

**NEWBERG CITY COUNCIL MINUTES
REGULAR SESSION**

JANUARY 3, 2017, 7:00 PM

PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

A work session was held at 6:00 p.m. preceding the regular meeting. Present were Mayor Bob Andrews, Councilors Mike Corey, Hayley Delle, Denise Bacon, Scott Essin, Patrick Johnson and Stephen McKinney. Also present were City Manager Joe Hannan, City Attorney Truman Stone, Municipal Judge Terry Mahr, City Recorder Sue Ryan, Finance Director Matt Zook, Public Works Director Jay Harris, City Engineer Kaaren Hofmann, and Community Development Director Doug Rux.

Mayor Andrews called the meeting to order. Items added to Council Business included: City Day at the Capitol and Councilor Assignments. The Business Session agenda was amended to add the election of a Council President. The Noise Variance was for 2017 not 2016.

Acting Municipal Judge Terry Mahr conducted the swearing in ceremony for Councilors Denise Bacon for District 3, Mike Corey for District 5, and Hayley Delle for District 1.

Tualatin Valley Fire and Rescue Deputy Chief Brian Sherrard said the transition and operation of the Fire Department was going smoothly. He reported on the recent Toy and Joy Drive and other activities of the district. Councilor Bacon reported on the Warming Shelter. Nine people had been served by the shelter, and the plan was to keep it open until Sunday morning. Mayor Andrews read the Council Assignments for 2017. He announced City Hall Day at the Capitol on February 8. The work session was adjourned at 6:25 p.m.

CALL MEETING TO ORDER

The Mayor called the business session to order at 7:00 p.m.

ROLL CALL

Members Present:	Mayor Bob Andrews	Scott Essin	Stephen McKinney
	Hayley Delle	Mike Corey	Denise Bacon
	Patrick Johnson		

Staff Present:	Joe Hannan, City Manager	Truman Stone, City Attorney
	Sue Ryan, City Recorder	Jay Harris, Public Works Director
	Doug Rux, Community Development Department	
	Matt Zook, Finance Director	Kaaren Hofmann, City Engineer

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was performed.

ELECTION OF COUNCIL PRESIDENT:

Councilor Corey nominated Councilor Bacon for Council President. Councilor Essin nominated Councilor McKinney. The Mayor asked for a roll call vote. There was a tie of 3-3. The Mayor called for a coin flip to decide. Councilor McKinney called tails. The coin flip was tails, and Councilor McKinney was selected as Council President.

CITY MANAGER'S REPORT: City Manager Hannan reported on current activities across the City. He met with the Chair of the Newberg Old Fashioned Festival regarding tracking festival visitors, banning certain business activities around the festival, use of tents, and parade. He met with the director of Yamhill Transit to discuss Newberg routes and transit study, met with representatives from Red Light Cameras regarding a feasibility study for some intersections in the City, met with TVFR staff regarding ideas for the annexation process and possible election, and met with the Newberg Downtown Coalition which was a bi-weekly meeting to stay connected. He was staying apprised of the condition of State Officer Cederberg who was wounded in a shooting. Newberg officers had responded to the call and there was discussion regarding communication issues that happened during the incident. He met with Councilor Delle to get acquainted. Joseph Bailey said he could meet with the Council on January 21 for the Council Goal Setting Session.

PUBLIC COMMENTS: None

CONSENT CALENDAR:

MOTION: Corey/Bacon moved to approve the Consent Calendar including Resolution 2017-3349, A Resolution authorizing the City Manager to execute Amendment No. 1 to a Cooperative Improvement (Utility) Agreement (No. 30467) with the Oregon Department of Transportation for the Oregon Route 18: Newberg-Dundee Bypass-Phase I G Springbrook Road. Motion carried (7 Yes/ 0 No).

PUBLIC HEARING – LEGISLATIVE:

Ordinance 2016-2811: Transportation Utility Fee, continued public hearing:

Mayor Andrews opened the public hearing and called for any abstentions or conflicts of interest on the part of the Council or objections to the Council's jurisdiction on this matter. There was none.

Public Works Director Harris presented the staff report. The Council and citizens had long been concerned about Newberg streets. A year ago Council directed staff to prepare a pavement maintenance funding plan. The plan considered two phases, as one funding option would not fit all and a fee alone would be too high. Staff proposed a fee and a local gas tax, with the fee coming first. An ad hoc committee was formed and there had been significant public outreach regarding the fee. The fee would raise \$1.2 million for pavement maintenance. At the December 5 Council meeting, Council listened to public testimony and deliberated on the proposed ordinance. Council indicated that the funding amount and funding prioritization were acceptable. There was consensus for the funding allocation to be a 35/65 split. Concerns were raised about how vacancy was defined, profit vs. non-profit fee caps, and maximum fee cap amount. Additional language was added to the ordinance to allow people to get a vacancy waiver when they were not generating traffic. Entities such as schools who were out during the summer or those who were remodeling or repairing property could apply for a vacancy waiver. Staff proposed a \$600 fee cap for 12 profit and non-profit agencies. This cap would amount to a revenue loss of \$150,000 per year. If the cap was increased to \$1,000, there would be 6 profit and non-profit agencies that could take advantage. The revenue loss would be \$100,000. If the fee cap applied only to non-profits, the revenue loss would be \$50,000. Keeping the cap at \$600 for both profit and non-profit made it even across the board.

