

**CITY OF NEWBERG COUNCIL MINUTES
OCTOBER 1, 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
	Bob Larson		

Staff

Present:	James Bennett, City Manager
	Terrence Mahr, City Attorney
	Elaine Taylor, Associate Planner
	Barton Brierley, Planning and Building Director
	Dan Danicic, Public Works Director
	Norma Alley, City Recorder
	Jennifer Nelson, Recording Secretary

Others

Present:	Darlyn Adams, Robert Hurford, Gary Wong, Rosanna Wong, Jim Humpres, Margaret Humpres, Kenneth Wegter, Mike Gougler, Cathy Stuhr, Dr. Paula Radich, Nancy Barrone, Joyce Damann, Bruce Freeman, Bruce Barrone, Brent Lam, Mike Phillips, Lee Does
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III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. James Bennett, City Manager, reported on highlights from the League of Oregon Cities conference he attended in Bend, OR.

V. COUNCIL APPOINTMENTS

None.

VI. PUBLIC COMMENTS

Ms. Darlyn Adams, representing the Newberg Animal Shelter Friends, reported on their Buccaneer Bash fundraiser. They raised \$18,610 and expenses accounted for only 5.76% of the gross. The total in the building fund is currently at \$276,558. The next meeting will be held on October 25th at 7:30 PM (see official record for full report).

VII. CONSENT CALENDAR

Consider a motion approving the City Council Regular Session Minutes for September 4, 2007.

MOTION: **Currier/Palmer** to approve the City Council Regular Session Minutes for September 4, 2007. (7 Yes/0 No) Motion carried.

VIII. PUBLIC HEARING

1. Consider a motion approving **Order No. 2007-0008** approving an agreement with Robert F. Hurford providing for the process implementing the historical overlay zone for the building located at 809 East First Street.
(Quasi-Judicial Hearing)

Mr. Terrence Mahr, City Attorney, called for any biases, ex parte contact, potential conflicts of interest, objections to jurisdiction, and/or abstentions and read the legal requirements for the hearing.

Councilor Robert Soppe mentioned a potential conflict of interest because of previous business relationships with **Mr. Robert Hurford**. He stated **Mr. Hurford** also mentioned to him that he would be attending the meeting this evening but there was no discussion on the matter.

Mayor Andrews mentioned he was neighbors with **Mr. Hurford** but he has never discussed this issue with him before and is basing his decision on the testimony presented tonight.

Mr. Mahr presented the staff report (see official record for full report).

Councilor Roger Currier asked about the brick section of the building that did not exist previously and when it was added on. He was told it was completed in 1957.

Councilor Soppe asked if there was any more talk about taking them off the Comprehensive Plan. He also asked about waiving Measure 37 claims if Measure 49 passes and if that is included in the agreement.

Mr. Mahr stated being that the building is within the city limits, he would not have a claim because Measure 49 fine tunes Measure 37 and applies to property outside of city limits.

Councilor Jeff Palmer asked what historical overlay for signage meant since that would not apply and why this was a part of the report.

Mr. Barton Brierley, Planning and Building Director, under a type 1 classification any sign has to be in the character of the design of the historic building or it has to go to the Planning Commission for approval. It is included because there was concern that **Mr. Hurford** did not want to go through a big process if he wanted new signage.

Public testimony opened.

Mr. Robert F. Hurford, Property Owner, spoke of being before the Planning Commission previously and the remodeling that had occurred on the property in the 1950's removing portions considered historical. He noted only some parts of the building, like the façade, could be considered of any historical value. He expressed concerns mainly with wanting to do the necessary improvements or repairs, such installing properly insulated windows, without having to go through the town planners for approval of whether the new elements were historical enough. The house has been in his family for 50 years or more and it will continue to be. He wants to do some things, like fix leaks, replace broken windows, and put up an awning; the designs are complete and deposits paid, but he cannot do anything until this is approved.

Councilor Soppe asked if he was satisfied with the agreement to accomplish his goals.

Mr. Hurford replied he was comfortable with the agreement and the conditions.

Councilor Mike Boyes asked where the awning will be located.

Mr. Hurford stated it would be across the front on First Street.

Public testimony closed.

Mr. Mahr stated the City, as the applicant, waived the right for further time to address the record and recommended passing the order.

