

CITY COUNCIL MINUTES
MAY 6, 2013
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

A work session was held prior to the meeting. A presentation from Jay Harris, city engineer, and Lee Elliot, assistant city manager, regarding the State of City Streets was given. No action was taken and no decisions were made. Councilors and the Mayor were present with Bart Rierson having an excused absence.

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	Denise Bacon	Ryan Howard
	Lesley Woodruff	Mike Corey	Stephen McKinney

Members Absent: Bart Rierson (excused)

Staff Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Janelle Nordyke, Finance Director	Barton Brierley, Planning & Building Director
	Jay Harris, City Engineer	Lee Elliott, Assistant City Manager
	Paul Chiu, Senior Engineer	Jessica Nunley, Acting City Recorder
	Nicole Tannler, Minutes Recorder	

Others Present: John Kerekanich, Patrick Johnson, Robert Soppe, Diane Gardner, Gay Welliver, Chuck Zickefoose, Raymond & Toni Doty, Roger P. Grahn, and Paul Bock

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. SPECIAL PRESENTATION

“If I Were Mayor...” Contest First Place Winner.

The winner for the City of Newberg is Newberg high school student, Travis Mattoon. He shared with the Council his winning PowerPoint presentation. He will be competing at the state level with his presentation.

V. PROCLAMATION

Consider recognizing Fernwood Grange as a long-serving and historic member of the community.

Mayor Andrews gave a small presentation and congratulations to the Grange.

VI. CITY MANAGER’S REPORT

Mr. Daniel Danicic, city manager, reported Sunday was the annual fire department pancake feed and it was very successful. Newberg Downtown Coalition received \$4,000.00 grant from Waste Management for wine barrel

planters to go throughout downtown Newberg. They are also having the annual downtown cleanup on May 18, 2013, at 10:00am. The annual open house for the police department is at the Public Safety Building from 10am-1pm on Saturday May 11, 2013. This Saturday, May 11, 2013, is also the Newberg bike safety rodeo at the Cultural Center. The second budget committee meeting will be tomorrow night.

VII. PUBLIC COMMENTS

TIME – 7: 18 PM

Mayor Andrews opened public comments.

Mr. Patrick Johnson, Newberg resident, said he wants to learn about the street system and said he learned a lot from listening at the work session. He wants to concur with councilors that something needs to be done and the data discussed was from 2010, and it is 2013 now. He believes street maintenance is a serious problem, and has seen other communities take the lead and pass things. He thanked the staff for the street presentation and said it was very well done. Councilor McKinney stated he too learned a lot from the presenters today and since it is 2013 it is probably around 50% of the streets needing to be done.

Mr. John Kerekanich, Newberg Ford, and also representing Chevrolet and Dodge, stated they received a letter regarding frontage signs. We understand signs need oversight, but we also believe very strongly in being able to merchandise along 99W. He met with the city representative and he was very professional, but said we were in violation of the sign regulations. We do employ many citizens from Newberg and we want to do the best we can to add to the local economy. We asked the city representative how to proceed and he suggested we bring up the issue at a council meeting. We request from council a grace period of 60 days to look at the codes and find some common ground.

Councilor Howard asked how many sign violations there were. Mr. Kerekanich said there is still some confusion as to what is considered a sign. He explained there are some strict regulations from their corporate office they must follow as well. Councilor Howard asked if the issue is with quantity but not type and size. Mr. Kerekanich said it is with both. Councilor Howard stated sign codes are often contested, but thinks council would be willing to work with them on the issues. Councilor McKinney said there may be some things council can do to compromise on the corporate level. The city needs to work for all of its components, including residents and businesses.

VIII. PUBLIC HEARING

TIME – 7:35 PM

Mayor Andrews introduced the administrative hearing and called for any conflicts of interest or abstentions; none appeared.

1. Consider a motion continuing the Public Hearing to June 17, 2013, regarding vacating a portion of the Ninth Street right-of-way dedicated to the City between Industrial Parkway and Highway 219.

Barton Brierley, planning and building director, recommends moving this hearing to June 17, 2013, to have adequate time to prepare.

MOTION: Bacon/McKinney continue the Public Hearing to June 17, 2013, regarding vacating a portion of the Ninth Street right-of-way dedicated to the City between Industrial Parkway and Highway 219. Motion carried (6 Yes/0 No [1 Absent - Rierson]).

2. Consider a motion adopting **Ordinance No. 2013-2769** creating the College Street Local Improvement District for the west side frontage improvement from Illinois Street to Aldercrest Drive.

