

**CITY OF NEWBERG CITY COUNCIL MINUTES**  
**MAY 2, 2011**  
**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 the police chief on community policing programs/teams was given. No action was taken and no decisions were made.

**I. CALL MEETING TO ORDER**

Mayor Bob Andrews called the meeting to order at 7:01 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
	Mary Newell, Support Services Manager	Leah Griffith, Library Director
	Janelle Nordyke, Finance Director	Rob Charles, Public Works Director
	Norma Alley, City Recorder	Jennifer Nelson, Minutes Recorder

Others

Present: Helen J. Brown, Robert Soppe, Russ Thomas, Pat Haight, James T. Potter, and Joseph A. Gray

**III. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was performed.

**IV. CITY MANAGER'S REPORT**

Mr. Daniel Danicic, City Manager, reported on the success of the fire department's Pancake Breakfast and the drug take-back program this past weekend. He said the Newberg City Code was updated and is online through the city's website. Two more meetings associated with the public spaces project are scheduled at the Cultural Center on May 11 & 14, 2011, to discuss parking issues and other concerns with neighbors. The Budget Committee will be meeting tomorrow night at 7:00 PM.

Councilor Wade Witherspoon asked how much revenue the Pancake Breakfast generated. Mr. Danicic replied the tickets are \$6.00 for adults and \$4.00 for children and there were 1,677 people served. He will get an update and report the final numbers back to them.

Councilor Marc Shelton asked about the time line for a permanent location for the drug take-back drop box as discussed previously. Police Chief Brian Casey said they were looking into a mechanism to store the drugs and it should not be too long for installation. Mr. Danicic said he would report back. Councilor Shelton also mentioned problems pulling up Ordinance No. 2009-2717 on the website and requested staff look into some abnormal language formats within this document.

## V. COUNCIL APPOINTMENTS

Consider a motion filling a Budget Committee vacancy with the most qualified candidate.

**MOTION: Shelton/Witherspoon** to consent to the appointment, by the Mayor, of Ms. Helen J. Brown to a vacant position on the Newberg Budget Committee for new a term expiring December 31, 2013. (7 Yes/0 No) Motion carried.

Mayor Andrews introduced Ms. Brown to the council and welcomed her to the Budget Committee.

## VI. PUBLIC COMMENTS

TIME – 7:10 PM

Mayor Andrews pulled Resolution No. 2011-2944 and Resolution No. 2011-2946 from the Consent Calendar to be heard under New Business.

Mr. Robert Soppe expressed concerns for the retention period and destruction of council audio recordings. He spoke of a previous council decision to summarize the written minutes when a better audio recording system was installed, because the accuracy of the record was assured by the audio recording. He asked the council to consider if the summarized written minutes will be adequate records for reference in future decisions and keeping the audio recordings as long as possible.

## VII. CONSENT CALENDAR

1. Consider a motion approving **Resolution No. 2011-2945** authorizing the city manager to execute an agreement with the State of Oregon allowing travel information signs on city streets.
2. Consider a motion approving a proclamation recognizing May 1-7, 2011, as Public Service Recognition Week.
3. Consider a motion to approve April 4, 2011, City Council minutes.

**MOTION: Rierson/McKinney** approving the Consent Calendar including **Resolution No. 2011-2945**, a proclamation recognizing May 1-7, 2011, as Public Service Recognition Week, and the City Council minutes for April 4, 2011, as amended. (7 Yes/0 No) Motion carried.

## VIII. PUBLIC HEARINGS

Consider a motion approving **Ordinance No. 2011-2739** expanding the Old Fashioned Festival Zone to include area around Chehalem Cultural Center and clarify the rules.

TIME – 7:18 PM

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

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

Councilor Denise Bacon asked if a person has a business license and lived in this zone would they need permission to sell something from their home. Mr. Brierley replied they would if they were doing it outdoors.

Councilor Shelton asked what is the mechanism for enforcement. Mr. Brierley said it usually starts with the volunteers from the festival discussing the violation with the person and they can call for a police officer to assist if necessary; but, it usually ends with contact from the festival volunteer.

