

**CITY COUNCIL MINUTES
NOVEMBER 17, 2014, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)**

A work session was held at 6:00 p.m. preceding the meeting. Present were the City Council, City Manager, City Recorder, City Attorney, Library Director, Associate Planner Jessica Nunley Pelz, and Associate Planner David Beam.

A presentation was given by Jessica Nunley Pelz, Associate Planner, on the progress of the City's Transportation System Plan update. She discussed the downtown analysis and options, analysis of the entire transportation network, creation of a transportation project list, analyzing and prioritizing the projects, round two of stakeholder interviews, and project schedule. The Planning Department will host a Community Open House on December 10 from 5-8 p.m. at the Public Safety Building. There will be a Council Work Session and Citizen Advisory Committee meeting in February/March, projects will be prioritized in April/May, and the draft TSP will be done in May/June with public hearings for adoption.

Terry Cole, ODOT, said within the TSP process there was not a time to discuss jurisdictional transfer, however ODOT was open to the discussion at any time.

There was discussion regarding the proposed bypass, 99W as a freight route, and reducing congestion downtown. There was further discussion regarding including 2nd, 1st, and Hancock in the planning, increasing capacity downtown, and options for bicycle and pedestrian traffic.

Mayor Andrews recessed the meeting at 6:40 p.m. and declared an executive session pursuant to ORS 285C.145(4) Enterprise Zone Application.

The Council, City Manager Betz, City Attorney Stone, Interim Building and Planning Director Steve Olson and Associate Planner David Beam were present during the Executive Session.

The Executive Session ended at 6:47 p.m.

The Councilors shared community news.

CALL MEETING TO ORDER

Mayor Andrews called the meeting to order at 7:00 p.m.

ROLL CALL

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

Staff Present:	Jacque Betz, City Manager	Truman Stone, City Attorney
	Sue Ryan, City Recorder	Leah Griffith, Library Director
	David Beam, Associate Planner	Jessica Nunley Pelz, Associate Planner
	Jay Harris, Public Works Director	
	Steve Olson, Interim Planning and Building Director	

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was performed.

CITY MANAGER'S REPORT: Ms. Jacque Betz, City Manager, asked Council to RSVP to the City Recorder about the Local Government Dinner on December 4 in McMinnville.

SPECIAL PRESENTATIONS: The Council recognized Russ Thomas, Public Works Superintendent, for receiving the William A. Bowes Service Award from the Oregon Chapter of the American Public Works Association. PWS Director Harris said this was the highest honor awarded by the APWA and he gave a background on the award. He then explained the reasons Mr. Thomas received the award and the many APWA and community activities Mr. Thomas was involved with.

Tess Fields, Director of Government Affairs for Comcast, presented on the Internet Essentials Program, a program to help all people have access to the internet.

PUBLIC COMMENTS

Douglas Heuer, resident of Newberg, asked the Council to rescind Ordinance 2777, marijuana tax, and repeal Section 9 of the Newberg Municipal Code relating to paraphernalia and drug possession offenses. Since Measure 91 passed, it was a good time to clean up the Code. Measure 91 prohibited a tax on marijuana and he had an action for a declaratory judgment ready to file if need be.

CONSENT CALENDAR

MOTION: Rierson/Corey moved to approve the November 3, 2014 City Council meeting minutes, approve the Mayor's recommendation of appointments to City Committees, and instruct staff to abate a nuisance at 516 and 516 ½ N Morton Street (Exhibit A). Motion carried (7 Yes/0 No)

NEW BUSINESS

Sheryl Kelsh, Chamber Director, presented the first quarter Chehalem Valley Chamber marketing report (Exhibit B). She explained media coming to the City for tourism. She included data from the visitor surveys and a media recap. There was discussion regarding tourism events in the City.

MOTION: McKinney/Rierson moved to accept the first quarter report from the Chehalem Valley Chamber of Commerce. Motion carried (7 Yes/0 No)

Resolution No. 2014-3170: Mayor Andrews passed the gavel to Councilor Lesley Woodruff.

