

CITY COUNCIL MINUTES
AUGUST 19, 2013
7:00 PM MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

A work session was held at 6:00 PM preceding the meeting. A presentation was given by Mr. Lee Elliot, assistant city manager, regarding the Public Works Master Plan and staff discussed the "If I Were a Mayor..." Contest, Fox Farm Vineyard development, and Oregon Planning Institute. Councilor Lesley Woodruff spoke about the culture of dishonesty, which may have developed in the city, and the letters from Mr. Leonard Rydell about recycling. All Councilors, the Mayor, acting city manager, city attorney, city recorder, and minutes recorder were present; no action was taken and 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	Ryan Howard	Mike Corey
	Lesley Woodruff	Denise Bacon	Bart Rierson
	Stephen McKinney		

Staff Present:	Lee Elliot, Assistant City Manager	Terry Mahr, City Attorney
	Barton Brierley, Planning and Building Director	Jay Harris, City Engineer
	Jason Wuertz, Civil Engineer	Janelle Nordyke, Finance Director
	Norma Alley, City Recorder	Mandy Dillman, Minutes Recorder

Others Present: Robert Soppe, Mark Darula, Jane Greller, John Bridges, Blyth Darula, Don Clements, and Mike Ragsdale

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. Lee Elliot, assistant city manager, gave reported how difficult the last week has been; however, he wanted to say what an honor it was to work with staff in an efficient and positive way to the response of the resignation of the previous city manager. The deadline for the citizen survey has been extended to August 30, 2013, at 5:00PM. The city mailed 24,000 envelopes with surveys and posted the survey online for everyone to partake. Through the mailings and the online survey, they have already received 348 replies.

V. COUNCIL APPOINTMENTS

1. Consider a motion appointing Sulamita Barbiyeru to the Planning Commission as the Student Planning Commissioner for a term expiring May 30, 2014.

MOTION: Rierson/Bacon appointing Sulamita Barbiyeru to the Planning Commission as the Student Planning Commissioner for a term expiring May 30, 2014. Motion carried (7 Yes/0 No).

2. Consider a motion appointing David Venable to the Traffic Safety Commission for a term expiring December 31, 2015.

MOTION: Bacon/Woodruff appointing David Venable to the Traffic Safety Commission for a term expiring December 31, 2015. Motion carried (7 Yes/0 No).

Mr. David Venable shared a little about himself and his readiness to help solve problems for Newberg. Councilor Bart Rierson said the traffic safety commission is important for the safety of citizens and thanked Mr. Venable for filling the position.

VI. PUBLIC COMMENTS

Mr. Robert Soppe testified in response to the resignation of the city manager and he feels he should not have been given a severance package because he resigned and urged them to give careful consideration to future contracts specifically for the city manager and city attorney to prevent this from happening again.

Mr. Mark Darula brought forth the issue of Terra Vista Heights planning to be built in his neighborhood. He mentioned he was very surprised, disappointed, and confused when he and his neighbors went to the planning commission for answers. He worked with the director, however his questions were not answered; postings that were supposed to happen were not posted, documents were lost that were supposed to be in the public record, and he is trying to figure out why it is so hard to communicate with the city. The planning commission accused them of not doing their homework and if they need to pay the city for special council time, they will to get their questions answered. Mr. Darula asked if they cannot explain the codes in the new R1 zoning reconfiguration, then do not vote. He is frustrated trying to understand the zoning codes and when he asked staff for clarification, was informed the codes are clear and concise. Things are not adding up and is concerned it goes deeper than the planning commission and something is desperately wrong. They have been so frustrated the last five weeks and he asked again that the councilors vote against the zoning table if they do not understand what it entails. Councilor Rierson thanked Mr. Darula for speaking about something important and asked if the city could waive the fees because they do not want citizens unsatisfied and a fee on top of it causing delay.

VII. CONSENT CALENDAR

1. Consider a motion adopting **Resolution No. 2013-3068** authorizing the city manager to negotiate and execute an Intergovernmental Agreement with the State of Oregon to upgrade and replace ADA ramps.
2. Consider a motion adopting **Resolution No. 2013-3071** authorizing the city manager to execute an amendment to the Intergovernmental Agreement with the State of Oregon to exchange federal funds for state funds.
3. Consider a motion adopting **Resolution No. 2013-3072** authorizing the city manager to execute an amendment to the Intergovernmental Agreement with ODOT for the sidewalk and bike lane improvements on N. College Street.
4. Consider a motion adopting **Resolution No. 2013-3073** initiating a Newberg Transportation System Plan amendment to reflect the Newberg-Dundee Bypass Phase I Alignment
5. Consider a motion adopting **Resolution No. 2013-3075** approving the appointment of Jennifer Nelson as the Deputy City Recorder.

