

CITY OF NEWBERG COUNCIL MINUTES
JULY 21, 2008
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM
401 EAST THIRD STREET

Work Session was held prior to this meeting. A discussion occurred about garage sale signs, updates on the training room A/V system, and debriefing on the Town Hall session. No decisions were made.

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:07 PM.

II. ROLL CALL

Members

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

Members

Absent: Jeff Palmer (excused)

Staff

Present:	Daniel J. Danicic, City Manager	Terrence Mahr, City Attorney
	Howard Hamilton, Public Works Director	Jessica Nunley, Assistant Planner
	Barton Brierley, Planning and Building Director	Norma I. Alley, City Recorder
	Jennifer Nelson, Recording Secretary	

Others

Present: Larry Hill, Peter P. Backus, Warren Parrish

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. Daniel J. Danicic, City Manager, gave updates on previous Council requests of staff, upcoming Old Fashioned Festival activities, and the recruitment for the vacant Public Works Director position. He spoke of an upcoming presentation he will be making to Kiwanis on the development and future of Newberg.

V. PUBLIC COMMENTS

None.

VI. CONSENT CALENDAR

1. Consider a motion approving **Resolution No. 2008-2799** supporting the submission of a grant application to the State of Oregon to fund sidewalk improvements along Villa Road.

2. Consider a motion approving **Resolution No. 2008-2800** approving the City of Newberg membership into the Oregon Water/Wastewater Agency Response Network and authorizing the city manager to sign the agreement.
3. Consider a motion approving **Resolution No. 2008-2801** supporting the submission of a grant application to Mid-Willamette Valley Community Development Partnership to assist funding the creation of a Newberg South Industrial Plan.
4. Consider a motion approving City Council Minutes for June 16, 2008.

MOTION: Larson/Shelton to approve the Consent Calendar including **Resolution No. 2008-2799, Resolution No. 2008-2800, Resolution No. 2008-2801**, and the City Council Minutes for June 16, 2008 as amended. (6 Yes/0 No/1 Absent [Palmer]) Motion carried.

VII. PUBLIC HEARING

1. Consider a motion approving **Order No. 2008-0011** finding the proposed annexation and zoning map amendment meet the applicable Newberg Development Code criteria and approving **Ordinance No. 2008-2695** annexing property at 3805 Terrace Drive, subject to a public vote on the November 4, 2008, general election.

TIME – 7:13 PM

Mayor Andrews called for any biases, conflicts of interest, ex parte contact, conflicts of jurisdiction, or abstentions. None were stated.

Mr. Barton Brierley, Planning and Building Director, presented the staff report and recommended approval (see meeting packet for full report).

Mr. Terrence Mahr, City Attorney, stated the quasi-judicial process.

MOTION: Rierson/Larson to approve **Order No. 2008-0011** finding the proposed annexation and zoning map amendment meet the applicable Newberg Development Code criteria. (6 Yes/0 No/1 Absent [Palmer]) Motion carried.

MOTION: Andrews/Currier to defer **Ordinance No. 2008-2695** annexing property at 3805 Terrace Drive, subject to a public vote until the first Council meeting of March 2009.

Mayor Andrews supported his motion because he believed Newberg was already adequately supplied with R-1 residential property and did not currently need any more.

Councilor Mike Boyes felt growth decisions would be better determined by entrusting them to the voters and did not support postponing it from being placed on the November ballot.

Councilor Marc Shelton stated he felt since the criteria had been met, it should be brought to the citizens to decide to support it or not and he did not support the postponement.

VOTE: To defer **Ordinance No. 2008-2695**. (2 Yes [Andrews, Currier]/4 No [Boyes, Larson, Rierson, Shelton]/1 Absent [Palmer]) Motion failed.

MOTION: **Rierson/Larson** to approve **Ordinance No. 2008-2695** annexing property at 3805 Terrace Drive, subject to a public vote on the November 4, 2008, general election. (5 Yes/1 No [Andrews]/1 Absent [Palmer]) Motion carried.

2. Consider a motion approving **Order No. 2008-0012** denying a variance to the access spacing standards to allow a second driveway for property located at 1801 Villa Road.

