he can be assured that when the storm drain is put in all of the drainage problems will be taken care of.

Mr. Danicic stated that during the development application process they will be looking at the entire drainage issue.

Councilor Soppe asked how many units could be built on the property with the current zoning.

Mr. Brierley stated that it would be approximately 4 units.

Councilor Boyes asked if the police and fire department has any problems with this.

Mr. Brierley said they did not.

Councilor Boyes asked if there were fewer parking spots than units.

Mr. Brierley stated that a typical complex needs two spaces per unit, but they are trying to make it less based on the fact that none of the tenants drive.

Mr. Bennett stated that there won't be much of an overflow problem.

Councilor Currier asked if the sirens from the fire department would affect the tenants.

Mr. Brierley stated that the applicant should be able to answer that.

Council President Andrews opened public testimony.

Marcia Mikesh stated that she was the architect for Chehalem Valley Housing Corporation. Ms. Mikesh stated that this will be a 15 unit apartment for independent living for people with developmental disabilities. They do not drive so parking should not be a problem. Ms. Mikesh stated that there is a complex like this in downtown McMinnville and in Beaverton. They are one bedroom units and are designed with full kitchens and living rooms. This is a great location as it is very accessible to the bus system and is within walking distance of shopping. Most of the tenants would hold jobs.

Larry Iverson stated that he is currently a banker for Wells Fargo and has been working with affordable housing for 30 years. Mr. Iverson stated that he is on the board of directors for Tualatin Valley Housing Partners. Mr. Iverson stated that there is a project like this in Beaverton that has been open for a year and he has never seen anymore than three cars there at one time. Mr. Iverson stated the tenants need to be within walking distance from shopping and their jobs. Many of the residents will be children of citizens from the community. Mr. Iverson stated that TVHP is fully prepared to step in and take over the cost of maintenance if it is needed.

Councilor Boyes asked if they encourage local participation.

Mr. Iverson stated that the residents are usually from within the county. Parents like to have their children close to home.

Terry Mahr stated that Councilor Soppe has brought something to his attention. Mr. Soppe has done work with TVHP in the past and has declared a potential conflict.

Carol Taylor stated that her daughter is developmentally disabled and currently works at A-dec. Ms. Taylor stated that she would really like for her to live in this community. Ms. Taylor stated that there are parents who are committed to this project. Ms. Taylor stated that the residents generally don't have care givers. They have life consultants or personal assistants. Ms. Taylor stated that they have been assured that the Fire Department does not turn on their sirens as soon as they leave the station, but does understand that it could be an issue for some and as much as possible will be done to help deal with that.

Councilor Currier asked how many hours a week they spend with a personal assistant.

Ms. Taylor stated that it varies from person to person but they are not allowed more than 20 hours a month together. Ms. Taylor stated that she truly does not think the parking will be an issue.

Mike Hlopek stated that he has been living at his current residence for 22 years now. Mr. Hlopek stated that he is against the high density. Mr. Hlopek stated that when he sees an apartment complex coming into the neighborhood he sees realtors looking at the area for future places for apartments. Mr. Hlopek stated his concern about the drainage issue. After a heavy rain there are springs that come up in his back yard. Mr. Hlopek also stated that the fire department does turn their sirens on sometimes when they leave the station. It is not very often but they do it. Mr. Hlopek stated that he would rather see 4 homes built on that land rather than 15 apartment units as the homes would increase the value on his home.

Lisa Painter stated that this development is going to be very close to her backyard. Ms. Painter stated that she moved to her neighborhood in Newberg for a reason. It was a low density housing area. Ms. Painter stated that having a low income housing project in the neighborhood makes her nervous about the safety of her children. Ms. Painter stated that she also worries about the value of her home. Ms. Painter stated that she is against the project and would rather have homes built there. Ms. Painter also stated that recently 3 people in the neighborhood have put their homes up for sale.

Sarah Everhart stated that she wrote a letter to the city because of her fear of what will happen to the neighborhood. Ms. Everhart stated that the apartment complex would change the atmosphere of the community. Ms. Everhart stated that if the zoning changes on that land what will stop it from happening everywhere else. Ms. Everhart stated that she was under the impression that this was a done deal and that there were no options for them to speak their thoughts on this.

