CITY COUNCIL MINUTES
JULY 21, 2014, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

A work session was held at 6:00 PM preceding the meeting. A presentation from Jessica Pelz, Assistant Planner and Mike Ragsdale with the Newberg Downtown Coalition regarding the Downtown Vision Update and TSP update-downtown traffic. All councilors, the mayor, city manager, city attorney, city recorder, and minutes recorder were present. No action was taken and no decisions were made.

I. CALL MEETING TO ORDER

Mayor Andrews called the meeting to order at 7:05 PM.

II. ROLL CALL

Members Present:	Mayor Bob Andrews	Denise Bacon	Ryan Howard
	Bart Rierson	Stephen McKinney	Lesley Woodruff
	Mike Corey		
Staff Present:	Jacque Betz, City Manager	Truman Stone, City Attorney	
	Jay Harris, Interim City Engineer	Steve Olson, Interim Building & Planning Director	
	Norma Alley, City Recorder	Nicole Tannler, Minutes Recorder	
Others Present:	Stan Primozich, Dave Adams, Robert Soppe, David Huber, & Sheryl Kelsh		

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Ms. Jacque Betz, City Manager reported on changes with the agenda process. The City will start preparing for our audit in September.

V. PUBLIC COMMENTS

Mayor Andrews opened public testimony.

Ms. Sheryl Kelsh, CEO of Chehalem Valley Chamber, stated we had a wonderful article written about Newberg in NW Travel Magazine with a three-spread-page on the city, which talks about what a great community we have.

Mr. Dave Adams, KLYC radio for Yamhill County, said we are going to start planning a dedicated day or morning for each city in the county. Newberg is going to be on Fridays to discuss issues such as the Bypass for the public to hear and we want to work as partners with you on this.

Mr. Stan Primozich, candidate for Yamhill County Commissioner introduced himself to the Mayor and Councilors.

Mr. Robert Soppe requested that the June 16 minutes be pulled so he can send in his oral testimony.

VI. CONSENT CALENDAR

Consider a motion approving the June 2 and 16, 2014, City Council meeting minutes.

MOTION: Corey/Howard approving the June 2, 2014 City Council minutes and remove June 16, 2014 minutes to be amended. Motion carried (7 Yes/0 No)

VII. PUBLIC HEARING

Consider a motion adopting **Resolution No. 2014-3160** approving an increase in the franchise fee with Waste Management.

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

Ms. Jacque Betz presented the staff report (see official meeting packet for full report).

Mayor Andrews asked if we are packaging the CPI with the increase.

Mr. Dave Huber with waste management said when we were approached from the City for this increase we thought this would be an appropriate time to ask for the CPI adjustment. Next year we do not anticipate coming to council for another CPI.

Councilor Bart Rierson stated there was an observation that there is not a local phone number to contact the waste management company with problems like hydraulic fluid being dripped from one of the trucks. Can we make a request for residents to be able to get in touch with the local person in waste management. Mr. Huber said he would address the issue.

Councilor Ryan Howard asked what Mr. Huber's thoughts are on the franchise fee. Mr. Huber said he understood the City is trying to increase all the franchise fees to 5 % and it was my understanding it was to close out some general funding problems. Councilor Howard asked where these funds will be put. City Attorney Truman Stone said into the general fund, which is mostly for police and fire. The increased franchise fee was discussed during budget. He said in 1999 the Council passed a resolution to approve the franchise agreement where rates would be reviewed every other year. The average increase for a residential customer is .81 cents.

Councilor Ryan Howard said he was not in favor of the franchise fee as a revenue source but did recognize the need.

Councilor Bart Rierson stated there is some real cost to the City for the roads that are damaged from the trucks.

MOTION: Howard/Bacon adopting **Resolution No. 2014-3160** approving an increase in the franchise fee with Waste Management. Motion carried (7 Yes/0 No)

VIII. NEW BUSINESS

1. Consider a motion adopting **Resolution No. 2014-3147** affirming bids received by the Oregon Department of Transportation for the N. College Street Sidewalk and Bike Lane Improvement Project and to provide an additional match of $144,000.00 for the design and bid overages on the project

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

Councilor Ryan Howard stated this extra $500,000.00 was unanticipated.

Mr. Jay Harris said the original grant funding was approximately four years ago. He said the matching funds required by the City is a minimum of 10.27 % of the total project cost, which includes right-f-way acquisition/design and construction He said they went to council with the Local Improvement District to cover the city's cost. Once ODOT got into the design they realized the federal standards almost double those costs and also once the plans got further along we didn't have the construction budget we thought. One of the larger construction cost problems was the ditch along College Street and we had significant design costs on that. The $194,000 was the original cities cost and then we have had subsequent overages on that since then.

