NEWBERG CITY COUNCIL MINUTES
REGULAR SESSION
July 2, 2018, 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 Andrews, Councilors Patrick Johnson, Denise Bacon, Scott Essin, Matt Murray, Mike Corey, and Stephen McKinney. Staff present were City Manager Joe Hannan, Finance Director Matt Zook, City Recorder Sue Ryan, City Engineer Kaaren Hofmann, Community Development Director Doug Rux, Human Resources Director Anna Lee, and Police Chief Brian Casey.

Department Head reports:

CDD Rux reported on his department's activities including new staff members. From January to May, 653 building inspections had been done and 30 single family permits had been issued. Various commission projects included: the Cameo Theatre historic application, Accessory Dwelling Units work and a marketing proposal. Grant work included 28 manufactured home repair projects in progress under the CDBG grant, marketing grant for Wolves & People, and TLT grants had been approved for the Hoover exhibit. The Riverfront Master Plan and citizen committees had met.

He was appointed to the Yamhill County Affordable Housing Corporation Board. Requests for the Butler property were out, and close August 15. There had been a series of meetings with economic partners, Regional Solutions and SEDCOR, and the financing package had been submitted to Business Oregon for Crestview Drive. Work was being done to set up an Economic Development Advisory Board. The City's federal designation was received for an Opportunity Zone for the south Newberg area.

In planning activity: There were Comprehensive Plan and Zone Change applications in review, Accessory Dwelling Units and the Wastewater Master Plan discussions were tonight, and the Council approved annexations' R-3 provisions. The Council initiated review for a possible change to marijuana business hours, Council approved the new lot widths for R-1 and R-2 developments, the department was busy with applications for subdivisions, partitions, and design review. They received several vacation home rental applications and variance requests. There had also been a variety of pre-application meetings for possible future projects.

On the Urban Growth Boundary: They were in Phase 2 of the expansion process. The state Land Conservation and Development Commission (LCDC) was working on technical fixes to the UGB expansion process. Those should be completed by January 2019.

He had several meetings with ODOT regarding the Bypass, participated in the Design Star Program, worked on Springbrook Properties' development agreement, and participated on the Newberg public schools long-range facility plan.

HR Director Lee said last year there were 27 recruitments. She attended 3 recruitment events, successfully negotiated two union contracts, and moved new employees to PERS from NERPS. Negotiations for the COLA for the police union had been completed. All job descriptions, union contracts, salary scales, and information on human resources were on the website. She presented more than 10 employee supervisor trainings. There was a less than 10% increase for benefits in the annual renewal. She assisted managing staff performance and expectations with action plans, follow ups, and classes. She participated on an internal Safety Committee. She attended numerous trainings to make sure the City was complying with all laws. There was discussion on the Supreme Court decision on union dues.

PC Casey introduced a new Police Officer. Since January 1, there had been 15,649 calls for service, 683 arrests, issued 1,916 citations, and written 1,899 warnings. They had also responded to 131 suicide calls, and a mental health team that responded to those calls. He would be purchasing a Fentanyl drug testing machine. The Dundee half marathon and Old Fashioned Festival were coming up. He encouraged Council to consider more Police staffing.

CE Hofmann reported for Public Works Department. The Water Plant hypochlorite generator was replaced, an emergency generator added at the well field, the Emergency Water Operations Manual had been completed, staff participated in Yamhill County emergency management exercises, and security upgrades had been done at the well field and maintenance yard. Engineering completed 471 inspections, issued 128 engineering permits, worked on planning projects, completed the five-year Pavement Preservation Plan, completed the SDC policy revisions and guidance handbook, and submitted the TMDL report for storm water release into the Willamette River. The Villa Road project was in progress. Roofing and siding were completed at maintenance facility, paving, and yard clean-up. Landscaping work was done at the City Hall annex, 2nd Street parking lot, Francis Square, and the flag pole entrance to the City. The medians along Highway 99W would be completed in the fall. Maintenance was administering the Fats, Oils, and Grease program now. An upgrade to the asset management system began, and would go live October. Engineering added 2 interns. The Traffic Safety Commission was working on policy decisions and updated the Municipal Code to reflect Engineering was now the liaison to the Commission. There was discussion on Villa Road construction. The road was scheduled to be reopened August 31.

FD Zook said Court transitioned to a pro tem Judge, and staff were working on case management and maintenance. For the Finance Department, the Citizens Rate Review Committee would meet July 11 for annual utility assistance grant review and awards. There was an intern helping on tax compression analysis, and development analysis. Since January, they refinanced debt to save $1.5 to $2 million in interest, and initiated new debt for the communications upgrade with interest rates below 3%. A lease for storing IT equipment would be brought to their next meeting. The Equal Pay Program began in January, and there were 26 participants. The budget was adopted June 18. He received notice the City received the Government Finance Officers Association's Certificate of Achievement for excellence in financial reporting for a 2nd consecutive year. The annual audit was soon. Staff continued working on the Long Range Financial Plan, and options to address future needs. He explained the handout he distributed regarding reasons for the structural deficit in the General Fund.

