

CITY OF NEWBERG COUNCIL MINUTES
MARCH 17, 2008
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM

Work Session was held prior to this meeting. A presentation was made on potential urban renewal district for historic downtown. No decisions were made.

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:00 PM.

II. ROLL CALL

Members

Present:	Mayor Bob Andrews	Mike Boyes	Roger Currier	Bob Larson
	Jeff Palmer	Bart Rierson	Marc Shelton	

Staff

Present:	Robert I. Tardiff, City Manager Pro Tem	Dan Danicic, Public Works Director
	Barton Brierley, Planning and Building Director	Terrence Mahr, City Attorney
	Brian Casey, Police Chief	Norma I. Alley, City Recorder
	Jennifer L. Nelson, Recording Secretary	

Others

Present: Victor R. McKay, Lesley Woodruff, Bob Woodruff

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was lead by Boy Scout Troop 262.

IV. CITY MANAGER'S REPORT

Mr. Robert I. Tardiff, City Manager Pro Tem, reported on the new telephone system and spoke of a meeting with the City Manager of Dundee for planning services.

V. PUBLIC COMMENTS

None.

VI. CONSENT CALENDAR

1. Consider a motion approving **Resolution No. 2008-2774** filling a position in the Fire Department.
2. Consider a motion appointing Tony Rourke to the Citizen Rate Review Committee.
3. Consider a motion approving City Council Minutes for February 19, 2008.

4. Consider a motion approving a request to waive the City's design review fee of \$325.00 for a playground to be built at River and Second Street.

MOTION: Currier/Larson to approve the Consent Calendar including the Regular Session City Council Minutes for February 19, 2008 as amended, **Resolution No. 2008-2774**, a motion to appoint Tony Rourke to the Citizen Rate Review Committee, and a request to waive the City's design review fee of \$3265.00 for a playground to be built at River and Second Street. (Unanimous) Motion carried.

Mr. Tony Rourke briefly addressed the council about his background and reasons for applying to the position.

VII. PUBLIC HEARING

Consider a motion approving **Order No. 2008-0010** affirming Planning Commission decision to approve, with conditions, a conditional use permit for two single-family homes on one lot in the R-1 District located at 402 Dayton Avenue.

TIME – 7:08 PM

Mayor Andrews called for any biases, conflicts of interest, ex parte contact, or abstentions; none stated.

Councilor Bob Larson stated he visited the site this afternoon, he met with **Mr. and Mrs. Woodruff**, neighbors to the site, he spoke with the gentleman renting the house, and he walked around the property. He did not feel anything he saw or heard would sway his vote this evening.

Council Jeff Palmer declared he has visited with **Mr. and Mrs. Woodruff**, but did not discuss anything that would have any bearing on his decision this evening.

Councilor Mike Boyes stated he has driven by the site.

Mayor Andrews said he had contact with a citizen that wanted to testify and discussed nothing more than how to testify; he also received an email from **Mr. Woodruff**. He said any decisions he makes will be based on record this evening.

Mr. Terrence Mahr, City Attorney, made the required legal statements concerning quasi-judicial hearings and process.

Councilor Bart Rierson asked if the City is the applicant. Staff replied **Mr. Victor McKay** is the applicant and the City is the appellant.

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

Councilor Roger Currier asked about driveway widths and required access for a second dwelling. Staff discussed easements and measurements. He also asked about cutting the walls open for inspections to occur for all the plumbing and electrical items. Staff replied this would occur for the work done without permits and a fee will be imposed as well.

Councilor Larson questioned the requirement to remove the car ports for emergency vehicle access and how that would make any difference with the 3-4 vehicles parked in front of car port by the current renters (some which are not currently drivable).

A discussion followed concerning emergency vehicle access and the possibility of requiring a different arrangement for parking in order to prevent the second dwelling being blocked by tenant vehicles. It was suggested to require a sprinkler system in the rear dwelling unit in order to mitigate possible access problems.

