

NEWBERG CITY COUNCIL MINUTES
REGULAR SESSION
FEBRUARY 21, 2017, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

A work session was held at 6:00 p.m. preceding the meeting. Present were Mayor Bob Andrews, Councilors Hayley Delle, Scott Essin, Mike Corey, Patrick Johnson and Stephen McKinney. Councilor Denise Bacon was absent. Also present were Acting City Manager Jay Harris, City Attorney Truman Stone, City Recorder Sue Ryan, Finance Director Matt Zook, Community Development Director Doug Rux, Planner Steve Olson, Tualatin Valley Fire & Rescue Chief Mike Duyck, TVF&R Division Chief Les Hallman and TVF&R Communications Director Cassandra Uhlven.

Mayor Andrews called the meeting to order. For the January 17, 2017, minutes, on the Consent Calendar, Councilor Corey was not in the attendance for the regular Council meeting. Items added to Council Business included: Town Hall announcement, Employee Recognition Breakfast, and City Attorney item.

PRESENTATIONS:

TVF&R Division Chief Hallman asked if the City Attorney could explain the Council's authority on the decision to annex into the Fire District. City Attorney Stone said there was a question about whether or not the City had to refer the matter to the voters. The State statute was not a model of clarity, and he discussed it with the attorney from TVF&R. He thought the Council had the authority to start the process by passing a resolution to annex into the district. The TVF&R district board had the option to accept the request and set it to a vote or not depending on the parameters. In Newberg's case, the parameters were met as they had to do with population, and there did not need to be a vote. The TVF&R board could accept the request to annex and no vote was required or refer to the electorate.

Councilor McKinney asked if it would be an advisory vote or a yes or no vote. CA Stone said it would be yes or no vote to annex by the TVF&R District. TVF&R Division Chief Hallman said things were going well with the agreement with the Fire District. One of the problems before the City contracted with TVF&R was staffing and service delivery. Resources had been stretched thin and they had to rely on volunteer fire fighters. Those volunteers were having a hard time committing the amount of hours needed. It left Fire and Emergency Services operating below national safety standards. The timing was right to contract with TVF&R, especially since it increased staffing and equipment. At the same time, TVF&R wanted to fit in with the community and carry on the traditions of the Newberg Fire Department.

Cassandra Uhlven of TVF&R said at the Intergovernmental Council meetings, there had been conversations about the importance of communicating with Newberg residents about this issue. She referred to the handout on the Community Outreach Schedule for Fire Protection and EMS in Newberg 2017 (Exhibit A). This schedule would engage the public and garner a lot of citizen input. It would also allow the outreach to happen before the deadline for the decision.

John Campbell and Martha Delong from Campbell Delong Resources, Inc. explained their background and experience with public engagement. How they did a focus group was through a scientific polling where a real cross section of the community was engaged. Through that research and quantitative work, they could measure what was exact opinion and what types of information was most relevant to the public. This would be a two-phase project, starting with focus groups of 12 people for 90-minute discussions and a quantitative survey where a large sample of community members would be asked questions. There was discussion on what the outreach would consist of and what parts of the community would be involved as well as the consultants' previous experiences with TVF&R.

Councilor Johnson asked Division Chief Les Hallman and TVF&R Chief Mike Duyck about the arrangement between the City of Newberg and the rural areas. Chief Duyck said there was a Newberg rural fire protection district that was a separate governing entity and had their own tax rate. They contracted with the City of Newberg for fire service. They had discussed the annexation with the rural district. Their contract with the City was still in place and TVF&R was currently providing their fire service. Councilor Johnson wanted to know how the service from TVF&R compared to what the City of Newberg had provided. Chief Hallman said TVF&R was providing all that the City did before, but with a much higher amount of resources.