City Recorder Ryan reported on the League of Oregon Cities Conference and 2018 elections. Mayor Andrews discussed the LOC legislative priorities. Mayor Andrews adjourned the work session.

CALL MEETING TO ORDER
Mayor Andrews called the business session to order at 7:15 p.m.

ROLL CALL

Members Present:	Mayor Bob Andrews	Scott Essin	Mike Corey
	Denise Bacon	Matt Murray	Patrick Johnson
	Stephen McKinney		
Staff Present:	Joe Hannan, City Manager	Truman Stone, City Attorney	
	Sue Ryan, City Recorder	Cheryl Caines, Senior Planner	
	Matt Zook, Finance Director	Kaaren Hofmann, City Engineer	

CITY MANAGER'S REPORT: City Manager Hannan said his activities included: Attending a Downtown Coalition meeting on new hotel development, Public Works Day, talking with (former) VFW building owners about conversion to an event center, working on the budget deficit being discussed tonight, participating in discussions the West Rock (former mill site) property, working on a draft proposal and scope of services for management training, attending a tri-county area City Managers meeting on the Salem water crisis and emergency response, historic signs funding for downtown, attending the Relay for Life, attending the Bypass Committee meeting to discuss Phase 2, and working with interns on a sidewalk project on Main Street which could be done by CPRD and the City.

PUBLIC COMMENTS: Robert Soppe, Newberg resident, spoke on the structural deficit. He had received figures that night and thought his concerns about the interpretation had been confirmed. He would defer making comments until he had reviewed the numbers.

CONSENT CALENDAR:

MOTION: Bacon/Murray moved to approve the Consent Calendar including Resolution 2018-3482, A Resolution to authorize the City Manager to enter into a construction contract with The Saunders Company, Inc. for the East Fifth Street Wastewater Replacement Project in the amount of $398,621.00; Resolution 2018-3477, A Resolution to authorize the City Manager to enter into a construction contract with K&E Excavating, Inc. for the 2018 Pavement Preservation and Utility Improvement Project in the amount of $1,323,925.80; and June 4, 2018 Council Minutes. Motion carried (7 Yes/0 No).

CONTINUED BUSINESS:

Ordinance 2018-2831: Mayor Andrews said this was the second reading of this ordinance. The record was closed at the last meeting, however subsequent testimony had been received and he asked if the Council wished to reopen the record.

MOTION: Johnson/Bacon moved to reopen the record. Motion passed (6 Yes/1 No [McKinney]).

CDD Rux said Council held the initial hearing on the 2018 Wastewater Master Plan on June 18. Staff report findings detailed compliance with the Oregon Administrative Rules, and incorporating it into the Comprehensive Plan. He explained updates made. Both staff and the Planning Commission recommended approval.

CE Hofmann addressed the questions from the last meeting. One issues was the definition of surcharging. She explained the difference between designing a system at 85% capacity, and when they looked at the model evaluation for potential overflow sites to determine project priorities. The deficiency identification threshold was not a design standard. Another issue was the hydraulic grade line on manholes. She explained a full build-out of the entire system and a worse-case scenario rain event, the line was where the pipe would sit assuming there were no improvements to the pipe. There were instances where they were at rim elevation, but that would change when larger pipe was put in.

The Citizen Advisory Committee discussed the surcharging issue and in March recommended approval of the Wastewater Master Plan with corrections. When this was brought before the Planning Commission, Commissioner Bliss had several concerns at the first reading of the plan, but noted that after receiving information at the meeting that those concerns were alleviated. The Planning Commission approved the plan unanimously. Another issue raised was DEQ, and the definition of surcharging. No matter what the City's language said, any overflow could result in a violation or enforcement action by DEQ. What was scheduled for improvement in the Collection System CIP in the Master Plan would affect everything upstream. Another question came up about additional projects' analysis. She clarified master planning was at a higher level not intended to include all of the details for projects. When a project was placed in the CIP and budget, all of the identified options would be evaluated in detail. There was discussion regarding the Springbrook area Inflow and Infiltration issues, reducing the impacts on the Hess Creek lines, and the policy for who would pay for sewer backups. CM Hannan would bring back information on cities that had a policy in place for sewer backups.

There was further discussion on the timelines for the Riverfront Master Plan and Newberg 2030 Plan which would require the Wastewater Master Plan to be updated.

