NEWBERG CITY COUNCIL MINUTES
REGULAR SESSION
April 4, 2016, 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 and Mike Corey. Also present were City Manager Pro Tem Stephen Rhodes, City Attorney Truman Stone, City Recorder Sue Ryan, and Associate Planner Jessica Pelz.

COUNCIL ITEMS: City Attorney Stone had one item and Council President Denise Bacon had one item.

WORKSHOPS: Associate Planner Pelz introduced teachers at Mountain View Middle School and explained the Design Star program. The six finalists presented their Design Star projects. Group 1 presented on a Salt and Straw Ice Cream Shop idea with apartments on the second floor. Group 2 presented on Beyond the Stars restaurant. Group 3 presented on Green Education. Group 4 presented on the Allison Mall. Group 5 presented on Sweets and Pops Soda Shop. Group 6 presented on a Wedding Central idea. CP Bacon thanked the children for their work. Mayor Andrews also thanked the students and their families and thought staff should take note of these ideas.

There was a five minute recess.

CP Bacon asked about the Newberg Animal Shelter contract. Her neighbors had a house fire and she took their dog from the Newberg-Dundee Police Officer until her neighbors returned. She thought when the contract was written, that there would be two crates available for Newberg but it wasn't well defined. She thought this was the kind of situation that the shelter in Newberg should be used for. She believed when they agreed to the animal shelter contract that the City would eventually become partners with Yamhill County where the animal shelter would be part of the Yamhill County network and Newberg dogs would stay in Newberg. She wanted to know why the shelter was getting free rent if the City was not getting the services they agreed to receive and what future plans they had to meet the contract. There were some people who filled out an application to volunteer for the shelter, but never heard back.

Jann Floren and Kristal Kase, volunteers at the shelter and Board Members of the Animal Shelter Friends, said it was the County's decision to not use the facility. All police officers had access, and there were two kennels at the shelter for use in emergency situations. They had talked to Police Chief Casey about protective custody kennels and they kept two available at all times. Some of the new officers might not know how to access the building. If volunteers did not hear back on applications, they should apply again as needs changed throughout the year. They had many goals for the shelter, such as getting a kennel license.

Rebecca Wallis worked with several non-profits and often got questions regarding Newberg Animal Shelter. A kennel license was never applied for and no request was put in for Yamhill County which meant the shelter would not have been considered for opening kennels up to the County because they did not apply for the RFP. There had been instances of people contacting the Newberg Animal Shelter asking if the shelter could house a dog overnight that was being transferred and were told they could not because it was in the lease that they could not. She had been told no by the shelter manager for an emergency shelter for pets of women in a women's shelter. She had been told the shelter was full and that it was against the lease. She did not think the lease said they could not help other rescues or non-profits in their need to house an animal temporarily. It was concerning that the City paid for the shelter's operation and they were not operating it as a business. In order to get a kennel license, the shelter needed a ventilation system, which could be a fan installed in the ceiling, and non-porous surfaces in the kennels, which could be purchased at Lowe's. These were both inexpensive fixes to become a full shelter for the community.

There was discussion regarding the budgetary restraints and goals that still needed to be met.
Councilor McKinney suggested more discussion on productive ways to solve the problems beyond a contract issue.
CP Bacon thought having a conversation was the best place to start. The shelter needed to be open to citizen suggestions.

CALL MEETING TO ORDER
The Mayor called the meeting to order at 7:00 p.m.

ROLL CALL

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

Staff Present:	Stephen Rhodes, City Manager Pro Tem	Sue Ryan, City Recorder
	Truman Stone, City Attorney	Jessica Pelz, Associate Planner
	Doug Rux, Community Development Director	Jeff Kosmicki, Sergeant
	Nancy McDonald, Interim Human Resources Director	

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was performed.

PROCLAMATIONS: Mayor Andrews proclaimed April 10-16 as National Telecommunicators Week.

PRESENTATIONS: - Dave Huber and Dean Kampfer of Waste Management presented on the services they offer to the City.