Newberg Downtown Coalition Chair Mike Ragsdale and Tom Lasounde presented information on interim uses for the City's downtown Butler property. When the Newberg Downtown Plan was completed, there was a request that the Coalition take a look at interim uses for the Butler property. The property was on First and Howard Streets and is currently used for occasional events. Some interim use ideas include: a creative co-working and micro-business space, two-story structure with small retail below and office above, food carts, micro-restaurants, plaza, and downtown student housing structure. Further evaluation was needed to determine a permanent use for the property. The interim recommendation was to further analyze three options: leasing of modular units, market the space as an active rental space, or rent pads to various vendors. They were seeking the Council's direction on a preferred interim use, creation of a task force to conduct a detailed analysis on the preferred solution, and to implement the solution. There was discussion regarding the future uses and concerns of Councilors regarding the use of the site. The Council would get back to the NDC with their direction on a preferred option.

CALL MEETING TO ORDER

The Mayor called the business session to order at 7:15 p.m.

ROLL CALL

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

Staff Present:	Jay Harris, Acting City Manager Sue Ryan, City Recorder Leah Griffith, Library Director Sonja Johnson, Environmental Engineer	Truman Stone, City Attorney Doug Rux, Community Development Department Kaaren Hofmann, City Engineer
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PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was performed.

PRESENTATIONS:

Rea Andrew Proclamation:

Mayor Andrews proclaimed the City's thanks and appreciation to Rea Andrew for her long employment with the City of Newberg.

MOTION: McKinney/Johnson moved to adopt the proclamation. Motion carried (6 Yes/0 No/1 Absent [Bacon]).
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Newberg Cultural District Annual Report:

Leah Griffith, Cultural District representative, gave the annual report. She explained the boundaries of the cultural district, Intergovernmental Agreement that created the district, Executive Board members and duties, Cultural Center staff duties, and events in 2016. She reported on Tunes on Tuesday, Parking Management Plan, Wayfinding Plan, City Festival street designation, and media outreach. Future projects include: funding for permanent signage, bringing more public art to the Center, and working with CPRD on a ballroom patio. Their goal was to develop a special place for people to enjoy cultural and arts experiences and enhancing Newberg as a destination for tourists.

CITY MANAGER'S REPORT: Acting City Manager Jay Harris discussed the recent significant rainfall events and issues on Springbrook due to street construction. There were no pump station overflows. The Inflow and Infiltration Program was working. Many potholes were occurring because of the rain and staff could not adequately patch them until the weather was dry and warmer.

PUBLIC COMMENTS: None.

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CONSENT CALENDAR:

MOTION: Corey/Johnson moved to approve the Consent Calendar including Council Minutes for January 17, 2017 as amended and directing an administrative change to collection of the City's Marijuana Sales by having the Finance Director modify the city's marijuana tax forms to reflect a tax rate of 3% for recreational sales and 0% for medical sales from March 1, 2017 until further action by the Council. Motion carried (6 Yes/0 No/1 Absent [Bacon]).

PUBLIC HEARING:

Resolution 2017-3354:

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.

City Engineer Hofmann presented the staff report (Exhibit B). The City owned two parcels north of Bell Road, and access to both were through an existing gravel driveway shared with the Specter family. In 2014 it was determined that improvements constructed by the neighboring property owners encroached on City property. In discussions, Ms. Specter asked if the public utility and access easement was intended for municipal or residential use. Negotiations were entered into and the solution was to make a property line adjustment to include the encroachments on the parcel owned by Ms. Specter and the easement would be used by both the City and Chehalem Springs Association to maintain Oliver Springs and to access any future reservoir. The cost difference was \$568.20 and Ms. Specter was willing to pay that amount. Notice was provided for the proposed sale. This would be the sale of about half an acre. Staff recommended approval of the resolution.

Proponents: None

Opponents: None

Undecided: None

Mayor Andrews closed the hearing.