Councilor Marc Shelton asked if there would be any penalties for construction without permits. Staff replied there would be an investigation fee, which is twice the building permit fee cost.

Councilor Palmer asked if System Development Charges (SDCs) would have to be paid as well. Staff replied they would and at the current rate.

Councilor Shelton asked what the building was originally classified as and if a conditional use permit places an additional charge for utilities. Staff replied it was based on the number of bathrooms.

Councilor Rierson asked if there were separate water meters. Staff did not believe the separate meters would be required but there is a limit to the amount of fixtures an owner can have on one service and it would be required if the property was subdivided.

Councilor Palmer pointed out an error on the original public noticing where the date was incorrect and asked if the hearing could continue. Staff informed him the error was noticed and corrected within the required time frame.

Public testimony opened.

Proponents:

Mr. Victor McKay stated he did not acquire the property until 2006, there had been electrical capabilities but it was not used as a living quarters. He raised the foundation, placed some pillars and posts, tongue and groove flooring, and paneling. In October 2006 he completed some modifications which he thought were permitted because it already existed, he discovered the only permit was for a garage. He said he added siding and partitions. He spoke of an issue with pets owned by tenants there and other neighbors. He evicted the tenants on October 30th, 2007 but they did not vacate until January 2008. The original County inspectors stated it was safe for habitation but would require a conditional use permit which is how the process started. He stated he was willing to meet all criteria.

Councilor Shelton asked how this building was referred to on the title when it was purchased because there were some discrepancies concerning the size.

Mr. McKay indicated appraisals noted an 800 square foot farm structure or accessory building.

Discussion followed about the electrical plugs on the partitions and the involvement of Yamhill County because of the nuisance code enforcement.

Opponents:

Mrs. Lesley Woodruff stated the staff report presented to the Planning Commission (PC) asked commissioners to ignore the structure was illegally built and to look at the features separately. She feels the problem is that it was illegally built. She stated when they moved into their home in August 2006 the structure was only bare studs and no roof; although remodeling requires permits, this was built without permits and the PC never addressed this. She is concerned a precedent will be set that building can occur without planning, which is not the best thing for the community.

Mr. Bob Woodruff thanked Council for their consideration and referred to a letter he wrote to the PC stating his opinion this project did not meet criteria. He felt the PC looked at only a few branches, rather than the whole forest; viewing this as a dispute between neighbors rather than an issue of community standards. He questioned whether the building codes were merely a wish list or if they truly had force. He asked Council to deny the conditional use permit approved by the PC. He felt it could either stand as a well finished workshop or start the process over again, allowing community input. He did not have a problem with the structure, only with it being a residence because it did not blend into the community. He felt the design features required are only window dressings on something that should not have happened.

Councilor Palmer asked if he would still have a problem with the structure as a dwelling had it gone through the proper procedure.

Mr. Woodruff felt he would have had input on the placement of the structure on the property so it was not so close to the property line, making it less intrusive.

Mr. McKay offered a rebuttal concerning the mentioned bare studs in 2006. He stated he removed the paneling to put up new, which could have appeared as bare studs. He stated he made an error and tried to rectify by satisfying the requirements given to him. He understands thinking about community desires and mentioned the lack of rental property in Newberg. He wondered if this was an issue of meeting criteria or just an annoyance to neighbors.

Clarifications were addressed concerning the purchasing dates and exterior vs. interior remodeling, especially concerning the roof.

Mayor Andrews addressed another written comment that was submitted and spoke to staff about following up with that neighbor when a decision was reached. Staff spoke of a public awareness program about the value of permits and assured the City would respond to her.

Mr. Brierley recommended amending the language in the second condition concerning the site plan to resubmit the plan a fire access plan approved by the fire department.

Public testimony closed.

Mr. McKay waived his right to keep the public record open.

Public Hearing closed.

Councilor Boyes spoke of the situation being done backwards but also noted this as an affordable housing opportunity. He felt if the criteria are met, he would go along with this.