Mayor Andrews asked about the difference between the enrollment of Newberg public schools and George Fox. City Engineer Kaaren Hofmann said for George Fox the number of students was 3,793 and there were 4,392 in the School District. Councilor Essin said feedback from the School District was that they were a public sector school and would pay \$1,800 and the private schools would pay \$600 and that seemed inequitable to them. They were also concerned about the timing as they had to adjust their budget to include the fee. Councilor Johnson suggested the School District owe a certain amount instead of each school owing an amount. PWSH Harris said the School District could be put into one line item.

City Attorney Stone advised the Council that since this was a legislative hearing, the Council had leeway in drafting the ordinance. Treating School District property one way versus a commercial property a different way was within the Council's discretion. Councilor McKinney said the lowest common denominator was the trip rate. It didn't make any difference if it was profit, non-profit, school, or businesses, it was based on the trip rate. If single family was not paying a higher rate, the businesses took a hit. He would like to mitigate some of the expenses for businesses and wanted to look at a different split than the 35/65.

Public Testimony:

Proponents: None

Opponents: None

Undecided: Robert Soppe, Newberg resident, said maintenance of Newberg's streets had been a problem for a long time and was difficult to resolve. While the ordinance was a noble attempt to resolve the issue, there were some serious flaws that needed to be addressed. The most significant shortcoming was how trip generation was used as the sole method of assessing fees. All trips were considered the same regardless of the type of vehicle involved. There was a difference between a standard passenger vehicle and a fully loaded truck to the impact on the road. He also objected to the use of fee caps. He did not think the other rate payers should subsidize the fee for 12 properties. He thought entities should pay commensurate with the burden they imposed. There were also flaws in the system of rate classes in the ordinance. There was a large difference between the lowest and highest trip generators in some classes. For properties at the low end of the range, they were paying a much higher rate than appropriate, and for properties at the high end, they were paying a much lower rate than what was appropriate. The system of classes resulted in 26 different rates. He suggested dropping the classes altogether and use the actual trip generation numbers. It would make the rate clearer and more equitable. He was also concerned that there was no appeal process in the ordinance. The only thing a person could appeal was the

assignment of category for their property. If a property owner could adequately demonstrate that their trip numbers were significantly different from what the ITE manual indicated, they should be allowed to appeal their rate. Regarding the 35/65 split, why was a split being considered at all? Was this a measurement of Newberg or a national average? If the rates were applied equitably, the split would automatically reflect the actual split within the City. The imposition of a fee cap already changed the split to a higher percentage burden on residential properties. As proposed, it was not 35/65. These flaws needed to be resolved before the ordinance was adopted.

Councilor Johnson said if they based it on trips versus a percentage then it would all wash out because Fred Meyer generated a lot more trips than his house. Mr. Soppe said if the 35/65 was a correct number for the City of Newberg, if they charged by the trip generation model they would still get the 35/65 split. If the demographics changed, it would keep tracking with that. There was no need for a 35/65. Mayor Andrews closed the public testimony portion of the hearing. PWSD Harris recommended adoption of the ordinance.

Councilor Johnson asked if they delayed the implementation of the ordinance for entities that did not have the fee in their budgets, did it delay the implementation of the entire ordinance until the next fiscal year. PWSD Harris said the ordinance would still be implemented, but the collection of the fee would be delayed which could potentially postpone projects for this summer. He thought to be equitable, statements would not be sent to anyone until July. CA Stone said they could send some out before that time and delay sending out other statements, but it would make it more complicated to implement and the ordinance before the Council tonight would need to be modified to reflect that.

Councilor McKinney appreciated Mr. Soppe's comments. He was interested in using the most common denominator for implementing the fee. He thought more conversation needed to take place before the ordinance was approved. CM Hannan said if they wanted to charge on the basis of trip generation only, staff could find out what those numbers would be. PWSD Harris said the ad hoc committee reviewed the different models and recommended the class system as it would be easier to administer and would ease the implementation of the monthly billing.

Councilor Johnson said the ad hoc committee had worked hard on their recommendation and he was uncomfortable changing the model that they proposed. CA Stone said regarding the appeals process for the fee, there was language in the ordinance that allowed for appeal of the calculation of the fee. Someone could challenge the trip generation rate based on the ITE. This language could be clarified.