Nancy Sharp stated that while she was at the welcome party she spoke with someone that said she stopped by the place where her person lived three or four times a day. Ms. Sharp asked what is going to keep the rest of the neighborhood from turning into apartments.

Carol Taylor stated that there were some things mentioned that need to be clarified. The group that she works to serve is people who are developmentally disabled. Their dream is to have a nice home where they can live probably the entire length of their life. Ms. Taylor stated that with developmentally challenged children you skip a lot of things you would with a normal child. They are not party-ers. They are not mentally ill and they are not dangerous. Ms. Taylor stated that at the welcome party they wanted the neighborhood to know who would be living at the apartments.

Councilor Soppe asked how they came up with this particular lot.

Ms. Taylor stated that they had been speaking with the owners of the lot across Springbrook in 1999. They were in favor of developing the complex but were too far along in the planning of their master plan at that time. That is when this lot was discussed.

Council President Bob Andrews closed public testimony.

Applicant waived the right to an extra seven day public testimony period.

Barton Brierley stated that this application is solely to change the comprehensive plan map and to change the zoning map. Mr. Brierley stated that there is a strong need for housing of this density and for this income level. This particular site is close to shopping, jobs and the transit system. Staff recommends approval of Ordinance No. 2006-2644.

Councilor Currier asked if there was any staff input regarding the drainage issue.

Mr. Danicic stated that he did take a look at it and that it does have poor drainage. Mr. Danicic stated that it will be taken care of during the Mountainview Drive S-Curve project and before construction of the complex.

Mike Hlopek stated that staff's comments were completely out of line. They are for HUD and not for the people.

Councilor Currier stated that his opinion is that staff is to present a report, which is based on all of the information that has been presented to them and from there it comes to City Council to make the final decision. Mr. Currier stated that he believes that if staff comes to us with no recommendation then they did not do their job.

MOTION: Soppe/Nelson to adopt **Ordinance No. 2006-2644** amending the Comprehensive Plan from Low Density Residential to High Density Residential and amending the Zoning from Map R-1 to R-3 for the property located at 1901 N. Springbrook.

Councilor Soppe stated that there is a need for R-3 housing. Councilor Soppe stated that homeowners do have a right to consistency. Councilor Soppe stated that he is looking for someone to convince him that it is ok to change the zoning on this land.

Councilor Currier stated that he agrees with Councilor Soppe. Councilor Currier stated that there needs to be some sort of guarantee that the rest of the neighborhood won't change.

Councilor Boyes asked if these are one person apartments.

Councilor Andrews stated that they are.

Councilor Boyes asked if the council passes the zone change, and the apartment is not built, if the zoning stays at R-3.

Councilor Nelson asked if the sale of the land is contingent upon the zone change.

Ms. Taylor said it was.

Councilor Andrews stated that he appreciates the concerns about the apartments. There are some apartments in town that are nice and some that presently are a problem. Councilor Andrews stated that the residents will be only a single person per unit and they won't be bringing in drugs. The storm water drainage issue will be looked at and hopefully taken care of.

Councilor Soppe asked if there is any way that the zoning can change back to R-1 if the apartment isn't built.

Mr. Brierley stated that the council could put a limited use overlay on the property.

Councilor Soppe asked if it was something that could be composed in a few minutes.

Mr. Brierley stated that he could come up with the language in probably 10 minutes.

Councilor Nelson asked if it could be adopted tonight.

Mr. Bennett stated that council could pass the ordinance tonight or wait and come back with the limited use overlay at the next meeting.

Council President Andrews called for a 10-minute recess while staff works on the appropriate language for the limited use overlay.

Following the recess, **Mr. Brierley** proposed that the council add the following language to the ordaining clause of the ordinance:

4. This zone change is contingent on construction commencing for a 15-unit residential development for developmentally disabled people and related facilities within two (2) years of the date of adoption. If construction is not commenced within two (2) years, the zoning will revert to the original R-1 zone.

MOTION: Soppe/Currier to amend **Ordinance 2006-2644** to include the addition of the language as proposed by staff. (Unanimous) Motion carried.