6. Consider a motion approving a sound permit for the Newberg Downtown Coalition for Oktoberfest to be held on September 20 and 21, 2013.
7. Consider a motion approving the July 15, 2013, city council meeting minutes.

MOTION: **Rierson/Bacon** adopting the consent calendar including **Resolution No. 2013-3068** authorizing the city manager to negotiate and execute an Intergovernmental Agreement with the State of Oregon to upgrade and replace ADA ramps, **Resolution No. 2013-3071** authorizing the city manager to execute an amendment to the Intergovernmental Agreement with the State of Oregon to exchange federal funds for state funds, **Resolution No. 2013-3072** authorizing the city manager to execute an amendment to the Intergovernmental Agreement with ODOT for the sidewalk and bike lane improvements on N. College Street, **Resolution No. 2013-3073** initiating a Newberg Transportation System Plan amendment to reflect the Newberg-Dundee Bypass Phase I Alignment, **Resolution No. 2013-3075** approving the appointment of Jennifer Nelson as the Deputy City Recorder, approving a sound permit for the Newberg Downtown Coalition for Oktoberfest to be held on September 20 and 21, 2013, and approving the July 15, 2013, city council meeting minutes. Motion carried (7 Yes/0 No).

VIII. PUBLIC HEARINGS

Consider a motion adopting **Ordinance No. 2013-2763** amending the Newberg Development Code adopting a new Zone Use Table.
(Legislative Hearing)

Mr. Barton Brierley, planning and building director, presented the staff report accompanied by a PowerPoint presentation (see official meeting packet for full report). Staff recommends approval of Ordinance No. 2013-2763.

Councilor Ryan Howard asked if these changes would cause any existing business to change to comply or to close. Mr. Brierley explained any current establishments may continue current use; however, if they close for any reason for more than a year, they must comply with the changes upon re-opening. Councilor Howard wondered if vacation rental homes would be notified of the new standards and registration process. Mr. Brierley said one provision in the recommendation was if someone had a previous existing use, they are allowed to continue as they are. They further discussed Caravan Coffee and other complicated cases.

Ms. Jane Greller expressed how the staff report explains the frustration her and her neighbors have felt. She asked the council to ask Mr. Brierley where the presentation identifies what is going to be repealed. As she understands it, the councilors are being asked to repeal language in the code, which removes the language and now says R-1 Low Density Residential (LDR) is no longer the most important land use in the city. It bothers Ms. Greller that language will just disappear. She received what Mr. Brierley presented in a letter accompanying her water bill; however, she was unable to find the information, which states what they will be replacing the definition of the R1 with. She further explained she understands the LDR designation of 4.4 units is now going to average over the entire district, including the portion being developed in their neighborhood. She further explained in the zoning use table in section 200 it lists residential uses in R-1 are subject to density limits per code 15.405.010b, which has not been mentioned in the utility bill or staff report and asked why it has not been mentioned. As a concerned citizen, she is trying to become involved and understand the guidelines; however, she is feeling stone-walled and the process has been very confusing. She asked why it is so hard to get clear, understandable answers from the planning department, even after 14 emails over three weeks asking the same question about LDR, high density residential (HDR) and medium density residential (MDR) formulas. Ms. Greller submitted written testimony for an extension of the Terrace Estates hearing on August 15, 2013, and she was contacted by Ms. Nunley, informing her that two of the pages had gone missing.

Mr. Terry Mahr, city attorney, interrupted Ms. Greller notifying the council her testimony is on a quasi-judicial hearing currently being heard by the planning commission and she should not be sharing evidence at the council level; instead she should go through an appeals process with the planning commission.

Discussion commenced about how to submit information in that manner and what is appropriate for her to discuss with the city council.

