CITY OF NEWBERG COUNCIL MINUTES
MAY 21, 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	Bob Larson
	Roger Currier	Bart Rierson	Mike Boyes
	Jeff Palmer		
Staff Present:	James Bennett, City Manager		
	Terrence Mahr, City Attorney		
	Barton Brierley, Planning and Building Director		
	Dan Danicic, Public Works Director		
	Paul Chiu, Senior Engineer		
	Norma Alley, Deputy City Recorder		
	Jennifer Nelson, Recording Secretary		
Others Present:	Steve Abel, Charles McClure, Ellen McClure, J. Douglas Macy, Lee Leighton, Frances Hunter, Donna Henley, Vicki Shepherd, David Jensen, Mike McCullough, Darlyn Adams		

III. *PLEDGE OF ALLEGIANCE*

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

James Bennett, City Manager, passed around a copy of an article to be published in a magazine on the City's drug take back program. He said we are getting ready to start pick ups and hoping for a successful outcome. He also announced disappointing news that the housing rehabilitation grant submitted by the Yamhill County Housing Authority was not funded this year, but we will keep trying. Lastly, a letter was received from the State elections department resolving the election query concerning authorship of an article in favor of the two recent annexations. No violations occurred.

V. COUNCIL APPOINTMENTS

None.

VI. PUBLIC COMMENTS

None.

VII. CONSENT CALENDAR

1. Consider a motion approving the City Council Regular Session Minutes for April 16, 2007.

2. Consider a motion approving the Visitor Information Center 2006/07 3rd quarter report.

MOTION: Larson/Currier to approve all items on the Consent Calendar, including the City Council Regular Session Minutes for April 16, 2007 as amended and the Visitor Information Center 2006/07 3rd quarter report. (Unanimous) Motion carried.

VIII. PUBLIC HEARING

Consider a motion approving **Ordinance No. 2007-2671** adopting a development agreement with Charles and Ellen McClure allowing municipal water service connection and setting forth terms for annexation.
Quasi-Judicial

Barton Brierley, Planning and Building Director, presented the staff report and recommended approval (see official record for full report).

Councilor Robert Soppe noted he did not see any development on 99W and asked why since this is all residential.

Mr. Brierley replied there are four parts: the residential area, the winery, the historic farm, and the commercial use area they would like to develop after annexation which directly faces 99W. There are no specifics but they are looking at doing a retirement community.

Mayor Bob Andrews asked what zoning was approved by county for this.

Mr. Brierley replied it was zoned commercial, but upon annexation it would be institutional.

Councilor Soppe stated he was unaware we could annex property that is not in the Urban Growth Boundary (UGB).

Mr. Brierley replied state law discourages this, but there is no law against it. Many cities have land outside the UGB as part of their city limits, but they must apply state wide planning goals.

Councilor Soppe asked about city utility services from page 36 city and if water service was would be provided in the same manner as other properties where they pay 150% while outside the city limits. He also wondered if we normally allow for 15 years for private septic systems.

Mr. Brierley explained the city does not put the water mains in, the developers do. We normally only allow private septic systems for one year. He said the issue is a matter of timing. If they could be annexed next week, they would install sewer and connect water. But if they want to proceed with subdivision, they do not want the expense of septic and then sewer.

Councilor Soppe said if they were in the UGB, then we could provide sewer. So why not just bring them into the UGB.

Mr. Brierley replied it takes time for that process and we cannot speed it up.

Councilor Soppe asked how long we are looking at if there were no challenges.

Mr. Brierley stated it would be at least a couple of years since it is still farmland and therefore at the bottom of the list of priorities for land to be included in the UGB.

Councilor Soppe referred to page 37 under development review and asked, if Yamhill County approves the development plan and they do not build before annexation, are we bound to what Yamhill County has approved as standards. He wondered how soon you have to build after the approval is received.

Mr. Brierley said he did not know, but they are showing what they are going to build.

Councilor Bob Larson recalled in this area east of Benjamin Road there is marsh land or low land and asked if that is where the land for the winery is to be and if they are building around this. Staff replied that is correct.

