

**CITY OF NEWBERG CITY COUNCIL MINUTES
SEPTEMBER 7, 2010
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM
401 EAST THIRD STREET**

Work Session was held prior to the meeting. An update from Engineering on the Animal Shelter was given. 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	Denise Bacon	Ryan Howard
	Stephen McKinney	Bart Rierson	Marc Shelton
	Wade Witherspoon		

Staff

Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Larry Fain, Senior Engineer/CIP Manager	Dain Eichel, Acting Public Works Director
	Barton Brierley, Planning and Building Director	Norma Alley, City Recorder
		Jennifer Nelson, Recording Secretary

Others

Present: Kale Rogers, Pat Haight, Hank Grum, Roger Wiltshire, Jennifer Bragar, Daniel W. Shepherd, Pat Brown, Cynthia Ziegenbein, Mary Starrett, Ryan Goosmann, Elise Hui, Philip J. Griffin, Phil Smith, Rick Rogers, Doug Bartlett, Peter Hainley, Robert Soppe, Roger P. Grahn, Kurt Ziegenbein, Larry Hill, and Lon Wall

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. Daniel Danicic, City Manager, announced the annual Chamber of Commerce Trilogy event is on Saturday, the League of Oregon Cities City Hall Week hosted by Newberg is September 14th, and the fire department's annual Toy & Joy Golf Tournament is September 12th. The speed signs with flashing lights will be ordered tomorrow for placement on Mountainview Road in front of Joan Austin Elementary and at other schools along College Street as approved by the current budget; and a public meeting will be held on September 15th at the Library to initiate visioning for the Cultural Center Plaza and other open spaces downtown.

V. APPOINTMENTS

Consider a motion to appoint Kale Rogers to the Planning Commission as the student representative.

Mr. Kale Rogers spoke of being a junior at Newberg High School who plays water polo and rugby; he is interested in city planning and would be grateful for the appointment as the Planning Commission student representative.

MOTION: Rierson/Shelton to ratify the appointment of Kale Rogers to the Planning Commission as the student representative. (7 Yes/0 No) Motion carried.

VI. PUBLIC COMMENTS

Ms. Pat Haight encouraged Council to approve the sound permit on the Consent Calendar this evening. She also expressed concerns for the new animal shelter money and asked the City how much money is left in that account.

Mr. Hank Grum spoke of his concerns for the City's decision to donate land on Blaine Street to Habitat for Humanity and felt such a large charitable contribution was a commitment of a taxpayer resource and not justified when the citizens are already burdened with water rate increases. He felt this land should be sold rather than donated.

Mr. Roger Wiltshire mentioned an article in The Newberg Graphic this week discussing the potential closure of N. Howard Street in front of the Newberg Public Library and the Cultural Center. He requested Council to deny any closure to that street for pedestrian purposes and felt traffic can be redesigned to come on the north side. Traffic does not have to come on the south side to interfere with library activity.

VII. CONSENT CALENDAR

1. Consider a motion approving **Resolution No. 2010-2917** initiating an evaluation and establishment of the City's Stormwater Management and Erosion Control Ordinance.
2. Consider a motion approving **Resolution No. 2010-2918** authorizing the city manager to sign an intergovernmental agreement with the City of Springfield for ambulance billing services.
3. Consider a motion approving a **Sound Permit** for Eric Cisneros' non-profit community event to be held on September 18, 2010, celebrating Mexico's Independence Day.
4. Consider a motion approving **City Council Minutes** for August 2, 2010.

MOTION: Shelton/McKinney approving the Consent Calendar including **Resolution No. 2010-2917** initiating an evaluation and establishment of the City's Stormwater Management and Erosion Control Ordinance; **Resolution No. 2010-2918** authorizing the city manager to sign an intergovernmental agreement with the City of Springfield for ambulance billing services; a Sound Permit for Eric Cisneros' non-profit community event to be held on September 18, 2010; and the City Council Minutes for August 2, 2010. (7 Yes/0 No) Motion carried.

VIII. PUBLIC HEARING

1. Consider a motion adopting **Order No. 2010-0027** affirming the Planning Commission's denial of the Fred Meyer gas station conditional use permit/design review application.

TIME – 7:19 PM

Mayor Andrews announced the oral record had been closed at the previous meeting.

Mr. Terrence Mahr, City Attorney, discussed issues brought up from the last hearing and the announcement that the record could be reopened if necessary. He spoke of an editorial in The Newberg Graphic on August 25, 2010, being read by Councilors Wade Witherspoon, Bart Rierson, and Stephen McKinney and suggested

opening the record to include this article as ex-parte contact so a rebuttal can occur. Second, based on the testimony of the applicant regarding the Fred Meyer rewards card program, any council member holding a rewards card should declare a potential conflict of interest for financial advantage; Mayor Andrews and Councilors Marc Shelton, Wade Witherspoon, Bart Rierson, Denise Bacon, and Stephen McKinney all declared this potential conflict but stated they would base their decisions on the record. He recommended opening the record to include these items and anyone who wants to address them.

