

NEWBERG CITY COUNCIL MINUTES
APRIL 21, 2014 at 7:00 PM
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

A work session was held at 6:01 PM preceding the meeting. A presentation was given by Mr. Brad Allen, code enforcement officer, regarding an update on code complaints. All councilors, the mayor, city manager pro tem, city attorney, deputy city recorder, minutes recorder, and department heads were present with Councilor Lesley Woodruff being absent. No action was taken and no decisions were made.

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:10 PM.

II. ROLL CALL

Members Present:	Mayor Bob Andrews	Denise Bacon	Mike Corey
	Bart Rierson	Ryan Howard	Stephen McKinney

Members Absent: Lesley Woodruff (excused)

Staff Present:	Lee Elliot, city manager pro tem.	Truman Stone, city attorney
	Brad Allen, code compliance officer	Jay Harris, interim public works director
	Pual Chiu, senior engineer	Steve Olson, interim planning and building director
	Jenn Nelson, deputy city recorder	Mandy Dillman, minutes recorder

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. Lee Elliott, city manager pro tem, reported pavement restoration projects are being performed around the city and the basement of city hall is getting renovated due to unexpected flooding. On Friday the budget was published and he acknowledged the amount of work the assistant finance director and finance director put into meeting the publishing deadline. He concluded with sharing tomorrow and Wednesday interviews are being held for the city manager position.

V. PUBLIC COMMENTS

Mr. Terrance Mahr, former city attorney, came forward to speak high praise regarding Judge Larry Blake. He pronounced his gallant efforts to follow through and always to be available for the city was quite attainable for Newberg. Councilor Denise Bacon explained she did a ride along this week with an officer who explained he had to call Judge Blake while he was on vacation and Judge Blake never expressed contempt. Councilor Bacon mentioned 911 call workers also report similar experiences in having to call him at all hours.

VI. COUNCIL APPOINTMENTS

Consider a motion appointing Ms. Helen Brown to the Budget Committee serving a term expiring December 31, 2015.

MOTION: **Rierson/McKinney** appointing Ms. Helen Brown to the Budget Committee serving a term expiring December 31, 2015. Motion carried (6 Yes/0 No/1 Absent [Woodruff]).

VII. CONSENT CALENDAR

1. Consider a motion adopting **Resolution No. 2014-3121** granting an easement to NW Natural Gas and extinguishing an existing easement near the west end of the Sportsman Airpark Runway extending to Wynooski Road.
2. Consider a motion adopting **Resolution No. 2014-3124** appointing Boldt Carlisle + Smith, LLC, as the city's auditors for the fiscal year ending June 30, 2014.
3. Consider a motion adopting **Resolution No. 2014-3125** approving the annual evaluation of the municipal judge.

MOTION: **Corey/Rierson** adopting Resolution No. 2014-3121 granting an easement to NW Natural Gas and extinguishing an existing easement near the west end of the Sportsman Airpark Runway extending to Wynooski Road, adopting Resolution No. 2014-3124 appointing Boldt Carlisle + Smith, LLC, as the city's auditors for the fiscal year ending June 30, 2014, and adopting Resolution No. 2014-3125 approving the annual evaluation of the municipal judge. Motion carried (6 Yes/0 No/1 Absent [Woodruff]).

VIII. PUBLIC HEARING

Consider a motion adopting **Order No. 2014-0034** requiring the removal of an unauthorized driveway at the property located at 3220 E. Hancock Street.

Mayor Andrews introduced the quasi-judicial hearing and called for any conflicts of interest or abstentions; Councilor Bart Rierson claimed ex-parte contact.

Mr. Brad Allen presented the staff report accompanied by a PowerPoint presentation (see official meeting packet for full report). Staff recommends approval of Order No. 2014-0024 requiring the removal of an unauthorized driveway at the property located at 3220 E. Hancock Street.

Councilor Rierson asked if he was correct in thinking the code currently allows only two residences to be supplied with one driveway. Mr. Steve Olson, interim planning and building director, explained it has been code for a long time to allow only two residence per driveway; however, a year ago they changed the code to allow three residences per driveway. Mr. Olson assumed there was a variance when this property was built because of the easement feasibility and the requirement of having 100 feet between the driveway and Springbrook Road.