Councilor Jeff Palmer noted some discrepancies on in the current zoning of the property by Yamhill County. Staff stated they believed it to be EF20.

Councilor Roger Currier mentioned something he read in The Newberg Graphic where they interviewed someone who stated a septic system would be problematic for the city.

Mr. Brierley stated he believed a sewer system would be better in the long term.

Councilor Currier made reference to page 42 stating it does not say who the parties are from the city who will sign off on amendments and such. He expressed concern that portions or segments would be changed through staff decision and would not come back to council.

Terrence Mahr, City Attorney, stated at this point the request is for council to authorize the city manager to sign on their behalf. In the agreement if it is developed to code, it is a type 2 and does not have to come back.

Councilor Currier brought up concerns with the transportation not being developed to city code, alluding to the bicycle path that should be on a public road. He believed all curbs and gutters, etc. should be developed to city code or it would not happen later; otherwise if and when they are annexed they would have substandard lots. He stated he disagreed with a process where the council and the city have no control.

Staff responded this is part of the subdivision application and they are not developing to city standards, but instead they are developing in the county. This would only be different if development did not occur until they were annexed. It was noted that city staff will not be making type 2 decisions, the county will be.

Councilor Soppe mentioned page 39, item g that roads should meet city fire standards which would apply even if developed in the county. He says this tells him they do not have to put in curbs, gutters, and adhere to city road widths. He asked if there has to be a full right of way.

Mr. Brierley replied if you are talking about the roadway itself they have proposed 22 feet which is enough to meet city standards under certain circumstances.

Councilor Soppe asked if it does not meet standards for fire access.

Mr. Brierley said the proposal is for a 50 foot right of way.

Councilor Soppe argued that it is outside of the agreement and nothing binds them to that. He believes that should be included in there because if they do not have room for curbs, gutters, and sidewalks, they will never be put in there. He continued looking at page 39, item f, stating it does give us a pedestrian/bicycle access along Benjamin Road. He said he is uncomfortable with the change and understand Exhibit 1 is not final, but wonders what the objection is to having it worked out and brought back to council with the several suggestions that have been made included.

Mayor Andrews opened public testimony stating he would allow the proponents a little extra time.

Proponents:

Steve Abel, attorney representing the McClure family, stated the order of presenters and believed we could come to a cooperative agreement as to how to develop this property. He mentioned they are also in the process of approval at Yamhill County concerning the subdivision and the road pattern which will be completed within the next 30 days.

Ellen McClure approached the council with an explanation as to why they want to do this. The property is about to be broken up and they have taken care of it for 40 years and it is beautiful. The orchard is 80 years old and in decline. They are treating it but not winning. They are planning to break it up into independent small parcels but have a vision for a beautiful neighborhood. She said that Newberg needs housing and they need water. She also notes that she has had city water out there for 40 years and it was there when she came. She is asking the city for an extension of that water service. She mentioned the historic buildings being on the national register and her fears of what can happen if it is developed by someone else. She said they care about doing this in the best way possible and therefore found the best team they could to do the job of fitting the farm and property into the surrounding neighborhood.

J. Douglas Macy, architect from Walker Macy Landscape, presented the overall plan for the property (see official record for full report).

Mr. Abel discussed the plan for one acre lots with a substantial amount of open space within the subdivision. He mentioned their desire to be incorporated into the city. He stated public water and sanitary sewer makes good sense. The property is at an important edge of city; however, the law does not allow sewer to be extended outside of the city. He regarded the septic systems as a timing issue and a risky expense if rules change over time. He said they are asking the city to lock in the standard at the time of agreement. They are trying to work something out where the city can be given something they want while preserving the ability to move development forward. He believes this agreement has reached a good balance and, if annexation can occur, the water lines will be in place. He requested approval to move forward and to defer to the city manager to make final decisions.

Councilor Currier referred to not putting a sewer system in and then sticking the future owners with the cost and he also asked who pays for the pump station.