Councilor Howard asked staff if there was any intention to expand the festival to the Cultural Center area. Mr. Brierley replied they do expect to have activities at the Cultural Center, but not like the farmers market with vendors set up outside.

Councilor Howard asked the city attorney if there would be any issues with freedom of speech by these limitations. Mr. Terry Mahr, City Attorney, said there should not be a problem with freedom of speech. If they are setting up a booth for collecting signatures, then that may be different.

Councilor Howard asked if this zone was just for the days of festival. Staff replied it is just during the festival and those dates are established by the council as a proclamation.

Councilor Stephen McKinney asked if there were specific examples of instances from the past or potential ones from any action this evening. Staff spoke of an ice cream vendor parking near the park and wanting to sell ice cream from the street.

Councilor Shelton said in 2009 the area of interest was contiguous to the main festival grounds. He is more concerned about extending this to Main Street and what type of issues would be around the parade route by moving this zone away from Memorial Park. He needed more rationale from staff for extending the parade route. Staff stated people were selling things to the crowd during the parade and avoiding contributing to the donations other participants have made throughout the rest of the year during festival preparations.

Councilor Howard asked if there are currently any restrictions on street vending in the city. Staff replied there are restrictions that come with the street vendors' licensing. Councilor Howard asked if this could be resolved by not granting permits during this time or does it already restrict those who have licenses during that time; he wondered how other cities deal with these issues. Staff replied the licenses are granted on an annual basis and he did not research how other cities handle this.

Mayor Andrews asked if there have been specific issues along the existing parade route. Staff answered there has been people going along the parade route selling items in competition to vendors within the festival. He spoke of there being other sites benefiting from the multitude of people coming to the festival that are not specifically a part of the festival and he wondered if there would even be vendors at the Cultural Center since there will be activities. He asked if the festival board was a governmental body. Staff replied that it not a governmental body.

Councilor Rierson spoke of seeing a hot dog vendor over the last few weeks and asked if they would be excluded from this. Staff replied they would be between memorial park and the school where they do the fireworks. He said this does not apply to selling personal household items, but to selling bottled beverages, such as a family having a yard sale with water and soda sales.

Councilor McKinney asked if the hot dog vendor secures a permit would they be permitted to participate in the event and are mobile vendors subject to all other health code issues like the other vendors at the park are subject to. Staff replied the hot dog vendor can get a permit to be part of the festival and all vendors are subject to county health restrictions and have licenses; county health inspector can be present.

Mayor Andrews opened the public testimony.

Mr. Russ Thomas, Newberg Old Fashioned Festival Chair, spoke of the reasons and benefits behind including the new areas into the festival zone. He spoke of the Chehalem Cultural Center being included because they are

part of the committee and many civic agencies use this as a major fundraiser to make money to use throughout the year; the festival zone ensures their support is not undercut or directly competed against by other vendors who are not supporting the festival costs and advertising, yet benefitting from the free marketing and hard work of others. Many of these non-supporting vendors also held up the parade and created hazardous situations by running in front of floats, and selling items in direct competition to others in the festival. He spoke of placing first priority on local agencies and not wanting them to be cut out by outside groups. Right now there are several violations, but they have nothing to regulate these people. He said they are not regulating lemonade stands and the Veterans of Foreign Wars (VFW) Post 4015 is also allowed to sell hot dogs because they are a big supporter of the festival. He asked the council to support this festival and the community overall by approving this.

Councilor Shelton asked to clarify if the time consideration for expanding the parade zone will be during the hours of the parade only. Mr. Thomas replied it will be for mobile vendors during time of parade. The committee is putting together a mobile vendor permit this year to not allow sales during specific times. They will not be regulating the downtown businesses and their outdoor sales, because they are the biggest supporters of the festival.

