

MINUTES OF THE NEWBERG CITY COUNCIL
NOVEMBER 17, 2003
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING - TRAINING ROOM

I. CALL MEETING TO ORDER

Mayor Stewart called the meeting to order.

II. ROLL CALL

Bob Andrews	Roger Currier
Bob Larson	Mike McBride
Doug Pugsley	Robert Soppe

Others Present:

James H. Bennett, City Manager
Terrence D. Mahr, City Attorney
Katherine Tri, Finance Director
Barton Brierley, City Planner
Dan Danicic, City Engineer

III. PLEDGE OF ALLEGIANCE

Scout Troop 265 assisted the Mayor in leading the pledge of allegiance.

PUBLIC MEETING SECTION

IV. PUBLIC COMMENTS

None.

V. CONSENT CALENDAR

1. Approve minutes from Regular Council meeting held on October 6, 2003 and October 20, 2003.
2. Approve **Resolution No. 2003-2479** authorizing the placement of a Grass Lien on 1001 South Chehalem Street, Tax Lot No. 3220-CC-2100.
3. Approve **Resolution No. 2003-2480** adopting an Assessment Billing Fee of \$5.00 per billing.
4. Consider appointment of Karl Birky to the Traffic Safety Commission with final term to expire on 12/31/2006.

MOTION: Larson/Currier to approve the Consent Calendar as amended. (Unanimous).
Motion carried.

5. Presentation of Visitor Information Center reports from 4th Quarter 2002-2003 and 1st Quarter 2003-2004.

Mayor Stewart indicated that the Visitor Information Center report was pulled from the Consent Calendar to discuss later in the meeting.

VI. PUBLIC HEARING

1. Public hearing on **Resolution No. 2003-2477** adopting Supplemental Budget #1 for Fiscal Year 2003-04. (**Legislative Hearing**)

Finance Director Tri reviewed the amount of conflagration reimbursement received from the State of Oregon for Newberg fire fighters. The City received a FEMA grant of \$235,080 and donations from ADEC and SP newsprint. State law requires building inspection fees reconciliation. Any carry over is to be reallocated. Also for planning fees. The planning department would like to spend \$25,000 for a housing population study. The building department is also considering an electrical program. Both departments have bought new software and are paying for the software. They carried over \$20,000 for this purpose. In capital projects, there are funds that have been budgeted and projects approved. There is some clean-up to be done in some of the funds. There will be federal exchange money to be placed in the capital projects street funds. The Finance Committee heard the matter on October 28th and recommends approval.

Councilor Soppe asked if the City has received federal exchange funds before. City Engineer Danicic said we normally receive the money every year, but due to changes in the way it is administered, the City did not receive it last year, so this is a double amount. It is specifically earmarked for street improvements.

MOTION: Larson/Currier to approve **Resolution No. 2003-2477** adopting Supplemental Budget #1 for Fiscal Year 2003-04. (Unanimous). Motion carried.

BUSINESS MEETING SECTION

VII. CONTINUED BUSINESS

1. **Resolution No. 2003-2481** approving the 2003 annual evaluation of the Municipal Judges.

Mayor Stewart said this needs to be placed in the record. City Attorney Mahr asked if there were any comments about the criteria on the evaluation form. He welcomed input.

MOTION: Currier/Larson to approve **Resolution No. 2003-2481** approving the 2003 annual evaluation of the Municipal Judges. (Unanimous). Motion carried.

2. **Resolution No. 2003-2482** approving the 2003 annual evaluation of the City Manager.

MOTION: McBride/Larson to approve **Resolution No. 2003-2482** approving the 2003 annual evaluation of the City Manager.

Councilor Soppe noted that the City Manager and Council need to meet quarterly to go over things as specified in the resolution. Councilor Pugsley and the other Council members thanked Mr. Bennett for his excellent work.

ROLL CALL ON MOTION: (Unanimous). Motion carried.

VIII. NEW BUSINESS

1. **Resolution No. 2003-2476** authorizing the creation of the position of Associate Planner within the Community Development Department.

Barton Brierley, Planning Director, presented the staff report. They are undertaking a significant planning effort during the coming year. The associate planner would work on both long range and current planning projects as dictated by growth. There has been a significant increase in large projects (hospital, Friendsview). Due to the increase in activity, additional revenues are available. They have received 106% of the projected revenue for this year already.