Councilor Rierson asked if eventually Hancock Street would be a through street and Mr. Olson replied it would and is in the Transportation System Plan (TSP) which implies the 100 foot setback would not be effected by Hancock Street flowing through because Springbrook Road is a higher classification.

Councilor Stephen McKinney asked if the impediment of storm water subjects the city to fines. Mr. Elliott replied he did not think so.

It was discussed the property is owner occupied, the 100 foot setback would allow for a second driveway approximately in the middle of the four residences, which is the solution staff suggests to help solve the currently impossible parking situation.

Mr. Allen handed out correspondence between the city and the property owner.

MOTION: **Rierson/Bacon** accepting additional written testimony into the record and allow time for a recess. Motion carried (6 Yes/0 No/1 Absent [Woodruff]).

Mr. John Reed explained the history on his property and when he first moved into the house parking was not an issue. Currently, in addition to the adults traveling to and from work, there are now several teenagers in the neighborhood with cars coming in and out of the tight space everyday. Mr. Reed's house is at the end and to park his large truck in his space is impossible due to the narrow driveway. Parking in the spot next to his house causes him to block part of the easement. He explained there was also an increase in traffic turning around due to the changes near Fred Meyer where you can no longer turn left into their parking lot. However, the increase has diminished now citizens know they can no longer turn left there and because of the lack of vehicles on their road he feels it is not a safety issue to continue to use his unauthorized driveway. He understands when the city first gave him the code violation letter he should have done his due diligence; however, he did not understand he was breaking a law, he was only filling the planter strip and putting in the concrete ramps to make it safer for his wife to drive directly into their driveway. Mr. Reed stated he spoke with a contractor who said they did not need a permit and if they would it would cost only \$15.00. He mentioned he takes pride in his property and unfortunately, due to hard packed clay they cannot, after making an effort, grow anything in the planter strip, which makes it difficult to make it look beautiful. Mr. Reed explained there has only been three incidences on their street. Additionally, he explained the neighbors next to him also use the constructed driveway and really appreciate having it. Mr. Reed passed out pictures that showed close up views, congestion in the driveway and some pictures showed how it looks with less than the usual amount of cars parked in the easement. Mr. Allen suggested the concrete pavers to Mr. Reed, because pouring concrete could block utilities. He feels frustrated the city has sent him a letter telling him the pavers must be removed because the city thought they would only be putting in one block. Next, he spoke about the suggestion to add a second driveway, which means the removal of a tree and the coordination of the owner next door, who does not want to improve the area because of concern it could cause an increase in property taxes. Mr. Reed concluded by stating they have used their constructed driveway for five years with no issues and feels the suggestion of adding a second driveway will not be nearly as convenient for him and his neighbors.

Councilor Mike Corey asked Mr. Reed if he received a copy of his conditions, covenants and restrictions (CCRs) when he purchased his home, which should have clearly stated the availability of only one driveway. Mr. Reed agreed he probably received one; however, he did not read the large quantity of papers involved in purchasing his home. He mentioned when he asked the previous owners about the single driveway he was informed there had been an additional driveway when the houses were built but the city ordered its removal.

Councilor Corey asked if Mr. Reed was prepared to pay for an additional driveway and willing to get permits. Mr. Reed replied he could not honestly answer because he was not sure what the cost of a new driveway would be. He mentioned he already has \$1,000.00 into his constructed driveway.

Councilor Ryan Howard asked if Mr. Reed feels he is violating the code that states a vehicle operator shall not drive on sidewalks except in the case of a permanent or temporary driveway. Mr. Reed explained his ramps are removable so he feels it is a temporary driveway. Councilor Howard asked if a temporary driveway requiring a permit should still be considered temporary. Mr. Reed said he was not aware he was breaking some of the codes mentioned but otherwise does not know the answer.

Councilor Howard expressed his frustration and concern for the amount of money it costs the city when citizens ask for forgiveness rather than asking for permission. Additionally, councilor Howard feels concern for the fact this has occurred when it is clear the location of the driveway is much closer than code allows and properties Mr. Reed referenced with similar situations more than likely went through appropriate channels to obtain variances.