Mr. Abel replied this is difficult to put in the agreement and it is not in because there is no ideal solution. He said during the sales process it is their responsibility to incorporate that possible expense into the obligation and the development agreement would be binding to those folks as well. He agreed if they could quickly get into the UGB it would be a much better solution.

Councilor Currier asked what he thought of his previous suggestion to require in the agreement a time limit of one year post annexation to have all roads to city standards.

Mr. Able said they cannot take that kind of risk as it would be a tremendous expense and would not be feasible.

Councilor Currier wondered why city code was not researched when plans were created for the property.

Mr. Abel said their belief was they were being asked to meet city fire standards.

Councilor Larson mentioned that Ms. McClure has had city water for over 40 years, but being asked to bring water not to that address, but 69 acres of land where each lot would have septic and well already. He believes that since there is no assurance it will be annexed into the city real soon he is not for bringing city water outside of the city.

Councilor Soppe questioned the open space and trails and if they would be available to anyone. He asked for clarification that it was not their intent to put wells in but to have city water and although sewer could not legally be provided they did have interest in looking into the UGB process if completed in a timely manner

Mr. Able replied that was all correct but while they have interest in the UGB it is important to move development forward.

Councilor Soppe referred to the street width of paved part of the road and asked if it will meet fire standards and if it was adequate for today's standards of 32 feet of pavement.

Leigh Leighton, AICP from Westlake Consultants, Inc., responded they provided in the proposal to county to be a private street system with a 50 foot wide track that would have public right of way and public utility easements. Discussing the bike trails running parallel to roads, he mentioned that city standards were for an urban environment, whereas this is an organic form trying to work with the land which is naturally curvy and not in block formation. The 50 foot corridor would provide the right of way for future improvements with a shared access easement by a tract of land to accommodate the shared roadway.

Councilor Soppe asked what concerns there were for the suggestion to re-approve when council has the amended agreement in front of us.

Mr. Abel replied it makes good sense to allow the authority to be given to the city manager to deal with the tweaks to the agreement. He expressed concern for putting in another 30 days of work if there are not currently enough votes on council to go through with it.

Discussion followed about private streets having common access and the streets meeting city standards.

Mayor Andrews opened the floor to the undecided and opponents.

Undecided or Opponents:

Francis Hunter stated he lives near the property and is currently undecided. She states she is not opposed to it but wants her concerns addressed first. Her concerns were related to density and wanting it to be no denser than one acre lots. She encouraged council to hold out for 32 foot wide streets since there will be young families and sidewalks will be needed and will not happen if it does not occur early in development. She said she was in favor of bringing city water to this area because those of them with wells know it would be expensive for those living there and thought the cost should be passed onto the developer. She is also concerned for the future of Benjamin Road since the closure of Springbrook Road has increased traffic to a dangerous level and there must be some alternative measure to send traffic out Putnam especially if including the retirement community later.

Councilor Larson asked if she would vote for this annexation since opposed to the other two annexations.

Ms. Hunter stated she would only if her concerns were addressed.

Councilor Soppe stated the decision tonight was whether to provide water and sewer and not that if annexed then it could be developed at a higher density. He stressed we are not discussing the annexation but whether or not the city would like the opportunity to have some control. He asked why she would prefer sidewalk rather than the walkways.

Ms. Hunter said she was not sure she was opposed, but she would like to have it more pedestrian friendly and make sure that is included.

Donna Henley stated she is building on lot adjacent to the north end. She finds walking a great pleasure, but since the closure of Springbrook Road she does not dare to walk there any more. She said the traffic report for this development calls for 40 homes with expected additional trips to be 30 in the morning and in evening 40 on Benjamin Road. She believes the study does not account for two people going to work and no one to be taking children to school. She also noted the later building of the retirement home will all access onto Benjamin Road. Since the current speed limit is at 55 mph and if everyone went 55 mph it is a narrow street and there would be no place to get off. She asked about the roads outside of the development and if they will be used the same way. Use of Benjamin Road is to go around to Springbrook to get to 99W since it is too busy. She discusses the drainage spots for the septic and in the drainage fields they leave out hers. There is a swale on their property with 10 foot hole at the moment that has rock in it. She believes they will have more septic and well problems than they think, and with two houses per well it will be problem for all of us with this type of density.