Mr. Soppe said he is a big fan of the Old Fashioned Festival attending every year and has been a participant for a number of years as well. The event booths do spend lots of money and he is also a big fan of fairness, but there are things in this ordinance that do not support the intent of the original proposal. He can see the arguments for safety and the financial impact of extending the zone to cover a path extending to other agencies may be reasonable; but, not extending to things outside of the proper path of parade and regulating what can be done on private property. He argued the residents adjacent to the festival zone do not get any benefits for the increased vehicle and foot traffic, trash, lack of parking, and lack of access to their property; it is a big imposition to these residents and selling items on their lawn may be help to mitigate this. He wondered how the concern for these vendors prohibiting the flow of the festival activities is any different than the interruption from the festival to these households; the festival does not mitigate its imposition on these people. He also was concerned the VFW could have a hot dog stand, but others in the zone could not have the same opportunity; this needs to be defined in a way that explains why it would be allowed for one and not the other. He recommended Council to see the route is properly defined and who and what is allowed; he saw no good reason to extend the zone to the north.

Ms. Pat Haight spoke of her brother being the previous chair for the festival and how it used to work well as a family event with only one or two people from the city participating; she said this is a good example of what happens when the government gets too involved, they change the festival into something else and moving it to another location altogether. She said to let the ARTwalk have the wine tasting and to keep alcohol away from what is supposed to be a family event. She was concerned the festival would be turned into something completely different from what it has always been and too much money is being asked to be contributed. She said the festival is not the time for wine tasting.

Councilor Witherspoon asked if there is anything that regulates wine tasting in regards to this event. Staff replied there is not.

Mayor Andrews closed the public testimony and staff recommended adoption.

Mr. Terry Mahr, City Attorney, clarified the Old Fashioned Festival is not a government entity because the committee has a lot of autonomy and functions separate from the city; however, the city does provide liability insurance for the festival and is responsible in that regard and it would be best to consider it to be under the governmental umbrella. He spoke of there not being a freedom of speech issue for selling things, but you do speak during sales so there is some conflicting arguments between what is purely selling merchandise and what is considered speech. The biggest concern is for how this ordinance would be enforced to avoid these problems and to assure the agents of the festival are protected if something happens. The only way to avoid this is by

having them buy their own insurance or accept their own personal liability, which they do not plan on when volunteering. The city does not direct or control the festival committee, but embraces them to bring them under its insurance and saves them revenue.

Mayor Andrews closed the public hearing.

Councilor Witherspoon stated he wants to be supportive of the festival committee, but there are elements he is not comfortable with.

Councilor Bacon is bothered that residents can have garage sales, but cannot sell water or lemonade; and if someone has a business license she is not going to tell them they cannot sell the goods in the city if they paid to do so.

Councilor Shelton stated that contrary to Mr. Soppe's earlier comments about the minutes he did go back and read through some pretty detailed minutes on this subject getting a good understanding of the intent at that time. The council was not talking about kids selling lemonade and garage sales. It is understood the committee is doing things to mitigate some of the problems with mobile vendors. He heard the arguments for extending the zone to the north beyond what was approved in 2009, but asked at what point the whole city becomes part of this zone. He is comfortable with the boundaries established in 2009 to make sure there is a safe route for the parade. He agrees with a limit on temporary merchants, but not on citizens in proximity to the festival zone to have a yard sale to sell whatever they want. He said this is different and it would be encroaching on citizens more than we intended.

Councilor Rierson also remembered the original ordinance excluded lemonade stands and yard sales. He likes the intent of the ordinance proposing to exclude business vendors from renting homeowners' property and the shopping carts with inflatable hammers and water balloons. These people are coming in to take advantage of the festival, but he does not like imposing on those residents adjacent to the grounds. He is not sure what to do about the property north of the city and is hesitant although he would like to protect vendors at the Cultural Center. He wondered if there was a way to draft this without taking advantage of businesses who have already paid for their business licenses.

Councilor McKinney felt it was logical to include the Cultural Center when it is slowly becoming more of a core to the downtown and it is no less or more of an infringement on the property rights of the residents in the north as it is in the south. He did not see why others were not supporting the Cultural Center's inclusion when all things said prior to this are that it is a part of the core of the city.

Councilor Howard agreed the Cultural Center is a beautiful feature of the city and it should be showcased and it deserving the same protections as Memorial Park, because there are the same concerns on peoples' yards. He wondered about the legal ability to prohibit a resident from renting out their property and still allowing someone with a business license to sell what they sell.