TIME – 7:34 PM

Mayor Andrews called for any biases, conflicts of interest, ex parte contact, conflicts of jurisdiction, or abstentions.

Councilor Rierson, Councilor Larson, and Councilor Boyes all stated they had driven by the property as potential ex parte contact for the record.

Councilor Currier stated a potential conflict of interest. He has been acquainted with Mr. and Mrs. Larry Hill most of his life. He did not feel it would impact his decision.

Mayor Andrews declared he has done business with the applicant in the past.

Mr. Mahr stated his personal residence is within the notification area as a potential conflict of interest; he had no opinion on the matter and did not feel it affected the value of his property in any way. He made the required announcements concerning quasi-judicial procedure.

Mr. Brierley presented the staff report and recommended denying the variance (see meeting packet for full report).

Councilor Rierson asked if there should be sidewalk, curb, and gutter associated with the property. Staff stated it is not required because the property had not been partitioned. In the future a local improvement district (LID) would be the mechanism for curb, gutter and sidewalk to be installed.

Councilor Currier brought up several other properties along this road with varying driveways or unpaved driveways. Staff replied one property has been allowed to use parking in the right-of-way and another had the driveway in place prior to the ordinance requiring paving.

Mayor Andrews added the findings are not fully valid either because they are based on a survey of the portion of the road north of the trestle, excluding anything in the southern portion. He also questioned if any other exceptions have been granted on Villa Road. Staff replied there were none he was aware of other than allowing the use of the shoulder of the road for parking by the bed and breakfast. The agreement with them is that parking would no longer be available when curb, gutter, and sidewalk were installed.

Councilor Boyes stated it seemed the circular driveway would be safer since vehicles would be entering the road head first rather than backing out.

Councilor Currier agreed and also stated that while he understood the staff's argument about circular driveways creating more possible conflict points between pedestrians, bicycles, and vehicles; the driveway does not increase the amount of traffic coming in and out of the driveway. Staff reiterated the driveway did not meet the criteria in the established Code.

Mayor Andrews asked whether heading out of a driveway headfirst or if having less conflict points was safer. Staff agreed backing out of a driveway was not as safe as going head first, but creating more conflict points affected public safety.

Councilor Boyes asked why the bed and breakfast facility had been allowed to park in the right-of-way and if they did not have adequate parking required by Code. Staff replied the Planning Commission made that decision.

Mayor Andrews opened public testimony. No proponents appeared to support denial of the variance.

Opponents:

Mr. Larry Hill, co-owner of the property requesting the variance, reviewed some of the events leading up to his final plan approvals and his final inspection. He was reminded to only give testimony that addressed the criteria. He argued he was never offered a variance application or shown the ordinance prohibiting his driveway plans. He cited other properties with similar driveways and discussed whether the driveway should have been considered part of the house or the garage. He questioned the survey only being completed north of the trestle. He did not understand how he could get his final inspection to move in if the driveway was to be attached to the house, not the garage.

Mayor Andrews clarified with staff that Villa Road was classified as a major collector prior to 2005.

Councilor Currier asked if he would consider a conditional use permit to use the driveway as it is until the property changes hands.

Mr. Hill replied he would agree to that because he wants to retain the driveway.

Mr. Mahr pointed out that although there would be no financial impact to GFU regarding this testimony, council member Marc Shelton is employed by GFU which may or may not be a conflict of interest and he asked if there was any objection to jurisdiction. It would be presumed his decision would be made based on the record heard tonight.

Mr. Peter Backus testified as an adjacent neighbor to the Hill property. He supported the driveway remaining as it is and felt it had minimal daily impact on Villa Road. He stated it was visibly nice to look at and if he paid the fees for the variance, he should be able to keep it.

Mr. Warren Parrish discussed a previous situation where a prominent citizen did not comply with the Code and nothing was ever done. He pointed out this was an issue of fairness.

MOTION: Rierson/Andrews to accept the written testimony into the record. 6 Yes/0 No/1 Absent [Palmer]).

Mayor Andrews closed the public testimony. Mr. Hill waived his rights to submit further written testimony to the record. Staff recommended denial of the variance.