Councilor Soppe asked what will meet her concerns if council approves this.

Ms. Henley said she is worried about the annexation and that this puts it one step closer to being annexed since the city will push for this.

Councilor Soppe clarified the condition is city staff has to push for it but the council is not obligated to and it still has to go to the voters.

Ms. Henley believes it makes it easier to say they are already attached.

Councilor Soppe argued they already have approval from county and can develop it with wells, if they want to.

Councilor Palmer asked if she has taken these concerns to the county.

Ms. Henley stated they just got here.

Councilor Palmer wondered if she realized we have no power over that.

Vicki Shepherd said she supports the McClure's development of one acre lots but is concerned the city will change things. She said she mistrusts the city's agenda and is opposed to being surrounded by the City of Newberg. She likes the rural surroundings and does not like the city telling how it is to be. If the City is trying to protect watershed, then this should be their only concern. She also believes Benjamin Road is a dangerous county road; there should be a stop sign at Putnam and a speed limit change.

Mayor Andrews said that should be taken to county because we have no jurisdiction.

Councilor Soppe asked what her concerns were since we are not addressing the annexation issue.

Ms. Shepherd said she believed council was addressing the annexation since it is in the contract that it will be supported.

Councilor Palmer asked her to identify her distrust of City of Newberg.

Ms. Shepherd accounted issues like council wanting no more Oxford Lake Estates and no gated communities and allowing 5000 square foot lots. She believes it is a well thought out plan and does not want the city to have any say in how it is developed.

Councilor Bart Rierson asked if she supported the city providing water.

Ms. Shepherd said she does not see a problem with that since they already are providing it.

David Jensen stated he had mixed feelings since the McClures are good people and are well within their Measure 37 rights to develop into one acre lots. He has difficulty with the hop-scotching of city services, realizing this is a special case here, but he is hard pressed to find support in existing city ordinances. He says the citizens are the council's employers and they have spoken to additional growth in this part of town. The voters have given council a mandate about growth in Newberg and it is pretty clear they believe there has been enough. He is concerned also with how the traffic that will be generated will be mitigated so traffic safety will not be compromised with the danger of 99W. He does not believe it is ready for approval.

Councilor Soppe asked what he was objecting to in the areas of providing water or having it pulled out of wells.

Mr. Jensen said he believes giving city services outside of the city is just one more step to giving them inside city boundaries.

Councilor Soppe clarified he would rather they not draw water from wells and still have the issue of traffic.

Mr. Jensen agreed that is where he stood.

Mayor Andrews called for rebuttal.

Charles McClure stated he wanted to assure the neighbors they did not want to develop the farm but they have to if they do not want to let their kids be burdened with the decision. The first decision was they wanted to develop in the city rather than Measure 37, putting high density on property because that is what LCDC requires. They started thinking and decided they did not want to do that, and therefore came up with this plan. He assured them all that they were committed to not do any further development to south until it is in the city. He also warned if they do not do this someone is going to buy this property and develop it into smaller lots.

The public hearing was closed and the floor given to city staff for closing statements.

Mr. Brierley explained that a land use decision was required by state law. Although the city does not typically have these streets with the zoning of one acre lots, it is appropriate. He said it was suggested to put the subdivision in the agreement to make it more binding for one acre lots. He recommended approval of the ordinance. He said it is possible to come back, but he recommends a tentative vote to approve and then we can come back for finalization.

Mr. Bennett discussed the impacts of Measure 37 and the benefits to the city to work through the development of this property. He had concerns about the impact of 37 wells and septic systems and noted there will still be traffic problems on 99W and Benjamin Road. He asked if it were better to have it developed by county or with the city so they can have some control to identify some of the issues and concerns raised.