MOTION: Palmer/Larson to approve **Order No. 2007-0008** approving an agreement with Robert F. Hurford providing for the process implementing the historical overlay zone for the building located at 809 East First Street.

VOTE: To approve **Order No. 2007-0008**. (7 Yes/0 No) Motion carried.

2. Consider a motion approving **Ordinance No. 2007-2681** amending the Newberg Urban Reserve Area.
(Legislative Hearing)

Mayor Andrews called for any biases, ex parte contact, potential conflicts of interest, objections to jurisdiction, and/or abstentions.

Ms. Elaine Taylor, Associate Planner, announced there were late submissions to the record at this time and they were distributed to the council.

MOTION: Soppe/Currier to accept the submission of new material into the staff report. (7 Yes/0 No) Motion carried.

Councilor Currier requested a short recess to review the new information submitted.

Mayor Andrews announced to council there were also three written testimonies submitted this evening by the public to be included in the public record.

MOTION: Soppe/Palmer to accept the submission of written testimony received into the public record. (7 Yes/0 No) Motion carried.

Mayor Andrews recessed at 7:42 PM for review of the written testimony and reconvened at 7:46 PM.

Ms. Taylor presented the staff report (see official record for full report).

Mayor Andrews asked for a detailed description of the areas being discussed and noted properties already included in the Urban Reserve Area (URA). Staff complied and noted there were no objections to the areas already included that are planned to be taken out of the URA.

Ms. Taylor continued with the presentation, offering a timeline of proposed action including the amendment this evening, the hearing on the transportation plan ordinance on October 15th, the County board hearings on the URA and the transportation plan, and the adoption of the new Urban Growth Boundary (UGB) from land within the URA in 2008. She recommended the council approve the Newberg Urban Area Management Commission's (NUAMC) URA recommendations.

Councilor Soppe discussed the requirements of the Oregon Department of Land Conservation and Development (DLCD) and the City's ability to defend decisions on this ordinance in court with staff.

Mayor Andrews asked where the McClure property stood in all of this.

Mr. Brierley recommended the McClure property to be included in the URA since the City has agreement with them to provide water and sewer to the property. Sewer cannot be provided until the property is in the UGB, so getting it in the URA would facilitate the first step to providing sewer service. He followed with clarification of State law concerning resource lands and exception lands and the higher priorities being included first.

Mayor Andrews asked if it was true that ten acres plots cannot be developed. Staff replied that under URA rules a property cannot be rezoned to a higher density than it is currently zoned, but Measure 37 is the exception.

Councilor Palmer asked what the consequences would be if the City was not compliant with the State's URA and UGB requirements. Staff replied periodic reviews occurred to bring the supply up to current requirements and the City could receive an enforcement order from the State. He added the State requirements were important to allow the City to plan for its future.

Councilor Soppe also pointed out there was an amendment proposed where the City would not require annexation without the consent of the property owners and asked if there had ever been an annexation in Newberg without the consent of the owner.

Mr. Brierley replied there had been an instance of annexation without consent, but not in the last fifteen years and it was a not real likely an owner will be forced to annex.

Public testimony opened.

Proponents:

Mr. Mike Gougler offered his support of the URA expansion. He spoke of a vibrant downtown from the past and his desire to see housing and job opportunities in Newberg. As a builder, he has no financial interest in the property for the URA. He spoke of Oregon land use laws protecting valuable farm land as well as requiring cities to provide for necessary and natural expansion. He also mentioned he read the letter from the DLCD and he felt it was a poorly written insult to the citizens of Newberg; he felt they were digging a hole and assuming no responsibility for filling it.

Ms. Cathy Stuhr spoke about the need for housing and economic growth to provide opportunities for our children to live here in the future. She said that overall land use requires vision and we will have to work to push that vision forward within the requirements of the DLCD and for what is best for our community. In respect to land use preferences, people have built dream homes where they want to live the rest of their lives, they do not want townhouses there. She stated a dichotomy existed between having to take exception land first and the owners not wanting it to be included. Regarding the DLCD comments, she thought these were real issues for Newberg and it would be foolish not to try and push forward for an answer to why it is an issue. She concluded with her statement of support for the URA and encouraged the council to offer the same deference to those who want to be included as those who do not want to be included.