Sheryl Kelsh, of the Chehalem Valley Chamber of Commerce, presented the chamber's quarterly report.

Pat Haight presented a ticket to a Policeman's Ball to Newberg Police Captain Jeff Kosmicki in gratitude for his service to her family.

CITY MANAGER PRO TEM'S REPORT: City Manager Pro Tem Rhodes reported signs for two reserved parking spaces for veterans had been placed in the 2nd Street Parking Lot. He also reported on the Economic Development Strategy meeting.

CONSENT CALENDAR:

MOTION: Corey/Woodruff moved to approve minutes from March 7 and 14, 2016; Resolution 2016-3270, A Resolution authorizing the City Manager Pro Tem to appoint recommended candidate to a position in the Public Works Operations; Resolution 2016-3255, A Resolution awarding a contract to Lookout for the Development of a Tourism Strategy for the City of Newberg; Resolution 2016-3272, A Resolution to authorize the City Manager Pro Tem to enter into a construction contract with the Saunders Company Inc. for the Aquarius St. Wastewater lateral replacement project in the amount of $148,030.50. Motion carried (6 Yes/ 0 No).

PUBLIC HEARING - LEGISLATIVE: Ordinance 2016-2798:
Mayor Andrews reopened the public hearing. He said this hearing was a continuation from the last meeting of the Council. He called for any abstentions or conflicts of interest on the part of the Council. There were none.

Community Development Director Doug Rux gave the staff report. He said on March 21 Council discussed the issue of recreational marijuana producers and processors. There was concern regarding Ms. Ralston's property on Springbrook and using an old bank building for processing. Council directed staff to look into making processing Conditional Use in the C2 district. Staff included maps of all the C2 districts in the City, 1,000 foot buffers from schools and parks, and the possible C2 locations to allow processing as a Conditional Use. Staff also included distance measurements. The distance from the elementary school property to the property boundary of the old bank building was 968 square feet and to the other building on the property it was over 1,000 square feet. OLCC regulations licensed a site that could be just the building or it could be the site or a portion of the site along with the building. Processors needed to be indoors, but OLCC could license more of the site beyond the building footprint. He discussed the criteria for Conditional Use. He then discussed the attached exhibits which would allow a processor as Conditional Use with a footnote that the use was not allowed 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school, or private or parochial elementary or

secondary school to the closest point of the premises of a recreational processor. Staff recommended adoption of the ordinance.

Mayor Andrews closed the public hearing.

MOTION: Bacon/Corey moved to waive the second reading of Ordinance 2016-2798. Motion carried (6 Yes/0 No).

MOTION: Bacon/McKinney moved to approve Ordinance 2016-2798, an Ordinance amending the Newberg Development Code regarding Recreational Marijuana producers and processors; and declaring an emergency and read by title only. Motion carried (6 Yes/0 No).

PUBLIC HEARING – QUASI-JUDICIAL: Ordinance 2016-2799:
Mayor Andrews opened the hearing and called for any ex parte contacts, abstentions, or conflicts of interest on the part of the Council. There were none.

AP Pelz gave the staff report. She said this was an application for an annexation of 2.29 acres in north Newberg off of College/Highway 219. The property had a Comprehensive Plan designation of LDR, Low Density Residential. The proposed zoning was R1, which was consistent with the Comprehensive Plan designation. She discussed the location map and gave a summary of the findings. State law recently changed where voter approved annexations were pre-empted. This was the first annexation where the Council would make the decision and the property would be annexed without going to the voters. The stipulations were that the application met the Development Code criteria, was within the Urban Growth Boundary, and was consistent with the Comprehensive Plan. The site was located within the Urban Growth Boundary and was contiguous to Newberg City limits on the southern boundary. Staff recommended the Planning Commission add a condition which asked to extend the legal description of the property being annexed to the center line of the roadway that allowed continuity across the street. City water and sewer lines were previously extended across the property to the North Valley Friends and Veritas properties that were adjacent on the east side. There was concern that there was not enough water capacity to serve future development. The applicant had to prove there was capacity and he hired AKS Engineering who explored the capacity of the Booster Pump Station. They identified upgrades that would be necessary and staff was comfortable with the assessment that the upgrades would serve the properties when needed. The application was in compliance with the Transportation Planning Rule and a traffic study did not need to be done. Staff's recommendation was for adoption of the ordinance.