Councilor Currier expressed concern for the traffic issues and the fact there was no guarantee on the size of the retirement village. He also disagreed it was good for the city, maybe because of fear of not having control. He mentioned effects on Otis Springs if they put in wells. He disagreed that there was any guarantee the subdivision would be build no matter what. He did not like jumping over County property to provide city water. And although it may be beautiful it would still be one big piece of non-conforming, substandard property in the end.

Councilor Mike Boyes expressed concern about setting standards for giving water outside of the city.

Councilor Larson repeated his belief the city should do nothing until it comes into the city limits.

Councilor Soppe said the voters gave us Measure 37 and though he is not excited about this kind of development his choice tonight is whether city will be part of or not. He said he would not want the water coming from wells if he lived in the area. The annexation will be decided by the voters but building will still occur. Issues have been raised and reasonable solutions given that need to be written in there. He believes we should try to get it into the UGB so we can provide sewer. He is in favor if the suggested changes are made and brought back but he did not think we should waste staff time or the applicants' time if we are not going to approve it at all.

Councilor Palmer stated he realized there were concerns about curbs, streets, and gutters but because these are one acre lots it is different. He said he likes the idea of a rural setting and believes it would be a positive addition to the area even if not in city. He pointed out there would be no cost to city to bring them water but to the developer instead, but the possibility is that the city can receive the revenue.

Councilor Rierson states he understands the citizens of Newberg sent a message with the denial of the last two annexations. He said the issue is the McClure's have a valid Measure 37 claim and without city water they will build 37 lots and will use wells and septic lots which cannot be beneficial to people living out there. Septic runoff into the watershed cannot be a good thing. He thought this should be sent back to staff for fine tuning. If it is approved then we should do what we can to bring it into the UGB and he believes the people of Newberg will have a chance to vote. If they do not want growth in the city, providing water or not is not going to change that and the traffic. He agrees the sidewalks will not be traditional but it will be a safe and desirable place to live.

Discussion followed concerning the bicycle safety along Benjamin Road and under what basis water is currently provided to the McClures. It was a matter of a line being run from Otis Springs at an earlier date and since the water was not potable the city system provided a line at that time.

Mayor Andrews addressed some valid concerns about the issue of protecting the integrity of area by protecting the level of density and he thought it was possible to address that in the development agreement. He is concerned all could be impacted if we do not protect the water table. He believed staff should take another look at the ordinance and development agreement to accommodate the issues.

Discussion followed about whether staff had enough information to include what council is looking for and how to proceed. Staff was only unclear about the degree of the council's support on some issues and recommended a motion be made to bring it back with a tentative approval. One modification was noted concerning providing sewer. If brought into the UGB it currently says upon annexation that there would be some way of guaranteeing the density for one acre lots forever. There was also thought to some language being included about the issue of expiration of the county approval.

Councilor Rierson suggested including something to do with facilitating bringing it into the UGB in a timely manner to have city sewer instead of a septic system.

Mayor Andrews asked to have item number 3, annexation without UGB process, deleted.

Mr. Brierley noted the benefits to have the property annexed would be the city's receipt of development fees and property taxes

Councilor Soppe stated there were implications that annexation would be successful and he would rather not say that we are pushing it. He would like to take that out of there or change the language to indicate they can apply whenever they want to.

Mr. Mahr suggested the language should be they will apply when the city requests them to.

Councilor Soppe agreed but did not want it to force them to do it in 6 months.

Discussion continued over the ordinance and the decision to supply water outside of city limits other than in hardship situations. It was determined council had the right to override city code, which is why a new ordinance is created. There were comparisons made to the decision to provide water to another Measure 37 property because it was a gain for the city.

MOTION: Rierson/Soppe to have staff review **Ordinance No. 2007-2671** concerning the development agreement with Charles and Ellen McClure to allow municipal water service connection and setting forth terms for annexation, making additions and amendments to it as discussed and bringing it back to council in final format for approval on June 4th, 2007. This is to be done without tentative approval. (5 Yes/ 2 No [Larson, Currier]) Motion carried

Mayor Andrews called for a break at 9:47 pm and reconvened at 9:56 pm.