David Beam, Associate Planner, said earlier this year the City established an Enterprise Zone to encourage more investment by the local traded sector companies and to partner with local businesses. In September, SP Fiber Technologies filled out an application requesting a five-year property tax abatement for an \$11 million dollar capital improvement program into the facility. This would allow them to branch out into a new product line and hire 20 new employees. The application met the requirements for the zone. He explained the two conditions: the applicant would make a concerted effort to hire employees who were local citizens and that contractors also would be hired locally during the exemption period. This was property tax abatement on the new investment and there would be no effect on current property taxes. The applicant had to prove that they met the conditions and requirements for the five years.

Councilor Howard said it looked like the amount of subsidy they would be receiving divided by the 20 jobs created, each job would cost \$40,000 over the five years in the tax revenue. He wondered if more jobs could be created. AP Beam said it was a possibility. The 20 jobs was a minimum they would have to create in the five years. The life expectancy of this investment was at least 20 years. In the long run they would receive a lot more tax revenues than were being abated.

Councilor Howard was also concerned about the City's conditions not being strong enough. There needed to be more proof of the conditions being met. He also thought there should be additional criteria around

environmental protections. AP Beam discussed the benefits of the Enterprise Zone in incentivizing expansion and keeping jobs in the City.

Councilor Rierson had concern about the struggling news printing industry and putting that much capital in this kind of conversion and still losing one of the key businesses in the City. AP Beam did not know where the tipping point was for the business. They were doing this to support and encourage traded sector activity.

Councilor Bacon asked about safety improvements. CM Betz had a conversation with the Fire Chief regarding any additional conditions and no additional requirements for safety were recommended.

Councilor McKinney said the applicant was expanding to brown paper, which was the best opportunity in their market. This was their best effort to make a financial investment in their company with the emerging market of brown paper. He thought the new machines would meet environmental standards and requirements. He referred to page 43 of the resolution and asked if there was a way to make it more accountable for hiring local. Mayor Andrews suggested revising the wording in the resolution to say “make a demonstrated and concerted effort to hire local.” Truman Stone, City Attorney, said during the abatement, the average compensation for all new employees must be at least 150% of the average annual wage. Compensation included wages and benefits.

Steve Olson, Interim Planning and Building Director, understood trying to make it more measurable for hiring local, however these were specialized industries and the City would not be able to judge if one person was more qualified than another. They could measure how advertising was done locally. CM Betz said the abatement would be administrative approval if it was only for three years, but it was before Council because they were asking for five years. She thought that since the applicant would be providing an annual report to the County and State, they could also provide the City a report on how they demonstrated advertising and hiring local. She thought they should add the wording the Mayor suggested and staff would work with the company to provide an annual report. AP Beam said staff recommended approval of the resolution with the suggested addition of “and demonstrated” to both the provisions of A and B.

Councilor Howard thought there should also be a provision for requiring use of the highest environmental technologies possible. He was supportive of a three year, but not a five-year abatement.

Councilor Corey was in favor of the five-year abatement. It was important to promote local businesses and jobs. He thought the annual report to the City and conditions were sufficient.

Councilor Howard said the majority of the tax abatement was taxes paid to other taxing districts and he was concerned about the lack of input from those organizations. There was no representative from the applicant that night either. He did not think the need for the five-year abatement had been adequately demonstrated.

Councilor Rierson was in support of the resolution. He too was disappointed that there was no commitment to address environmental impacts. The economic factors and supporting businesses lead him to support the resolution. Councilor Bacon was also in favor of the resolution. She also wished there was more environmental protection, but believed the applicant would do the right thing. Councilor Woodruff would be in support if the resolution could be brought back with demonstration of environmental protection.

AP Beam had expected a representative of SP Fiber Technologies to be there that night, but something must have come up. CM Betz said staff could bring the resolution back with an additional condition for consideration at the next meeting. There was discussion on how to proceed.

MOTION: Andrews/McKinney moved to approve Resolution 2014-3170 with the addition of “concerted and demonstrated” in sections A and B. Motion was not voted on.

MOTION: Rierson/Howard moved to table Resolution 2014-3170 and to include environmental protection language until the December 1, 2014 City Council meeting. Motion carried (7 Yes/0 No).

Newberg Downtown Coalition Transformation Report: IPBD Olson said the Council received an overview of the report in July and had asked staff to return with a recommendation (Exhibit C). He gave a summary of the report for changes to downtown to make it more pedestrian friendly. The next step was to use grant funding to look at the feasibility and cost of the ideas. Some of the ideas dealt with transportation and reconfiguring streets downtown which would be reviewed during the Transportation System Plan update. Staff recommended exploring Option B for downtown transportation.

