NEWBERG CITY COUNCIL MINUTES
REGULAR SESSION
SEPTEMBER 8, 2015, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

The work session was held at 6:00 p.m. preceding the meeting. Present were Mayor Bob Andrews, Councilors Lesley Woodruff, Stephen McKinney, Scott Essin, Denise Bacon, Mike Corey and Tony Rourke. Also present were City Manager Pro Tem Terry Mahr, City Attorney Truman Stone, City Recorder Sue Ryan, City Engineer Kaaren Hofmann, Community Development Director Doug Rux, Associate Planner Steve Olson, and Library Director Leah Griffith.

REVIEW OF COUNCIL AGENDA:
CA Stone said language had been added for clarity to the resolution on that night's consent calendar regarding the Villa Road right-of-way acquisition. Mayor Andrews clarified in the August 17 minutes under public comments toward the bottom of page 23 that Mr. Smith was not a resident of Newberg. Councilor Rourke had an edit to the August 17 minutes to show he was present at the meeting. Mayor Andrews said the following items would be brought up under Council Business: TVF&R, WAACA, and the Buckley Property.

MEDICAL AND RECREATIONAL MARIJUANA WORKSHOP
CDD Rux said in October 2014 Newberg adopted a 5% tax on the gross sales of medical marijuana and 10% on recreational marijuana. The Council also adopted a moratorium on Medical Marijuana Dispensaries until May 1. Regulations on the time, place, and manner for dispensaries were adopted in April. Two businesses were working to set up operations in Newberg. He discussed the bills that went through the 2015 legislative session regarding marijuana and how it was going to be regulated. The four key questions for Council were: 1) Did the Council want a ban on early recreational sales out of medical marijuana dispensaries that started on October 1st, 2) Did the Council want to ban medical marijuana processers, 3) Did the Council want to ban recreational producers, and 4) What did they want to do about the marijuana tax.

Regarding recreational early sales, Medical Marijuana Dispensaries could sell recreational marijuana with limits on quantity from October 1, 2015 to December 31, 2016. If Council banned Medical Marijuana Dispensaries from selling recreational marijuana, it would create a moratorium. This would last until OLCC established administrative rules and licensing for recreational marijuana, which would be done by July 2016. A ban would require an ordinance be passed by the Council at their next meeting with an emergency clause so it would be effective by October 1.

Did the Council want to create regulations for growers or processors of medical marijuana? If there was a ban on growers, processors, or dispensaries, the City would submit the decision to the Oregon Health Authority and any applications would be stopped. Any dispensaries already registered would be grandfathered in. To regulate growers and processors, staff would need to come back with time, place, and manner regulations. Regarding a ban on recreational producers, processors, wholesalers, or retail establishments, the City could regulate time, place, and manner.

To ban Recreational Marijuana Establishments, the Council would have to adopt an ordinance banning one, a combination of them or all, and place it on the next general election ballot in November 2016. If no ban was desired, staff asked for direction regarding zoning regulations to address time, place, and manner.

There was discussion on the taxes of recreational marijuana sales and revenue distribution. Up until July 1, 2017, the tax would be based on population, and then after July 1 it would be based on how many recreational facilities a city had. Medical marijuana would not be taxed by the State.

CALL MEETING TO ORDER
Mayor Andrews called the meeting to order at 7:18 p.m.

ROLL CALL

Members Present:	Mayor Bob Andrews	Scott Essin	Stephen McKinney
	Lesley Woodruff	Denise Bacon	Mike Corey
	Tony Rourke		

Staff Present:	Terry Mahr, City Manager Pro Tem	Truman Stone, City Attorney
	Sue Ryan, City Recorder	Kaaren Hofmann, City Engineer
	Steve Olson, Associate Planner	Doug Rux, Community Development Director
	Matt Zook, Finance Director	Leah Griffith, Library Director
	Nancy McDonald, Interim Human Resources Director	

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was performed.

APPOINTMENTS:
Mayor Andrews recommended appointing Patrick Johnson to the Planning Commission. Councilor McKinney objected to Mr. Johnson's appointment because of recent Facebook dialogue regarding the former City Manager.

MOTION: Bacon/Woodruff moved to appoint Patrick Johnson to the Planning Commission to fill a vacant position with a term expiring December 31, 2016. Motion carried (6 Yes/ 1 No [McKinney]).