IX. CONTINUED BUSINESS

Consider a motion approving **Order No. 2007-0006** finding no compensation is warranted under ORS 197.352 for a claim filed by Shilo Inn Newberg, LLC. ***(Please bring your items you received in your May 7, 2007, Council packet)***
Quasi-Judicial

MOTION: Andrews/Soppe to postpone further action on **Order No. 2007-0006** finding no compensation is warranted under ORS 197.352 for a claim filed by Shilo Inn Newberg, LLC until November 19, 2007. (6 Yes/1 Absent [Boyes]) Motion carried.

X. NEW BUSINESS

1. Consider a motion approving **Resolution No. 2007-2706** amending the City Attorney's employment contract allowing him to accrue vacation in accordance with the Personnel Rules and Regulations.

Mr. Mahr announced his abstention from the discussion since the resolution concerns his own employment contract.

MOTION: Larson/Currier to approve **Resolution No. 2007-2706** amending the City Attorney's employment contract allowing him to accrue vacation in accordance with the Personnel Rules and Regulations.

Councilor Soppe noted the city was well behind on contract reviews and asked if this can be made retroactive. He added his belief that it was inappropriate to raise this as a single issue.

Councilor Currier pointed out the need to change the word "approve" to "accrue" in item 2 on page 131.

Mr. Bennett clarified the reason this issue was brought to council is because a clause in Mr**.** Mahr's contract was never updated before the present contract was approved. The amount of vacation should be based on the time served and there was an obvious oversight concerning the appropriate amount.

Councilor Currier pointed out the contract was reviewed eight years ago and there should be some sort of review schedule or written plan maintained.

Councilor Boyes also agreed there was a need to be timelier in reviews of City Manager and City Attorney contracts. Other than that, he has no problems with the amendment.

VOTE: To approve **Resolution No. 2007-2706**. (6 Yes/ 1 No [Soppe]) Motion carried.

2. Consider a motion approving Resolution No. 2007- 2710 approving adjusted garbage and recycling service rates for Newberg Garbage Service, Inc.

Mr. Bennett presented a request Newberg Garbage & Recycling Service to adjust the current rates. The last general rate increase was in 1999 with small adjustments since the introduction of recycling. Every two years the review process is completed and the latest review suggested it was appropriate to request a 3.5 % increase, effective July 1st, 2007.

Mike McCullough, Controller for Newberg Garbage & Recycling Service, noted the key elements of the request were on pages 142-144. He pointed out a comparative chart showing the rate increase would place Newberg's rates in middle part of rates compared with other cities. There were also general background comments of how they got to where they are today and the results of operations in two years (see official record for full report).

Councilor Currier asked if residents were ever requested to place the garbage containers and recycling bins in specific way to make them easier to pickup.

Mr. McCullough stated the participation of recycling is only at 60%, so the other 40 stops out of 100 they are only picking up one can. He said the education could be done, but they have not targeted this. The cans are identified by color and the driver has to physically swing the gate, which could cause contamination if it goes on the wrong side; however, the City of Newberg has had a low contamination rate.

Mayor Andrews asked if the provisions of the resolution from 1999 calling for the two year reviews were perpetual until we make a change. Staff stated this was correct.

Discussion followed concerning the fiscal impacts of the 3.5% increase in rates resulting in only a $38,000 annual increase. Mr. McCullough explained that all charges combined come out to about $95,000 total revenue. With each truck costing about $250,000, even with a 24% customer increase they still need a rate increase for the new truck and additions.

Councilor Rierson addressed page 146 and the oversize can and weight charge questioning why it was needed when men did not need to lift cans anymore.

Mr. McCullough stated that they do run into people filling them with dirt and rock and although the arms are stronger they can still be overweight and the hydraulic arms cannot pick it up. The cans must be weighed to see how a 95 gallon bucket can weigh 525 lbs.