Councilor Palmer spoke of his disdain for not playing by the rules in a neighborhood, but he felt the adjustments required to make this habitable would be pretty expensive and he felt inclined to vote in favor based on the criteria with the staff amendment.

MOTION: Palmer/Currier to approve **Order No. 2008-0010** affirming Planning Commission decision to approve, with conditions, a conditional use permit for two single-family homes on one lot in the R-1 District located at 402 Dayton Avenue.

Councilor Larson stated he did not support this at all.

Councilor Rierson agreed building without the permits was not neighborly and there is a reason for these rules to be complied with. He stated his ruling could not be based on his feelings, but if the conditions could be met then he cannot deny it.

Councilor Currier spoke of similar situations and how the desires of the community are set through the development code. He also agreed that meeting the criteria would make this a legal permit.

Mayor Andrews pointed out Council could only deny this based on findings that the development code was not met. Regardless of feelings, he is struggling to find an argument for how this does not meet the criteria; therefore, he will have to vote in favor of it.

Councilor Shelton spoke of livability and not wanting to see the value of the neighbors' property compromised by someone not playing by the rules. He agrees the Council is bound to look at the criteria as met with conditions.

VOTE: To approve Order No. 2008-0010. (6 Yes/1 No [Larson]) Motion carried.

VIII. CONTINUED BUSINESS

None.

IX. NEW BUSINESS

Consider a motion approving **Resolution No. 2008-2773** reducing membership of the Newberg Downtown Revitalization Committee from nine to five members.

TIME – 9:15 PM

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

MOTION: Larson/Rierson to approve **Resolution No. 2008-2773** reducing membership of the Newberg Downtown Revitalization Committee from nine to five members.

MOTION: Andrews/Currier to amend **Resolution No. 2008-2773** reducing the membership of the Newberg Downtown Revitalization Committee from nine to seven members. (Unanimous) Motion carried.

VOTE: To approve Resolution No. 2008-2773. (Unanimous) Motion carried.

X. COUNCIL BUSINESS

TIME – 9:25 PM

Councilor Palmer spoke of a request from the Downtown Revitalization Committee for support. He also addressed endorsing the Urban Renewal District task force. Discussion followed on both subjects to determine what level of City and staff involvement would be appropriate.

Mayor Andrews updated the Council on the Traffic Safety Commission meeting on March 10th which has been tabled in order to obtain cost estimates on a pedestrian activated crossing device on Fernwood Road at the Chehalem Golf Course. Highlights from the meeting were discussed. He also distributed a press release from McMinnville on economic development and twenty-six acres of industrial site.

Councilor Boyes asked staff some questions on big box retail in comparison to large industrial buildings. A discussion followed on urban renewal and how frozen property taxes affect budgets for public safety.

Councilor Palmer spoke of alternatives for the Newberg Animal Shelter.

Mr. Mahr offered feedback concerning the procedure for council appointments being separate agenda items in the future rather than including them in the Consent Calendar.

XI. EXECUTIVE SESSION

Executive Session pursuant to ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

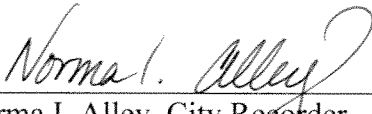
TIME – 9:50 PM

Executive Session was held during Work Session. No decisions were made.

XII. ADJOURNMENT

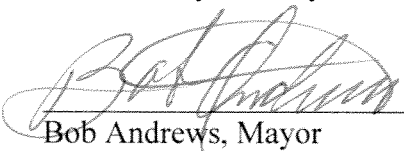
MOTION: **Larson/Palmer** to adjourn at 10:47 PM (Unanimous) Motion carried.

ADOPTED by the Newberg City Council this 21st day of April, 2008.



Norma I. Alley, City Recorder

ATTEST by the Mayor this 24th day of April, 2008.



Bob Andrews, Mayor