PRESENTATIONS:
Public Works Director Jay Harris gave a presentation on the Springs Divestiture. He discussed how the current Springs Water System worked. The system was previously the City's main source of water. Due to increased demand and turbidity in the water, in 2009 the Springs water system was removed from the City's reservoir. The City now used water from the wellfield along the Willamette River. PWS Harris gave background on the Springs and its history. He explained how the turbidity still affected Springs customers, upgrades made to the system, rate increases to pay for the upgrades, corrosion control monitoring, operations and maintenance of the system.

In 2008, the Council approved creation of a separate billing classification for the Springs customers and mandated full cost recovery for capital costs from those users. The Council could divest itself from the ownership and operation of the Springs system and the City could consider a proposal for the transfer and ownership of the Springs system from the Four Springs Water Association or any other responsible organization. The user group formed a non-profit water association to manage the system and would contract with Hiland Water for the operation and management. Because of the various operational issues, City staff had spent a lot of time on the system. PWSD Harris summarized the Conveyance Agreement between the City and Water Association and explained the benefits of divestiture for the City, which would come before the Council at their next meeting.

Councilor Essin asked if all of the users were in favor of this. Don Guthrie, resident of Newberg, said the group was unanimously supportive of divestiture. They held meetings all through the process and discussed it at length with staff. A committee was established to draft bylaws and to incorporate as a non-profit called Chehalem Springs Water Association. PWSD Harris said the Council would take action at a future meeting. The transfer would occur when all of the easements were acquired, Hiland Water was ready to go, their officers were ready, and conveyances were signed with the title company.

CITY MANAGER PRO TEM'S REPORT:
CMPT Mahr said Stephen Rhodes, the CMPT candidate, was there today visiting the City and had met the Department Heads. He asked Council to read an article by CA Stone in the Newberg City newsletter.

PUBLIC COMMENTS:
Pat Haight, resident of Newberg, said the audit for this year stated "no opinion" in several categories because the City did not provide enough information for them to test some things. She read the total assets of the City exceeding its liabilities by $150 million dollars. Of this amount $17.7 million was reported as unrestricted net position accounts, amounts which were available for use to meet the City's ongoing obligations to citizens and creditors. The net position of the City increased by $3.6 million during this fiscal year, and she wanted to know how it had increased that much in one year. There were a number of loans the City used for the Wastewater Treatment Plant and effluent reuse system for the golf course. All of the loans would end in the next eight or nine years, and the citizens would have to pay more than $10 million dollars in interest. She asked why the City was stockpiling tax payer money and raising water rates instead of being used to fix the streets in town.

CONSENT CALENDAR:

MOTION: Bacon/McKinney moved to adopt the Consent Calendar, including minutes for July 23, 2015 and August 17, 2015 as amended; Year End Tourism Report for Chehalem Valley Chamber of Commerce; Resolution 2015-3223, A Resolution authorizing the City Manager Pro Tem to appoint recommended candidates to positions in multiple departments including Theodore Ebora as a Financial Analyst and DawnKaren Bevill as an Administrative Assistant in the Administration Department; Resolution 2015-3214, A Resolution approving the replacement of the Library Roof by Columbia Roofing in the amount of $69,249.00; Resolution 2015-3215, A Resolution authorizing the City Manager Pro Tem to approve the replacement of the City Hall Heating, Ventilating, and Air Conditioning (HVAC) control system by the city's HVAC contractor, Alliant Systems, in the amount of $66,979.00 and Resolution 2015-3224, A Resolution authorizing the acquisition of certain real property for the installation of sidewalk along the property at Tax Lot 3217 CD 05300. Motion carried (7 Yes/ 0 No).

Finance Director Matt Zook explained auditors said "no opinion" on many items as a disclaimer to cover themselves on the limited scope they actually reviewed. The best was an unqualified opinion and that was what the City received.

PUBLIC HEARINGS:

Ordinance 2015-2782, Temporary and Portable Signs:

Mayor Andrews opened the public hearing. He called for any abstentions, conflicts of interest, or objections to jurisdiction. There were none.

Associate Planner Steve Olson gave the staff report. He said Planning Commission recommended adoption of the following changes to the Code: To create a sign permit program to allow additional portable signs on private property within certain limits, to clarify the language for what types of signs were temporary signs and the number allowed during events, to allow some signage on umbrellas without permits, to clarify how private signs could be placed in public rights-of-way and where ODOT restrictions applied, and to allow private portable signs in the public rights-of-way outside of downtown. He said the code changes came about after years of work by the staff and Planning Commission.