Councilor Shelton said the scope of control is the issue as an overseer to provide the insurance, mentioning people in St. Paul selling parking spots on their property during the annual rodeo and the competition with the lot at the high school run by Future Farmers of America (FFA). He is hesitant to restrict any individual, but he is okay with temporary merchants. It's true the Cultural Center was not up and running when the decision was made in 2009, but he did not think the Old Fashioned Festival is the Cultural Center; it has always been a four day celebration at Memorial park and it makes sense to maintain that and the parade route connection to the festival does not require expanding to the north. Mr. Thomas said they have a way to manage the parade route and short of rewriting the ordinance they have a mechanism for controlling temporary mobile vendors.

Councilor Howard argued they do not think they can control that unless they can incorporate this into the zone.

Councilor McKinney did not think they were being asked to do anything different from what was already done. He did wonder about the sales of beer and wine in Memorial Park versus the Cultural Center.

Mr. Mahr said the Cultural Center is owned by the Chehalem Park and Recreation District (CPRD), Memorial Park is different and the rules need to be compliant to the controlling entity.

Mayor Andrews asked how much money of uncollected fees comes from these vendors. Mr. Thomas replied there is about a \$500.00 loss each year for vendors selling without contributing to the festival. Officers have been called to deal with confrontations with individuals and businesses, which were not permitted to sell; when they are confronted they usually cease and move on, but they do not have the ability to do this in the north or at the Cultural Center.

Mayor Andrews said he cannot vote for the ordinance as it has been presented. He is not in favor of extending the boundaries to the north because this is a city function on city property, not on a property working independently.

Councilor Shelton suggested continuing to work on the ordinance and present another one that can be approved some time in June.

Councilor Howard suggested amending the proposed ordinance adopting the new areas without including the language about individuals selling on their property; he is still in favor of expanding to the north and west.

Councilor Rierson agreed with Councilor Howard; he is opposed to an individual not being allowed to conduct business on their property. He believes people will just move to an area they can do this and this will be back to council next year. He believes Councilor Howard's suggestion accomplishes this, because he is not against expanding the zone to cover the parade route and the Cultural Center area.

**MOTION: Shelton/Bacon denying Ordinance No. 2011-2739** expanding the Old Fashioned Festival Zone to include area around Chehalem Cultural Center and directing staff to bring back a revised ordinance at the City Council meeting on June 6, 2011, removing the language in the resolves that refers to individuals and existing businesses; only temporary street vendors should be limited. (6 Yes/1 No[McKinney]) Motion carried.

## IX. NEW BUSINESS

1. Consider a motion approving **Resolution No. 2011-2944** authorizing competitive bids for the improvement of Crestview Drive.

TIME – 8:32 PM

This item was pulled from the consent calendar and heard out of agenda order.

Councilor Witherspoon wondered if the city has paid for the work done so far and if there was an expectation that is no longer there; he wondered if the city was being honorable with putting the job out to bid now. He felt uncomfortable changing the deal midstream if this was not the company's expectation in the original agreement and how they will feel about this.

Mr. Rob Charles, Public Works Director, said he was not with the city when the original agreement was created, but since he has been here he has had multiple conversations with The Saunders Company about the likelihood of getting better prices now; he sent them this report and did his part to inform them why the city is going through this process, which is because of the price they submitted.

Councilor Witherspoon asked if they were compensated for the work they did complete. Staff replied they have been compensated for the plans created and the city has those and it was done independently through a separate company to make sure the quantities they gave were correct; there were variations but they are comfortable with the project.

Councilor Shelton asked if the project was approved and moved forward away from the competitive bid process with The Saunders Company and would have to have been put out to bid anyway. Mr. Mahr said this was used for the contract review board to grant; once they stopped going forward with their project, proper government process is the city has to take it to bid if the rationale is no longer what it was. He added it was fortunate this was delegated to the city manager who watched it closely during a big economic change; they could have corrected it and the city did not have to move forward. Councilor Shelton asked if this does not preclude The Saunders Company from bidding on this work; Mr. Mahr stated it does not.

Councilor Witherspoon stated he was satisfied and understands now how this went down.