There was a discussion on funding options.

Mike Ragsdale, Executive Director of the Newberg Downtown Coalition, appreciated staff’s work on this project. He encouraged the Council to accept the plan as citizens were looking forward to continuing participation in the project. He was concerned about the draft outline for the grant because the citizen participation component was anemic and needed to be more robust.

MOTION: Rierson/Howard moved to accept the Downtown Transformation Report as an advisory document to inform the Transportation System Plan update and Downtown Revitalization Plan and to thank the Newberg Downtown Coalition and everyone who attended the downtown transformation meetings for their creative ideas for improving downtown. Motion carried (7 Yes/0 No)

Resolution No. 2014-3169, Council Rules Amendment on Public Comment: Councilor McKinney asked how the amendment would be different from what they had before and if it would solve the problem or introduce more problems later on.

Mayor Andrews replied the amendment would encourage people to submit written comments for an agenda item by noon of the day of the Council meeting. People could still give oral testimony if they wished. He suggested reformatting it into a and b paragraphs. Paragraph a would be for citizen comments on items not on the agenda and Paragraph b would be for citizen comments during a public hearing or items on the agenda.

CA Stone said the change between this amendment and what was presented before was the last sentence was added back in that had been previously deleted. He suggested striking the language referring to public hearings completely from this rule and making it solely applicable to public comments in the open forum section. The ability to participate in hearings was governed by an authority separate from the Council Rules.

Councilor McKinney was in favor of the public comments section in the Council Rules only talking about public comments and not testimony. This would make it less confusing and consistent with public hearing rules.

CM Betz clarified the direction was to delete the section related to public hearings and there would be no reformatting with subparagraphs a and b. There was discussion regarding the alternatives for a public hearing or an item on the agenda when written testimony was large and submitted last minute. Council could defer the decision until they had time to review the information, but there could be someone who would try to purposely delay the decision. There was further discussion regarding directing staff to create a separate rule about written material received last minute for public hearings or agenda items where the Council had to make a decision.

MOTION: Andrews/Rierson moved to adopt Resolution 2014-3169 with the amendment that under City Resolves in Rule 5.6 to delete all language after the word "meeting". Motion passed (7 Yes/0 No)

Mayor Andrews asked staff to come back with a proposal amending the overall rules and for Council to have a discussion on the acceptance of written testimony for public hearings and agenda items.

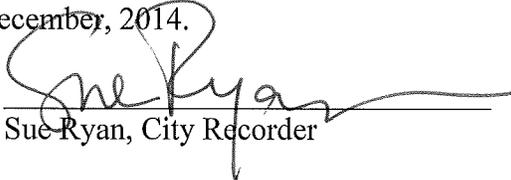
IV. COUNCIL BUSINESS

Council Appointment to the Newberg Urban Area Management Commission: Councilor McKinney agreed to continue serving on the Commission. Mayor Andrews would work with Sue Ryan, City Recorder, to reappoint Councilor McKinney and appoint a Planning Commissioner to the Newberg Urban Area Management Commission on December 1.

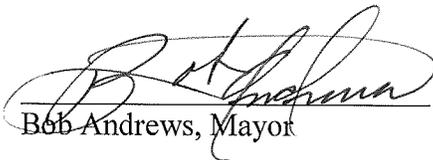
V. ADJOURNMENT

The meeting adjourned at 9:05 p.m.

ADOPTED by the Newberg City Council this 1st day of December, 2014.


Sue Ryan, City Recorder

ATTESTED by the Mayor this 3 day of December, 2014.


Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: November 17, 2014

Order ___	Ordinance ___	Resolution ___	Motion <u>XX</u>	Information ___
No.	No.	No.		

SUBJECT: Multiple Committee Appointments	Contact Person (Preparer) for this Motion: Mayor Bob Andrews/Sue Ryan Dept.: Administration
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RECOMMENDATION:

To consent to the Mayor’s appointment of the Committee members as listed in the Executive Summary.

EXECUTIVE SUMMARY:

Public notice of these vacancies was posted in City buildings, at local businesses, published in the local paper and radio station, posted on the City’s website and sent out electronically to several local e-mail listservs.