Deliberations: Mayor Andrews was not comfortable with the cap as proposed. He thought it should be raised to \$1,000 per month for both profit and non-profit and there should be no differentiation among schools but they would be grouped together under one entity. He discussed a heavy vehicle use tax for the City of Portland that was above the gas tax. That idea warranted consideration. There should be one implementation date of no sooner than June 30, 2017.

Councilor Essin thought both the Park & School Districts should be lumped together, and they both pay the cap of \$1,000 per month. Councilor Johnson said it should be kept amenable, straight forward, and fair as a first step toward the problem. If they were going to make substantial changes, he suggested sending it back to the ad-hoc committee.

Councilor McKinney said the committee would appreciate something substantive from the discussion to be able to address. He thought they should table the ordinance for further discussion and implementation on July 1. Councilor Essin agreed that there needed to be more public comment on the ordinance. People needed time to put this in their budgets, and there should be opportunity for more public comments.

PWSD Harris said the Council wanted the ad hoc committee to discuss the following: 1) combination of parks as part of the fee cap, 2) raising the fee cap to \$1,000, 3) combining public schools into one, 4) heavy vehicle use tax, 5) one implementation date no sooner than June 30, 2017, 6) classes versus actual rate for each use, 7) adding some wording into the appeal section, and 8) a late afternoon or evening meeting for the ad-hoc committee so citizens could attend.

MOTION: McKinney/Johnson moved to table Ordinance 2016-2811, An Ordinance amending Newberg Municipal Code Title 3 to add a new chapter adopting a Transportation Utility Fee to March 6, 2017, for further refinement and referring the ordinance back to interested parties including the ad-hoc committee to reconsider the issues listed by PWSD Harris. Motion carried (7 Yes/0 No).

Resolution 2017-3350, Supplemental Budget for FY 2016-17:

Mayor Andrews opened the public hearing and called for any abstentions or conflicts of interest on the part of the Council or objections to the Council's jurisdiction on this matter. There were none.

Finance Director Zook presented the staff report. The purpose of the supplemental budget was to update the ending fund balances that received more revenue than what was anticipated. Staff was working on a new Fund Balance Policy that described how these types of increases would be handled. In the new policy, the General Fund would have a target fund balance and if there was a higher ending fund balance, the extra revenue would be used to bring the fund into compliance with its own policy. Once that target was met, they would move to the second priority which was addressing projects on the Council's priority list. In absence of an adopted policy, he proposed that these revenues go into Contingency with the exception of a few minor operational needs that were detailed in his report. The General Fund was \$107,000 higher than anticipated and \$96,000 would go into Contingency and \$11,000 would be used for operational needs. The details for the other funds were in the report. The report was published in the *Newberg Graphic* prior to this meeting.

Public Testimony: None

FD Zook recommended approval of the resolution. Mayor Andrews closed the public testimony portion of the hearing.

MOTION: Corey/Bacon moved to approve Resolution 2017-3350, A Resolution to adopt Supplemental Budget # 1 for Fiscal Year 2016-2017 beginning July 1, 2016 and ending June 30, 2017. Motion carried (7 Yes/0 No).

NEW BUSINESS: Noise Variance:

CA Stone said the nuisance ordinance allowed road construction to occur between 7 a.m. and 7 p.m. and during those hours they were not bound by the decibel limitations. If construction occurred outside of those hours, they had to apply for a noise variance. A letter had been received from K&E Excavating requesting a variance for various road construction activities that would mainly occur at night to accommodate traffic flow during the day. The request was to allow work between the hours of 7 p.m. to 8 a.m. from now until December 30, 2017.

Councilor Johnson was concerned about the impact on residents living nearby and wanted to make sure they received notice. CM Hannan said ODOT and the City were working to notify the neighbors.

CA Stone said the City received one complaint about truck traffic, although it wasn't from an immediate neighbor. He did not think by approving the variance they were dooming people to construction noise every night, but it would be periodic. The Council approved a similar variance for the ODOT contractor who was pouring the concrete bridges. They did take steps to mitigate the noise.

MOTION: McKinney/Corey moved to approve the noise variance request from K&E Excavating Incorporated for the Bypass Project (Phase 1G) from the present date to December 30, 2017. Motion carried (7 Yes/0 No).

COUNCIL BUSINESS:

Community Development Director Rux said Boeing Corporation was coming to tour Yamhill County. They were working on training facilities to gear up workers for advanced manufacturing.

ADJOURNMENT: The meeting was adjourned at 8:43 p.m.

ADOPTED by the Newberg City Council this 6th day of February, 2017.


Sue Ryan, City Recorder

ATTESTED by the Mayor this 7th day of February, 2017.

 Bob Andrews, Mayor