MOTION: Corey/Essin moved to adopt Resolution 2017-3354, A Resolution authorizing the City to purchase an easement located on Bell Road from Sara Specter; to sell property located on Bell Road to Sara Specter and Authorizing the City Manager to execute documents to complete the purchase and sale. Motion carried (6 Yes/0 No/1 Absent [Bacon]).

Ordinance 2017-2814:

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. Councilor Johnson said due to his position at the Oregon Lottery, he would be recusing himself from discussing and voting on this matter. Councilor Johnson left the dais to sit in the audience.

CA Stone presented the staff report. The Oregon Revised Statutes stated that OLCC might require every applicant for issuance or renewal of a liquor license to acquire a written recommendation from the City Council if the place of business was in an incorporated city. When he came to the City, the Police Department was processing liquor licenses. He looked at what other cities did and put together a process that would work for Newberg. The Council passed a resolution in 2001 delegating to the City Manager the ability to make these decisions, but it was not in the Code. The changes he proposed would become a new section of Code. The process was to authorize the Police Chief to have his department make an investigation and forward a recommendation with specific criteria to OLCC. If someone received a recommendation for denial, they could appeal it to the Council. Staff recommended adoption of the ordinance.

Proponents: None

Opponents: None

Undecided: None

Mayor Andrews closed the hearing.

MOTION: McKinney/Corey moved to waive the second reading of Ordinance 2017-2814. Motion carried (5 Yes/0 No/1 Absent [Bacon]/1 Abstain [Johnson]).

MOTION: Corey/Essin moved to adopt Ordinance 2017-2814, An Ordinance establishing criteria for review of liquor license applications, making recommendations to the Oregon Liquor Control Commission (OLCC), delegating review authority to the Chief of Police, and creating an appeal process. Motion carried (5 Yes/0 No/1 Absent [Bacon]/1 Abstain [Johnson]).

Councilor Johnson returned to the dais.

Resolution 2017-3357:

Council President McKinney 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. Councilor Johnson met with several people who were Veritas families as his kids went there four years ago and he had donated to the school in the past. Council President McKinney said he had talked about this item with staff to prepare for the hearing and received a phone call from Bill Rourke.

Environmental Engineer Johnson presented the staff report. This was an Advanced Financing District request from Veritas School for a public water and wastewater line that was put in in 2015. An Advanced Financing Agreement could be used per the Municipal Code to allow developers to recoup costs associated with constructing public improvements that could also benefit other properties. It was a ten-year agreement that could be extended for an additional ten years. In the Veritas agreement it could only be extended for another eight years as it was constructed in 2015 and this was now 2017. She explained the Advanced Financing District process and how costs would be apportioned among the benefitting properties. The City signed a Development Agreement with North Valley Friends. Veritas purchased property from the Friends group. They constructed a water and wastewater public main line in 2015. The benefitting properties were not in the City in 2015, and in April 2016 an intervening property was annexed. There were 10 properties that would benefit from the water line, and 15 properties that would benefit from the wastewater line. She explained the two possible methods of apportionment, and how the acreage method was chosen. The costs that could be reimbursed to Veritas would be \$282,000. But of that amount \$230,000 was either exempted from a future AFD or was part of the Veritas properties. That left about \$51,000 that could potentially be reimbursed.

Councilor Essin asked about the letter submitted by Bill Rourke stating he had a verbal agreement on the intended use of some of the property (Exhibit C). City Attorney Stone said some of the issues raised were beyond the scope of the Municipal Code. The verbal agreement was not criteria included in the Municipal Code and could not be a consideration. However, this was a discretionary decision. The City was not in the position to enforce contracts between two private parties.

Proponents: None

Opponents:

Jerry Brown, Newberg resident, said his property already had City water and he had a septic tank. He did not think he should have to pay for the water and wastewater lines. He questioned how the City determined the cost and did not think it would benefit him.

City Engineer Hofmann said Mr. Brown was on the Water District water, not the City water. If he were to develop his property in the future, he would not be able to continue to utilize the Water District water. It was the same with the septic system, or if the septic system failed. He would be required to pay only if the property was developed or his system failed. If the property was already connected, it would not be listed as one of the benefitting properties.

