

CITY OF NEWBERG COUNCIL MINUTES
APRIL 16, 2007
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING - TRAINING ROOM

I. CALL MEETING TO ORDER

Mayor Andrews called the meeting to order.

II. ROLL CALL

Members

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

Staff

Present:	Jim Bennett, City Manager
	Terrence Mahr, City Attorney
	Steve Olson, Assistant Planner
	Norma Alley, Deputy City Recorder
	Jennifer Nelson, Recording Secretary

Others

Present:	Darlyn Adams, Charles Harrell, Mike Willcuts, Michael Gunn, Dennis Gaibler, Walt Gaibler
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III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Jim Bennett, City Manager, reminded everyone the City Council study session is scheduled for 6:00 pm on April 26th at City Hall. On May 3rd the first Budget Committee meeting will be held in the Public Safety Building. The next City Council meeting will follow on May 7th. He announced the City has received many calls from appreciative citizens for the changes made at the Springbrook intersection with the new four way stop signs. There have been a few tickets issued for drivers running through the stop signs, but no major issues and it seems to be working out well so far. The public is acknowledging it was a good move.

V. COUNCIL APPOINTMENTS

None.

VI. PUBLIC COMMENTS

Darlyn Adams, representing Newberg Animal Shelter Friends, 131 Johanna Court, announced their Mega Yard/Plant Sale is scheduled for April 27th and 28th at Zion Lutheran Church from 8:00 am to 5:00 pm. All proceeds go towards the building fund. There is now

\$245,000 in the building fund and a goal of \$6,000 has been set for the Plant Sale. The next meeting is April 19th at 7:30 pm. To celebrate "Be Kind to Animals Week" (May 7th – 11th) there will be a coloring contest for 3rd and 4th graders (see official record for full presentation).

VII. CONSENT CALENDAR

Consider a motion approving the City Council Regular Session Minutes for March 19, 2007.

MOTION: Larson/Currier to consider a motion approving the City Council Regular Session Minutes for March 19, 2007. (Unanimous) Motion carried.

VIII. PUBLIC HEARING

2. Consider a motion approving **Order No. 2007-0005** amending the NW Newberg Specific Plan to show streets and 19 lots on the 4.98 acre parcel at 1217 East Henry Road.

This item was taken out of agenda order at the discretion of the Mayor.

Mayor Andrews asked if any abstentions or conflicts of interest from the council.

Councilor Soppe mentioned he has done a little work for Mr. Gail, but there was never a contract. He just wanted to mention it as a potential conflict of interest.

Terrence Mahr, City Attorney, made his required announcements about quasi-judicial public hearings, explaining details of the process and criteria to be aware of during the proceedings and after closing.

Steve Olson, Assistant Planner, presented the staff report (see official record for full report).

Discussion immediately began concerning the average square footage for the proposed lots and whether it met or exceeded the limits allowed for Low Density Residential (LDR). It was determined by staff the necessary criteria were met.

Councilor Currier questioned staff about the proposed site plan and the accessibility of lots 15 through 19. He was concerned with the plans for the road not meeting the criteria to serve the neighborhood.

Mr. Olson addressed his concerns, agreeing the proposed plans could not be approved as is because every lot needs full street access. He also added that, depending on the timing of it, the street could potentially be a little farther over and they would have to coordinate or hold off on developing that portion of the property, all of which would be addressed during the development phase.

Councilor Currier discussed the possible removal of a house from the property in order to extend Henry Road and if the City would require this.

Mr. Olson mentioned that one plan anticipated extending Henry Road, but again there were no conditions placed on the plan yet concerning that. This would come at the development phase.

Councilor Currier stated his belief that it should be a part of the process now.

Mr. Olson conceded that the council has the right to require that now.

Councilor Currier mentioned specific plans discussing the possible detention pond on site which Mr. Gail was adamant about and stressed that council needed to know where the run off is going to go.

Mr. Olson replied several different possibilities have been studied, but the criteria have not been engineered at this point.

Councilor Soppe mentioned a 3.8 acre neighborhood park identified in the specific plan and asked if this is a separate park from the one proposed in this application and if it has been completed.

Mr. Olson confirmed this.