The Planning Commission had looked at the issue of holidays and flags and clarified on what holidays unlimited flags would be allowed. Umbrella signs allowed signage measuring 12 inches from the lower edge without a permit. For temporary signs during events, the recommendation was unlimited for grand openings and two events per year. Permits for portable signs on private property would be good for one year in the commercial and institutional zones. The number allowed would be based on frontage length. In the C-2 and institutional zones, one sign was allowed per 100 feet and in downtown, one sign was allowed per 15 feet with a maximum of four signs.

For portable signs in the public right-of-way, they were only allowed in the C-3 and C-4 zones, which was downtown. All signs had to meet vision clearance and had to be removed from the sidewalk after business hours. They also had to leave a five foot wide clearance on the sidewalk. Businesses would have to get approval from the property owner abutting the sidewalk to place a sign in front of the property. The Planning Commission proposed allowing portable signs in the right-of-way outside of downtown. The City did not have jurisdiction on every street and ODOT did not allow private signs in the public right-of-way on resoluted highways.

He explained what streets would be affected by ODOT's rules. Downtown portable signs would not be allowed on Hancock Street sidewalks except on College and Main streets' right-of-way and outside of downtown portable signs were not allowed in the right-of-way along Highway 99, 219, and 240 or on roads under Yamhill County jurisdiction. The Planning Commission recommended adoption of the ordinance. They did allow one portable sign on residential properties not to exceed six square feet. The Code would be changed to allow people to put signs in the planter strip as currently it was not allowed. Public signs were exempt from the Code, such as City approval of Neighborhood Watch signs. He explained what directional signs were and the possibility of creating an Intergovernmental Agreement with ODOT for placing signs on resoluted highways.

Public Testimony:
Robert Soppe, resident of Newberg, was in favor of the ordinance. These changes were significant and made the Code more understandable, they fit the intent of the existing Code, aligned the written Code with what was enforced, and should make Code Enforcement's job easier. He commended AP Olson for his efforts on this project. He encouraged approval of the ordinance.

Mayor Andrews closed the public testimony portion of the hearing. He asked AP Olson for his recommendation. AP Olson recommended approval of Ordinance 2015-2782 as proposed.

MOTION: McKinney/Bacon moved to waive the second reading of the ordinance. Motion carried (7 Yes/ 0 No).

MOTION: McKinney/Corey moved to adopt Ordinance 2015-2782, amending the Newberg Development Code regarding temporary and portable signs to be read by title only. Motion carried (7 Yes/ 0 No).

Ordinance 2015-2784, Chapter 13 of Newberg Municipal Code:
Mayor Andrews opened the public hearing and called for any abstentions, conflicts of interest, or objections to jurisdiction. There were none.

City Engineer Kaaren Hofmann presented the staff report. Chapter 13 of the Municipal Code addressed public utilities and services in the City. The transportation, water, sewer, and storm water master plans Council had adopted had never been referenced in the Municipal Code. The ordinance would adopt the most current master plans by reference and include construction in compliance with those master plans. There was no policies or procedures or purpose section to the water section of the chapter and those would also be added.

Councilor Rourke asked about extensions under the master plans. CE Hofmann said developers would have to do it in compliance with the master plans and extend services.

Public Testimony: Mayor Andrews opened and closed the public testimony portion of the hearing.

Mayor Andrews asked CE Hofmann for her recommendation. CE Hofmann recommended approval of Ordinance 2015-2784.

MOTION: Woodruff/Rourke moved to waive the second reading of the ordinance (7 Yes/0 No).

MOTION: Essin/Bacon moved to adopt Ordinance 2015-2784, An Ordinance amending Chapter 13 of the Newberg Municipal Code to reference Utility Master plans and require permits for connection to be read by title only. Motion carried (7 Yes/ 0 No).

NEW BUSINESS:
Resolution 2015-3222, DLCD grant:
CDD Rux said this resolution would support the application for a Technical Assistance Grant from DLCD. The money would be used to update the City's Economic Opportunities Analysis.

MOTION: McKinney/Rourke moved to approve Resolution 2015-3222, A Resolution supporting an application to the Department of Land Conservation and Development for a Technical Assistance Grant for planning project assistance. Motion carried (7 Yes/ 0 No).

Resolution 2015-3226, City Manager Pro Tem appointment:
Councilor Rourke declared a potential conflict of interest as he had applied and removed himself from consideration for the position. Councilor McKinney said the CMPT Recruitment Subcommittee recommended Mr. Rhodes as City Manager Pro Tem. He explained the process the subcommittee took to recruit the City Manager Pro Tem. Mr. Rhodes would be available for six to nine months while they searched for a permanent City Manager.