Councilor Ryan Howard asked how we can prevent this from happening in the future. The amount of street maintenance we could have done with this amount is large.

Councilor Mike Corey said I am also very shocked about this and understands there needs to be contingency for overruns. These are very large numbers, but we can't stop the project and we do need to have better information prior.

Councilor Bart Rierson said the storm water mitigation will be required. He assumed the ditches would be filled in with this project. Mr. Paul Chiu replied all of your concerns are being provided in this cost.

Councilor Denise Bacon stated I am really angry about this and because it is ODOT we don't have control. She asked who ODOT reports to and what do they do to control those overages and what are we doing to protect us from these overages. Mr. Chiu replied we are in contact with the ODOT contractor and are trying to discourage anymore change orders from occurring. This is the first project we are doing with them in the city of Newberg and hoping to use that to build up an understanding with them. He said the staff has been working with ODOT and the contractor.

Mr. Jay Harris said we could have pulled the project back, but the issue was that we were coming out of recession and thought we could get some good bids. There were things like the right of way that we didn't manage and did not have control over. It is a logical point to connect the street to something, and yes we looked at that throughout the process and did not anticipate so many ODOT overages. I am really hopeful we can keep the 3 ½% contingency and can perhaps go without some of the landscaping among other things.

Councilor Denise Bacon stated I am not going to agree to anything like this again with ODOT without the state agency understanding we won't tolerate such high cost overruns with any future projects. Mr. Jay Harris said you will have plenty of work sessions understanding the IGA and please remember that these come with contingencies we can't plan for.

Councilor Bart Rierson said we can look at the good that comes out of this project like the opportunity to get some cost sharing but I understand the outrage for the overages. I am curious if there is an opportunity here to partner with Newberg school district for landscaping with the greenhouse program. Mr. Jay Harris said the contractor can say no, but most are looking into saving money and we will look into those opportunities are they arise.

Ms. Jacque Betz said I share your frustrations on this and it is not going to happen again. I told Mr. Tim Potter at ODOT that we are not in the position to take on extra costs. It originally came into us at more than $200,000.00 and they picked up $75,000.00 for us. We are making sure we are tightening up overage language and all of your comments are duly noted.

MOTION: **Rierson/McKinney** adopting **Resolution No. 2014-3147** affirming bids received by the Oregon Department of Transportation for the N. College Street Sidewalk and Bike Lane Improvement Project and to provide an additional match of $144,000.00 for the design and bid overages on the project.
Motion carried (7 Yes/0 No)

2. Consider a motion adopting **Resolution No. 2014-3161** accepting the Temporary and Portable Sign Ad-hoc Committee's recommendations.

Mr. Dave Olsen, interim building and planning director presented the staff report including a PowerPoint slideshow (see official meeting packet for full report).

Mayor Andrews asked if garage sale signs are considered a portable sign. Mr. Steve Olson replied they looked into a program where the city of Dallas actually rented out A-frame signs for garage sales, but it cost money to do it. Councilor Lesley Woodruff stated the program was beyond our scope of work and felt it wouldn't be a good use of staff time. The amount of time staff spends taking down signs is about 6 hours a week. She said we spent a lot of time on the maintenance of the signs, which is quite important.

Mr. Steve Olson said it would be more of a return to enforcement and better materials to hand out.

Mr. Robert Soppe stated he would like to address some issues that have to do with the public right-of way. (See Exhibit A). He had multiple concerns about the C3 zone, enforcement of the code regarding signs in the public right of way.

Councilor Bart Rierson stated I am hoping we do start using our code enforcement officer, but I have a question about sign in a right of way in front of a residence, which would be the planter strip. I hope that would not be allowed in the permit process. Mr. Dave Olsen said there is a provision in the code that if you want to install a sign in the right of way you can but we haven't had a permit submitted for this as far as I know. I will take a look at that and make sure it is added to the recommendations.

Councilor Ryan Howard said he did not support the resolution as written. He said his issues are the changes in the amount of signs allowed per frontage. He said around downtown there are too many now. He said the point of the portable sign is for it to be temporary and portable and this specifically goes too far on the side of allowing signs instead of keeping downtown clean and neat. He said with the additional allowance we will see many more signs. He said umbrellas are also a concern to me as they can be used as a sign.

MOTION: **Rierson/Andrews** adopting **Resolution No. 2014-3161** accepting the Temporary and Portable Sign Ad-hoc Committee's recommendations and take into account the comments from council. Motion withdrawn.

MOTION: **Howard** adopting recommendations one and four from **Resolution No. 2014-3161** accepting the Temporary and Portable Sign Ad-hoc Committee's recommendations. Motion failed for lack of second.