Affordable Housing:

The Affordable Housing Commission is a three member commission with one position open with a term that will expire December 31, 2017. Its mission is to review applications for Newberg Affordable Housing Trust Funds. There were two applicants.

The Mayor recommends:

1) Reappointment of Steve Comfort to the Affordable Housing Commission for a term from January 1, 2015 to December 31, 2017. Mr. Comfort is a 40-year resident of the community and works at SP Fiber. He has served on the Affordable Housing Commission as well as the Newberg Affordable Housing Trust Fund Commission. He has been a volunteer for more than 11 years for the Newberg Fire Department. His interest in serving on the commission is to make sure money goes to improve neighborhoods by giving someone pride in owning a home. He wants the commission to be a step in making low income areas more livable.

Budget:

The Newberg Budget Committee is a seven member committee that has two positions with terms expiring December 31, 2017. Its mission is to ensure a balanced budget, which makes our City government viable. There were three applicants.

The Mayor recommends:

1) Reappointment of Jack Reardon to the Budget Committee for a term from January 1, 2015 to December 31, 2017. Mr. Reardon is a nine-year resident of the community, is a retired property manager at Washington Square. He has served on the budget committee since 2006. His interest in serving on the committee is to contribute to the community in a productive way by using his extensive background in business budgeting.

2) Reappointment of Lon Wall to the Budget Committee for a term from January 1, 2015 to December 31, 2017. Mr. Wall is a 35-year resident of the community and owns Corvair Underground. He has served on the Planning Commission, Citizen Rate Review and Downtown Committee. He has served on the budget committee since 2006. His interest in serving on the committee is to continue helping with this challenging process.

Citizens Rate Review:

The Newberg Citizens’ Rate Review Committee is a seven-member committee that has three positions open, one due to the election of a member to Council. One term will expire June 30, 2016 and two terms will expire June 30, 2017. Its mission is to review Newberg’s utility rates and ensure a balanced budget, which makes our City government viable. There were four applicants.

The Mayor recommends:

1) Appointment of Bill Rourke to the Citizens Rate Review Committee for a term from January 1, 2015 to June 30, 2016. Mr. Rourke is a 49-year resident of the community and is a retired clinical microbiologist. His background includes managing a large component of the OHSU and Providence Health and Services laboratory for more than 40 years including working closely with budgets as well as setting fees for provided services. He also serves on the Board of Directors at Friendsview Retirement Community for over 30 years including 3 years as Chair. He is also actively involved with his churches finance committee.

His interest in serving on the committee is to help the City in moving toward a sustainable funding base. He feels the recent changes made by the CRRC and the City Council with regard to the review and adjustment in fees for water and sewer services is healthy and a good change from the past. He respects the citizens' right to question the fees charged but would work hard to communicate the long-term need to maintain these critical services.

2) Appointment of Marilynn Van Grunsven to the Citizens Rate Review Committee for a term from January 1, 2015 to June 30, 2017. Ms. Van Grunsven is the co-owner of the Newberg Luckee Dutch Bakery. She is a 36-year resident of the community. Her background includes serving as the former Treasury analyst of two billion-dollar industries (Textronix Inc. and Holiday Retirement Co.). She is a former facilities project manager for Textronix Inc. She leased and sold commercial real estate for Tektronix. She is a graduate of the Portland State University Business Administration program. Her interest in serving on a City committee is to use her formal education in business and applied education from her job experiences to help benefit the community.

3) Appointment of Sarah Grider to the Citizens Rate Review Committee for a term from January 1, 2015 to June 30, 2017. Ms. Grider is a communications student at Marylhurst University and is a 6-year resident of the community. Her background includes experiences with budget and grant administration, planning and coordination of retention programs and organizing groups and communities. She is the PTO Volunteer Coordinator at Joan Austin Elementary School and a volunteer at Mountain View Middle School.

Her interest in serving on a City committee is to represent neighbors who are unable to serve, bring creative solutions to the table and plan ahead so that children have a stable city to live in. She wishes to increase communication about city matters with working families and those not associated with the business community, to get the city budget on track, fund raise and use grant funds for more for projects, consider setting up a foundation so the city can do more community outreach without going over budget.

