

**CITY OF NEWBERG CITY COUNCIL MINUTES**  
**APRIL 18, 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 City Manager and a retirement consultant on Newberg's Retirement System 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
	Barton Brierley, Planning and Building Director	Norma Alley, City Recorder
		Jennifer Nelson, Minutes Recorder

Others

Present: Roger Wiltshire, Pat Haight, Robert Soppe, Kathy Callahen, Evelyn Randall, Julie Codiga, Joseph Kavale, and John Wyland

**III. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was performed.

**IV. CITY MANAGER'S REPORT**

Mr. Daniel Danicic, City Manager, reported the first budget committee meeting will be held on Tuesday, April 26, 2011, for public input. The vacancy on the budget committee has been posted and the applications are due this Friday by 5:00 PM. A City/County Dinner will be held this Thursday in the City of Lafayette. A meeting will be held on Monday, April 25, 2011, to present a report on the Cultural District Plan and receive feedback from the public; a written report on the District was circulated (see official meeting packet for full report).

**V. PUBLIC COMMENTS**

Mr. Roger Wiltshire spoke of his issue with the fire department providing public assistance for lock outs and thereby denying monies to the private sector. He spoke of previous conversations with Councilor Ryan Howard of providing a written account of the activities and stated they could be found in the fire log kept by the fire department. He also said the city manager's report to the council was fraudulent because he only reported two instances of the thirty he found in the log. He demanded a detailed accounting report of this matter, which he has requested and not received. He felt any councilor failing to perform their fiduciary duties to the community by researching this issue should be investigated or removed from office.

Ms. Pat Haight continued the topic of lock outs by reporting she asked the City of McMinnville if their police open cars if keys are locked inside; they told her no because of the potential for damage to the vehicles. She asked if Newberg has more insurance coverage if this occurs. She also felt responding to lock outs takes money

from local locksmiths making a living here. Mr. Terry Mahr, city attorney, stated insurance claims are handled through the city and he has never seen a claim for damage to vehicles from a lock out response.

Ms. Haight also asked for an update on the animal shelter fund. Mr. Danicic replied the city has worked with the Newberg Animal Shelter Friends (NASF) through the life of the project. They raised the money and the city gets their support and approval before any money is spent or anything is done including improvements for the new site and any design plans for work on the shelter. He reported they are currently working with the county for additional grant funds and working to overcome current budget gaps. He mentioned the NASF meetings are open to the public and provided her with the date and time of the next meeting.

Mr. Robert Soppe brought up concerns for scrolling speeds of electronic signs. He noticed numerous violations and wanted to know what action council is taking to enforce the regulations that were passed. He felt there should not be regulations that are not being enforced. Mr. Danicic stated the next step is to inform the code enforcement officer.

Mr. Soppe asked if there is nothing in place to monitor these sign regulations. Mr. Mahr said he was not aware of them being monitored or that any complaints were received.

Councilor Stephen McKinney spoke from his experience on the electronic sign committee and the pilot program. He stated some sign users are having problems with the rate of speed, because the technology of the older signs may not permit the increase or decrease in speeds; he also noticed some lights that are not functioning that need to be fixed as well. Mr. Soppe suggested those that cannot set the scroll speed should just turn it off and felt the broken lights should be fixed as soon as possible like the ordinance states.

Ms. Kathy Callahen spoke of a situation she is having with ODOT regarding the bypass buyouts. She is concerned with the offer they are giving her because their offers are not equitable to improvements made and the fact she runs her business out of her home.

Councilor Marc Shelton asked if she was looking at equivalency in terms of square footage and what is the mechanism or formula for determining value, the ODOT evaluation or your own appraiser. Ms. Callahen said she is not just looking for a home with equivalent square footage as much as she requires certain needs for her out of home business like a large flat surface and the business space needs to be close to a loading space; also certain homeowners' associations rules do not allow her to run her business from her home. She could not afford an attorney or appraiser of her own to battle ODOT; they hire their own appraiser then look at comparable homes. The ones she was offered do not compare to what she has.

Councilor Denise Bacon submitted some photographs of Ms. Callahen's home and her neighbor's house.

Councilor Bart Rierson expressed his sympathy and concerns with how ODOT may be treating citizens; he said they do want the bypass, but it is of primary importance for the citizens' needs to be served. He asked if she considered the possibility of moving the home she currently resides in.

Ms. Callahen replied her home is too old to be moved, it was already moved once from Sandy, Oregon about twenty-three years ago. She was told she was not allowed to relocate the home if it is over ten years old.

Mr. Barton Brierley, planning and building director, agreed there were rules for manufactured homes regarding age and also the codes which an older home were built under may not meet current codes and may not be able to be moved to a different location.