Mr. Mahr reminded the Council that staff upheld the Planning Commission's decision to deny the variance and if this body wishes to make a decision against this recommendation, written findings would have to be submitted to support that decision first.

Mayor Andrews closed the public hearing and recessed for seven minutes; he reconvened at 9:17 PM.

Councilor Currier argued there is a lot of vagueness of communication between the original application, previous staff, the homeowner, and the developer. He said he would look forward to a motion for applying for a conditional use permit.

Mayor Andrews stated there were only two possible decisions, to support the denial or to return the order to staff to re-do the findings in support of approving the variance.

Councilor Rierson understood there were other non-conforming issues and driveways along Villa Road brought up in testimony, but felt it was the applicants' responsibility to follow through when regulations were not being met rather than leaving it to staff to keep him informed. At the same time, he did think this driveway looked nice and would not have the same impact as a coffee house or hardware store during a single day even if there are more points of conflict. He does not believe this is an unsafe driveway and it is supported by neighbors and testimony.

Councilor Boyes felt uncomfortable denying the variance because the driveway looks better and is more permanent than others along that road, it seemed safer that vehicles did not have to back out, and it seemed like expectations were unclear. He thought it should stay the way it is at least until sidewalk, curb, and gutter improvements are made.

Councilor Shelton said he understands there is vagueness but a lot of time passed from the original permit to final inspection and ultimately it was the homeowners' responsibility to recognize the Code expectations when it was originally "red lined". Mr. Hill should not have relied on the builder since they have an economic motivation. He supported staff's recommendation to deny the variance. He did not question the character of the Hill's, but looked on the merit of the record and felt this would set a precedence against both the permit process and the planning process.

MOTION: to table **Order No. 2008-0012** until August 18, 2008 and direct staff to provide findings supporting a variance. (4 Yes [Andrews, Boyes, Currier, Rierson]/2 No [Larson, Shelton]/1 Absent [Palmer]) Motion carried.

VIII. CONTINUED BUSINESS

None.

IX. NEW BUSINESS

Consider a motion approving **Resolution No. 2008-2804** approving an Intergovernmental Agreement for Peer Court.

TIME – 9:43 PM

Mr. Mahr presented the staff report (see meeting packet for full report).

Discussion followed concerning who the established employer would be. It was made clear by staff that each entity would be responsible for worker's compensation for their employees. It was also clarified that conditions were only based on the revenue being available.

MOTION: Larson/Boyes to approve **Resolution No. 2008-2804** approving an Intergovernmental Agreement for Peer Court. (6 Yes/0 No/1 Absent [Palmer]) Motion carried.

X. COUNCIL BUSINESS

TIME – 9:53 PM

Mr. Danicic asked for feedback on the recent town hall meeting. It was suggested to have one long table for writing rather than clipboards, let others speak before going up for a second time, recognizing speakers from audience rather than having a podium, and having a list of names of people speaking on a projector screen. They liked the Mayor walking around with the microphone

Councilor Currier asked for a cellular tower ordinance to make them look like trees. He also brought up a need for clear standards for dealing with panhandling.

Mr. Mahr discussed the Council compensation increase to \$10 and the changes coming up requiring compensation to be claimed for withholding. Compensation for meetings was discussed and pay structure tables were reviewed with tax withholding implemented.

Councilor Larson asked about staff drafting a golf cart ordinance.

Mr. Danicic gave updates on the dispatch consolidation and the request to raise funds from the \$14,000 Newberg contributed. Council was uncomfortable with offering any more than already offered.

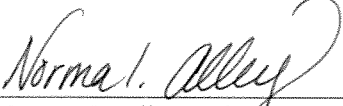
XI. EXECUTIVE SESSION

None.

XII. ADJOURNMENT

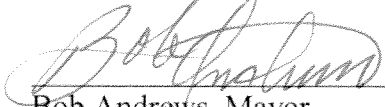
MOTION: Shelton/Larson to adjourn at 11:05 PM (6 Yes/0 No/1 Absent [Palmer]) Motion carried.

ADOPTED by the Newberg City Council this 18th day of August, 2008.



Norma I. Alley, City Recorder

ATTEST by the Mayor this 19th day of August, 2008.



Bob Andrews, Mayor