MOTION: McKinney/Shelton to reopen the record for **Order No. 2010-0027** accepting an article as ex-parte contact and declaring the potential conflict of interest for those owning a Fred Meyer rewards card. (7 Yes/0 No) Motion carried.

Mayor Andrews recessed at 7:31 PM for five minutes so council could review the editorial accepted into the record. He opened public testimony for one citizen who signed up to speak.

Ms. Jennifer Bragar stated she supported the editorial suggesting Fred Meyer re-craft the application to adhere to city standards so the Planning Commission (PC) and City Council can approve it.

Mr. Barton Brierley, Planning and Building Director, spoke of two additional letters being submitted and the two top reasons the PC denied the application; the circulation on site was not adequate and the use of public streets as part of the traffic pattern. He also spoke of the need to draft a new order with conditions and findings of fact if Council chooses not to uphold the PC denial.

Councilor Stephen McKinney said he did not support the staff recommendation to deny the application because past councils recommended Fred Meyer to place a gas station on the west side of the property. He felt the traffic patterns would not substantially be changed in the neighborhood. He did think there would be mitigation to the light and sound issues and felt the ambient light situation on the drive-in theater was proven to be dead at the property line by good science. He felt it was in the public's best interest to be able to have access to gas at the best price and he believed traffic could be handled at the fourteen proposed fueling pumps. He also based his decision on the criteria of previous councils.

Councilor Denise Bacon also supported overturning the PC decision based on finding number two.

Councilor Wade Witherspoon stated he would vote to uphold the PC denial because he did not feel the Fred Meyer property was well laid out. He felt it is already congested and inefficient and adding a gas station would only make the traffic flow through the property worse. He spoke of his concern for people traveling west turning at Springbrook Road, realizing they cannot make a left turn to get to the gas station, and then using the neighborhood. He also felt drivers would use the area behind the building as a shortcut too. He was not convinced the majority of Newberg wants this and he did not feel a few cents saved with a new gas station outweighed the cost of livability. He said he respects the Planning Commission and he would have to feel strongly enough in favor to vote against their decision, but he does not and he asked to uphold their denial.

Councilor Bart Rierson also supported upholding the PC decision because of concerns with the traffic circulation and the safety of pedestrians walking from the parking lot to the store. He was also concerned about drivers not being able to turn left once they saw the gas station because they would further impact the livability of the neighborhoods. Although Fred Meyer has a good plan for handling the lighting issue, he is concerned there could be an impact on the drive-in theater; he is not convinced the light will stop at the edge of the parking lot. He will vote to uphold the PC decision.

Councilor Marc Shelton said if a business comes up with a product to sell, regardless of the commodity, and it fits in the criteria, then he is not in a position to deny that just because there might be a problem with traffic flow. Based on the record, Fred Meyer assured us changes around the main entrance to prevent pedestrian

injury and whatever is done to improve it will be beneficial; they have also not experienced any hits currently. He cannot confirm the ability to bring down gas prices, but he feels Fred Meyer is contributing to the livability of Newberg and he supports that.

Mayor Andrews said he will be voting to deny the PC decision because of concerns with traffic patterns and he feels some things cited by testimony were more anecdotal rather than supported by facts. He also appreciates the concerns for those supporting the denial, but wonders if it could be passed to support the gas station if staff returned with a written order including conditions to resolve those concerns.

MOTION: Shelton/Bacon to amend the denial of **Order No. 2010-0027** to direct staff to prepare new findings of fact for the September 20, 2010, City Council meeting to support the conditional use permit application for a gas station at Fred Meyer if the motion to deny prevails. (7 Yes/0 No) Motion carried.

MOTION: to deny **Order No. 2010-0027** not affirming the Planning Commission's denial of the Fred Meyer gas station conditional use permit/design review application with the amendment to direct staff to return with new findings of fact supporting the gas station on September 20, 2010. (4 Yes/3 No [Howard, Witherspoon, Rierson) Motion carried.

2. Consider a motion adopting **Ordinance No. 2010-2730** amending the Newberg Comprehensive Plan and Newberg Development Code to promote affordable housing and to create residential design standards.

TIME – 7:58 PM

Mayor Andrews asked for any abstentions, biases, or conflicts of interest; none appeared.

Mr. Brierley presented staff report with a PowerPoint as visual aide (see official meeting packet for full report).

Mayor Andrews opened the public testimony.