MOTION: Johnson/Bacon moved to accept the written testimony received into the record. Motion carried (7 Yes/0 No).

Proponents: None

Opponents: Robert Soppe said the Committee process was flawed. He felt the most significant decisions were put off until the last meeting. He objected to the plan on the surcharge definition. There had been an overflow on Springbrook Road years ago that the City did not fix because they did not meet the plumbing standards. He thought those properties complied with the Code yet the City chose not to pay for them. He thought rerouting the Springbrook main sewer line should have been considered.

Undecided: None
Mayor Andrews closed the hearing. CDD Rux said staff recommended adoption of the ordinance.

MOTION: Bacon/Corey moved to approve Ordinance 2018-2831, An Ordinance incorporating the 2018 Wastewater Master Plan into the Newberg Comprehensive Plan and amending Section L, Public Facilities and Services of the Comprehensive Plan to be read by title only.
Deliberations:
Councilor Murray thought there should be a policy for sewer backups.
Councilor Essin said a lot of work was being done upstream that should decrease the possibility of overflows. Staff acknowledged that there was more work to be done, but they had to have a master plan to go forward. He was in support.
Councilor McKinney questioned whether the master plan was comprehensive enough. He was not in support.
Councilor Johnson said this plan lowered the Wastewater SDCs and both the Citizen Advisory Committee and Planning Commission had approved the plan. He agreed with the concerns that had been raised, but this was just a master plan. Staff would be working on the details and the problem areas. The plan would be revisited in a few years and the surcharge definition could be changed then.
Councilor Essin agreed there were still issues that needed to be addressed but felt those would be addressed in the future.
Councilor McKinney said there was no adequate way to survey existing structures. The master plan needed to address the key issues of what the City was currently dealing with.
Mayor Andrews said a master plan was a work in progress and gave the basic framework. He was in support.
Motion passed (6 Yes/1 No [McKinney]).

Resolution 2018-3471: CE Hofmann said this was a project on Chehalem Drive extending the public wastewater line from the existing terminus on the east side of Chehalem Creek and Highway 240 to NE Chehalem Drive, and north toward the intersection with Columbia Drive. The extension would allow for orderly future development along the western edge of the City. This project was in the 2007 Wastewater Master Plan. The project had been in the Capital Improvement Plan (CIP) for a few years, and was budgeted to be paid for with rates and SDC funds.

There was discussion on the project financing. CE Hofmann said utilities would cross the creek, which increased cost. If the City got the pipe across the creek and partway up the road, it would help development to occur in an orderly way rather than in a piecemeal fashion. SDCs were designed to do pay for such projects and provide for future growth. This request was to begin the design work for the project and the assumption was it would be funded by SDCs and rates.

Proponent: Dan Danicic said this was a project that demonstrated looking toward the future and being proactive in an area that would be difficult to develop. If the City did not do this project, the land would sit undeveloped for a long time. He thought this was a good investment for the City and appropriate use of SDC funds.

Opponent: Robert Soppe raised issues about the funding. He felt these properties should provide an equal amount of funding for the project, and not the rate payers. He supported an Advanced Financing District (AFD) process where the City constructed the project, and the benefitting properties paid their share when they developed.

There was discussion on funding options.

MOTION: Corey/McKinney moved to approve Resolution 2018-3471, A Resolution to authorize the City Manager to enter into a professional services agreement with Keller Associates, Inc. to design the city's NE Chehalem Wastewater and Water Extension Project. Councilor Corey said there could potentially be many developers in this area if the lines were extended, not just one developer. The City wanted to grow and it should be done in a sensible manner. Councilor Johnson supported but wanted staff to look at ways to partner with developers to help reduce costs. He thought this type of project was for the public good in bringing a mix of housing types. The long term benefits outweighed the SDC costs. Motion carried (7 Yes/0 No).

PUBLIC HEARINGS: Accessory Dwelling Unit (ADU) amendment to Development Code:
Mayor Andrews opened the public hearing for Ordinance 2018-2832. He called for any conflicts of interest or abstentions or objections to jurisdiction. There were none.

CDD Rux said this amended the Comprehensive Plan and Municipal Code on Accessory Dwelling Units (ADUs). He explained proposed changes to the Comprehensive Plan: Using the definition from Senate Bill (SB) 1051 for ADUs, changing policies to note ADUs were acceptable housing types, allowing a Type 1 review process for the units, changing lot coverage requirements, and requiring 1 additional off-street parking space.

There was discussion on parking on City streets, and creating regulations to park in garages. He explained proposed changes including: Where ADUs would be permitted, How they would be Conditional Use, Standards Rental provisions, Water and wastewater connections, and possible reductions in the SDCs. There was discussion on ADUs being used as rentals but not being used for affordable housing.