Mr. Soppe addressed the Council with three points of caution for the future when any sole source exemptions are made. There have been citizen concerns when this was done before; the contract brought timing issues that never materialized and the city wants this to be built and then it's delayed a year. He encouraged them to keep in mind, when sole source exemptions are put forth to be cautious to make sure this is cost effective and the savings are real. He also referred to page three under the strategic assessment to say this is a much needed segment of the city's northern arterial network; he said it is important when talking about Crestview Drive not imply it is a northern arterial when it is not. He was also concerned the reference to Exhibit A has not met notification requirements.

Councilor Shelton replied discussion was previously held on the exhibit; it is not in the resolution, but only in the staff's report (RCA), which the exhibit was not intended to be included.

**MOTION: Rierson/McKinney approving Resolution No. 2011-2944 authorizing competitive bids for the improvement of Crestview Drive (7 Yes/0 No) Motion carried.**

2. Consider a motion approving **Resolution No. 2011-2946** authorizing the city manager to execute an agreement with the State of Oregon for pedestrian improvements to N. College Street.

TIME – 8:44 PM

This item was pulled from the consent calendar and heard out of agenda order.

Councilor Witherspoon said he was in favor of accepting the \$600,000.00 reward but questions a rise concerning the matching requirement with the other possible \$200,000.00 with the required \$80,000.00 match, which may or may not happen.

Councilor Witherspoon asked about the city's match already being 16% if it happens and then another \$80,000.00 which is 40% of the additional money and why there is such a leap in the required matching. Staff stated there is a match requirement to receive the original \$600,000.00, but \$660,000.00 is needed and anything after that original amount requires a 50% match of any Oregon Department of Transportation (ODOT) dollars contributed to the project.

Councilor Shelton added this was projected to be a one million project and asked if it could be built at \$660,000.00; he asked if the city has to accept the additional \$200,000.00 or if it is worth not scaling back the project. Staff said it is still a good match ratio when looking at the total; it went from one million to \$800,000.00 plus another \$175,000.00 for a total of \$975,000.00.

Councilor Rierson said he liked both parts of the project to be together to support bicycles, pedestrians and Americans with Disabilities Act (ADA) accessibility using grant funding. He also liked getting the partial match to get as much done as possible and have funds set aside with SDCs.

Councilor Howard said it would be helpful to see a comparison of plans for what can be built at \$690,000.00 and at \$975,000.00. He asked what would be lost if the project was scaled back. Staff replied they would just scale back how far the improvements are going.

Mr. Danicic clarified they are dealing with agency rules as far as the matching and will still be getting fifty percent more for the city's part of the money; it just gives leverage on what gets done with the funds available and getting pedestrian and bicycle improvements on College Street is important.

Councilor Shelton spoke of two schools being on the property between Vermillion Street and Aldercrest Drive and crossing over Hwy 219 with sidewalk only on the west side. He asked if they would have the ability to install crosswalks to help pedestrians to navigate. Staff replied there are some opportunities for projects with the school to get crosswalks and since it crosses a state highway they would have to work with ODOT.

Councilor Witherspoon asked if the money was not awarded or the city chose not to accept the additional \$200,000.00, then what options would we have with the money currently held. Staff stated the monies are to be spent on public works transportation projects.

Mr. Soppe said he generally supports this and it is important to the community. He spoke of serious issues in the past with this route and assurances from a previous city manager regarding waivers of remonstrance not being left unenforced. He also spoke about discussions on the importance of affordable housing and the difficulty to get this with the high cost of fees from spending SDCs on things that can be funded by other mechanisms. He spoke of residents not wanting to pay for improvements and asked why the agreements made with property buyers are not being enforced because the burden is being put on others while they receive the benefits. He added this is a great deal by paying only a third of the cost and suggested going for the whole amount if they approve this. He also suggested caution when using the term crosswalk to specify if it is marked or unmarked.

Councilor Shelton asked for further clarification of existing waivers of remonstrance and if citizens paying into that development improvement go against the city's match or towards it. Mr. Danicic spoke of the church at Open Bible having a waiver and discussed not knowing if the project will extend that far since he is not yet aware of the full extent of the project limits; but, he agreed those properties with waivers in hand should be considered and their obligation to contribute to costs.