Joey Rourke, Newberg resident, read a letter from his father, Bill Rourke, into the record (Exhibit C). Mr. Bill Rourke was in opposition of the resolution. He gave an easement to Veritas at no cost based on a long-standing cooperative relationship. He and Veritas had a verbal agreement which had not been honored. The inclusion of labor and equipment that were donated should not be included in the recoup costs. He offered to make a donation at the time so he would not have to pay if he developed his property and later volunteered to pay for the upgrade to the pump station. There was also

an agreement for Veritas to return his property to its intended use as pasture. That agreement had not been met and his pasture could not be used. Rocks and trees had been put on the property from the construction and three manholes had not been graded. The donated labor and equipment were services that Veritas did not pay for and should not have been included in the amount that was the basis of this application. He asked the Council to postpone the decision until these issues were addressed.

Undecided:

Mike Stice of Veritas School said the school was established in 1997 and their mission was to provide classical, Christ-centered education. They were not experts in developing property. He gave a background on the Development Agreement for the five acres they purchased. Veritas made the investment to bring the City water and sewer line up 2,100 linear feet to the property. They became aware of an AFD that would help reimburse some of that investment. They had not agreed that the acreage method was the most equitable method for assessment of the AFD, however after discussions with staff about the best method to use, staff thought the acreage method was still the preferred method due to the shape of the some of the parcels. He asked that the Council evaluate both the acreage method and frontage method for assessment. He referred to a handout (Exhibit D). Veritas did invest \$282,000. The current reimbursement of about \$51,000 was 18% of the cost. The frontage method would be a possible reimbursement of \$126,000 or 45% of the cost, which was a more equitable portion.

Councilor Johnson asked why Veritas had not contacted their neighbors when they applied for the District. Mr. Stice said they were not required to. Council President McKinney asked about the issues raised by Mr. Rourke in his letter. Mr. Stice responded Mr. Rourke and Veritas had a good relationship over many years, and he did provide an easement. Mr. Rourke had suggested making a donation to Veritas as opposed to paying an AFD fee. Since that time, there had not been verbal or written suggestions of a donation to Veritas.

City Attorney Stone asked why he thought the frontage method was more equitable. Mr. Stice said the pipes were put in by linear feet to go across the frontage of the properties and the reimbursement by acreage did not take that into account.

Environmental Engineer Johnson explained that staff thought the acreage method was more equitable as it had to do with the ability of the larger properties to potentially use the capacity of the public main lines more than the other smaller properties. Larger properties had a greater impact on the lines.

Council President McKinney closed the hearing.

Environmental Engineer Johnson said staff recommended adoption of the resolution.

Councilor Johnson asked if it was appropriate to take out the cost of the easement in the assessment. City Attorney Stone thought it would not be appropriate and suggested not getting involved in a private dispute. The Council had to look at what was fair, and not any verbal agreements. He explained how AFDs could be assessed. Staff thought the acreage method was the most equitable based on the fact that most of the lots did not have much frontage and the ones that did were relatively small. City Attorney Stone explained the Friends Church would not be involved in the AFD because of a separate agreement with Veritas School where they were paying a different amount.

Deliberations:

Council President McKinney was not in favor of the resolution. He thought a better method could have been used for the assessment. Councilor Corey was in favor as he agreed with staff's determination that acreage was the best method. Mr. Rourke's issues were civil matters that needed to be dealt with privately. Councilor Johnson was also not in favor. He thought Veritas needed to talk to the property owners and get an agreement that everyone could support. Mayor Andrews asked if the AFD would affect the construction of the school. CDD Rux said no, they could proceed with the school. There was discussion regarding the agreement being binding for 10 years and what issues were and were not in the Council's purview.