Opponents:

Ms. Nancy Barrone, Property Owner, stated she has lived on Benjamin Road in Yamhill County since 1980. She said what the McClure's do with their property is their business, but she did not see why she had to be included in the URA just because they are. She spoke of her children and grandchildren spending a lot of time on her property, planting trees as old as each child and she does not think the City has any right to annex them if they do not want to be. She added that only one of her neighbors wanted to be included in the City plan and the rest are here opposing that tonight.

Councilor Soppe addressed her concern of being annexed against her will by discussing the proposed amendments to not subject land to annexation without the agreement of the property owner.

Ms. Joyce A. Damann, Property Owner, lives across from the McClure property and moved there thirteen years ago from Tigard when her children were grown. She spoke of her dream to retire in the country with a small amount of acreage in a house with animals where she did not have to pay city taxes and sewer. She said she is now fighting to stay in the County. She discussed the petitions from NUAMC asking for opinions and suggestions from property owners and noted she expressed adamant opposition to be included into the URA and UGB. She felt her wishes were disregarded as were all the other neighbors, except one, who were also opposed. She stated they only had one representative that supported them and voted not to include them and that was County Commissioner Leslie Lewis. She expressed frustration with the whole process, wondering why their opinions were asked for only to be ignored and she asked what needed to be done to have their request for exclusion from the URA listened to.

Councilor Palmer asked the City Attorney if the property was sold, would whoever moved in be annexed.

Mr. Mahr replied only if the new owner consented because the amendment for consent obligation goes with the property.

Mr. Bruce Freeman stated his opposition was mostly in concern of ground water, resources, and septic issues. He empathized with those who did not want to be a part of the URA because things like this can ruin people's lives and land.

Councilor Soppe agreed with the concerns for septic and ground water but asked how bringing property into the URA affects that.

Mr. Freeman replied it is just the beginning of the encroachment of development and wanting what is best for the community.

Mr. Bruce Barrone, asked the Council if those living in the county are not allowed to vote on annexation themselves and it is a city matter that does affect them, then why can they not vote.

Mr. Mahr replied that traditionally, the City only annexes property with the consent of the owner since the application form is completed by the owner asking to be annexed. The City used to be able to just annex the land, but a charter was adopted that states the rest of city gets to vote on whether to accept that property..

Mr. Barrone also asked how much the property tax would increase if this area was incorporated into the URA.

Mayor Andrews responded property taxes would not be impacted until the land was annexed, which would only occur if the property owner granted permission, according to the amendments. He said we could not determine what the property taxes would be at that time, which could be fifteen to twenty years from now.

Mr. Brent Lam stated he was opposed from being removed from the existing URA. He stated he was the only person to oppose during the community feedback opportunities because there was no other chance for him to come to the meetings with the time they were given. He stated frustration with NUAMC, feeling it was a predetermined vote. He did not understand why there were residents who did not want to be in the URA and he had to fight to remain in the URA. He spoke of the reasoning for his removal being the difficulty to service water to that elevation, but felt the extra cost would be passed on to the developer and land owners and would not cost the taxpayers. He felt there should be more irrefutable evidence provided for why his property should be removed. He also discussed the elevation readings not being accurate.

Discussion followed concerning the 44 acres to be removed from the URA and the costs of the reservoir to serve the north hills area.

Councilor Bart Rierson asked how many other property owners were in his area to be removed from the URA and if there was any indications from them as to their preference to be in or out of the URA.

Mr. Lam stated there were approximately eight property owners but was not aware of any of their preferences.

Councilor Soppe replied the process to eliminate did come in fairly late and it was not being considered until the County brought it up. He asked staff to address the question of the accuracy of the topographic maps. Staff discussed information sources.

Mr. Mike Phillips, stated he purchased his property in 2003 and his opposition to being included in the URA because he does not feel he will be in control of his property's destiny. He has no plans to develop, but is concerned for the impact on the value of the property. He purchased the property because it was in the URA and paid the appropriate values.

Dr. Paula A. Radich, Superintendent of Newberg School District, stated she was an opponent to the DLCD amendments because of lots intended for high school and elementary school sites. She stated the property is critical for the long range plans of the school district and the DLCD recommendations do not support the commitment of the school district to provide for and accommodate future growth. They secured the property as an investment for anticipated growth of the southeast area and she does not feel DLCD has done their homework.