Councilor Howard asked if the cost recovery from residents can be worked out later. Mr. Danicic replied the city is obligated to pay with transportation fund dollars and if other monies are received they go back into that fund.

**MOTION: Shelton/Rierson approving Resolution No. 2011-2946** authorizing the city manager to execute an agreement with the State of Oregon for pedestrian improvements to N. College Street. (7 Yes/0 No) Motion carried.

## **X. COUNCIL BUSINESS**

### Presentation from Oregon Department of Transportation on Property Right-of-Ways

Mayor Andrews urged the Council use discretion during the following discussions because of confidentiality and litigation issues, ODOT cannot talk about specific properties.

Mr. James T. (Tim) Potter and Mr. Joseph A. Gray, ODOT Right-of-way Manager, passed out pamphlets on relocation and the process for acquiring property to the Council and gave a brief presentation on activities and updates regarding the Newberg-Dundee Bypass project and the acquisition of rights-of-way (see official meeting packet for full report).

Mr. Gray reviewed the pamphlets, which are received by all property owners whose property is within the bypass corridor to be acquired and briefly described the reasoning behind acquiring land now to have control over it even though the exact dates on phasing and groundbreaking are not definite. They have estimated there are eighty properties needed for acquisition and relocation for the first phase.

Councilor Bacon asked them to explain the first steps they take once they decide they wish to acquire a piece of property. Mr. Gray explained a general letter is sent to the owner at first to make them aware of the project and what their rights are, then they meet with the owner or contract a company to explain the process, the property is then appraised, the appraisers submit an analysis and establish the market, and based on this analysis ODOT makes an offer of fair and just compensation as they are required.

Councilor Rierson stated his concerns for many of the citizens in this area of lower socioeconomic status not having the resources to hire their own appraisers and how they are not being treated fairly with the appraisal ODOT pays for. He asked if there was some other mechanism for a citizen to have recourse. Mr. Gray replied no one likes their appraisals in a down economy and it costs ODOT \$3,000.00 to \$4,000.00; if they did not put the responsibility back on the owner to find their own appraisal they could be spending a lot of money to find an appraisal they will agree with. He said if the owner does not like the appraisal they can bring their concerns to ODOT for a review or it can be sent back through the process to see if something was missed; however, if they wait sometimes because the market changes and the appraisers come back with a lesser amount and ODOT has to pay based on that number then. Getting a second appraisal has gone both ways. Once the offer is out, there is no longer an opportunity to negotiate if it is challenged; if they go out for another appraisal and that comes back lower then that becomes ODOT's new offer.

The ODOT representatives continued by discussing the Uniform Relocation Act and the regulations they must abide by when using federal funds to protect people.

Councilor Howard asked if appraisers are bound to be objective or impartial and if their license is on the line if they do not offer a standard. Mr. Gray stated he was correct, they must use appraisers that hold a license and they must also follow uniform practice; if they are outside of those bounds their license would be at risk.

Councilor Shelton spoke of part of the appeal being the right to be heard and due process and asked about the rationale of a vacation order to vacate as a good faith response. Mr. Gray said this refers to relocation benefits and the right to be heard through an appeal process through a hearings officer and ODOT bears that cost including judicial review.

Councilor Bacon spoke of being a steward of the taxpayers' money and referred to the right-of-way manual, but they are also working on behalf of the homeowner and this is a difficult line to walk. She spoke of page 23 regarding a property owner rejecting an offer and claiming greater values, does the right-of-way agent have an opportunity to adjust it if there is a problem. ODOT said this was correct and they have the ability to make a justified settlement using examples of land strips without relocation involved not falling under these guidelines; the number offered cannot be negotiated but the amount coming from housing costs and relocation costs can be adjusted up or down as long as the total is the same as the initial offer.

Councilor Shelton mentioned the conflict of a realtor declaring if they are for the buyer or seller and asked why ODOT was not contracting with HDR anymore since it takes ODOT out of that difficult situation. Mr. Gray declared they were a consultant hired to do the right-of-way negotiations for ODOT but other projects were

taken away and their contract was up so they were no longer needed. They had to follow the same rules as ODOT does and even though they may have been able to spend more time with homeowners they did not offer anything ODOT would not have with the same studies unless the market changed when they came along three months later and the comparables were no longer available.