TIME – 7:37 PM

Mayor Andrews called for any conflicts of interest or abstentions; Mayor Andrews has a potential conflict due to membership in the First Presbyterian Church, none others appeared.

Mr. Lee Elliot, assistant city manager, and Mr. Paul Chiu, senior engineer, presented the staff report (see official meeting packet for full report).

Mayor Andrews stated 60% of the assessed amount is needed to declare remonstrance and staff sent out certified letters to every identified property. Councilor Bacon asked if they reached the 60%. Mr. Elliot replied they are not sure yet because they have until 7pm tonight to turn in the forms. Councilor McKinney asked about the waivers and how they relate. Mr. Terry Mahr, city attorney, said if they have a waiver they cannot remonstrate and they will not be counted toward the 60%, but they can speak against it.

Mayor Andrews asked if this LID (Local Improvement District) is something new the city has done. Mr. Danicic replied this is not new to the city of Newberg as they have found since 1979 there have been 17 LIDs enacted. Councilor Howard asked if there are any options for those who cannot afford the finance loan. Mr. Mahr replied the city can put a lien on the house and they have the opportunity to pay over time. Councilor Howard asked if the owner does not pay, is there interest on the length of the lien. Mr. Mahr said yes, the lien does draw interest. Councilor Bacon asked if the council gave credit to the Presbyterian Church on the sidewalks. Mr. Chiu said yes, they will consider that.

Mayor Andrews opened Public Testimony.

Mr. Robert Soppe, Newberg Resident, welcomes the new council members. He believes the improvements along College Street are greatly needed and appreciates the work to get the grants to help contribute. The discussion tonight should relate to who should fund the city's portion of the improvement, which are: the property owners with Waivers of Remonstrance; property owners without such Waivers; and contributors to the System Development Fund. The property owners with Waivers of Remonstrance are being asked to satisfy their agreement and pay for the improvements and the owners with waivers will only be paying 25% of what was originally owed. The owners without waivers are in a different position as they did not agree to pay for these improvements. It should be a reasonable expectation for any Newberg resident to participate in any sidewalk improvement in front of their property. He asked if these residents do not cover the cost, then who will. Mr. Soppe feels it would almost certainly have to be covered by transportation SDC's, but he does not know who would pay to replace those funds for future projects. He thinks it seems inappropriate for a future developer to fund this improvement, and not the property and surrounding area of their project. Mr. Soppe then said "We have a clear statement in NDC 3.15.070 regarding how objections by property owners representing 60% of the proposed assessment would require the Council to wait 6 months before continuing. In 3.15.050.6 it describes a notice that must be sent to the property owners regarding the public hearing for the LID. In this section it states the owners are to be told that objections by owners of 60% of the property can cause the LID to be suspended." He then said 60% of the property is very different from 60% of the assessed value. Staff should be directed to fix this discrepancy in the code.

Councilor McKinney asked how does the second paragraph subsequently change on page 27 – section 3.15.070 Mr. Mahr responded it is 60% of the assessed value of the homes, not 60% of the property owners.

Mr. Chuck Zickefoose, Newberg resident, stated "I was for this before I was against it". We are in favor of the project and it is the form of the LID that is a concern. I am in favor of helping some of our neighbors who are

going to be hit pretty hard. The citizens would like the city to pick up some of the load. I have a concern about the 60% and have sent one letter to our attorney. We have one question pending to our attorney where in one place it says if failure of the LID occurs the project would still go forward, and in another place it says it will be postponed for 6 months. That is still a concern of ours. Councilor Howard said he has three questions he would like the opponents to answer if they can: why should the city pay for sidewalk in front of your property if we are not collecting taxes on it, where would you recommend the funds come from, and considering we have state funds would you prefer not to take advantage of the funds from the state. Mr. Zickefoose replied this improvement will be good for more than just the property owners. He does want to see it go forward, but is concerned for their neighbors.

Mr. Roger Grahn, Newberg resident, stated on the south end of the map, partition plat 95-89, has two small lots and the addresses are North Main Street. At no time was there an indication these lots were part of the improvement, which means they must have been added after the fact. Mr. Grahn feels he would never have signed a waiver of remonstrance on those 2 lots. He stated that he believes the waivers of remonstrance were coerced because it is how the City does business. Tax lot 2300 and 2600 are not part of the agreement he signed, and although he does not have any paperwork to prove this, he would never have signed it. Mr. Grahn stated he is also opposed to it on another matter, as he is getting close to doing something to this property and we will have to do the improvements all over again if they participate. The process long ago was that it was added after it was recorded. Mr. Grahn suggests a modest improvement to get rid of the ditches, but the benefits are very minimal to the owners who are here.