Mr. Charles Harrell, representing the applicant Coyote Homes, 201B N. Meridian Street, emphasized that staff is for the plan and believed Councilor Currier was “putting the cart before the horse”. They are asking for approval for the density of the nineteen lots, not for any configuration other than the streets.

Councilor Currier replied there was no configuration for the nineteen lots with appropriate access that he can justify.

Mr. Harrell stated they were just looking for the ability to figure that out.

Councilor Currier claimed staff already said there is no way.

Mr. Harrell said he understands that will come down the road and his client is only asking for council to open the door. When they come back, they will have set streets and lots.

Councilor Currier expressed concern that this would be out of council’s hands once it leaves here and asked for thoughts on storm water.

Mr. Harrell replied they have met the criteria required to have smaller lots with connectivity, but that the applicant was being asked to address things before they have gotten there. He also states the client is not going to pay for something they do not plan on going ahead with. He asked council if there were any questions for his client, Mike Willcuts, as he was present to answer any. There were none.

Mayor Andrews called for opponents. None appeared. Public testimony was closed.

Mr. Mahr asked the applicant if they waived the right to address the record once it was closed.

Mr. Harrell said the applicant waived that right.

Mr. Olson made a final recommendation for council to approve.

Mayor Andrews closed the public hearing.

MOTION: Larson/Palmer to consider a motion approving **Order No. 2007-0005** amending the NW Newberg Specific Plan to show streets and 19 lots on the 4.98 acre parcel at 1217 East Henry Road.

Councilor Rierson asked for clarification about the next step for this order after council approval and development was desired. He asked if it would go to planning commission or just staff review.

Mr. Olson replied it would just require staff review, which is considered Type 2 review. They would need to meet all criteria for storm water, with noticing and posting at the site. He said anyone can request it be moved to Type 3 which requires a hearing before the Planning Commission.

VOTE: To approve **Order No. 2007-0005** amending the NW Newberg Specific Plan to show streets and 19 lots on the 4.98 acre parcel at 1217 East Henry Road. (Unanimous) Motion carried.

IX. CONTINUED BUSINESS

None.

X. NEW BUSINESS

***Mayor Andrews** moved this item to the new business section. It is not required to have a noticed public hearing.*

1. Consider a motion approving **Ordinance No. 2007-2667** allowing municipal water service to property at 9680 Adolf Road.

Mr. Mahr passed out information to council (see official record for material). He discussed the maps he had distributed and explained that, in exchange for bringing municipal water to the property for residential development, the city would eventually be able to bring approximately 50 acres into the city for industrial use. The land is flat and in a good area for industrial development by Wynooski Road. He said the plan was also to bring in the other property at a later date to the city after it is developed into one acre residential lots. He continued by specifying this is not a hardship application, but a special situation brought about by the fallout from Measure 37. If council agrees, they would complete a development agreement to be brought to council for final approval.

Councilor Soppe asked, if the City allows the water connection, what the conditions would be, since a 150% rate is usually charged.

Mr. Mahr agreed that would apply in this case as well.

Councilor Soppe wondered if the residential portion of the property was going to be brought into city limits.

Mr. Mahr replied it will, but it will take a little while for this to happen and the property owners want to develop now.

Councilor Soppe asked what happens if during the process it somehow does not get included in the URA. Although he understands the ad hoc committee agreed, he asked what happens if for whatever reason it does not happen.

Mr. Mahr answered we would have a water line out there and we would continue to provide the area with city water. It is not what we want to do, but we would have to uphold our end of the agreement. He clarified this is not just any Measure 37 property, but we rated it very high for saving it for industrial purposes.

Discussion took place concerning the SDCs that would go to pay for the water line, if the water line was going to the edge of the property on 219 and compensation to the city once the area is annexed. Solutions mentioned were advance financing agreements and that the City ultimately controls any connections and requires SDCs, although they will not be collected initially.

Mr. Bennett suggested it would be appropriate to address these issues in a development agreement, which is what we are asking council approval for.

Councilor Currier wondered if they were also asking for waiver of the annexation fees.

Mr. Mahr replied that is considered a negotiation piece and we have negotiated to make a recommendation to council. He reminded council that part of the agreement is to bring all the property into the city eventually. The property taxes will come into the City only when the property has been annexed.

