

**CITY OF NEWBERG COUNCIL MINUTES
SEPTEMBER 17, 2007
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING - TRAINING ROOM**

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order.

II. ROLL CALL

Members

Present:	Mayor Bob Andrews	Robert Soppe	Roger Currier
	Mike Boyes	Jeff Palmer	Bart Rierson

Members

Absent:	Bob Larson (Excused)
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Staff

Present:	James Bennett, City Manager
	Terrence Mahr, City Attorney
	Dan Danicic, Public Works Director
	Mike Soderquist, Engineering Consultant
	Norma Alley, City Recorder
	Jennifer Nelson, Recording Secretary

Others

Present:	Darlyn Adams, William Dickas, Elizabeth Schwartz, Tim Janesofsky
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III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

James Bennett, City Manager, announced a letter was received from the State approving full funding for the 2nd Street project. ODOT's schedule for the Wilsonville Road project will have to be built first before the 2nd Street project can start. The Wilsonville Road project is to begin in the spring of 2008 and finish in late summer/early fall of 2008. The State realizes this and has ensured the funding will be held.

V. COUNCIL APPOINTMENTS

None.

VI. PUBLIC COMMENTS

Darlyn Adams, representing the Newberg Animal Shelter Friends, announced the Buccaneer Bash Dinner and Silent Auction will be held this coming Saturday, September 22, 2007 at the Armory. The donation is \$30 per person; there are 541 items to choose from, valued at \$30,800.

Proceeds will go towards the building fund and the next NASF meeting will be held on September 27th.

VII. CONSENT CALENDAR

1. Consider a motion approving the City Council Regular Session Minutes for August 20, 2007.
2. Consider a motion approving the Visitor Information Center 4th Quarter Report for the 2006-2007 fiscal year and the proposed 2007/2008 Visitors Center budget.
3. Consider a motion approving **Resolution No. 2007-2734** reaffirming the Sister City relationship with Poysdorf, Austria.

MOTION: Soppe/Palmer to approve all items on the Consent Calendar, including the Regular City Council Regular Session Minutes for August 20, 2007 as amended, the Visitor Information Center 4th Quarter Report for 2006-2007, and **Resolution No. 2007-2734**. (6 Yes/0 No/1 Absent [Larson]) Motion carried.

VIII. PUBLIC HEARING

Consider a motion approving **Ordinance No. 2007-2680** and **Resolution No. 2007-2733** approving amendments to the Newberg Code concerning the Advance Financing of Public Improvements and withdraw the consent for the application for reimbursement.

Mayor Andrews called for biases, conflicts of interest, ex parte contact, and abstentions. None appeared.

Terrence Mahr, City Attorney, presented the staff report (see official record for full report).

Councilor Robert Soppe asked what happens with the interest rates in the first year.

Mr. Mahr explained the interest rate would be set on the anniversary date and added to the principal. The anniversary date is the current prime rate at the execution of the agreement.

Councilor Soppe mentioned on page 6 of the memorandum “design” within the construction is not specifically included, but it is one of the costs and should be added in there.

Mr. Mahr replied the suggestion was to add design under the definitions of public improvements on page two, sub-paragraph two so it would state “The design, illumination, grading, graveling...”

Councilor Soppe asked if that would include design for the curb, gutter, and sidewalks. Staff replied it would be all encompassing to add “design” in all five definitions.

Councilor Bart Rierson asked if there were no other provisions required for someone in the Urban Growth Boundary (UGB) other than needing to be annexed into the City to be part of the advance finance agreement.

Mr. Mahr discussed the question of jurisdiction if the property is not in city limits, but stated his belief that we would be on safer legal grounds. He said the property owner could object to being called an intervening property and have it reviewed.

Councilor Soppe asked if it was true that nothing binds the council to accept the application when the annexation occurs or when development occurs, and the burden is not set until after annexation.

Mr. Mahr said this was correct.

Mayor Andrews asked to clarify if the application for reimbursement must be filed within six months of the annexation if a property is not in the city limits and annexed in eight and a half years.

Mr. Mahr replied the application can happen in conjunction with the annexation, assuming the annexation is favorable.

Public testimony opened.