MOTION: Essin/Andrews moved to approve Resolution 2017-3357, A Resolution authorizing an Advanced Financing Agreement between the City and Veritas School for the construction of a 10-inch public wastewater line and an 8-inch public water line on North College Street. Motion failed (2 Yes/4 No [Johnson, Delle, McKinney, Andrews]/1 Absent [Bacon]).

NEW BUSINESS:

Wastewater Inflow and Infiltration Private Lateral Program:

City Engineer Hofmann explained what inflow and infiltration was and how they made a difference in the wastewater flow. They prioritized the collection system rehabilitation to reduce peak water flows to the Wastewater Treatment Plant and to delay capacity related improvements. Since their last presentation to Council in 2015, staff had been rehabilitating public lines through the Capital Improvement Program with some dramatic improvements. The I & I program for this year included replacing additional public laterals in the Aquarius area and lining several hundred linear feet of main line pipe. Rehabilitation of private laterals needed to be done in combination with improvements to the public system. In September 2015, Council gave direction to staff to require property owners to pay for these improvements and for staff to come up with guidelines for how to notify property owners about the issue, loan program if there was a hardship, contracting out with general contractors for the work, and an education campaign on the importance of reducing I & I.

When there was a City project, private lines would also be inspected. There were guidelines in the Municipal Code for when lines were considered failing and when they were not. If there were complaints received, they would be inspected. Private lines might also be inspected through smoke testing or dye testing. If a need for repair was determined, a letter would be sent to the property owner. The property owner had 90 days to repair the lateral. If it was done within 30 days, the City could offer an incentive of \$100 off their Municipal Services Statement. Staff suggested instead that a qualified list of contractors be provided to property owners. If there was a hardship, a portion could be funded through a loan program. Up to 75% of the cost could be financed. They could start with \$50,000 per year in the budget and it would be on a first come, first serve basis. She then explained the hardship criteria. An educational brochure was created for public outreach.

There was discussion about whether \$50,000 was enough, what other jurisdictions did, and how many laterals would need to be repaired. City Engineer Hofmann said generally the cost to replace laterals was \$3,500 to \$5,000. ACM Harris explained the benefits to the property owner for replacing the laterals were that the lines would not need to be cleaned out as often and it would improve property values. Councilor Johnson was concerned about annual income and the program not being affordable. Councilor McKinney asked about the terms. CE Hofmann said a five-year term on the loan had been discussed and the interest rate would be tied to a common lending factor. There could be a sliding scale depending on how much was loaned. If everyone paid for the repairs, it would make the rates increase. This would be a maintenance requirement for property owners. There was discussion regarding whether or not to require property owners to pay for the private laterals as opposed to the City.

MOTION: Johnson/McKinney moved to implement the Wastewater Private Lateral Program as outlined. Motion carried (6 Yes/0 No/1 Absent [Bacon]).

MOTION: Corey/Essin moved to have the City Attorney create the financing instrument with review and approval of the Finance Director and the City Manager. Council also delegated the authority to the City Manager to approve loan applications for this program. Motion carried (6 Yes/0 No/1 Absent [Bacon]).

COUNCIL BUSINESS:

Mayor Andrews announced a Town Hall in McMinnville March 3. The Employee Recognition Breakfast would be held February 22 and Local Government Dinner February 23. There was Council consensus to discuss the future uses of the Butler property in a future work session. Councilor Johnson moved to direct staff to come back with some suggestions at a future date for use of the Butler property. Motion died for lack of a second.

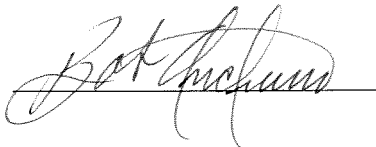
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ADJOURNMENT: The meeting was adjourned at 10:05 p.m.

ADOPTED by the Newberg City Council this 3rd day of April, 2017.

ATTESTED by the Mayor this 6th day of April, 2017.


Sue Ryan, City Recorder


Bob Andrews, Mayor