Councilor Currier responded people can always say no and it will not come in.

Mr. Bennett replied if it were not a Measure 37 claim, it would not be brought to council.

Councilor Boyes asked how many other properties of 50 acres are available for industrial.

Mr. Olson offered there may be one or two.

Councilor Rierson asked if the City were to extend water to the property and with the cost of annexation, what kind of costs the City will recover. He wondered if we will ever get the money back.

Mr. Bennett replied the potential is much more significant with the industrial use of the fifty acres because there will be a lot more return as opposed to residential. The SDCs are higher because requirements for industrial property are higher. He felt the city would definitely get the money back, but over a period of time. He did not know exactly how long, but certainly faster than if it were residential.

Michael Gunn, Attorney representing Walt Gaibler, the trustee of the trust, P.O. Box 1046 201B N. Meridian, offered a little background on how Mr. Gaibler's late wife owned the property containing ninety acres. The part of the property intended for residential is 10 acres, accessed to the west from 219. He mentioned ODOT wants to take their access for the Wilsonville Rd. interchange and the property will have to be accessed off Adolf Road until the bypass is built. We have approved measure 37 claims which are unable to be appealed for residential 1 acre parcels. He talked of a canyon or creek with a ravine on the east side, making the actual size of the property ninety-two plus acres, but claimed they cannot have ninety-two lots because of the ravine. He said there was no zoning at all when this property was acquired. They could have built anything, but wanted it strictly for residential purposes. He and his client would not be able to go in and apply for industrial usage with county. At this point Mr. Gaibler is getting up in years and would like to do something to make the property profitable. There is good water there and plenty of it. They could go into Yamhill County and get approval for a residential subdivision. It may not be best use of the property, although they would like a return. He describes the flat part of property as an ideal industrial site for the city all the way up to the property line. He described the offer as a win/win situation. He addressed concerns about cost on the council's part, calling this an anomaly situation. City will get fifty acres of industrial property and 10 acres of residential. He mentioned shadow platting and exemption from further standards until it is brought into the city. He claimed they are giving up the ability to make money while waiting and they will need to make some improvements to Adolf Road. The City will be out some costs for supplying the water, since an 18" line must go under the highway. There was a bid for \$125,000 or so, if the city had to do the work, but we can get it done for considerably less. The City would reimburse them for the cost of bringing the line to the property. The cost to City initially for the water line would be reimbursed since the residential lots allowed to hook into that water will have to pay hook up fees and SDCs. Everyone is taking risk. We are taking the risk. If no annexation occurs, then we have sat on property for 3 plus years. He said there were some corrections he would like to make. If this passes, a development agreement would be created and presented to council. Those are the terms negotiated thus far. Time is important because they want to get something going on this property.

Discussion of Mr. Gunn's proposed changes within the written agreement occurred and notation of the changes were made by staff. There were also some misunderstandings cleared up concerning the map and property lines of the intended residential use. The council was reassured water would not be extended to any area of the property not intended to come into the city.

Councilor Currier asked how requirements for curbs, gutters, streets, etc, would be met since the property is not annexed.

Mr. Mahr replied it was a real issue and, once we reach an agreement, they will develop to county standards. When annexed, it can come in as a non-conforming use; we will put a special overlay so they will have a Planned Unit Development (PUD) that is not subject to certain City standards. But, if we do not reach some accommodation with the property owner, with Measure 37, there is a tradeoff.

Councilor Currier asked how the City would justify this as it develops and there are substandard streets although new. He was concerned the guidelines would be gone.

Mr. Gunn expressed understanding for his concerns, but pointed out the City suggested the residential portion be annexed so property taxes could be collected. He ensured they would be

developed in a way that can be further developed in the future, like a shadow development plat. They will have to be brought up to City standards, but it would be unreasonable for the City to ask us to do all those things. He believed an overlay situation like a shadow plat should be brought into play. They plan to develop under the assumption it will become industrial property; it will not going to be developed in a vacuum.

Councilor Soppe asked for reassurance they had no expectation for the City to have anything to do with the east.