MOTION: Palmer/Currier to approve **Resolution No. 2007-2710** approving adjusted garbage and recycling service rates for Newberg Garbage Service, Inc.

Councilor Larson was concerned if this was approved there would be complaints from the citizens who already have problems in paying their bills.

Mr. McCullough mentioned the large amount of customers would only create a small monthly increase for most residents. Plus they have added drop off points at the front door and are taking payments over the Internet to make paying easier.

Councilor Currier asked if he passed the credit card service charge on to his customers.

Mr. McCullough replied it was just the cost of doing business and by making it easier for people to pay there bills there is a lot less credit loss.

Councilor Larson asked if he charged the percentage to his customers using debit cards.

Mr. McCullough stated he did not directly charge them the fee.

Councilor Soppe asked if he charged the percentage he pays for the credit fee and if he had significant software costs.

Mr. McCullough answered no to both questions.

VOTE: To approve **Resolution No. 2007-2710.** (Unanimous) Motion carried.

3. Consider a motion approving **Resolution No. 2007-2711** amending the Fire Association's Collective Bargaining Agreement.

MOTION: Currier/Boyes to approve **Resolution No. 2007-2711** amending the Fire Association's Collective Bargaining Agreement. (Unanimous) Motion carried.

4. Consider a motion approving **Resolution No. 2007-2712** authorizing the City Manager to enter into a Professional Services Agreement with URS Corporation, to provide a storm water Total Maximum Daily Load Implementation Plan.

Paul Chiu, Senior Engineer, presented the staff report (see official record for full report).

Mayor Andrews referred to page 160 and the Total Maximum Daily Load (TMDL) requirements asking if Newberg was required to meet all six minimum requirements or if they would just like us to.

Mr. Chiu replied it was not mandated yet but being similar to the phase two situation it depends on the population of the city and is a convenient way of being in position to handle situations expected of us in the future and we want to be in a strategic position.

Discussion followed about the time delay from when the order was received in November to when the City responded in March. Staff stated the requirement was to have a plan in 18 months which is what they will do. It was mentioned that initial budget limitations stated we only had $50,000 and the applicant came in just under that limit.

Councilor Currier stated he was uncomfortable giving it to the only applicant when it was our fault for waiting.

Staff attributed the time lapse to business volume and lack of staff resources, stating there was enough time to put a proposal together but not a full report. However other cities larger than Newberg have been looking for a consultant to do and are paying twice as much as we are proposing to pay.

Councilor Currier still stated he was not comfortable with submitting it at the last minute and although it may be a great bid, we may not have gotten the best.

Councilor Soppe asked what the real requirement of the state was.

Mr. Chiu replied some targets are established relative to how we deal with pollutants and to see what programs we have and make a move to improve the quality of those programs after five years with yearly monitoring and reporting.

Councilor Soppe asked for the specific TMDL requirements for and how far off we are from those being imposed.

Staff stated that DEQ has not set those limits yet and the current focus is on two components: best management practices and implementing guidelines. There are no numerical targets.

Mayor Andrews asked for verification that this constitutes an unfunded mandate.

Mr. Bennett replied there was no assistance available from the state, but the mandate is passed down from the federal government.

Councilor Rierson asked if there was a reason why we could not reopen the bid process.

Dan Danicic, Public Works Director, replied that we could do that but we would still be looking at a $50,000 budget and although contractors may vary in price we are still looking at most qualified and we will not see a significant change in the number.

Mr. Chiu also acknowledged the assistance of **Mr. Jason Woods** from the engineering department as playing an instrumental part in the process.

MOTION: Larson/Soppe to approve **Resolution No. 2007-2712** authorizing the City Manager to enter into a Professional Services Agreement with URS Corporation, to provide a storm water Total Maximum Daily Load Implementation Plan. (6 Yes/1 No [Currier]) Motion carried.

XI. COUNCIL BUSINESS

Councilor Palmer gave an update on the Animal Shelter subcommittee and passed out a report (see official record for full report).