Proponents:

Mr. William Dickas, Attorney representing Mr. Roth, stated their support for the resolution to withdraw the current assessment for his client's property existing outside the City boundaries and once the encumbrance on property is removed they will withdraw their lawsuit. He suggested council think about why they are adopting an ordinance that employs powers of the City to give money to private developers. In this case, a series of residents on Chehalem Drive are working with four to five developers. The City required each developer to widen the road and extend City sewer and water lines up the road to the development. In this particular case, Callista Estates did not want to eat that cost and passed it off to Mr. Roth's farm. He stated Callista Estates never did pay for the extensions they hooked onto and to the widening of the road they benefit from. He expressed that it did not make sense and it was not fair for them to pass half of those costs to a single farm across the road.

Councilor Roger Currier stated they did not see it as making the developer rich, but preventing a property owner that holds off on developing not getting all of that for free when they decide to develop later.

Mr. Dickas responded the capacity of the road extension is used by the public and the City is charging on a basis of frontage. He spoke of the unknown number that will benefit some day, either inside or outside of the development, by this capacity. He said the problem is the City does not charge them twice. He stated the City may require the developer to assume all costs that are proportionately caused by the development itself and wondered why they would wish to shift that away from the development.

Councilor Currier argued the current situation is the City pays for the over-sizing and all the developer pays for is what their development will use.

Councilor Soppe stated he was also a supporter of the ordinance because the City did not want to see half-streets built. He felt it was appropriate that someone who benefits from the other half should logically pay for half and build the roads at the same time.

Discussion followed concerning payment for past and future improvements and the System Development Charges (SDC) component for reimbursement.

Ms. Elizabeth Schwartz, Attorney representing Callista Estates, stated her client supports the resolution terminating the advance financing agreement and also the amendments to the ordinance. She said this ordinance offers an efficient, fair, and flexible mechanism for collecting revenue for public improvements on behalf of a private developer. She also notes the problem of a developer not taking advantage of this and recouping public improvement costs within the cost of the houses. She sees this as a way to help keep the cost of housing down.

Public testimony closed.

MOTION: Currier/Rierson to approve **Ordinance No. 2007-2680** approving amendments to the Newberg Code concerning the Advance Financing of Public Improvements as amended and read by title only.

VOTE: To approve **Ordinance No. 2007-2680**. (6 Yes/0 No/1 Absent [Larson]) Motion carried.

Mr. Mahr also suggested an amendment in the recital for the City to authorize the City Manager to authorize all necessary documents on behalf of the City.

MOTION: Soppe/Currier to approve **Resolution No. 2007-2733** withdrawing the consent for the application for reimbursement as amended.

VOTE: To approve **Resolution No. 2007-2733**. (6 Yes/0 No/1 Absent [Larson]) Motion carried.

IX. CONTINUED BUSINESS

None.

X. NEW BUSINESS

Consider a motion approving **Resolution No. 2007-2732** authorizing the City Manager to execute an amendment to the Wastewater Reuse System Contract.

Dan Danicic, Public Works Director, presented the staff report (see official record for full report).

Councilor Rierson asked staff when the report and engineers estimate is completed if there is public knowledge of what the estimate is. Staff replied there was public knowledge of the estimate.

Councilor Soppe asked if the original Request for Proposal (RFP) indicated Emery and Sons Construction, Inc. would get the job. Staff replied there was no discussion of that. He also asked about the mobilization costs for the pipeline project. Staff replied the mobilization costs were normally around 10%.

Councilor Soppe asked if there would be any legal issue for the City not going out for a bid.

Mr. Mahr replied there was not because they reserved the right to add on to a contract up to 10% and council can approve change orders for more. Mr. Mahr stated he felt comfortable with it.

Councilor Soppe asked what the City was avoiding by not going out for bid and why it was not included on the original RFP.

Mr. Mahr answered it was not included on the original RFP because they did not know what company would be giving the bid for the first phase and if they were capable of doing the pipeline work as well.

Councilor Currier expressed some concerns about not going out for a bid and asked what the possibility would be of finding a bid at a significantly lower cost.

Mr. Bennett replied the City Engineer looked at that and his experience says it is very unlikely we would get another bid, especially a lower one, and the risk is losing the current company's bid.

Councilor Rierson asked what the cost and time estimate would be if a second bidding process were to occur.

Mr. Danicic stated it would take approximately four months of work and the companies could also not guarantee the same dollar value as they were being offered now.