Mayor Andrews asked Mr. Allen for clarification on his suggestion Mr. Reed use pavers in place of concrete. Mr. Allen explained there must have been a misunderstanding as he was under the impression the paving stones would be used as a landscaping element. He did not assume Mr. Reed would be using them as a driveway; however, Mr. Allen's understanding was the pavers were to be used for backing out of their driveway and turning around to drive out of the easement, not directly into the street from his driveway. Mayor Andrews asked if there was any prohibition to the pavers being used as landscaping. Mr. Allen said there is explicitly not.

Mayor Andrews asked if there was any history from staff about a second driveway. Mr. Allen clarified there was mention of one being there once, research was done by staff previously, but no record of a second driveway was found. Furthermore, Mr. Allen added parking had been prohibited on both sides of Hancock Street; however, after concern from the neighborhood the signs were removed to allow parking on the south side. Councilor Howard asked if the constructed driveway prohibited one parking spot on the street. Mr. Reed agreed it does eliminate one parking spot. He further explained by eliminating one of the street parking spots he creates the availability of three parking spots in the easement.

Councilor Howard asked Mr. Reed if he converted his garage to living space, which Mr. Reed confirmed, and councilor Howard pointed out that removes available parking and Mr. Reed countered the garage space was too small for even his wife's car to fit into.

Mayor Andrews closed public testimony.

Discussion commenced on the code violations Mr. Reed has been notified of and how he is not technically breaking the landscaping violation with inserting pavers; however, it is more the action of using them as a driveway. Additionally, they discussed it was unintentional that four houses would use one driveway and it is not a safe option. Using a local improvement district (LID) as a possibility was discussed but determined to not be a possible solution. Staff mentioned the best approach would be to have the neighborhood help pay for a second driveway to be installed.

MOTION: **Rierson/Corey** allowing reopening of public testimony. Motion carried (6 Yes/0 No/1 Absent [Woodruff]).

Mayor Andrews asked for clarification if the property owner adjacent to Mr. Reed did not want to go to the expense of a driveway and if she was against having one poured. Mr. Reed said the owner was not opposed to having a second driveway, she just did not want to pay the cost. Mayor Andrews asked staff how much the driveway would cost. Mr. Jay Harris, interim public works director, expected it to be approximately \$3,000.00.

Discussion commenced explaining a second driveway would not be the type of improvement which would increase property taxes and when Springbrook Road is updated it will stay a minor arterial.

Councilor Howard asked Mr. Reed if he would reconsider putting in a second driveway and Mr. Reed informed the council he would consider once he knew the final cost and how much the neighbors would contribute. Mr. Reed asked if he would be compensated for the money he spent on his constructed driveway. He was informed by several council members his situation is not one that would warrant compensation.

Mayor Andrews closed public testimony.

MOTION: **Howard/Corey** adopting Order No. 2014-0034 requiring the removal of an unauthorized driveway at the property located at 3220 E. Hancock Street.

MOTION: **Rierson/Bacon** table the issue and bring it back at June 16th, 2014 city council meeting. Motion failed (3 Yes/3 No/1 Absent [Woodruff]).

VOTE: **Howard/Corey** adopting Order No. 2014-0034 requiring the removal of an unauthorized driveway at the property located at 3220 E. Hancock Street. Motion failed (3 Yes/3 No/1 Absent [Woodruff]).

MOTION: **Howard/Corey** adopting Order No. 2014-0034 requiring the removal of an unauthorized driveway at the property located at 3220 E. Hancock Street striking paragraph two 15.2.020, striking 2A and 2C, and amending section 2B as removal of ramps and no longer violate municipal code 10.10.070.

Discussion commenced determining the city would not be liable for an accident happening in the easement because of the single driveway for four residences. Furthermore, it was determined the city does not see the pavers as a nuisance and are allowed as landscaping.

VOTE: **Howard/Corey** adopting Order No. 2014-0034 requiring the removal of an unauthorized driveway at the property located at 3220 E. Hancock Street striking paragraph two 15.2.020, striking 2A and 2C, and amending section 2B as removal of ramps and no longer violate municipal code 10.10.070. Motion carried (5 Yes/1 No [Rierson]/1 Absent [Woodruff]).