Historic Preservation:

The Historic Preservation Commission is a six-member commission including a non-voting student member. There are two positions open, one due to a resignation. One term will expire December 31, 2015; the second term will expire December 31, 2017. Its mission is to identify, recognize, and preserve significant properties relating to the community's history, encourage the rehabilitation and ongoing viability of historic buildings and structures, strengthen public support for historic preservation efforts within the community, foster civic pride and encourage cultural heritage tourism. There was one applicant.

The Mayor recommends:

1) Reappointment of Rick Fieldhouse to the Historic Preservation Commission for a term from January 1, 2015 to December 31, 2017. Mr. Fieldhouse is a current member of the committee and serves as its chairman. He is a Project Manager for the Newberg Downtown Coalition and a 16-year resident of the community. He is a graduate of George Fox University and holds a Bachelor's degree in History and a Master's degree in Business Administration. He serves as the secretary for the Newberg Historical Society, serves on the board of directors for the Yamhill County Historical Society and is the volunteer curator of the George Fox University museum collection.

His interest in serving on the Committee is because of his love for the town and its past. He traces his family history in Newberg back for five generations and many of its historic homes, commercial buildings and public spaces hold personal significance for him. He believes that Newberg has a unique culture evident in its buildings and citizens

and wants to help the town move forward in preserving the past while acting within the resources available. He believes that by being careful stewards of the historic resources that the Committee can increase the overall quality of life in Newberg, which will attract people who want to live, work and play here.

Planning:

The Newberg Planning Commission is an eight member committee that has one position designated as a non-voting student member. There are two positions open with terms ending December 31, 2017. The Planning Commission hears requests for annexations, comprehensive plan changes, zone changes, conditional use permits, appeals, and other land use applications. Its duties are to hold hearings, make findings, and typically present its recommendation to the Newberg City Council. For some types of applications the Planning Commission makes the final decision. There were four applicants and one student applicant.

The Mayor recommends:

- 1) **Reappointment of Philip Smith to the Planning Commission for a term from January 1, 2015 to December 31, 2017.** Mr. Smith is a college professor at George Fox University. He has been a member of the Planning Commission since 2002. He has received training as a mediator. He has also served as chairman of the Affordable Housing Task Force. His interest in serving on the commission is to complete projects, such as the Urban Growth Boundary Task Force, that he has been working on. He would also like to use the window of opportunity given by the Bypass construction to improve downtown and expand the Urban Growth Boundary for industry. He states he can listen fairly and present rational arguments for policy decisions.
- 2) **Reappointment of Cathy Stuhr to the Planning Commission for a term from January 1, 2015 to December 31, 2017.** Ms. Stuhr is a business owner and a 12-year resident of the area. She has served on the Planning Commission since 2005. She has an extensive past history on a wide variety of city advisory bodies. Her interest is to continue support to the City as she has in the past. She enjoys helping make the City a great place to grow. She sees one big issue as land supply because of its big impact on economic vitality.

Traffic Safety:

The Newberg Traffic Safety Commission is a nine member committee with one student commissioner position. There are five positions open including one student commissioner. One term is open due to a resignation and ends December 31, 2016. Three terms end December 31, 2017. The student commissioner position ends June 30, 2015. The Traffic Safety Commission provides a valuable service to the City of Newberg by promoting traffic safety through investigation, study and analysis of traffic safety programs; conducting educational efforts among the public in the matters of public safety; considering all traffic safety programs which are referred to them for recommendation by the City Council and making reports to the City Council on matters of traffic safety and traffic safety programs. The Traffic Safety Commission makes decisions regarding parking, crosswalks, safety zones, traffic lanes, truck routes and all manner of traffic control devices within the community. There were four applicants.

The Mayor recommends:

- 1) **Reappointment of Neil Klein to the Traffic Safety Commission for a term from January 1, 2015 to December 31, 2017.** Mr. Klein is a Fire Lieutenant/Paramedic with Lake Oswego Fire. He has served on the Traffic Safety Commission since 2009 and currently serves as the Chairman. He is a member of the Mayor's Cabinet and has volunteered with the Newberg Fire Department for 15 years. His interest in serving on the commission is to continue to make improvements to the City of Newberg and continue to learn about City government. He would like to see continued improvement between departments/commissions and the public.
- 2) **Reappointment of Tony Roos to the Traffic Safety Commission for a term from January 1, 2015 to December 31, 2017.** Mr. Roos is a civil engineer focused on transportation and 15-year resident of the community. He has served on the commission since 2013 and also serves on the Oregon Chapter of APWA. His interest in serving the city is to continue work to improve the safety of Newberg's streets. He uses a broad perspective of transportation solutions from around the state and country to his role as a commissioner.