Mr. Raymon Doty, Newberg resident, said the amount we as property owners are looking at is approximately \$9,500.00. He asked if the amount will go up next year with higher construction costs. Mr. Danicic replied the cost can go up or it may go down. Mr. Doty said concrete has gone up this year, and he is losing quite a bit of frontage and trees. He stated that he has no idea what he is getting for \$85 per square foot and the price of materials is not going to go down. Mr. Doty is for the sidewalks because the kids from the school are walking through my yard for safety and the ditch is a hazard. He explained when they bought the property they were first-time buyers and there was no disclosure. Councilor Howard asked where the funds could possibly come from within the city and if he would not want to use the grant money. Mr. Doty said the City needs to lower the cost and this is a large amount of money for him personally. Councilor Howard asked if Mr. Doty had thought of the benefit of increased value to his property from the sidewalks. Mr. Doty said he is losing all the trees, a large yard, and my privacy.

Ms. Diane Gardner, Newberg resident, stated she opposes the LID. She knows many will benefit from this and appreciates the grant offsetting the cost because it will cost her a third of the initial amount. She said she would change her vote if the city agreed to pay some of the cost. She asked the Council if they could explain where in her personal budget she can pay for the cost. Ms. Gardner suggested they both come up with part of it and look into their budgets to see if it could work. Mayor Andrews asked about her second mailing address and Ms. Gardner said she was currently renting the property on College.

Ms. Gay Welliver, Newberg resident, discussed the impact on Deskins Street. She believes she is going to lose property value with the improvement and she doesn't know how they will fit all the improvements on the street. She would like to see Deskins dead-ended instead, which can create green space and widen the sidewalk. She is concerned about the pedestrians because the street is gravel and very unsafe. Councilor Howard asked if she would care to answer where the funds should come from. Ms. Welliver replied she would like some kind of sidewalk on the street, but there has to be a better way to do it on Deskins Street. She feels sorry for the persons who are sharing the burden with her, and there is never enough funds, but there should be a better way to do it. Councilor McKinney asked if her property is the apartment complex. He stated most property owners have paid for their sidewalks and they met their obligations without a grant from the state. He is concerned about the cost of this and things can get more expensive. If the City were to help, the money comes from taxes which are other residents and property owners in town.

Paul Bock, Newberg resident, is representing a number of residents. Many had never heard of an LID or waiver of remonstrance and many of them have been poring over documents to figure out what is right and fair. They would like to propose improvements to College and understand having the improvement is a benefit to the property. They understand the city has already budgeted these funds and believe the city should share in a portion of the cost. The creation of sidewalks and bicycle lanes will benefit all of the members of the city. Other homeowners have had street improvements and we shouldn't expect to help us. Money is being saved because of the grant and they are not trying to get out of paying their fair shares, but feel the city should help pay for some of the project. Mr. Bock has some older neighbors living on social security and having to pay this amount of money would be very difficult for them. Oregon Department of Transportation (ODOT) is compensating three property owners for right-of-way and Mr. Bock and his fellow neighbors feel the city should help those of us within the city. (Please see official meeting packet for full testimony).

Mayor Andrews called for a 15 minute break at 8:40 pm.

TIME – 8:58 PM

Mr. Elliott reported the results are 13 out of 73 properties were against the LID, which is 18%, and based on assessment values 36.04% were against the LID. 60% is needed to defeat the LID. Councilor McKinney asked if they could choose as a City to not foreclose on the properties which do not pay, but instead wait for transfer of title. Mr. Mahr replied they can do that if financing totally internally but if bonds are used they are required to do full foreclosure. Mayor Andrews asked how it would apply to this LID. Mr. Mahr said they probably wouldn't be forced to foreclose on this project but would not be following through on past policy, which is not a good idea but not illegal.

Councilor Woodruff asked if there is a way to extend the 10 year loan period. Mr. Mahr replied if financing internally then they have some flexibility on time periods.

Mayor Andrews stated he wanted the Council to give consideration on modifying the ordinance to a lesser percentage of the city's participation in this loan from 100% to 75% or to 50%, questions raised on deferring action pending ODOT right-of-way acquisitions for reimbursement, and to try to identify some mitigation for Deskins Street.