Councilor Soppe thanked him for such a thorough report and expressed concern for the $1.17 million price, addressing a 20% contingency, 10% inflation, square footage costs, and the cost of land. Newberg Animal Shelter Friends (NASF) has come up with $250,000 in contributions, which is quite an accomplishment but there is still a long way to go. He asked if there were any rough ideas of where additional funding can come from.

Darlyn Adams, representative of NASF, stated there has been a problem getting a promise of funds because they cannot give a target date, which most grant organizations are requiring before they will estimate their support. She can think of no way to estimate a potential amount because of this.

Councilor Palmer mentioned they have requested the assistance of **David Beam, Economic Development Coordinator,** to help get the process started.

Councilor Boyes asked why they cannot give a tentative date to build to the grant funding sources.

Ms. Adams replied they have set anticipated groundbreaking for the spring of 2008, but without a specific date you cannot just say you will start building and then not do so at the intended time or they will take the money back.

Councilor Palmer added they would not get any future grants if they did not use it either.

Mr. Bennett stated he will talk with Mr. Beam and Barton Brierley to see if there is time available to assist with the grant writing.

Mayor Andrews suggested tapping into resources at the college and staff replied they would explore that option.

Councilor Rierson inquired whether it was appropriate to take money from the General Fund for the Animal Shelter to increase the pot of money.

Mr. Bennett replied it would only be possible with a dedicated funding source considering there are already too many demands on the General Fund currently.

Councilor Currier thought there should be a policy in place for how to address dealing with annexations after they get turned down by the voters. Should the annexation go through the whole process again, or can it be waved through to go on the ballot again.

Mr. Bennett stated that council approved the annexation and then set it for election on a specific date. If the applicant asks to put it back on the ballot, it would not have to go through the approval process again unless there was a change to part of the plan. But council is also not required to put it back on the ballot.

Discussion continued on whether there was anything in the code that stated once it was approved it was always approved. This was considered true unless council takes other action through the form of a resolution. Staff mentioned that some cities consider the vote the end of the annexation process but that land use approval does not expire. It was discussed whether council has the right to go back and revoke the annexation approval and it was determined they do if proper notice is given.

Councilor Rierson reported on meetings with the Yamhill County Transit Committee and that they have collectively gotten local cities combined into one county wide agency to get additional funding and grants. He mentioned there will be a big change coming with the grants provided.

Councilor Boyes noted that the area between 1st Street and Hancock Street needs to be mowed stating it looks awful. An agreement stated that it should be maintained. He asked if it could be cut down.

Mr. Bennett replied it was a code enforcement issue and would be referred.

Councilor Larson reported on the Public Television Access Committee and the need to schedule a time to meet.

Councilor Currier made a formal complaint about the trailer house and the pickup for sale at Yoyo's, the garage sale sign at 1st and the parking mess at Morton St & Old Hwy 99.

Mr. Bennett replied Yoyo's had their permits at when it was first looked into. These will also be referred for Code Enforcement.

Councilor Boyes stated a citizen complained about the east part of town being un-mowed and rock needing to be cleaned up.

Mayor Andrews closed the business session of council and suggested they complete the items within the executive session at 11:35 pm.

XII. EXECUTIVE SESSION

1. Executive Session pursuant to ORS 192.660(2)(d) relating to labor negotiations – Fire Association's Collective Bargaining Agreement.

2. Executive Session pursuant to ORS 192.660(2)(h) relating to current litigation or litigation likely to happen.
   Measure 37 Claim – Shilo Inn
   Roth vs. City of Newberg

Executive session was held during City Council Work Session and completed after the closure of the regular business session. No action was taken. Regular session was reconvened at 11:42 pm.

XIII. ADJOURNMENT

MOTION: **Larson/Boyes** to adjourn at 11:43 pm (Unanimous) Motion carried.

ADOPTED by the Newberg City Council this 18th day of June, 2007.

James H. Bennett, City Recorder

ATTEST by the Mayor this 21st day of June, 2007.

Bob Andrews, Mayor