Ms. Greller continued by saying she is being misrepresented. She asked council to turn to page 165 in their council packet and wanted to know how the density limits are calculated. Councilor Denise Bacon asked Mr. Brierley if this was what they did a few years ago when trying to meet density goals because of the affordable housing act. Mr. Brierley answered it was. Mayor Andrews informed Ms. Greller they cannot come up with the answer for her tonight, but staff will prepare a response to send to her by her choice of delivery. Ms. Greller mentioned the land use notices for the Terra Estates property were not properly displayed, as per code, and she is very concerned because the code is changing to say the R-1 is not the most important property in the city anymore and will be averaged by density limit in a way that cannot be calculated. Councilor Bacon explained the city spent many years building on huge lots and not meeting target goals for housing, which means there is no more land left for housing. She mentioned this does not mean they are going to come rebuild on Ms. Greller's property. Ms. Greller also spoke about the comprehensive plan saying land use projects are "until 2010" and then in two other places it states it is "through 2010". She explained it makes a difference to her and asked where the comprehensive plan lives. They want a plan that is crisp and clear and understandable because it is conflicting and no one can tell her why. Councilor Bacon asked Mr. Brierley if she had a piece of property bought before the change in density, but did not file paperwork to build on the land and decided to today, would she start with what is current or what the rules were when she bought the property. Mr. Brierley replied she would start with what is current today. Councilor Bacon asked Ms. Greller why it makes a big difference. Ms. Greller explained until R-1 density in 2010 the square footage was 7,500 and then in October, 2010, it changed to 5,000 square foot minimums. The plan continues to say it is good "through 2010" and then says it is good "until", and she does not really care either way; however, it cannot be both, which causes contradictory language in the plan. Councilor Stephen McKinney said her questions are legitimate, suggested they may want to seek legal advice on some of their issues, and reminded her staff will be working on her questions and they all want to help her move forward. Councilor Bart Rierson said he was not familiar with the document that mentioned R1 was the most important land use and his assumptions in regards to land use projects is the dates are constantly changing. He informed her the previous city manger was working on ways to help the citizen process of navigating the city easier with a city liaison, specifically for these types of issues. Additionally, he mentioned she could call city councilors to get more help. Mr. Brierley read out loud what the code currently states and informed Ms. Greller the planning commission changed R1 from being the most important land in the community because they had a feeling all land in the city is equally important and therefore asked the language be changed. He then read what the new language was to be and informed the council it was highlighted in their material on page 139. Additionally, the density limit currently says the R-1 has a minimum of 5,000 square feet per dwelling limit and establish it by a sub-district. Councilor Rierson asked where the formula for 4.4 per acre was derived. Mr. Brierley explained the dwelling unit per gross buildable acre came from the comprehensive plan, which has been in place since 1979, and was reaffirmed and adopted in 2006. Councilor Rierson asked if the 4.4 units per gross buildable acre assumes a figure larger than 7,500 square feet. Mr. Brierley said it was roughly an average of a 7,424 square foot lot. Additionally, he explained they have done a number of updates to the comprehensive plan over time, which included significant changes in 2005 and 2006 to update projects for land needs through 2025 and 2040. The future land uses were not supposed to be updated until 2010 and they have not yet updated them. Those parts in need of updating have the language Ms. Greller found to be contradictory and like the zoning use table, outdated.

It was discussed staff did all they could to inform citizens of the land use change for Terra Heights and they also posted notices on the website and in the newsletters for the planning commissions consideration of zone changes.

Councilor McKinney asked if by saying “through 2010”, they are assuming it is until December 31, 2010. Mr. Brierley restated the comprehensive plan is in need of updating and when they were last updated in the nineties, it was updated through 2010 and is assumed until the end. The two lines in question still refer to 2010 and need to be amended.

Mr. John Bridges urged the council to include child care in industrial zones. He said the planning commission agreed to allow it as a conditional use and asked the council do the same.

Mr. Mark Darula asked why they are giving a five-year exemption to land without any value to change in the next five years with no regards of decision to city changes. Additionally, Mr. Brierley said a piece of land can be bought in the next five years and have to conform, which is opposite of the previous statement. Mayor Andrews said they will work on finding an answer, but do not have one for him today. He also reminded the council this is the first reading, so if the council needs clarification on matters they will not vote on the issue.

Councilor Howard asked why they were changing section 25. Mr. Brierley explained it was in light of the many measures passed in Oregon over the last decade, which have affected land use. They are allowing a grace period for those wanting to use a property for a use now changing or not allowed. If the council would like they could change those terms.

Mr. Darula asked why the people on the land for Terra Estates are not given the five-year exemption for the annexation when it was annexed at a community vote by 45%. He wondered how it was not intended for that purpose. Mayor Andrews replied staff would have to get back to them with an answer for that.