3) Reappointment of Kari Lawson to the Traffic Safety Commission for a term from January 1, 2015 to December 31, 2017. Ms. Lawson is an accounting cashier and has served on the commission since 2012. She is involved with her church and is currently training for Yamhill County CERT. Her interest in serving on the commission is to continue to make a difference by educating herself and others about traffic safety issues in Newberg and implementing needed changes. She would also like to educate citizens as to how and why these decisions are made. She is interested in seeing the City involve and educate more citizens such as through open houses to discuss topics of interest to citizens, greater media and especially social media presence to increase awareness of meetings and announcements.

4) Appointment of Jeff Grider to the Traffic Safety Commission for a term from January 1, 2015 to December 31, 2016. Mr. Grider is a public safety officer at Portland Community College. He serves as an assistant scoutmaster with Troop 520 in Newberg, has served on several project management teams, a special event committee at PCC Sylvania and is Vice President at large of AFT Oregon. His interest in serving on the commission is to contribute his time and energy as well as his desire and willingness to learn new things. When he becomes involved or interested in a new concept, project or idea, he researches and learns from experts and others in order to make processes more efficient and effective. He is interested in seeing the City respond to citizens' complaints about the water bill whether it is the system at fault or a lack of communication.

5) Appointment of Meghan Seifert to the Traffic Safety Commission as a student commissioner for a term from January 1, 2015 to June 30, 2015. Ms. Seifert is a high school student and involved with Rotary International. She is interested in serving on a City commission because she has great interest in the wellbeing of society and would love to actively participate in making the community's needs a priority. She would like to gather with people with similar interests to potentially make the community better. She would also like to be a voice for her peers and assist in the planning of events for her community. Ms. Seifert lived in India for eight months, is enrolled in a legal systems class and has extensive community service experience. She is interested in seeing more unity and communication between the city government and those being governed. She feels she could bring a global and cultural perspective to the activities at hand.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: Month Day, Year

Order ___	Ordinance ___	Resolution ___	Motion <u>XX</u>	Information ___
No.	No.	No.		

SUBJECT: Nuisance Abatement by the city at 516 & 516 ½ N Morton St

**Contact Person (Preparer) for this Motion: Brad Allen, Code Compliance Officer
Dept.: City Attorney's Office
File No.: CC14-00312**

RECOMMENDATION:

Motion to instruct staff to abate a nuisance at 516 & 516 ½ N Morton St.

RECOMMENDED MOTION: I move to instruct city staff to abate the public health nuisance at 516 & 516 ½ N Morton St. The enforcement officer and city employees assisting the enforcement officer charged with abatement of the nuisance shall:

- 1. At reasonable times, enter into and upon the property in accordance with law to investigate or cause the removal of the nuisance; and**
- 2. Keep an accurate record of the expense incurred by the city in physically abating the nuisance, and shall include therein a charge of 25 percent of the expense for administration overhead.**

EXECUTIVE SUMMARY:

The owner of the property located at 516 & 516 ½ N Morton St (a duplex) was notified on October 21, 2014 of violations of Newberg Municipal Code (NMC) requiring correction by October 31, 2014. Specifically, the sewer connection from the property to the city's wastewater system has been broken resulting in untreated wastewater, or raw sewage, draining into the ground in front of the house. This situation constitutes a nuisance pursuant to NMC § 8.15.030 and § 13.10.050. Because the property is currently in foreclosure, Notices of Violation were also sent to the loan servicer, trustee, and occupant.

The responsible parties were instructed to clean up the accumulation of human waste in the yard and repair the broken sewer connection. Because this has not been done within the time allowed, the nuisance may be abated by the city pursuant to the Uniform Nuisance Abatement Procedure found in NMC § 8.15.210.

FISCAL IMPACT: The cleanup costs for the city will likely be under \$400. The costs of repair are unknown until the extent of the damage and necessary repairs can be fully assessed. Total costs of abatement could be between \$5,000 and \$7,000.

The property owner has filed for bankruptcy, so costs of abatement will not likely be recovered from the owner. Costs may be assessed to and become a lien against the property per NMC 8.15.220.