

**City of Newberg
City Council Minutes
December 18, 2023
Hybrid meeting format**

EXECUTIVE SESSION –

Meeting called to order at 6:01 pm.

Councilors Present: Mayor Bill Rosacker, Councilors Molly Olson, Mike McBride, Robyn Wheatley, Peggy Kilburg, and Derek Carmon

Councilors Absent: Councilor Elise Yarnell Hollamon

Staff Present: City Manager Will Worthey, City Attorney James Walker, Interim Community Development Director Clay Downing, Finance Director Kady Strode, Interim Human Resources Manager Allison Seiler, Public Works Director Russ Thomas, City Recorder Rachel Thomas, Library Director Korie Burkle, IT Manager Ian Rodriguez, City Engineer Lance Calvert, and Senior Engineer Paul Chiu

An Executive Session was held pursuant to Oregon Revised Statute 192.660. A representative of the news media, designated Staff, and other persons would be allowed to attend the Executive Session. No decisions would be made during the session.

BUSINESS SESSION –

Meeting called to order at 7:54 pm.

CITY MANAGER’S REPORT

CM statistics End of October 12 18.pptx

CM Worthey reported the statistics for the end of the month of October 2023 and stated that after hours IT tickets could be due to any other number of technical issues.

PUBLIC COMMENTS

None.

REPORTS AND PRESENTATIONS

Employee Handbook Presentation

Employee Handbook Council Presentation December 2023.pdf

Interim Human Resources Manager Seiler thanked the many people who had collaborated to work on the revision of the Newberg Employee Handbook (NEH), and she presented a PowerPoint presentation on the proposed NEH revisions covering the following key points:

- Nearly 100 City employees used Collective Bargaining Agreements (CBA) and 50 employees used the NEH as the primary guidance. The NEH also provided guidance in the case that the topic was not covered in the CBA.
- Employee handbooks went out of date very quickly, which cities tried to mitigate using the following methods:
 - Adding appendices – Newberg currently had 12 appendices in the NEH.

- Issuing the handbook in separate PDFs – Milwaukee had 60 individual policies on their employee handbook website.
- Adding policies as necessary – Beaverton’s handbook was last updated in 2013 and policies had been added to the handbook.
- The Oregon Career Information System (CIS) released a Human Resources (HR) Academy which suggested creating policies for Artificial Intelligence (AI) and considering the use of bias in the terminology.
- The current NEH was posted on the City website and on SharePoint. New employees were given several weeks to read and understand the NEH before signing the acknowledgement.
- Changes in the law have required additional language to be added to the NEH, including the Oregon Workplace Fairness Act of 2020 and 2023, the Crown Act, the Paid Leave Oregon, the Oregon Family Leave Act, changes to the protected individual characteristics such as gender identity and expression, and clarification on HR and Finance policies such as expense reimbursement and salary continuation for worker’s comp.
- Policies were not necessarily being added because of Newberg employees. Most employees did not need a handbook outlining the policy details to maintain acceptable behavior, such as not coming to work under the influence of drugs or alcohol. The drug and alcohol policy section was nine pages long because of needing to detail every possibly aspect. Some policies had been added in response to incidents involving employees of other cities. Additional policies contributed to the increased length of the NEH.
- CM Worthey had initiated the revision of the NEH in August 2022 by combining the HR Answers CIS template with the current NEH to create one reference document.
- The proposed NEH had been reviewed by Miller-Nash, the American Federation of State, County, and Municipal Employees (AFSCME), and the Newberg Dundee Police Association before returning to the City for approval. Any changes made to the NEH had to be approved by all of the aforementioned entities.
- Some notable changes to the proposed NEH included the ability to cash out 40 hours of vacation, five days of paid bereavement leave, reconciliation of the two different workweeks, balanced out comp time amounts, the ability to use vacation time within the first six months of employment, no unpaid leave, and using Oregon Paid Leave rather than sick leave donation as per CIS recommendation.
- If the City Council requested further changes to the proposed NEH, it would go through the process of revision and approval again. If the Council approved the NEH in January 2024, the Finance and HR Departments would need time to implement the changes into the software system, which is why an actual effective date would not be requested until January 21, 2024 at the earliest.
- Highlights of the changes to the NEH would be communicated to employees and time would be given to allow employees to use up leave time that was over the maximum limit. Acknowledgement signatures of City employees would then be gathered electronically.

Elliott Road Improvements

ELLIOTT ROAD IMPROVEMENTS 20231218.pdf

Tony Roos, Lead Engineer, Kittelson & Associates, and Senior Engineer Paul Chiu gave a PowerPoint presentation on the Elliott Rd Improvement project and covered the following topics:

- SE Chiu had received the final closeout signatures from the contractor.
- Mr. Roos detailed the project timeline from its beginning in June 2019 through the end of construction in November 2023 and shared some pictures of the project before and after construction.