Ms. Blyth Darula said she has a general feeling something is being hidden from the citizens and they are supposed to be seen and not heard. She mentioned the language “trying to bring the code up to the 21st century” will cause things to get overlooked because of lack of detail. Ms. Darula feels special interest groups are getting away with changing the code and responsible citizens are supposed to look in the paper to see if they should be worrying. She feels they have not been well represented and have been told to not make ripples. If there is something in the process that is not right, she asked council look into it and change it. Councilor Mike Corey stated the city is not trying to hide anything; all the information has been public knowledge for a while. The information is difficult for the councilors to understand at times as well, but the changes are to help citizens in the future, not to hurt them. Councilor Corey concluded with explaining the R-1 changes are intended to help keep jobs in the city, which will therefore keep the need for new houses; and lowering the square footage requirement will allow more low-income housing for those who cannot afford a larger home. He expressed his hope they were able to voice concerns at the planning commission meeting. Ms. Darula said they all spoke at planning commission. Mayor Andrews asked her about the zoning changes and she informed him they had no idea about them. Mayor Andrews replied they are looking for new ways to communicate with the public and ideas are greatly appreciated. Councilor McKinney replied to Ms. Darula’s testimony by stating he is unaware of any special interest groups using solicitation to use the city and was sorry to hear citizens think there might be. Ms. Darula replied it was just a blanket statement in regards to her recent experience which causes her to believe there maybe dishonesty happening in lower levels. She is asking for help to look into what is happening in the city offices.

Discussion commenced in regards to the ordinance and Terra Heights application and it was determined the citizens feel the smaller sized lots are changing how Newberg looks.

Mayor Andrews mentioned a Mr. Gerald Boe submitted a written testimony.

MOTION: Rierson/Bacon adopting written testimony of Mr. Gerald Boe. Motion carried (7 Yes/0 No).

Mayor Andrews closed the public testimony.

Mr. Brierley said they have tried to be very cognizant and detail-oriented in this process, as well as being very transparent in the changes. Volunteers have spent many nights working with these codes and Mr. Brierley wanted to commend the planning commission for their effort. He wanted the citizens to know they have tried very hard to make information simple and understandable. The planning commission looked very carefully over the zoning use table and Mr. Brierley feels comfortable asking the council to adopt it as well. Mayor Andrews asked if planning commission had been unanimous in adoption and Mr. Brierley replied they had been. Councilor Rierson mentioned the written testimony from Mr. Boe suggests objecting to R-1 zone density should not be decreased further by adding plan unit developments. Councilor Rierson assumes the planning development is already part of the code and plan unit development would not increase density, but instead allow for a slightly smaller lot size, where odd shaped pieces could exist without being flag lots, and other units being bigger to make up for the smaller lots. Mr. Brierley explained planning developments can apply under R1 in current code and under purposed lots. The density in planning unit development is calculated differently than in a subdivision and is based on the number of bedrooms in unit. It is possible to ask for more dwelling units in a planning unit development; however, there are stricter requirements. Mayor Andrews asked if the planning commission adopted 2013-299 and Mr. Brierley said they had. It was discussed further the changes to daycare applications in the new zoning code table.

Mayor Andrews closed public hearing and record.

Staff stated additional written testimony will be accepted for seven days with the second reading scheduled for September 16, 2013. Mayor Andrews also mentioned council can reopen the public record at the next meeting if people come to testify.

IX. NEW BUSINESS

TIME – 7:06 PM

1. Consider a motion adopting **Resolution No. 2013-3074** authorizing a settlement with former employee, Tabrina McPherson, concerning employment claims due to her separation from employment with the City in the amount of \$44,280.00.

Mr. Mahr explained this motion is for a settlement of a claim, which they will pay over nine months as a severance package for all outstanding claims. The pursuant sent a letter through their attorney about employment claims including information about all offices, including the city manager. Councilor McKinney asked if Citycounty Insurance Services (CIS) was going to help pay for the settlement. Mr. Mahr said CIS is contributing two-thirds of the payment. It was discussed the city does not have a standard way of resolving issues of this sort because layoffs rarely happen.

MOTION: Rierson/Bacon adopting **Resolution No. 2013-3074** authorizing a settlement with former employee, Tabrina McPherson, concerning employment claims due to her separation from employment with the City in the amount of \$44,280.00. Motion carried (7 Yes/0 No).

2. Consider a motion adopting **Resolution No. 2013-3069** authorizing the city manager to enter into a construction contract for the Sheridan Street and Chehalem Cultural Center Forecourt Project.

Mr. Jason Wuertz, civil engineer, presented the staff report accompanied by a PowerPoint presentation (see official meeting packet for full report). Staff recommends approval of Resolution No. 2013-3069.

Discussion commenced on the planned usage of the federal exchange monies. It was concluded the council can decide to postpone for a couple weeks, defer until later winter, or approve as it stands. The full amount of

money from the federal exchange will be \$485,000.00; however, it will be used for several projects including the Cultural Center's forecourt and the current street rehabilitation projects happening around town. The total budget for this project was \$485,000.00 with \$1,720,000.00 in the federal funds currently, which would be enough to pay for the project as well as Vittoria Way and several paving projects next summer if the council chooses. However, the bid came in high and the new total budget is \$530,000.00, which they plan to pay the difference with federal exchange monies if allowed. If not allowed, the money would need to come from other projects budgets. Councilors discussed they feel the city needs the rehabilitation projects and staff informed them the money they would take from rehabilitation projects would be enough to re-pave three-fourths of a block.