VOTE ON ORIGINAL MOTION: to adopt **Ordinance No. 2006-2644** amending the Comprehensive Plan from Low Density Residential to High Density Residential and amending the Zoning Map from R-1 to R-3 for property located at 1901 N. Springbrook. (4 Yes/ 1 No [Soppe])

2. Consider adopting **Ordinance No. 2006-2645** amending City Code Section 52.14 relating to water connections outside the city limits.

Council President Andrews opened the public hearing.

Dan Danicic stated that the Citizens Rate Review Committee started meeting in February to review utility rates. Residents of Aspen Estates came to the committee to discuss the city's policy on charging outside water users a rate of 150% of the in city user rate. Mr. Danicic was directed to go back and look at the history of how the city came to establish the out of city rate. Mr. Danicic stated that he had to go back to 1915 to find the first mention of outside water rates and that rate was basically that outside users would pay $5 per year for their water. Later there was an Ordinance that referred to a 1.2 factor and then the current Ordinance that refers to 1.5. The Committee approved a motion to forward a new ordinance to the Council that amends the present ordinance by allowing certain out of city water users to pay in city water rates if they meet certain conditions.

Councilor Soppe stated that even if the council adopts this, Aspen Estates does not qualify on two grounds. They have not signed an agreement to annexation with no restrictions and they are not within the Urban Growth Boundary.

Mr. Bennett stated that an e-mail was received from Dave Scott and wanted to make sure that it is a part of the record.

Councilor Andrews closed Public Testimony.

Mr. Danicic stated that his recommendation is to not pass the Ordinance.

MOTION: Currier/Soppe to not adopt **Ordinance No. 2006-2645** amending City Code Section 52.14 relating to water connection outside city limits.

Councilor Currier stated that he is not supporting the change because they had an option of putting in one meter, but their choice was to put in a new water distribution system that the City of Newberg is going to have to maintain. The 10 year annexation waiting period is based on what the residents want to do, not the city.

Councilor Soppe stated that he believes that 150% of the in city rate is a reasonable amount. Councilor Soppe stated that he was in favor of the motion to not adopt the ordinance.

VOTE: to not adopt **Ordinance No. 2006-2645** amending the City Code Section 52.14 relating to water connection outside city limits. (Unanimous) Motion carried.

Council President Andrews called for a 5 minute break.

3. Consider adopting **Resolution No. 2006-2641** adopting new water rates.

Dan Danicic presented the staff report. Mr. Danicic stated that the rates are based on the cost of to provide water service to city consumers.

Kathy Tri stated that there was no change in door hanger fees and water turn on fees, and there was a small change in hydrant fees.

Councilor Boyes asked why the university class water charge went down.

Ms. Tri stated that it was because their peaking factor is going down. The students are not there at the time the city determines the peaking factors. The loss from the university class is made up by the increase in the irrigation fees.

Councilor Soppe asked if there has been any thought to have different water fees throughout the year similar to what PGE does. If they haven't, he suggested that the city look into that.

Councilor Soppe asked if well number 8 was paid with SDC's.

Mr. Danicic stated that it was paid for with a bond up front which is being repaid with SDC funds.

Councilor Soppe stated that he had expected a higher increase in irrigation revenue because of the golf course.

Ms. Tri stated that it is factored in there. In 2005/2006 and 2006/2007 it does go up about $300,000.

Councilor Soppe asked how much revenue was expected with the next nine holes of the golf course.

Ms. Tri stated that they didn't have the next nine holes factored in yet.

MOTION: Soppe/Nelson to adopt **Resolution No. 2006-2641** adopting new water rates.

Councilor Soppe stated that he has some concerns on how high they are raising the rates. Councilor Soppe stated that he is not sure that they are doing this on a fair basis.

Kathy Tri stated that they would come back at the next councilor meeting with more information. Ms. Tri stated that if the council wants the rate changed then it would need to go back to the Citizens Rate Review Committee.

MOTION: Soppe/Currier to postpone this item to June 5, 2006. (4 Yes/1 No [Andrews])

4. Consider adopting **Resolution No. 2006-2642** adopting new sewer rates.

Council President Andrews opened the public hearing.

Councilor Soppe stated that he has the same problems with the increase on the sewer rates.

MOTION: Currier to postpone consideration to June 5, 2006. Motion failed for lack of second.

Dan Danicic presented the staff report.

Councilor Soppe asked if the sewer department or the water department will be selling the reuse water.