Councilor Larson addressed the fiscal impacts from January 1, 2004 through June 30, 2004. Discussion was held concerning the new position being for long range planning. The cost would be fully funded by planning fees and this would continue for about three years. Mr. Brierley said this would be a permanent position. The supplemental budget already recognized a carry over and this can be reallocated.

Councilor Soppe addressed the fiscal impact and the ratio of cost of benefits to salary seemed to be way off from what they typically have. Ms. Tri said that increases in health insurance and retirement costs have affected this. The ratio varies depending on the salary. The lower the salary the higher the benefit to salary ratio. Councilor Soppe asked what changes were anticipated from what was going on from last year. Mr. Brierley said they were fairly conservative with the numbers. There has been a large amount of development that occurred within the year.

MOTION: Larson/Pugsley to approve **Resolution No. 2003-2476** authorizing the creation of the position of Associate Planner within the Community Development Department. (Unanimous). Motion carried.

2. **Resolution No. 2003-2478** adopting the City of Newberg Pension Investment Policy.

Ms. Tri reviewed the staff report. The city combined the two plans into one and the IRS approved. They have done some amendments since then. They also looked at guidelines for investment advisors. It is recommended by advisors and GFOA to adopt the policy. The state system is looking at a similar policy. They want to control cost, avoid risk. The policy goes through some of the types of investment and classes. It includes an annual review by the City Manager. It is intended to have a guaranteed return. They may go back out and review the advisor's performance compared with other available plans. The Finance Committee and the advisors have also approved. Retirement Plan guarantees 8% in the employee account. The employee contribution is 6%. The City has to pay more if the earnings have not reached 8%. The last couple of years have been about 4% and prior to that was about 14%.

Councilor Andrews asked if it is a defined benefit plan. Ms. Tri said yes. Is 8% realistic today or is 6% closer? Ms. Tri said the state system has recommended 8%. Ms. Tri discussed the Council's fiduciary responsibilities and personal liabilities. Ms. Tri said there is no personal liability but the Council serves as an advisor to the program. The Council are not considered trustees? Ms. Tri said she was not aware of this. Mr. Mahr said the Council are not trustees. Discussion was held concerning annual evaluation and having the ability to go in and make shifts as philosophy may be different. Discussion was held concerning socially acceptable and/or prudent person investments. Discussion was held concerning ownership of the plan assets. Employees own the assets.

Councilor Andrews asked about prudent person investment under certain circumstances. Junk bonds are not part of the investment. Ms. Tri said that staff could come back with suggestions.

Councilor Soppe asked about who is covered by the plan. General employees and 7 police and fire employees. The 8% guarantee is to match PERS. If the percentage at PERS changed, would the City consider changing this? Ms. Tri responded that we would. Councilor Soppe asked about what presently happens if the City gets a return greater than 8%. Ms. Tri said the difference would be used to help fund the payment and pool. Discussion was held concerning selecting the Investment Manager. It was suggested that the reasons for eliminating an existing manager be mutually exclusive. Change "and" to "or".

Discussion was held concerning flexibility in the face of market changes and including real estate investments. How many times annually in the past few years is the portfolio rebalanced? Ms. Tri said that she does it about 3 times a year. What sort of fees are we currently paying? Ms. Tri said they charge a commission fee under 1%.

Councilor Larson said he would be interested in looking at Socially Acceptable Investments (SAI). Ms. Tri said she will check with Principal Financial Group on whether this type of investment policy is used by them and report back to the Council.

MOTION: Andrews/ Larson Resolution No. 2003-2478 adopting the City of Newberg Pension Investment Policy. With amendment of "and" to "or". (Unanimous). Motion carried.

3. Motion approving an increase in the Systems Development Charges for Water, Wastewater, Storm and Transportation by 2.9% based on the Engineering News Record (ENR) Construction Cost Index (CCI) as of October 2003.

City Engineer Dan Danicic said each year the City's SDCs may increase by the inflation factor calculated in the construction cost index. This year it is 2.9%. Staff is requesting that the Council approve the increase.

TAPE 1 - SIDE 2:

MOTION: McBride/Currier to amend paragraph 4 replacing "after" with the word "by". (Unanimous). Motion carried.

MOTION: Larson/Pugsley approving an increase in the Systems Development Charges for Water, Wastewater, Storm and Transportation by 2.9% based on the Engineering News Record (ENR) Construction Cost Index (CCI) with an effective date of December 31, 2003 as amended. (Unanimous). Motion carried.