Mr. Mike Ragsdale, Newberg downtown association chair, encouraged the council to pass the motion. He explained they have worked hard to raise their share of the money for the project and have the ballroom to finish as well, which will also help increase the Cultural Center's revenue. They are also over budget because of the Sherman Street underground power line and curb cuts. He encouraged them to move quickly so construction can get underway before the wet weather sets in. Councilor Howard asked if they could forego the parking lot refurbishing to help pay for the forecourt; however, Mr. Ragsdale informed him he would not be able to answer.

Mr. Don Clements, Chehalem Park and Recreation District (CPRD) superintendent, said they have been working on this project for four years. He feels passing the motion is the right decision and delaying will only complicate and inconvenience citizens instead of saving money.

Discussion commenced with councilors stating their opinions of the motion.

MOTION: Rierson/Howard adopting **Resolution No. 2013-3069** authorizing the city manager to enter into a construction contract for the Sheridan Street and Chehalem Cultural Center Forecourt Project.

Mayor Andrews asked for clarification as to how they would pay for the project if the federal funds will not. Ms. Janelle Nordyke, finance director, explained the funds would come from the street fund and will come from contingency, which will eat into the six-day operating contingency and directly effect the maintenance. Additionally, if they go below three months of reserves, the bond issue will have a higher interest rate.

Discussion commenced on delaying the project and it was determined if delayed, they must go out for bids again and it would push the project into the winter season increasing costs.

MOTION: Corey/Andrews amending **Resolution No. 2013-3069** authorizing the city manager to enter into a construction contract for the Sheridan Street and Chehalem Cultural Center Forecourt Project, contingent upon approval of legal counsel allowing for use of the federal exchange funds.

Discussion commenced about why council is just finding out now about the federal funds possibly not covering the project. It was determined the previous city manager had other priorities and wanted to push this project through faster without delay. Additionally, it was discussed they will have a risk analysis in the next few days as to whether they think the federal monies can be used for the project. If federal monies cannot be used, they will bring the item back to discuss what monies to use instead.

VOTE: amending **Resolution No. 2013-3069** contingent upon approval of legal counsel allowing for use of the federal exchange funds. Motion carried (6 Yes/1 No [Woodruff]).

VOTE: Corey/Andrews adopting **Resolution No. 2013-3069** authorizing the city manager to enter into a construction contract for the Sheridan Street and Chehalem Cultural Center Forecourt Project, as amended. Motion carried (6 Yes/1 No [Woodruff]).

3. Consider a motion adopting **Resolution No. 2013-3070** authorizing the city manager to execute an Intergovernmental Agreement with Chehalem Park and Recreation District (CPRD) for cost sharing of the Sheridan Street and Chehalem Cultural Center Forecourt Project.

Mr. Wuertz explained the split is determined by the right-of-way boundary on the property line and everything outside of the right-of-way will be covered by CPRD. Staff recommends approval Resolution No. 2013-3070.

MOTION: Rierson/Bacon adopting **Resolution No. 2013-3070** authorizing the city manager to execute an Intergovernmental Agreement with Chehalem Park and Recreation District (CPRD) for cost sharing of the Sheridan Street and Chehalem Cultural Center Forecourt Project. Motion carried (7 Yes/0 No).

X. COUNCIL BUSINESS

TIME – 10:29 PM

1. Consider a motion directing staff to work with Debbie Headley to install a Peace Pole at Francis Square.

MOTION: Howard/Bacon motion directing staff to work with Debbie Headley to install a Peace Pole at Francis Square. Motion carried (7 Yes/0 No).

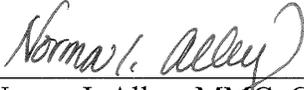
2. Francis Park Waterfall

Mayor Andrews explained he received an e-mail from Ms. Pat Haight and forwarded it on to public works for input. Mr. Elliot replied they have had multiple challenges in regards to vandalism and staff will have recommendations in a couple weeks. Councilor Howard asked how persistent the issues are and Mr. Elliot said they spent several weeks fixing the area and the next day it was vandalized.

XI. ADJOURNMENT

The meeting adjourned at 10:42 PM.

ADOPTED by the Newberg City Council this 21st day of October, 2013.



Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 21st day of October, 2013.



Bob Andrews, Mayor