- The Elliott Rd construction project had included relining the sewer system, a new Stormwater system, a new Water Quality Pond on Newberg High School property, franchise utility relocation, new water main construction, new water hydrants which were up to standard, and reconstruction of Elliott Rd.
- A one-and-a-half-inch overlay had been put on Elliott Rd in 2015 which had begun to fail.
- A tenant of Elliott Rd noted that if the cause of the cracking was not fixed, the road would continue to crack despite repairs being done.
- Several issues were encountered during the construction phase of the Elliott Rd improvements including:
 - Incorrect or missing utility locates during design and construction.
 - Slow responses to calls for utility locates.
 - A powerline which had not been marked had been dug through near Haworth Ave and power to the north end of Newberg was lost until the power company repaired the line.
 - The contractor found he could not trust the utility locates and was slowed down by having to hand dig every trench to avoid hitting utility lines.
 - Highly trained utility locators had provided new locates which were still inaccurate.
 - Initially the plan had been to close Elliott Rd between Haworth Ave and the high school, but because of delays caused by hand-digging trenches, the work was not completed when school construction began and they had to change the plan to include flaggers controlling traffic through Elliott Rd, adding significant cost to the project.
 - Mr. Roos discussed the different utility providers that had been involved in the project and how they had responded. Most utility providers had been helpful and good to work with, but there had been some issues especially with Zply Fiber who had been slow to respond when fiber lines providing internet to customers were cut. Zply Fiber still had open relocation work underway.
 - There had been property impacts at the northwest corner of Haworth Ave because of a bad locate at the waterline tie-in which resulted in the waterline being shifted under the driveway of the property, which had not been Americans with Disabilities Act (ADA) compliant and had to be rebuilt to ADA regulations. The change to the driveway also required the installation of a retaining wall.
 - On the east side of Elliott Rd between Willow Dr and Haworth Ave a retaining wall had been installed rather than building a slope, after negotiations with homeowners.
 - A utility vault had mistakenly been placed outside of the easements, and negotiations with the homeowner had resulted in completing an increased driveway replacement due to additional utility conflicts.
 - The initial bid had included a minimal 650 hours of traffic flagging. When construction began, traffic backed up quickly and Saunders, the contractor, decided more flagging was needed, which may have been a hasty decision as traffic may have normalized when drivers became more accustomed to taking alternate routes. As a positive note, the increased flagging also increased community involvement.
- Mr. Roos stated that the good news about the Elliott Rd project was:
 - That the work environment had been very safe, and no time was lost to injuries.
 - The project was completed on schedule despite additional work performed by Saunders.
 - Several big trees were saved.
 - The Oregon Department of Transportation (ODOT) funded the \$50,000 traffic signal radar detection upgrade project at Elliott Rd and OR-99 while coordinating the project to restripe the road between Haworth Ave and OR-99 to include a bike lane, creating a continuous bike lane from Second St all the way to the high school sidewalks, which was a benefit to the community.

- Drainage issues causing flooding in the Redwood cul-de-sac were fixed by Public Works.
- People had been utilizing the new sidewalks and bike lanes, which were fully ADA compliant.
- Properties east of the church sometimes experienced drainage issues coming from the high school football field because of an antiquated drainage system. The “Tiger House” had been built in the 1970s by high school students as a class project and was sold for revenue for the school. The Stormwater line under the Tiger House had failed, and during the Elliott Rd project the City worked with the School District to direct the water into a swale.
- The total estimated cost for the Elliott Rd project had initially been \$5.9 million between 82 major bid items.
- Four different letters had been sent to utility companies during the design phase to ask for utility locates, confirm utility locates, identify conflicts, and notify that construction was ready to begin, and if utilities had not been relocated, a plan for relocation needed to be in place. At no point during communications did Zply or Comcast state that the City had to buy and install the conduit for their utilities until the pre-construction meeting. The cost of the conduit was up to an additional \$220,000.
- Value engineering had changed a planned 6 ft fence to a 4 ft fence saving \$114,000 and had verified that existing pipes and chemical grouting were in good condition and did not need to be replaced.
- Earthwork had required additional aggregate base to offset the soft soil.
- Additional Stormwater piping had been needed to reconnect driveways and houses and Stormwater structures.
- Saunders had not requested additional fees for mobilization of equipment and materials, additional survey time, or for traffic control, with the exception of flagging.
- The City Attorney had worked with the church property owner to secure a staging area near the job site which had been a helpful arrangement for the contractor.
- Mr. Roos detailed the reasons for the ten change orders that were issued on the contract during the construction period of the Elliot Rd project, which included trenching around phone lines, potholing to verify utility locates, building retaining walls, utility vault installation for Zply Fiber, special treatment for asbestos sewer lines, avoiding conflicts with water and sewer lines, excavation support for NW Natural Relocation, stained curb extension bike areas, excavation support for Pacific Gas and Electric, paving and concrete work, major adjustment of a sewer manhole to bring it into compliance, and a closeout summary for all the overages in bid items.
- The City planned to file a claim with the Oregon Public Utilities Commission (PUC) to start the process of recuperating some of the costs of the project from the utility providers for the delays experienced due to bad utility locates.
- SE Chiu had submitted one application to PUC for the entirety of the project which was rejected by PUC who said that applications must be submitted one per conflict, per location, per franchise utility, which created a lot of extra paperwork to be submitted. Once the applications were received and approved by the PUC, the PUC would issue notifications of violation and bills for the claimed costs of the delays to the utility companies associated with the violations.
- Oregon had a law that prevented spending gas tax money, so the City was unable to use gas tax money to locate franchise utilities. Mr. Roos suggested hiring a better trained and more qualified third party to do utility locates in the future, especially with System Development Charges (SDC) helping to fund infrastructure projects.