4. **Resolution No. 2003-2483** authorizing the City Manager to sign an Agreement with the Newberg Area Chamber of Commerce to provide Visitors Center Services for the City of Newberg.

Presentation of Visitor Information Center reports from 4th Quarter 2002-2003 and 1st Quarter 2003-2004.(Item 5 from Consent Agenda)

Ann Dolan, Executive Director of the Newberg Area Chamber of Commerce, 115 N. Washington, Newberg, presented the 4th quarter 02/03 and 1st quarter 03/04 reports. The 03/04 report is in a new format.

Councilor Soppe addressed the new report format. Ms. Dolan said their Finance Committee suggested the change. Discussion was held concerning calculation of contributions to the funding by the City of Newberg. Ms. Dolan said the report also changes how it reports Internet access. It is now web visits instead of web hits. What is a web visit versus a web hit? It is a longer interaction between the web site and the consumer.

There was some discussion of how revenue received by the Visitors Center from the City was being reported.

City Manager Bennett reviewed the history of the arrangement between the City and the Chamber to operate the Visitors Center. The last agreement expired July, 2003 after a 5 year contract. The new agreement would be a one year agreement based on the amount budgeted by the City for fiscal year 2003/2004: \$24,000 with \$15,000 from the room tax and \$9,000 from the new business license

program. There is a typo in Section 1 - Term of Agreement. It should be June 30, 2004. A provision has been added that if the Chamber is not able to make their contribution for the operation of the center, the city would have the right to reduce its own contribution. If more funds become available through higher than anticipated room taxes, an additional contribution to the Visitors Center could be addressed through the supplemental budget process.

Councilor Currier said that the agreement is with the "City" and not the City Council. Mr. Bennet said that "City" is defined as the City of Newberg. The Council represents the City of Newberg.

Councilor Larson asked if they should start negotiating a new agreement since this one expires on June 30, 2004. Mr. Bennett said that this was the intent and that negotiations on a new agreement would begin shortly after this one is approved.

Councilor Soppe discussed extensions and renewals upon mutual agreement with the Chamber and the City. He suggested that Section V - Budget should specify that it is an annual budget, not quarterly.

Jim Hirte, President of the Newberg Area Chamber of Commerce, 115 N. Washington, Newberg, read a prepared statement concerning the funding and budget of the Chamber. He urged the Council's continued support of the Visitor Center.

Councilor Andrews asked if there are any referrals to the City as a resource when inquiries come into the Visitor Center for information. Mr. Hirte said that this could be done.

Councilor Currier addressed the links on the website from the City to the Chamber and vice versa.

MOTION: Larson/Pugsley to adopt Resolution 2003-9483 as amended. (Unanimous). Motion carried.

5. Review of Proposal to Establish a Newberg Community Access Cable Television Channel (**Information Item**)

City Manager Bennett provided background on where we are today due to AT&T pulling the studio from Newberg. The City received approximately \$100,000 to pay for consultant fees and install fiber lines as part of a new internet backbone. They also received \$10,000 for new equipment for public and educational access. The franchise fee was also increased. An ad hoc committee (Councilor McBride and Soppe participated) was created to see what was the best way to use the funds. The proponent, Harry Morter, was also part of the process.

Discussion was held concerning setting up a cable access system. McMinnville Communications Media (MCM) has taken over Channel 11 and has a separate agreement where they get 40% of McMinnville's franchise fees and a portion of their settlement fee from AT&T. The City met with MCM to get access to the studio on an even footing with McMinnville for the use of the facility. The H&R Video proposal is for a local production studio with a two year budget estimated at \$230,000 with \$30,000 initial capital improvement. It would operate as Pacific Broadcasting

Corporation. Funding would come from AT &T settlement (about \$113,000 now with 10 more payments of \$10,000 each for training and potentially \$38,000 from a PEG access fee charged to cable customers. Discussion was held concerning use of city equipment and insurance issues/liability. Mr. Bennett said that some equipment was not salvageable and the other has been loaned to the School District.

Councilor Currier asked Mr. Morter if the rent cost of \$2,000 per month would include use of the entire facility. What would happen if the operation failed? How would equipment that was purchased be divided?