Councilor Bacon asked from a point of protecting the citizen regarding the qualifications of “decent, safe, and sanitary” housing and if a person can be told this house is safe so you have to take it and what is done if a home that meets their needs cannot be found. Mr. Gray said they could never tell anyone they have to take a home; they just set a benchmark and what they can do when they are displaced. He said there is some ability for variances but they must be comparable to set foundations for the dollars.

Councilor Howard asked if there is no consideration for a person with special needs. Mr. Gray replied the occupant is given a chance to express special needs during the interview if they are within the rules such as families with disabilities needing ramps or medical issues requiring close proximity to hospitals; however, business and residential is separate and every effort can be made within reason; they get a set amount for the business and for the home and they can assist with negotiations with contractors to build a home within those bounds with that money, but the number one priority is for the home first.

Councilor Bacon asked about rental properties and what steps are taken for homeowners who rent out their property for income and if they move the tenants first and then deal with the landowner because it is their business and is worth more as rental. Mr. Gray said the work simultaneously with the property owner first and then initiate with the tenants because they have rights as well. Councilor Bacon asked if the value of the property changes with or without the presence of tenants and if ODOT pays rent if the tenants move out. Mr. Potter said if they cannot stop the process then they will rent it, but they do not wish to pay relocation costs twice.

Councilor Bacon asked under what circumstances ODOT would give someone a 90/30 notice to vacate. ODOT explained once someone is to be relocated and compensation is accepted. They are given a 30 day notice to make them aware of the situation but they cannot evict anyone if they do not have possession of the property. The notice is 90 days from the notice or 30 days from acceptance of the offer. A condemnation is filed when compensation is recorded and when the project is imminent.

Councilor Shelton asked if anyone should be getting this 90/30 notice now. Mr. Potter replied that everyone gets this notice and says at the time of notice delivery to occupants a comparable unit must be available, but this notice will not be given prior to payment. It is due process and not retaliation and ODOT can rent it back as long as the home is brought up to standards.

Councilor Shelton asked about the goal to improve the liability of Newberg and maintaining its citizens. He asked about the philosophy regarding working with the city to relocate these people, within Newberg; he spoke of affordable housing as being part of the formula. Mr. Gray said he understands the city wants to keep people here and said most of the homes being showed are here with only a few outside; they try but the homes are increasing in prices because sellers know homes are needed. They cannot dictate what the owners do with the money they only need to make sure the homes are decent, safe, and sanitary.

Councilor McKinney asked about property maintenance for broken windows and mowing grass once the properties are vacated as well as declining markets. Mr. Potter stated as they acquire property they will be forced into property management and asked for specific instances to be brought to their attention and they will take care of it. As far as the declining markets, it is difficult to control especially in situations of negative equity.

Councilor Shelton asked about non-English speaking owners and how the information is related in their native tongue. ODOT replied the pamphlets have been made in both Spanish and Russian and contract interpreters are available to assist them.

Councilor Bacon thanked them for their time and asked they make sure the people on the ground are being fair, honest, upfront, as well as respectful as these are peoples' homes and they can take offense to being told their home is not up to standard or being shown homes that are an insult to where they are currently living.

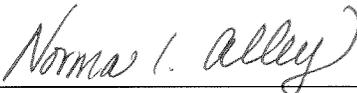
Brief discussions continued regarding island properties and purchasing uneconomic remainders as well as homes in foreclosure. The State can only assist them if they get them the relocation benefits before the home goes into foreclosure; after that they must deal with the bank.

Mr. Danicic spoke about George Fox University decorative sign post toppers and if the Council was interested in entertaining the concept of creating a university district. Discussions followed about possibly creating other districts in the future, but no action was taken.

## **XI. ADJOURNMENT**

The meeting adjourned at 10:20 PM.

**ADOPTED** by the Newberg City Council this 20<sup>th</sup> day of June, 2011.

  
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Norma I. Alley, City Recorder

**ATTEST** by the Mayor this 23<sup>rd</sup> day of June, 2011.

  
\_\_\_\_\_  
Bob Andrews, Mayor