Opponents:

Mr. Daniel Shepherd had concerns for fast-track development occurring and felt the rule concerning the number of stories allowed when R-1 is up against R-3 zones. He spoke of the problems with allowing developers to give land to nonprofit organizations to develop affordable housing without actually building affordable houses within their project. He said this allows for a “not in my backyard” attitude by keeping the expensive homes from being mixed in with the affordable ones. He spoke of payment-in-lieu of credits allowing for the “good ‘ole boy network” to remain in effect of “you take care of me, I take care of you” and was concerned that less expensive building just means relaxing codes and using cheaper materials. He also wondered if supporting and promoting for employers meant they get tax breaks or help paying some of their expenses; this was pretty vague. He felt the idea of building affordable housing for the people who work in Newberg was putting the cart before the horse because Newberg does not have the jobs yet. Focus should remain with bringing revenue and income into Newberg rather than building more houses and the “if we build it they will come” mentality.

Mr. Pat Brown was concerned about reading the builder would be able to subsidize the required parking spaces by using street parking which would not put anything towards repairing the streets already in poor condition. Leaving that up to the builder would really mean it will be laid upon the residents on the street to deal with it.

Ms. Cynthia Ziegenbien spoke of her letter being received on August 13, 2010, regarding this matter and it was the first time she had heard of it even though there were six to seven meetings held previously. She wondered why this decision does not go to the entire city. She felt flexible development would decrease the standard of

living and the City already has a problem with traffic and the loss of individual rights; she felt something this big should go to the voters.

Ms. Mary Starrett spoke of the idea that these low-income homes will be filled with occupants filling the shortage of labor in Newberg does not make sense. She felt there were too many vacant homes in Newberg that are not affordable to those who lived in them and the neighborhoods would be further harmed or devalued by the introduction of affordable housing.

Ms. Pat Haight said twenty years ago Newberg was self-sustaining; there were jobs and right amount of housing. Then the jobs went and development became more important. She said there were subdivision maps that included affordable housing but for some reason they were not built and now were being told there are not enough affordable homes. She said the city needs more jobs rather than cramming more homes onto every available space. She spoke of this affecting the use of or changing the value of properties that are already low.

Mr. Ryan Goosman spoke of the current traffic impacts from subdivisions already built on people's ability to walk around Newberg since five or six years ago. He spoke of population and traffic volume increases on roads that cannot handle it. He said he had been homeless and understands wanting to provide affordable homes instead of having people living on the street. However, he is concerned because he understands Yamhill County Housing Authority is now dumping properties and taking losses and low income housing funding is hard to maintain. He spoke of Newberg being centered on beautiful neighborhoods and having low-income dwelling units right next to a nice resort; he felt something different has to be done in the next ten years.

Mr. Grum said tax payers need to have money left after paying their bills to put food on the table and supports sustainable government and livability in Newberg. He has issues with developers being able to transfer their titles to nonprofit developers because they remove land from the tax base and restrict the sale of donated properties for twenty years, which is interference on the operation of the free market. He spoke of public oversight being evaded by having this set by ordinance to go into a fund that is not even established yet. He also said income requirements need to be set for affordable housing which pits social classes against each other.

Proponents:

Ms. Elyse Hughie, Yamhill County Housing Authority, said she appreciated all the years of work that have gone into the code amendments and is supportive of the ordinance. She said there are already over one thousand families waiting for affordable housing in the area and over two hundred are in Newberg. They are already here in the community working and doubling up in homes or living on couches to stay here; this needs to be addressed.

Mr. Phillip J. Griffin, Board of Commission for Yamhill County Housing Authority, responded to misinformation given in previous testimony about the Housing Authority losing money; he argued they sell single family homes at fair market value and have done so with everyone they sold. They have studied the need for affordable housing thoroughly and there are currently people who are employed that cannot buy any of the housing on the market here. Concerning vacant housing, many were occupied by owners who overspent on their mortgages and anyone at the median income level would have trouble paying overhead of three hundred and fifty thousand to four hundred thousand for a home. He supports the Planning Commission and has been to the hearings which anyone in Newberg could have attended; he felt this was a well-devised plan.

Mr. Phillip Smith, Planning Commission, said he served as Chair on the Affordable Housing Task Force for the first year and spoke of the diverse group of Newberg citizens that eventually compromised and agreed on a comprehensive proposal to address a need in Newberg. There are people working in Newberg that cannot afford to live here and policies are needed to get more affordable housing available. The real driving cause for the lack of affordable housing was determined to be the price of land and city fees, since more land cannot be created; increasing density makes smaller lots which can be bought for less.

Mr. Rick Rogers, Habitat for Humanity, spoke of people being from different backgrounds with different outlooks attended the meetings attacking a difficult problem to come up with a workable plan. He spoke of affordable housing being given a bad connotation which is not fair; it just means making homes affordable for the median income or less, not just the very bottom poor people. The idea is not to make Newberg a “bedroom community” where people only sleep here and commute elsewhere. He encouraged approval.