Councilor Soppe spoke of these costs being factored into the charges for delivering the service and expressed discomfort with supporting this. He agreed with the concept, but believed including everything on the first bid would have been more efficient.

Councilor Currier asked the contractor to explain more about the extra costs for mobilization and specialty work.

Mr. Tim Janesofsky, representing Emery and Sons Construction, Inc., discussed subcontractors needed for highway work such as grinding and inlaying and a \$3,500 charge to move the big grinder. He explained there were special machines needed and there were up front costs for moving that equipment.

MOTION: Palmer/Soppe to approve **Resolution No. 2007-2732** authorizing the City Manager to execute an amendment to the Wastewater Reuse System Contract.

Councilor Rierson stated his support based on the information provided by staff explaining the value of time saved and the rise in construction costs as each day passes.

Councilor Soppe agreed and also suggested in the future there should be some sort of statement included in the original contract that there is an advantage in completing the first portion, as a bidder, to get the second part.

VOTE: To approve Resolution No. 2007-2732 (6 Yes/0 No/1 Absent [Larson]) Motion carried.
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XI. COUNCIL BUSINESS

Councilor Rierson mentioned using the City's relationship with the Chamber of Commerce to get help putting a brochure together to advertise for the new City Manager.

Discussion followed concerning the search for a new City Manager and the process. There was mention of talented staff available for graphics needed in that process.

Mayor Andrews established a subcommittee for recruiting a new City Manager including **Councilor Rierson** as chair, **Councilor Currier**, and himself. He also established a subcommittee on budget policy including **Councilor Larson** as chair, **Councilor Palmer**, and **Councilor Boyes**. He asked about the report on Lo-jack for the city computers as well.

Mr. Bennett replied they have been ordered for less than \$50 a piece, and the cost will be less than \$600 for all the city laptops to be equipped.

Councilor Soppe asked if these were one time or annual costs. Staff replied they were annual.

Councilor Soppe officially announced he was resigning as of the 1st of December, 2007.

Mr. Danicic updated the Council on the Alice Way Local Improvement District (LID) by stating the design effort was complete and contract specifics were being put together for bid.

Councilor Jeff Palmer asked for an update on the Villa Road LID construction and phasing. Staff said there was not an exact start date.

Discussion commenced concerning the Villa Road construction not being under an LID.

Councilor Palmer asked about public parking signs downtown for the parking area on 2nd street.

Mr. Bennett replied they have approval form ODOT for four signs directing public to the public parking.

Councilor Rierson asked for a progress report on the Mountainview Drive S-Curve. Staff updated and replied they were still on schedule for a mid-December completion date.

Mayor Andrews asked when the Crestview extension would be open going east of Springbrook. Staff replied it would be kept closed until the very end of the project and alternate access still remains.

Councilor Mike Boyes discussed problems with the gravel on Crestview, west of Springbrook and that the contractor should be going down there weekly to grade. Staff replied there is routine

maintenance. He asked about chain link fences being mandatory and asked about fences in the school district and Chehalem Park and Recreation District (CPRD). Staff replied they are exempt because they are public buildings.

Councilor Palmer asked if there was progress concerning the Baker Rock land acquisition. Staff replied they still needed to come formally before the council to authorize negotiations. He also mentioned having advance notice for items not on the calendar, such as special meetings.

Mayor Andrews asked for an update on the code enforcement position.

Mr. Bennett stated there have been applications received and there is an interview team meeting next Monday.

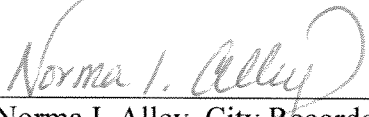
XII. EXECUTIVE SESSION

None.

XIII. ADJOURNMENT

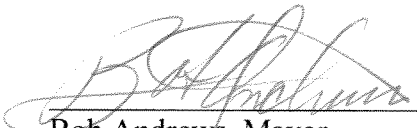
MOTION: **Soppe/Palmer** to adjourn at 8:55 PM (6 Yes/0 No/1 Absent [Larson]). Motion carried.

ADOPTED by the Newberg City Council this 15th day of October, 2007.



Norma I. Alley, City Recorder

ATTEST by the Mayor this 18th day of October, 2007.



Bob Andrews, Mayor