Mr. Danicic stated that both are contributing to the project so both of them will receive money from the sale of the water.

Councilor Currier asked if upkeep would be paid for by sewer.

Mr. Danicic stated that he expects all the costs will be split by the two departments.

Council President Andrews closed the public hearing.

MOTION: Currier/Nelson adopting **Resolution No. 2006-2642** adopting new sewer rates.

MOTION: Soppe to postpone debate to June 5, 2006. Motion failed for lack of second.

VOTE ON ORIGINAL MOTION: to adopt **Resolution No. 2006-2642** adopting new sewer rates. (4 Yes/1 No [Soppe])

5. Consider adopting **Resolution No. 2006-2643** adopting new storm water rates.

Dan Danicic presented the staff report. Staff originally proposed a 20% rate increase to the Committee but they did not agree with that. The committee agreed to a 5% rate increase.

Councilor Andrews closed public testimony.

Councilor Currier asked if vehicles were paid for from the storm water fund.

Kathy Tri stated that they used to be.

Councilor Soppe asked where staff was on the credits for single family residents.

Mr. Danicic stated that he has not made any progress on this as he doesn't have enough staff right now.

Councilor Soppe asked if they are still putting off community education.

Mr. Danicic stated that was also because of lack of staff.

Councilor Andrews stated that there was a 5% increase over the next four years and that he doesn't see that tracked all the way through.

Ms. Tri stated that it shows the next 4 years but the committee will look at them again in two years.

MOTION: Currier/Nelson to adopt **Resolution No. 2006-2643** adopting new storm water rates. (4 Yes/1 No [Nelson])

6. Consider adopting **Resolution No. 2006-2645** to proceed with condemnation of property located at 1901 N. Springbrook Rd.

Council President Andrews opened the public hearing.

Terry Mahr, City Attorney presented the staff report. Mr. Mahr stated that the owner has had discussions with Chehalem Valley Housing Corporation (CVHC) to sell them the property in order to build a high density residential housing development. CVHC has applied for a zone change and the City considers this development to be in the public interest and necessary to meet the City's low income housing needs. Mr. Mahr stated that the City has communicated with the owner's attorney and the owner will have some tax advantage if they sell the property under "threat of condemnation". Staff recommends adoption of Resolution No. 2006-2645.

Council President Andrews closed the public hearing.

MOTION: Soppe/Nelson adopting **Resolution No. 2006-2645** to proceed with condemnation of the property located at 1901 N. Springbrook Rd.

Councilor Andrews stated that he is struggling with this decision. Councilor Andrews stated that he does not want to get into the precedent of condemning homes in order to provide a tax incentive to expedite the sale of a property. Councilor Andrews asked if the land will come off of the property tax rolls if this was condemned.

Mr. Mahr stated that traditionally it would, but it would be discussed with the county tax assessor.

VOTE ON ORIGINAL MOTION: to adopt **Resolution No. 2006-2645** to proceed with condemnation of the property located at 1901 N. Springbrook Rd. (2 Yes/3 No [Andrews, Boyes, Currier])

BUSINESS MEETING SECTION

VIII. NEW BUSINESS

1. Presentation from the Visitor Information Center 2005/06 Third Quarter Report and revised 2005/06 Second Quarter Report.

Councilor Andrews moved this item to after the Consent Calendar.

Sheryl Kelsh presented her report. Ms. Kelsh stated that the Chamber marketing brochure has been completed.

Councilor Soppe asked why the personnel expenditures were lower than in the 2nd quarter.

Ms. Kelsh stated that they were down an employee and had temporary help.

Councilor Soppe asked why the overhead/utilities were higher than in the 2nd quarter.

Ms. Kelsh stated that the temporary help was classified as overhead/utilities.

Councilor Boyes asked how many brochures were printed.

Ms. Kelsh stated that there were 10,000 brochures printed.

2. Consider approving **Resolution No. 2006-2637** authorizing the City Manager to negotiate and execute a loan agreement with the Chehalem Valley Housing Corporation in the amount of $225,000 for a very low income, developmentally disabled housing project.

Councilor Soppe declared a potential conflict as he has had previous contact with TVHP.