MOTION: **Andrews /Corey** adopting **Resolution No. 2014-3161** accepting the Temporary and Portable Sign Ad-hoc Committee's recommendations with clarification item two only applies to private property and non-public right of way. Motion carried (4 Yes/3 No [Andrews/Corey/McKinney]

MOTION: **Howard/Bacon** adopting **Resolution No. 2014-3161** accepting the Temporary and Portable Sign Ad-hoc Committee's recommendations exempting number six from recommendations.
Motion carried (5 Yes/2 No [Andrews/McKinney])

3. Discussion on the League of Oregon Cities' legislative priorities survey.

Mayor Andrews stated the top four recommendations to the LOC board that the councilors have made are H, S, M, and I.

Ms. Jacque Betz stated the top four will be a platform for City Hall Day and there is an opportunity to talk about other issues that may be brought up at that time.

IX. EXECUTIVE SESSION

Executive Session convened at 10:00 PM

Executive session pursuant to ORS 192.660(2)(h) concerning legal rights and duties regarding current litigation related to the south industrial urban growth boundary (UGB) appeal.

Executive Session adjourned at 10:35 PM

IX. COUNCIL BUSINESS

X. ADJOURNMENT

The meeting adjourned at 11:05PM.

ADOPTED by the Newberg City Council this 2nd day of September, 2014.

Sue Ryan

Sue Ryan, Interim City Recorder

ATTEST by the Mayor this 5th day of Sept., 2014.

Bob Andrews

Bob Andrews, Mayor

Newberg City Council 7/21/2014 meeting

I would like to address some issues that are in the recommendations before you tonight as well as some that are not. Most of my concerns have to do with signs in the public right-of-way. I urge you to give careful consideration to all of them.

One concern of mine has to do with the proliferation of free-standing signs in our C-3 zone that are in violation of numerous parts of the Development Code. 15.435.110B3 mandates that they must have a clear area of at least five feet. B5 mandates that they cannot be within 3 feet of a fire hydrant. B6 mandates that they must be removed during non-business hours or when the adjoining property is uninhabited. B7 requires that permission of the property owner abutting the right-of-way is required. B8 mandates that there may be only one sign per property frontage. All of these are frequently violated and little seems to be done about it.

Virtually all of the signs in the public right-of-way outside of the C-3 zone are in violation of the Code, yet they are allowed. The number of these is easily in the hundreds annually. Pleas think carefully about this. If you have ever seen a sign in the planter strip between the sidewalk and curb, if it not in the C-3 zone, it is almost certainly in violation of our code. I am not arguing for or against the current code, only that it should reflect the intent behind the code and should be enforced. Nothing in the recommendation appears to address this.

I recognize that this Council issued some directive to staff about suspending enforcement of these codes about a year ago. While the issues I have just cited appear to have gotten much worse since that directive, the issues have existed for years before that with little consequence. Mr. Olson mentioned "a return to enforcement". I am very curious to when he is referring as it goes before any time I can remember.

I think this raises a key issue that the Council should address before making any revisions to the Code. That issue is whether or not there is an honest desire and plan to enforce the Code after the revisions are approved. I hope that there will be and that this will not be a wasted effort.

One of the frequently-violated Codes that I just cited is that there must be a clear area of at least five feet around a portable sign in the public right-of-way. It is difficult to know exactly what that means as "clear area" is defined in our code only having to do with FAA regulations. I think that a common reading of that term would be an unobstructed area around the sign that extends for five feet. If my common reading of this is accurate, I would suggest that there are very few places that such a sign

could be placed in the C-3 zone. I would suggest that this particular item be written to accurately describe what is intended.

The proposed changes allow more signs in the C3 zone that are presently allowed. I would encourage all of you to walk around downtown and ask yourself if we really don't have enough signs on the sidewalk.

The proposed changes include review criteria for sign permits. Some of the criteria are colors, style, and font. I would, of course, defer to the opinion of the City Attorney, but I suspect that those are legally considered content and may not be valid criteria.

The section on Education, Enforcement, and Maintenance seems reasonable, but recent experience raises the concern of how well it will be implemented. The City issued a letter in April of this year regarding the Newberg sign ordinances. The letter contained two very significant factual errors with regard to our Code. I hope that the education program that is proposed here is more accurate.

My last issue is one that I have raised numerous times, including to this Council and to the Sign Committee, but there appears to be no one else concerned about it. With the current Code, if I want to place a sign in the public right-of-way in front of your house, I don't need your permission. While I do need a permit from the City, your approval is not an explicit requirement. Is it really the Council's view that residential property owners should not have a say over what signs are placed in front of their property? I would certainly like that authority with my property and am amazed that it appears to be of so little concern to Newberg decision makers. As I have testified before to this Council, it would take the change of a single letter in the Code to resolve this.

Thank you for your consideration of my comments.