Councilor Woodruff said if the loan period was extended she would feel more comfortable voting that way. Councilor McKinney replied he would be reluctant to favor 15 years, and that they should leave it up to the homeowner and what they can afford.

MOTION: Howard/Bacon adopting **Ordinance No. 2013-2769** creating the College Street Local Improvement District for the west side frontage improvement from Illinois Street to Aldercrest Drive allowing a 15 year loan period.

Councilor Howard countered Councilor McKinney's concern with the 3% interest rate and what the city can lose over 30 years. Mr. Elliott said the 3% is an example only. Ms. Janelle Nordyke, finance director, said the city would be financing it themselves. Councilor Howard asked what the source of the funds would be. Mr. Danicic said it would come from the transportation fund and the SDC's. Mayor Andrews said if this is not the interest rate they will be using then what are they adopting. He asked if it could be restated to say that citizens who pay in ten years get one interest rate and any added time will increase that number. Mr. Danicic responded they want to the number to be between 1.5% and 4% for financing. He would recommend fixing it as a lower rate instead of stepping it because it takes more work to track. Mr. Mahr said the assessment is assumed, and interest will be set at an interim rate. He explained once they assess the people they will need to have an agreed upon interest rate. Mr. Mahr further said the citizens can go get their own loan from a different entity and the city's suggested interest rate is 3.25%. When they go to levy the assessment this is what it would cost if the city had to borrow the money.

Councilor Bacon stated she did not think they will have another opportunity like this with the grant. She is confident they are doing the right thing and are being fair.

Councilor McKinney recommended a second reading. Mayor Andrews said it is a Council rule to have a second reading. Mayor Andrews stated he was going to vote to have a second reading. Councilor Howard asked if public testimony would be opened again. Mr. Mahr replied no, but if there is a lot of opposition they may want to consider it. Mr. Danicic said the second reading could be June 3, 2013.

Councilor Howard stated he appreciates everyone coming out and participating in the process. He agrees the street improvements will benefit everyone in the community and is in favor of a fee or tax, however that is not how infrastructure is currently paid for. I think it is fair for the homeowners to pay and it will benefit property value and livability.

Mayor Andrews asked if they are changing the language so the financing is for 15 years or up to 15 years. Councilor Howard said his intention is for there to be one financing option.

Councilor McKinney said he will not support this motion without giving the citizens more information. Councilor Corey asked if at the second reading they will give the interest rate. Mr. Mahr responded at the second reading the council will have the ordinance, the estimated assessments will be there, and the loan time period will be there. Councilor Corey stated his opinion is they need to make the financing very clear and affordable.

VOTE: Howard/Bacon adopting **Ordinance No. 2013-2769** creating the College Street Local Improvement District for the west side frontage improvement from Illinois Street to Aldercrest Drive allowing a 15 year loan period. Motion Failed. (3 Yes/3 No /1 Absent [Rierson]).

MOTION: McKinney/Howard tabling **Ordinance No. 2013-2769** to June 3, 2013, to allow staff to come back with options on the interest rate. Motion carried. (6 Yes/0 No/1 Absent [Rierson]).

IX. COUNCIL BUSINESS

TIME – 10:01 PM

Mayor Andrews discussed the city attorney position advertisement and asked if there is any objection to having it released. No opposition was expressed.

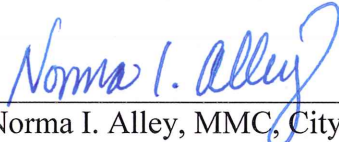
Councilor Howard said he would like to have a second work session on funding options for street improvements. Mr. Danicic asked if the council is comfortable waiting 3 months for methodology on funding for street improvements. Councilor Howard asked if this discussion fares better before or after the goal setting discussions. Mr. Danicic said it is better before goal setting.

Mayor Andrews brought forth a sign discussion and extending the companies a 60 day grace period due to the public comments made earlier. Councilor McKinney said these gentlemen are trying to be in compliance and he would say the 60 days is a little short. Councilor Bacon stated she is all for giving them 90 days to work on redefining some of the language. Mr. Danicic said they do need to sit down with the code and have staff at the work session. He would be comfortable not being too stringent during the time they are working on this. Mr. Danicic suggested scheduling the June 17, 2013, work session for this issue.

X. ADJOURNMENT

The meeting adjourned at 10: 35 PM.

ADOPTED by the Newberg City Council this 3rd day of June, 2013.



Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 6th day of June, 2013.



Bob Andrews, Mayor