Harry Morter, 2901 Second Street, Newberg, Oregon (owner of H & R Video) said PCB would have to lease equipment/facilities. He said that he was not sure how it would be funded after the two year period. They will look for money outside of the City - similar to OPB. Clarification concerning the amount of funds on hand and the amount of proposal. Funding to bridge the gap from \$214,000 to \$238,000 will be needed.

Discussion was held concerning broadcast liability coverage for a private enterprise. Does it cover only broadcast time? Mr. Morter said they started a commercial broadcast studio. He said they are required to have broadcaster liability insurance. The insurance is fairly expensive.

Tape 2 - Side 1 -

Discussion continued concerning liability insurance coverage. Mr. Morter said it covers only the broadcast content and not the building. There may be different parameters. What if there are liability issues on the airing of something the City did not approve? Mr. Morter said the City would license Pacific Broadcasting and they would be responsible. Mr. Mahr said the City could not extend coverage to either a non-profit or profit organization that contracts with the City. He explained the difference in the case of the Animal Shelter Friends which is an official City committee.

Councilor Soppe asked, if this all could be resolved, would we be willing to be spending the money for this? It is unreasonable to have Mr. Morter do a fact finding mission if the Council was not interested. Councilor Soppe said we need to decide if we care about this type of operation. If there is no interest in spending the money, should we ask him to go and find out?

Councilor Pugsley said the money from AT&T was designed to be paid over 10-12 years. That is a good way to spend the money. At this point he does not see spending all the money for just a two year period. He would like to see a proposal that would stretch out the dollars over a longer period..

Councilor Andrews said that the Council needs to determine how much of the settlement money we are willing to spend on community access. Is Pacific Broadcast a non-profit or for profit? They are filing as a 501(c)(3). Mr. Morter said it would be a community access channel. People could bring in tapes to be shown like MCM does. They have worked in the past with Senators George and Starr on programs. Discussion was held concerning some revenue being generated from programming. Any exploration of forming a consortium in the community to fund the community access? - City, CPRD, School District, and others? Mr. Bennett said this idea was worth exploring further. Mr. Morter said GFU and the Schools have also shown some interest.

Councilor Andrews asked if the City should help subsidize the program. Mr. Morter said he proposed 2 year funding assistance.

Councilor Soppe said that as proposed by H&R Video after 2 years it could be self sufficient. Our two years gets it going and other sources of income help to subsidize it after that. Can we believe that it will happen?

Mayor Stewart said this is for information only - no resolution to adopt. Discussion was held concerning to carry on or not to. Councilor Currier said that the bottom line is that people want a quality show. They enjoyed the shows when the studio was operating and they got valuable information. He thinks that a good hard look at this proposal is warranted.

Councilor McBride asked if the people in Newberg want this? He has not heard that they do. The shows need to be considerably better. We need to find out does the community want to pay a dollar a month on the cable bill before spending time and money. Is the money we have from AT&T earmarked or can it be used for another purpose? Mr. Bennett said it is his understanding that the City is not bound on how to use the money. City Attorney Mahr concurred with this. The City can use the funds for use on our own Internet network.

Councilor Pugsley said he would need to see the ability to get other financing prior to supporting it and spreading out the money over a 4-5 year program.

Councilor Andrews said that he has received two comments about not seeing the City meetings from seniors in the community. It does not have to be all cash but could be in-kind support. He would like to see the City move in this direction. He would like to have Mr. Morter come back with more pieces. Would the Council consider approval if the issues were resolved?

Mayor Stewart stated that he would designate Councilors Soppe, Pugsley and Andrews as a subcommittee to study the proposal, work with Mr. Morter to resolve the issues and come back to the Council with a recommendation.

6. **Resolution No. 2003-2484** amending the Professional Services Agreement with Kleinfelder, Inc. for the Newberg Site Demolition and Environmental Cleanup Project in the amount of \$20,000.00.

Mayor Stewart said that this item has been pulled from the agenda and will be brought back at the next Council meeting.

IX. EXECUTIVE SESSION

None.

X. ADJOURNMENT

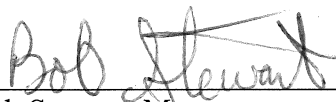
MOTION: Mayor Stewart adjourned the meeting at 8:55 p.m.

ADOPTED by the Newberg City Council this 20th day of January, 2004.



James H. Bennett, City Recorder

ATTEST by the Mayor this 22 day of January, 2004.



Bob Stewart, Mayor