Mr. Doug Bartlett served on the Affordable Housing committee representing non-city dwellers as he lives in Dundee. He spoke of having an opportunity to hear from people who were not like-minded and learning of the frustrations and obstacles in respect to affordable housing. He does not know the proposal will solve all the problems, it is an experiment with no guarantees; but, if there are no changes things will be worse down the road. He is in favor of the plan and trying something different, if it is not perfect corrections can be made down the road. It just relaxes some standards so opportunities can be given to others to have a good life in Newberg.

Mr. Peter Hainley applauded staff and the work done; he spoke of the group being made up of lenders, private developers, bankers and all those involved in the housing process sitting at the same table to meet housing goals. He spoke of asking workers in various businesses where they live and he believes about 30% are working in Newberg and living outside of the City according to his own polling. He clarified this is not property tax exemption or rent control; they are middle-of-the-road types of changes to benefit the city and asked to please adopt the ordinance.

Undecided:

Mr. Robert Soppe was concerned with grouping two subjects together that should be separate and provided a list of questions, concerns, and corrections in writing which addressed the proposed plan directly (please see official meeting record for full report).

Mr. Roger Grahn said he is a builder of affordable housing which means you build more for less money. He is a proponent of the concepts but an opponent of the details. He spoke of the need to build more units in order to cover costs of construction and thinking outside of the box with public/private funding of System Development Charges (SDC’s); but he is opposed to design standards because they make costs go up, not down.

Mr. Kurt Ziegenbein says he remembers this town when it used to be a great place to live and now it is only about growth and on the fast-track to destroying a nice small town. He was concerned for cramming so much in and making the street minimum so small you cannot drive a car beside the house to get to the back yard. He said the town has gone far enough and although he agrees with affordable housing, he does not agree with the pictures he saw in the presentation because those pictures are not affordable. He hates to see the town destroyed any more than it has been.

Mr. Larry Hill spoke of other cities sending people to Newberg because they do not want to do affordable housing, the diminishing middle class and wanting to protect his property. He understands wanting a place being built for affordable homes, but not next to him. He said there is nothing protecting him and his property.

Mr. Lon Wall spoke of civilized society not being able to ignore the needs of those less fortunate. He felt it was reasonable to help those in situations who want to work here and live here and contribute to the community. He did not believe it was the case that this would bring an end to the market and property rights. He encouraged council to pay close attention to the points brought up by Mr. Soppe and he thought the affordable housing plan should be kept separate from the design standards.

Mayor Andrews closed the public testimony. Staff made recommendations with corrections and clarified some items brought up in testimony. The public hearing was closed.

Councilor McKinney said he was reluctant to support this for the philosophical differences on infilling and because the public does not seem willing to endorse or accept it wholeheartedly. It is possible the cost may be too great if it is not successful.

Councilor Ryan Howard spoke of references to low income and affordable housing being the same and people alluded to not preferring these people as neighbors. He spoke of many of his classmates being examples of those entering the work force right out of college or high school, starting families, and having a hard time finding work and a place that is affordable to live. He spoke of the difference of those desiring a back yard and those that would enjoy it, but it is not feasible; this proposal does not prevent those who want a big yard, it just allows for those who do not see it as a necessity.

Councilor Rierson supported the comprehensive plan and development code changes. He did not think anyone is getting exactly what they want but he supports at least trying to see if things can be made better by providing more affordable options for those families.

MOTION: Shelton/Rierson to postpone the decision until October 18, 2010, directing staff to separate the design standards and the affordable housing elements, bringing it back as two different items incorporating testimony received and clarifying ambiguous items. (7 Yes/0 No) Motion carried.

Mayor Andrews called a brief recess at 10:34 PM.

IX. COUNCIL BUSINESS

Mr. Mahr announced the upcoming deadlines to the Land Use Board of Appeals (LUBA) regarding the Economic Opportunities Analysis.

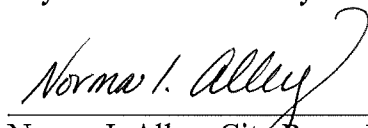
Mr. Danicic discussed the upcoming auction for property the city was interested in purchasing.

Mr. Witherspoon asked the City Attorney to further clarify what they are at liberty to discuss outside of the confines of a meeting and what is considered ex-parte contact. Mr. Mahr clarified points for him.

X. ADJOURNMENT


The meeting adjourned at 10:54 PM.

ADOPTED by the Newberg City Council this 4th day of October, 2010.



Norma I. Alley, City Recorder

ATTEST by the Mayor this 7th day of October, 2010.



Bob Andrews, Mayor