Undecided:

Mr. Lee Does stated a preference to take lower value lands before farmland for building homes. He spoke of an article in the Oregonian about this being an area for destination tourism and the value of developing and maintaining a good product; which is the resource of farmland. He felt this meeting was premature and the traffic issues should be addressed first. He felt money should not be put into development, but into the bridges and other things. He felt communities were being built for people to go to 99W and on to Portland. He spoke of blind corners and accidents waiting to happen on his road due to the traffic.

Public testimony closed.

Mr. Brierley recommended Council adoption of the ordinance.

Councilor Soppe discussed several points made in the DLCD letter with staff for clarification. He also asked what the risk was if the City did not remove the areas in the north hills proposed to be removed from the URA.

Mr. Brierley replied it would put the numbers slightly over the total needs and they will have to exclude other properties.

Councilor Rierson asked if that would be the ones on Benjamin Road.

Mr. Brierley replied the Benjamin Road properties were not first priority under the State statutes.

Councilor Rierson asked if the amendment for residents not to be included, if they do not want to be, would prevent the City from providing sewer with the neighboring area when brought into the UGB.

Mr. Brierley replied it would not prevent the City from providing to McClure property if they were approved for the URA and UGB.

Discussion followed concerning the reasoning accepted for including or not including land into the URA, such as showing that urban services cannot be provided. The State requires exception land then resource land and if the City does not include one area except for reason of being unable to provide utilities or being “intervening” resource land, they cannot include anything beyond that.

Discussion ensued to amend the URA by removing Springbrook Road North, Putnam Road, and the west side of Benjamin Road of the URA expansion including the property which has been removed from the URA. Staff pointed out that the properties of the Wilsonville Road South area would also have to be removed from the URA if arguments were made that the City could not reasonably serve the Benjamin Road properties with public utilities. All resource land would have to be removed. Staff advised Council to follow the State standards.

Discussions followed concerning how to swap the lands that do not want to be included in the URA for the ones that do and what reasons would be legally defensible.

Mayor Andrews called for a recess at 10:32 PM and reconvened at 10:37 PM.

MOTION: Currier/Rierson to approve **Ordinance No. 2007-2681**, read by title only, with the provision that the Springbrook Road North, Putnam Road, and areas west of and adjacent to Benjamin Road be removed and the property previously considered for exclusion be added back in.

MOTION: Larson/Rierson to amend the motion to include the first amendment handed out by staff tonight, which adds an eighth ordinance in the ordinance..

VOTE: To include staff amendment in the main motion. (7 Yes/0 No) Motion carried.

MOTION: Currier/ to direct staff to present new findings of facts to support the new amendments. Motion failed for lack of second.

MOTION: Rierson/Palmer to defer action on **Ordinance No. 2007-2681** until October 15, 2007 and direct staff to amend the findings. (6 Yes/1 No [Soppe]) Motion carried.

IX. CONTINUED BUSINESS

None.

X. NEW BUSINESS

None.

XI. COUNCIL BUSINESS

Consider a motion to support the Public Safety Building Training Room A/V Subcommittee recommendation.

This item was postponed to the next meeting on October 15, 2007.

Councilor Palmer announced the next Animal Shelter subcommittee meeting to be held on October 4th.

Councilor Soppe inquired about the Redflex proposal. There were no new updates at this time, but there will be some information on the November 5th agenda.

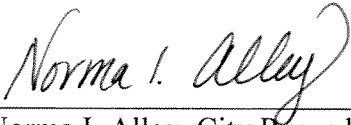
XII. EXECUTIVE SESSION

None.

XIII. ADJOURNMENT

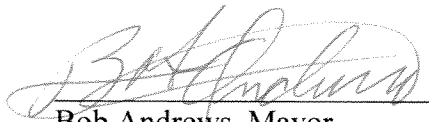
MOTION: Palmer/Boyes to adjourn at 11:00 PM (7 Yes/0 No) Motion carried.

ADOPTED by the Newberg City Council this 5th day of November, 2007.



Norma I. Alley, City Recorder

ATTEST by the Mayor this 8th day of November, 2007.



Bob Andrews, Mayor