Ms. Evelyn Randall just recently moved because ODOT bought her house. She offered a different perspective to how homeowners' are being treated by ODOT. She noted that several of her previous neighbors are not being treated fairly. In her experience ODOT was not very cooperative but she was part of a small group of

people that ODOT hired HDR engineering company to work with and the woman there was very helpful, sympathetic, and knowledgeable of the laws. She spoke of the general offers being made to her and her neighbors not being equal or fair; she even noted a family with a brand new home being offered less than others with twenty years or older homes.

Ms. Julie Codiga approached as an advocate for Ms. Callahen and stated these are not the only people dealing with problems with ODOT; some have hired attorneys or appraisers, but those in the less socioeconomic area do not have funds to do that. She also added that Ms. Callahen also recently received a quasi-eviction from ODOT as well and she would like help to get that stopped. She said Ms. Callahen needs to be treated fairly by ODOT and they have not offered her enough for the home she has. She requested council to help people get a fair buy-out offer from ODOT and stay in the community.

Discussion followed about ODOT being scheduled to attend a work session. Mr. Mahr stated this is more of a political arena rather than a legal one and pressure can be put on ODOT to ensure people are treated fairly and with sensitivity. He mentioned they do not want to be seen as an obstacle to the bypass, but constituents cannot be ignored either; however, he noted that it is a state road and they have the power of condemnation.

Councilor Rierson wished to know why ODOT might have a reason for a vacation notice when they will not be doing anything in the next thirty days. Staff felt that would be a good question for ODOT; the home can be leased back to keep the occupants there though.

Councilor McKinney spoke of political pressure and maybe inviting representatives from the county and congress so all understand the intent is not to combat the bypass but the treatment of citizens. Councilor Bacon added that three days after Ms. Callahen received the notice the congressman's office assured her no one was being evicted. The time limits are confusing and conflicting depending on who she speaks to.

Ms. Codiga added that Ms. Callahen is only requesting \$20,000.00 more than what they have offered, so she is not asking for a lot.

## VI. CONSENT CALENDAR

1. Consider a motion approving **Resolution No. 2011-2943** approving the annual evaluation of the city manager.
2. Consider a motion to approve March 7, 2011, City Council minutes.

<b>MOTION: Shelton/Bacon</b> approving the Consent Calendar as presented including <b>Resolution No. 2011-2943</b> and the City Council minutes for March 7, 2011. (7 Yes/0 No) Motion carried.
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## VII. PUBLIC HEARING

Consider a motion approving **Ordinance No. 2011-2738** allowing an extension for expiring subdivisions and planned developments.

TIME – 8:04 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 and recommended approval (see official meeting packet for full report).

Councilor McKinney asked if the extension is granted, do developers have to comply with current building codes and statues. Staff stated the subdivisions would be approved under the same conditions as they were originally approved.

Councilor Shelton asked what the real cost is for losing the application fee. Staff replied it was \$135.00.

Councilor Ryan Howard asked if this was a broad exception for all pending plans and not just variances for these particular subdivisions. He also asked how long it would apply until and if it is possible other subdivisions may delay their work because they now have the ability to extend the timeline. Staff replied it was a broad exception but there are only four subdivisions in this class, it is possible they may delay work, and the expiration date would need to be determined and included in the ordinance, but the intention was for the following year.

Mayor Andrews asked staff to provide a suggested amendment and wished for clarification on the potential extension costing \$135.00. If that does not happen and they intend on developing they would have to reapply, which we may be forfeiting reapplication dollars. Staff stated this was correct and those costs vary based on size but could range from \$4,000.00 to \$8,000.00.

Mayor Andrews opened the public testimony.

Mr. Joseph Kavale, Springbrook Properties, said there is a third option for them to file their plat, which is a land use affair that causes other things to happen like any farm or forest acreage falls out of the assessed value and back taxes for five years become due. He thought they would have been ready to build by now and there would be a revenue stream to help with the costs; the extension gets them closer to time of development rather than being charged with property taxes now.

Mr. John Wyland, JT Smith Companies, said he has co-owned the Crestview Crossing property for almost three years now and they thought it would be built out. They are not slowing down the process and have paid the System Development Charges (SDCs). It is nice property but generating revenue has been challenging with the economy and they are requesting the extension in order to not spend extra to reapprove the fees and soft costs on top of that.

Mayor Andrews closed the public testimony.

Mr. Brierley said the previous requirement on an application extension was that it be filed before December 31, 2010, and recommended in this application be filed before December 31, 2012, to give the necessary time. He said the following language would be added at the beginning of the second recital to read "the application for extension shall be filed before December 31, 2012, and recommended adoption.

Mayor Andrews mentioned remembering a prior stipulation for build out does not occur within five years of permits being granted then they would definitely be up for reapplication. He also wondered why the extension request was going to 2012 instead of at the end of the 2011 calendar year. Staff explained that it should be filed by the end of 2011, which would extend to 2012. So the amended language stated above should include the application deadline to be December 31, 2011.