- The City’s utility franchise agreements were not in alignment with City Code or engineering standards. Mr. Roos suggested revising the franchise agreements to clarify which parties were responsible to provide what, when, and where.
- The City was currently working on updating the design standards, which would be helpful to future projects.

CM Worthey stated that as each franchise agreement expired, it would be sent to Miller-Nash for review to ensure the agreement was aligned with current Code. Some franchise agreements had a long period of time before expiring. CM Worthey did not sign long-term franchise agreements anymore.

COUNCIL APPOINTMENTS

Committee Appointments 2024
Committee Appointments.pdf

Action: To ratify the Committee Appointments as presented on the Request for Council Action

Motion: Councilor Kilburg

Second: Councilor McBride

Vote: 6 Yes 0 No 0 Abstain 1 Absent (Yarnell Hollamon)

CONSENT CALENDAR

RCA Motion: Automated Traffic Enforcement

Exhibit A, Conduent Agreement for Services re Photo Enforcement Systems FINAL.docx

Exhibit B, Proposal Evaluation Traffic Control Final.pdf

RCA A MOTION TO AWARD A CONTRACT TO CONDUENT FOR THREE YEARS FOR AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS.docx

CM Worthey stated that the contract contained blank, highlighted spaces to insert the proper dates in the future.

Action: To approve the Consent Calendar

Motion: Councilor Wheatley

Second: Councilor Olson

Vote: 6 Yes 0 No 0 Abstain 1 Absent (Yarnell Hollamon)

NEW BUSINESS

2023-2023 Notice of Funding Availability (NOFA) Documents for the Newberg Affordable Housing Trust Fund

RCA-Motion 2023-24 NOFA.pdf

Attachment 1 2023-24 NOFA.pdf

Interim Community Development Director Downing wanted to clarify that this Notice of Funding Availability (NOFA) was not related to the Construction Excise Tax (CET) and the funding was sourced from the Newberg Affordable Housing Trust Fund, as had been done in prior years. The Affordable Housing Commission approved bringing this item forward to the City Council.

Action: To approve the content of the 2023–2024 Notice of Funding Availability (NOFA) as shown in Attachment 1, and authorize

Staff to proceed with the notification and publication of NOFA with a March 13, 2024 application deadline

Motion: Councilor Olson
Second: Councilor Kilburg
Vote: 6 Yes 0 No 0 Abstain 1 Absent (Yarnell Hollamon)

Miller-Nash Contract Renewal for 2023-2026

2023 A MOTION TO RENEW THE MILLER NASH CONTRACT FOR THREE YEARS.docx

Attachment 1 Miller-Nash Agreement for Professional Services 2020.pdf

Attachment 2 Agreement for Professional Services.docx

Attachment 3 Engagement Letter to City of Newberg re Continuation of Legal Services.docx

CM Worthey stated that all cities required legal services for many varied reasons and were specifically called for in the City Charter by reference to the City Attorney. The City of Newberg had been well served by Miller-Nash over the last three years in a host of cases and negotiations. The City Attorney reported directly to the City Council as one of three direct reports, with the others reports coming from City Manager Worthey and Judge Blake. If approved, this contract would continue the relationship with Miller-Nash through 2026. Previous and new engagement documents were included as Attachments 1, 2, and 3. There had been a 14 percent increase in the pricing structure which was in line with market values and was reasonable considering the events of the last three years.

Staff recommended that the Council move that the City of Newberg renew its contract with Miller-Nash for legal services for three more years.

Action: To renew the contract between the City of Newberg and Miller-Nash for legal services for three more years.

Motion: Councilor Carmon
Second: Councilor Kilburg
Vote: 6 Yes 0 No 0 Abstain 1 Absent (Yarnell Hollamon)

COUNCIL BUSINESS

None

ADJOURNMENT

Meeting adjourned at 8:56 pm.

ATTEST



Bill Rosacker, Mayor



City Recorder