Mayor Andrews asked when the appointment would be effective. CA Stone said when the resolution was drafted it was unknown when Mr. Rhodes would be available. Mr. Rhodes might potentially be available on September 21 subject to him securing housing. The Council could amend the resolution at the next Council meeting if he was not able to make September 21.

MOTION: McKinney/Bacon moved to approve Resolution 2015-3226, A Resolution appointing Stephen A. Rhodes as City Manager Pro Tem effective September 21, 2015. Motion carried (7 Yes/ 0 No).

COUNCIL BUSINESS:
Council President Bacon brought up the issue of the Police Chief's email memo to Council regarding consolidation of the City's Dispatch Center with Washington County Consolidated Communications Agency (WCCCA). This idea had been brought up a few years ago and was found not to be cost effective. An additional issue for the City would be that WCCCA only provided dispatch services, and the Police Department would still need employees to answer phones and maintain records.

There was discussion on the providing stable employment for the Dispatch Center operators, the issue of potential turnover in the department, loss of community identity and service, the consideration that a further cost benefits analysis should be completed, the timing of such a decision and the effect of a possible consolidation with Tualatin Valley Fire & Rescue (TVF & R). There was discussion regarding the pros and cons of consolidation with TVF&R.

Councilor McKinney asked about purchasing the Buckley property. PWSD Harris said the City entered into a letter of intent to purchase the property for market value, and discussed how to apportion the funding of the payment to the Buckleys, which would be small payments and a lump sum payment at the end of 60 months. The utility funds could handle the purchase, but there were stresses in the General Fund and former City Manager Betz thought it best not to allocate General Fund money for a parking lot.

CDD Rux said the downtown parking analysis had not been done yet, and neither had the Facilities Master Plan. This was a good purchase, but not quantified by studies. The City told the Buckleys no, and the Buckleys were pursuing other options. He could open the discussion again and find adequate resources to purchase the property and build the parking lot. The City did need permanent parking for staff.

There was discussion on eminent domain and the property possibly being used for parking and other needs. There was consensus by the Council to put the consideration of purchasing the Buckley property back on the table.

Mayor Andrews wanted the CMPT recruitment subcommittee to continue in their roles but for the new task of finding a permanent City Manager. He said Councilors McKinney and Corey could continue, but asked if Councilor Essin would take Councilor Woodruff's place as she had a conflict due to work. He and Councilor Bacon would continue as nonvoting members.

MOTION: Bacon/Corey moved for the recruiting subcommittee to be formed of McKinney, Essin, Corey, and Bacon and Andrews as nonvoting members. Councilor Rourke abstained due to a conflict of interest as he would be applying for the position. Motion passed (6 Yes/0 No/1 Abstain).

Mayor Andrews wanted a subcommittee to do a study and give direction regarding the marijuana situation. He asked for Councilor Rourke, Councilor McKinney, and Council President Bacon to serve. He would sit on the subcommittee as a nonvoting member.

MOTION: Andrews/Woodruff moved to form a marijuana subcommittee of Rourke, McKinney, and Bacon with Andrews as a nonvoting member. Motion carried (7 Yes/0 No).

CA Stone asked for direction from Council on the early sales of recreational marijuana in Medical Marijuana Dispensaries. CA Stone said without a ban, as soon as the two dispensaries who applied became authorized, they could start selling to the recreational market. If they were approved before it was banned, they would be grandfathered in. October 1 was the day recreational marijuana could be sold out of Medical Marijuana Dispensaries. There was discussion on how to proceed.

MOTION: Rourke/Bacon moved to direct staff to do nothing regarding early recreational sales of marijuana. Motion failed (3Yes/ 4 No [Andrews/Corey/McKinney/Woodruff]).

The direction was for staff to bring back an ordinance with a ban on the sale of recreational marijuana from Medical Marijuana Dispensaries.

There would be a party for CMPT Mahr on September 21. The Council thanked CMPT Mahr for being a great leader and helping the City through a difficult time.

ADJOURNMENT: The meeting was adjourned at 10:00 p.m.

ADOPTED by the Newberg City Council this 5th day of October, 2015.

Sue Ryan

Sue Ryan, City Recorder

ATTESTED by the Mayor this 8th day of October, 2015.

Bob Andrews

Bob Andrews, Mayor