IX. NEW BUSINESS

1. Presentation updating council on the status of the city's stormwater master plan.

Mr. Paul Chiu, senior engineer, introduced Ms. Allisa Maxwell, water resource engineer, and Mr. Jim Harper, water resources supervising engineer, who presented the staff report accompanied by a PowerPoint presentation (see official meeting packet for full report).

Councilor Howard asked if they had any input, from Ms. Maxwell and the Citizens' Rate Review Committee, which advises having additional staff on maintenance. Ms. Maxwell replied there was. Councilor Rierson asked if this information presented and their map could be imported into the Geographic Information System (GIS). Ms. Maxwell informed the council it interfaces directly with the GIS and can be taken out and imported into the system.

Discussion commenced on rate changes for stormwater, which will be changing from \$7.30 a month to \$7.96 beginning January 1, 2015 and raising again January 1, 2016 to \$8.67 per month. This raise will allow for some system development changes in the city. Furthermore, they discussed the project at hand was replacing eighteen pipes, under buildings in the city, which have begun to degrade. The pipes must be filled in and new ones put into place.

2. Discussion on revenue enhancement.

Mr. Elliot explained there is a 5% gap in the general fund, which needs to be filled in order to have positive revenue. The last three years there was a reserve to pay the gap; however, Mr. Elliot explained, they have run out of the reserve and now must make cuts in other areas. They have been deferring maintenance issues, like

the pipes that need replacing mentioned earlier and other projects to help keep this deficit small. Mr. Elliot presented a packet which made suggestions for covering the \$600,000.00 they will be short.

Discussion commenced on comparing and addressing the presented suggestions.

X. CONTINUED BUSINESS

Consider a motion adopting **Resolution No. 2014-3115** adopting a revised engineering fee schedule. (Postponed from the March 7, 2014, city council meeting)

Mr. Harris presented a packet informing the council of the changes in the engineering fee schedule and compared surrounding cities engineer fees to Newberg's.

MOTION: Rierson/McKinney adopting Resolution No. 2014-3115 adopting a revised engineering fee schedule. Motion carried (6 Yes/0 No/1 Absent [Woodruff]).

XI. EXECUTIVE SESSION

1. Executive Session pursuant to ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed – Springs customer class.

Mayor Andrews called the executive session to order at 10:45 PM. Executive session was held with all councilors, except Councilor Woodruff whom was absent from the meeting; the mayor; city manager pro tem; city attorney; deputy city recorder; and city engineer present. No action was taken and no decisions were made.

Mayor Andrews closed the executive session and opened the public meeting at 11:05 PM.

MOTION: Rierson/McKinney to move toward divestiture from the Springs class and authorize the city attorney, city manager pro tem, and city engineer to begin negotiations with the Springs customers. Motion carried (6 Yes/0 No/1 Absent [Woodruff]).

2. Executive Session pursuant to ORS 192.660(2)(i) relating to review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing – city attorney evaluation.

Mayor Andrews called the executive session to order at 11:07 PM. Executive session was held with all councilors, except Councilor Woodruff whom was absent from the meeting; the mayor; city attorney; and deputy city recorder. No action was taken and no decisions were made.

Mayor Andrews closed the executive session and opened the public meeting at 11:23 PM.

MOTION: Howard/Rierson to direct staff to prepare a request for council action (RCA) for the written approval of the city attorney's evaluation. Motion carried (6 Yes/0 No/1 Absent [Woodruff]).

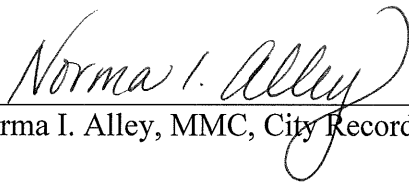
XII. COUNCIL BUSINESS

No council business was discussed.

XIII. ADJOURNMENT

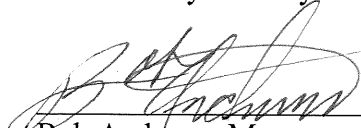
The meeting adjourned at 11:25 PM.

ADOPTED by the Newberg City Council this 7th day of July, 2014.



Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 10th day of July, 2014.



Bob Andrews, Mayor