Councilor Howard asked how many requests for extensions are to be considered. Staff stated maybe three to four before reapplication is required. Councilor Howard asked if the city is potentially forfeiting all of that revenue. Staff replied it will not be collected, but we will also not incur the costs associated with reapplication for hearings, notices, etc.

Mr. Brierley recommended adopting the ordinance with the noted amendments. Mayor Andrews closed the hearing.

**MOTION: Shelton/Rierson** approving **Ordinance No. 2011-2738** allowing an extension for expiring subdivisions and planned developments with amended language, read by title only. (7 Yes/0 No) Motion carried.

Mayor Andrews recessed at 8:26 PM for ten minutes.

## VIII. NEW BUSINESS

Consider a motion approving **Resolution No. 2011-2933** adopting new Council Rules and Guidelines.

TIME – 8:34 PM

Mr. Terry Mahr, City Attorney, presented the staff report (see official meeting packet for full report).

Mr. Soppe had several concerns about the new council guidelines and rules which he addressed verbally and in writing. He wondered why written information would be restricted, why council items or consent calendar items were mentioned when they should not be discussed in the communication from the floor section, he questioned the use of the word “collective” regarding public comments and the five minute limit, he also wished to have council members give reasons based on the criteria for negative votes and spoke of requests for action or information being completed in a timely manner (see official meeting packet for full report).

Mr. Mahr stated the reason for the ten days for written information is to have it circulated to council for consideration rather than receiving it on a council night and having to wait for council to read the material; he noted this is encouraged, not required. He also addressed the reasons for the five minute limit and provided background on the reasoning behind the negative vote requiring the council members to provide explanation based on the criteria.

Discussion followed regarding the use of “public comments” verses “communications from the floor” and correcting what is used on the agenda to be consistent. The specifics of requiring council members to state the criteria basis of a negative vote when only in the minority was also discussed as the negative vote may not always be in the minority. Mr. Mahr stated this was not a legal requirement but the expectation for council members to do so was put in there because an explanation of an objection was wanted and there were benefits to having this on record should the decision be appealed.

Councilor Shelton suggested amending number seven under meeting expectations under quasi-judicial matters, council members will provide reasons for why they did not support the staff’s recommendation so staff can prepare findings to reflect the reasons provided.

Mayor Andrews was concerned for the findings supporting the action and if the council disagreed with the criteria collectively then staff would have to return with new findings to address the objecting vote. It was determined to leave this section as is for now suggesting the expectation is that findings are adopted with the action in quasi-judicial matters and if you vote no then you must state the reasons why.

Mr. Mahr read changes to the public comments section regarding persons speaking from the floor on items not on the agenda or on the consent calendar will be given an opportunity to speak during the public comments section with the limitation of five minutes.

**MOTION: Shelton/McKinney** approving **Resolution No. 2011-2933** adopting new Council Rules and Guidelines with amending language to address quasi-judicial vote and communications from floor within sections 5.6 and 5.7. (7 Yes/0 No) Motion carried.

## IX. COUNCIL BUSINESS

Consider a motion approving a City of Newberg Vision Statement.

TIME – 9:32 PM

The final changes to the city's vision statement were discussed resulting in: "Newberg will cultivate a healthy, safe environment where citizens can work, play and grow in a friendly, dynamic and diverse community valuing partnerships and opportunity."

**MOTION: Shelton/McKinney** approving a City of Newberg Vision Statement. (7 Yes/0 No) Motion carried.

Mr. Danicic gave an update on the Chehalem Valley visioning survey. He asked for suggestions from the council for questions they may like to see included.

Mayor Andrews mentioned representatives from ODOT will be attending the council meeting on May 2, 2011, to discuss their policies and procedures and asked there be no discussions of specific properties because they are to remain confidential. He suggested inviting representatives from the senator and representatives offices to attend. He also gave updates on contributions from the city of Dundee and the state for laptop computers as gifts for the mayor's contest; CPRD also authorized offering all applicants a twenty dollar give certificate for a paddle launch on the river. He also discussed including members of the budget committee on the pension discussion and possibly creating a subcommittee.

Councilor Witherspoon gave invitations to the C.S. Lewis spring banquet. He also expressed his dislike for things that are occurring during public comments periods where councilors are being called out and demands for unanticipated questions to be answered right away.

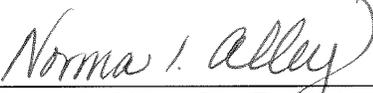
Councilor Howard gave council an update on the drug take-back program and installation of a permanent box.

Councilor McKinney spoke of his opinions about the fire department lock out situations that keep coming up and the idea of treating neighbors like neighbors; he would like to put an end to this matter in writing and address it on the record as a public safety issue. Councilor Rierson agreed but pointed out this is difficult considering the requestor refuses to be contacted by address or email; making it difficult to respond until we are at the meeting.

## X. ADJOURNMENT

The meeting adjourned at 10:03 PM.

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

  
Norma I. Alley, City Recorder

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

  
Bob Andrews, Mayor