Councilor Corey asked about the cost of the Booster Pump upgrades. AP Pelz said the pump station was currently adequate to serve all the properties within the City that were currently using it. The upgrades were necessary to serve future development and would need to be done at the time of development. The developers would pay for the upgrades.

Proponents: Bill Rourke, applicant, wished the upgrades were SDC eligible because they were expensive. He and his wife had lived in Newberg for 51 years and built their house on this property in 1973. It was located in the middle of an orchard and they knew at the time the City would be expanding out their direction. Property nearby was annexed into the City and developed and this property became contiguous to the City limits. A few years later he and his wife moved to a retirement community where they lived now. He began the process for annexation in 2014 and hoped to use the resources from developing the site to supplement his retirement income. He was working with a Newberg developer to develop the property. The property was in the Urban Growth Boundary and contiguous to the City and met all of the requirements for annexation. The cost of the upgrades to the Booster Pump would be shared by three entities that would be using the pump station.

There was discussion regarding the water supply for the area for future development and what the current water service was. AP Pelz clarified future development in this area would be dependent on the new water reservoir which was a future capital improvement project. CDD Rux said Mr. Rourke was working with staff and the other two entities about the size of pumps that would need to be upgraded in the Booster Pump Station to serve the annexed property, Veritas School, and North Valley Friends Church. When the water reservoir was built, this area could be converted to a gravity system and the pump station could be used as a back-up.

Mayor Andrews asked about the condition of approval. AP Pelz said the condition stated adequate public infrastructure had to be available within three years. The condition was in the findings.

Mayor Andrews closed the public testimony portion of the hearing.

AP Pelz said the final staff recommendation was adoption of the ordinance.

MOTION: McKinney/Bacon moved to waive the second reading of Ordinance 2016-2799. Motion carried (6 Yes/0 No).

MOTION: Bacon/Corey moved to approve Ordinance 2016-2799, an Ordinance annexing property located at 4016 N. College Street, Yamhill County Tax Lot 3208-02900 into the Newberg City limits and withdrawing it from the Newberg Rural Fire Protection District and changing the current zoning from Yamhill County VLDR-1 to City R-1 and read by title only. Motion carried (6 Yes/0 No).

NEW BUSINESS: Marijuana Tax:
CDD Rux gave the staff report. On March 3 the Marijuana Subcommittee discussed marijuana taxes and paraphernalia. They provided direction on the paraphernalia, but thought the tax discussion should be brought to the full Council for discussion. In 2014, the City Council had approved a 5% tax on medical marijuana and a 10% tax on recreational marijuana. In 2015 there were changes in the State legislature regarding taxes on marijuana. The question was if the ordinance passed by Council in 2014 was grandfathered in before the legislature changed the law. The Council could retain the ordinance adopted in 2014. The City had already collected some tax on medical marijuana and the next round of collections were due on April 15. There were two medical marijuana dispensaries in the City. OLCC had not licensed any recreational facilities yet. The Council put a moratorium on selling recreational marijuana out of medical dispensaries. The law stated if the City banned one of categories, the City could not get any of the State shared revenues from marijuana. If the current ordinance was kept in place, it could be challenged in court. The Council could pass a new ordinance to establish a 3% tax as allowed by State law, but it had to be referred to the voters in a Statewide General Election. This would be a safe harbor approach, however it would be a reduction in revenue. There was also discussion regarding medical marijuana dispensaries as being similar to a pharmacy and the City did not tax medication. There was a Senate Bill 1601 that pre-empted the City from taxing medical marijuana which went into effect June 2, 2016. The City could continue to tax medical until June.

Councilor Essin remembered the passing of the previous Ordinance as being done in a rush before the legislature acted. The Council was aware at the time that there might be a lawsuit. He did not want to end up with no taxing ability.