Dennis Gaibler, son of Walt Gaibler, the trustee of the trust, 7872 SW Edgewater Drive, clarified there will be the start of the slope involved in the twelve lots, roughly 50/50, and then fall out into the canyon. It will not go down to the creek, but the homes will have a backyard and a slope with the natural setting.

Councilor Soppe asked if standard city rules will apply if we approve the agreement. He also wondered if there would be problems with residential properties being so close to industrial.

Mr. Gunn responded they have every intention to buffer the line between the two areas.

Councilor Soppe expressed concern with timing, saying in other URA issues they have a timetable and he wondered what if it takes more than three years.

Mr. Gunn stated they want it to be sooner, but realistically it will not be less than that.

Councilor Soppe also wondered, if the timeline for the URA is longer, would Mr. Gunn and his clients stay with this?

Mr. Gunn stated there would be contractual obligations for the City to push forward and they would be prohibited from developing the industrial portion as residential. He said they were willing to wait through the process if city is exhibiting good faith efforts on its part.

MOTION: Rierson/Palmer to consider a motion approving **Ordinance No. 2007-2667** allowing municipal water service to property at 9680 Adolf Road with the changes discussed previously.

Councilor Soppe stated he has objected before to situations like this in the past, but this is a special case, and that fact will allow him to look at it differently. He has never been a fan of Measure 37, but we have to live with it since this is what the voters gave to us and this current proposal is better than the alternatives.

Councilor Currier added that most voters who voted for Measure 37 did not vote for it the way it came out.

Councilor Boyes stated he would like to see this as industrial property.

Councilor Rierson stated he is thrilled to bring in another fifty acres of industrial property and it will be a big plus to the City.

Mayor Andrews said he hopes staff heard the tentative offer to explore contracts for the water line under the highway for less than otherwise previously intended and, if we are looking at that cost, this can be considered an investment in Newberg's financial future with increased property taxes and such. He intends to vote yes.

Mr. Mahr read the Ordinance by title only referring to packet page 18 with amendments.

VOTE: To approve **Ordinance No. 2007-2667** allowing municipal water service to property at 9680 Adolf Road. (Unanimous) Motion carried.

XI. COUNCIL BUSINESS

Councilor Soppe informed other council members of issues with City email and the new requirement to change your password regularly stating all must go to a City computer and log in to change your passwords.

Mr. Bennett explained the City is being audited by law enforcement data systems (LEDS) and there has to be a password protection in place for all computers in City and they only just learned about it. They must also change the password every 90 days as well.

Councilor Soppe also brought up the public access survey and the request by H&R Video. He asked if we have this scheduled.

Mr. Bennett replied it has not been scheduled; they have been working on the budget first.

Councilor Soppe stated he would like the survey cut off. If someone has not turned it in by now, they probably will not and we need to look at this.

Mr. Bennett said that up until last week they were still receiving them.

Mayor Andrews suggested waiting no later than May to end it.

Councilor Rierson mentioned he would like to explore the statistics from the red light photo radar and see how we are doing with generating revenue and if we can do more. He also wondered if there have been any increases at the Springbrook Road location in tickets we have written so far.

Mr. Bennett said he will ask Chief Casey and Mr. Danicic to look at that.

Discussion began about people challenging the photo radar tickets. Only a handful has contested and only one went to trial. Some talked about seeing the light go off when red light was not being run and determined there are test flashes for exposure.

Councilor Boyes asked again about getting a digital camera for the council meeting to document awards and proclamations for the archives.

Councilor Currier asked if we have ever tested our Opticom system on City stoplights.

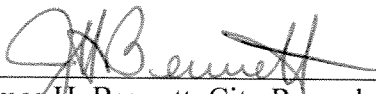
XII. EXECUTIVE SESSION

None.

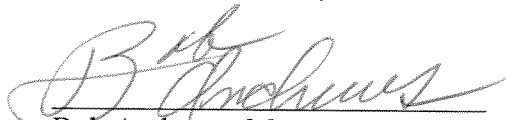
XIII. ADJOURNMENT

MOTION: Soppe/Currier to adjourn at 9:18 pm (Unanimous) Motion carried.

ADOPTED by the Newberg City Council this 21st day of May, 2007.


James H. Bennett, City Recorder

ATTEST by the Mayor this 24th day of May, 2007.


Bob Andrews, Mayor