Barton Brierley presented the staff report. Mr. Brierley stated that the money would be released to CVHC before October 20, 2006 and would be paid back within a year, but most likely it would be paid back in February 2007. Mr. Brierley stated that HUD will release the funds once construction begins.

Councilor Soppe asked if there was some requirement that says that this money can't be used for anything but purchasing the land.

Mr. Brierley stated that it can be in the loan agreement.

Councilor Soppe stated that he has no specific concern but there needs to be something to secure the money.

Sheryldene Rogers stated that she is the development consultant and has worked on over 20 of these projects in the northwest and anything that you can help us with is extremely appreciated.

Councilor Andrews asked if Ms. Rogers could explain the lien condition to the council.

Ms. Rogers stated that when we go to the closing table the land has to be free and clear of any liens.

Councilor Andrews asked if the HUD funds can be used to payback the loan.

Ms. Rogers stated that they could.

Carol Taylor stated that they are just asking for the City to help them fulfill a goal.

Larry Iverson stated that TVHP is watching every step of this process and can assure the city that they will be at the closing of this property. Mr. Iverson thanked the council for their financial support.

Staff recommended adoption of Resolution No. 2006-2637.

MOTION: Currier/Boyes to adopt **Resolution No. 2006-2637** authorizing the City Manager to negotiate and execute a loan agreement with the Chehalem Valley Housing Corporation in the amount of $225,000 for a very low income, developmentally disabled housing project. (Unanimous) Motion carried.

3. Consider **Resolution No. 2006-2644** transferring and re-appropriating funds in three funds in the 2005/06 budget.

Kathy Tri presented the staff report. Ms. Tri stated that the street lighting budget has been influenced by the number of new street lights installed in the new developments and the addition of traffic signals. Ms. Tri stated that they are asked for an additional $32,000.

Councilor Andrews asked if the light installation is paid for by SDC's.

Ms Tri stated that this is for the cost of the power not the installation of the lights.

MOTION: Currier/Soppe to adopt **Resolution No. 2006-2644** transferring and re-appropriating funds in three funds in the 2005/06 budget. (Unanimous) Motion carried.

IX. CONTINUED BUSINESS

1. Consider approving a motion to acquire right-of-way property from Portland General Electric to facilitate the extension of Hayes Street between Springbrook Road and Deborah Street.

Dan Danicic presented the staff report. Mr. Danicic stated that he spoke with PGE about the deferred road reimbursement and they said it was a deal killer. Mr. Danicic stated that staff feels that this is a reasonable request; it allows the road to be constructed now instead of waiting until some unknown time in the future.

Councilor Soppe asked what the need was for this road.

Mr. Danicic stated that it will help promote development in that part of the city, along Hayes west of Springbrook.

Councilor Soppe asked if Deborah Rd was adequate access to this area.

Mr. Danicic stated that it doesn't have a signal at 99W making it difficult for traffic to access.

Councilor Boyes asked whose idea was the new road.

Mr. Danicic stated that it was staff that recognized the development in the area and saw this as an opportunity. Mr. Danicic stated that it is in the TSP.

Councilor Andrews asked who's property was south of Coyote Homes.

Mr. Danicic stated that part of it belongs to Newberg Urgent Care and another part belongs to Action Equipment.

Councilor Andrews asked if the cost was \$170,000 or \$172,000

Mr. Danicic stated that it was \$172,000.

Councilor Soppe asked if Coyote Homes would be willing to pay for their part of the road.

Mr. Danicic stated that they would.

MOTION: Currier/Soppe to proceed with negotiations with PGE to acquire right-of-way for the Hayes St. extension.

Councilor Nelson stated that there should be another component to the project. Staff needs to address what the cost for the road will be and where the funding will come from.

Mr. Bennett stated that the building of the road would come back to City Council.

VOTE: to proceed with negotiations with PGE to acquire right-of-way for the Hayes St. extension. (Unanimous) Motion carried.

X. EXECUTIVE SESSION

None.

XI. ADJOURNMENT

Currier/Soppe to adjourn the meeting at 12:15 a.m. (Unanimous) Motion carried.

ADOPTED by the Newberg City Council this 19th day of June, 2006.

James H. Bennett, City Recorder

ATTEST by the Mayor this 29th day of June, 2006.

Bob Stewart, Mayor