City Attorney Stone discussed the potential implications of the tax. The Council passed the original tax prior to the election where Measure 91was considered. The legislature had been changing the laws, and he expected them to do so for several more years.

Councilor Corey said with the way SB 1601 read, it appeared the City's tax was going to be illegal on medical marijuana. If they put a 3% tax to the people, then it would be legal. CA Stone explained there was an argument whether or not Newberg's tax was grandfathered in and he explained what the Senate Bill did. The bill did not address the issue of grandfathering, but if the city was to go to the voters and the 3% tax was passed, it would only be for recreational marijuana, not medical. He discussed the options that Council had on this issue.

Councilor Bacon was opposed to the 5% tax on medical marijuana and would like to see the tax on medical marijuana lifted. Councilor McKinney suggested the City continue under the ordinance passed in 2014 and see what happened. There was a discussion on the implications of Senate Bill 1601, the marijuana tax that had already been collected, and possible litigation. Councilor Corey thought it was in the City's best interest to continue collecting the tax under the City's current ordinance.

CDD Rux clarified the taxes collected were currently being held in a reserve fund. CA Stone said if the State did not agree with the City using its ordinance, there would be the cost of litigation and repaying any taxes that were collected. There was great uncertainty in this matter in regard to the City's risk. He could discuss litigation strategies at a later time. CDD Rux said if the Council wanted the 3% tax to go on the ballot, it would have to be done by the first Council meeting in June.

There was consensus for the City to maintain its position with its current ordinance.

Resolution 2016-3265:
Interim Human Resources Director McDonald said the charter positions in the City were the City Manager, City Attorney, and Municipal Judge. The Council had been evaluating these positions for a number of years. She was changing the format to be easier to use, timelier, smoother, and easier to administer. The evaluations would be from the HR office instead of the City Recorder's office. They would also establish a quality review team, which was the Mayor and Council President, who would be the catalyst to get the process going every year.

MOTION: Woodruff/Bacon moved to approve Resolution 2016-3265, A Resolution updating performance standards, evaluation processes and position descriptions for charter position employees. Motion carried (6 Yes/0 No).

Resolution 2016-3282:
CMPT Rhodes said this would suspend the Fire Fee for two years until Council evaluated the merger with Tualatin Valley Fire and Rescue and took further action.

MOTION: Corey/McKinney moved to approve Resolution 2016-3282, A Resolution suspending the Fire Fee authorized by Resolution No. 2004-2509 from July 1, 2016 until further action by the Council. Motion carried (6 Yes/0 No).

COUNCIL BUSINESS: Discussion of District 4 Appointment:
CMPT Rhodes said three applications were received for the vacant Council position. One application was received late, and all applicants met the requirements. He asked if Council wanted to accept all three applications.

MOTION: Essin/Bacon moved to not consider applications not received on time. Motion carried (6 Yes/0 No).

CMPT Rhodes said there were two fully qualified candidates left to interview.

MOTION: Essin/Bacon moved to have interviews for the District 4 Council vacancy. Motion carried (6 Yes/0 No).

MOTION: Andrews/Essin moved to hold a special Council meeting on Wednesday, April 6th, at 6:00 p.m. Motion carried (6 Yes/0 No).

Councilor Bacon shared the project for the Ford Family Cohort. It was a County-wide poverty simulation.

EXECUTIVE SESSION PURSUANT TO ORS 192.660 (2) a Employment of Officers: Council entered executive session at 10:21 p.m. Staff present included CMPT Rhodes, CA Stone and IHRD McDonald. There was discussion on the City Manager Recruitment Process. Council exited executive session at 10:41 p.m.

ADJOURNMENT: The meeting was adjourned at 10:43 p.m.

ADOPTED by the Newberg City Council this 2nd day of May, 2016.

Sue Ryan

Sue Ryan, City Recorder

ATTESTED by the Mayor this 2nd day of May, 2016.

Bob Andrews

Bob Andrews, Mayor