Proponents: Rick Rogers said the amendments attempted to reduce barriers to building ADUs. He listed all of the organizations not recommending requiring an off street parking space. He respected the Planning Commission's opinion that a parking space should be required. But he said it would be a hindrance to building ADUs. The footprint for ADUs was a maximum of 1,000 square feet. If a parking space was required there would not be enough room on the lot except for maybe a tiny home. He thought a variance or a credit be allowed for the parking with conditions. This was one option to get a range of housing types in the City, and balance density. He did not see a problem with using ADUs as rentals.

Dan Danicic said these changes were a way to help provide more ADUs on existing lots in the City. But also subdivisions could be designed with lots pre-set to allow ADUs or to build homes with ADUs as part of the package. He recommended not requiring off-street parking space. He recommended relaxing the 50% size as it could be a hindrance. He suggested lot coverage requirements govern the size of the ADU. On stormwater regulations, it was recommended that if the ADU was smaller than 500 square feet, a stormwater report did not have to be done. If it was larger than 500 square feet, a report would need to be completed. This required an engineer to be involved and increased costs. He suggested using the standard 2,877 square feet for impervious area to see if overall the impervious surface would be greater than that and then required a report. He thought the same standard should be used for the stormwater SDC, and that if they were less than the 2,877 square feet they would not have to pay an additional stormwater SDC. He encouraged the Council to keep an eye on the added costs in the regulations that might hinder ADU development.

There was discussion about impacts to the community's character and more street parking. There was discussion on lot sizes.

Opponents: None
Undecided: None
Mayor Andrews closed the public hearing.
There was a brief recess.
CDD Rux said ADUs provisions went into effect July 1. The emergency clause was due to an extra Planning Commission meeting (which did not allow for the ordinance to come to the Council in June). If modifications to the ordinance were needed it could be done in the future.

MOTION: Bacon/Murray moved to waive the second reading of the ordinance. Motion passed (6 Yes/1 No [McKinney]).

Mayor Andrews read written testimony from Charlie Harris regarding an alternate parking requirement, by giving an on-street parking credit for ADUs as allowed for other developments. He asked for staff's comments on that suggestion. CDD Rux was unaware of the Code that allowing on-street parking spaces to count toward off-street parking space requirements. The proposed ordinance was to require 1 off-street parking space for an ADU.

MOTION: Bacon/Murray moved to approve Ordinance 2018-2832, An Ordinance amending the Newberg Comprehensive Plan and Newberg Municipal Code regarding Accessory Dwelling Unit (ADU) policies and regulations and Declaring an Emergency to be read by title only.

Deliberations:
Councilor Bacon supported doing anything to provide an assortment of housing types. She was not convinced parking would be a problem. She preferred removing this requirement.
Councilor McKinney thought there would be no way to compel someone to put in the parking after the ADU was built. There would be no way to go back and correct a problem that should be corrected at the beginning of the process.
Motion carried (7 Yes/0 No).

Public Hearing, ADU Utilities: Mayor Andrews opened the public hearing for Ordinance 2018-2837, ADU Utilities, and called for any abstentions or conflicts of interest or objections to jurisdiction. There were none.

CE Hofmann gave the staff report. This was a request to amend Chapter 13 of the Municipal Code that addressed public utilities and services for ADUs. The Planning Commission recommended ADUs not have separate water and wastewater connections. She explained the proposed changes to the Code. These changes would allow more affordability for ADUs. SDCs and Municipal Statement fees could be reduced due to these revisions. The emergency clause was for the same reason as the previous ordinance.

Councilor McKinney asked if it was an existing residence with a water and sewer line, who determined if the lines were in good repair and adequate to take care of the ADU. CE Hofmann said it would be up to the plumbing inspector to verify that the connection was put in correctly, but there was not a code requirement to look at the existing piping on the site to determine if it was adequate.

Proponents: None; Opponents: None; Undecided: None. Mayor Andrews closed the public hearing.

MOTION: Bacon/Johnson moved to waive the second reading of the ordinance. Motion passed (6 Yes/1 No [McKinney]).

MOTION: Bacon/Johnson moved to approve Ordinance 2018-2837, An Ordinance amending Chapter 13 of the Newberg Municipal Code to address Accessory Dwelling Units and declaring an emergency to be read by title only. Motion passed (6 Yes/1 No [McKinney]).

Public Hearing, Privilege Tax: Mayor Andrews opened the hearing for Ordinance 2018-2836, Privilege Tax increase, and called for any abstentions or conflicts of interest or objections to jurisdiction. There were none.

Finance Director Zook gave the staff report. This was a request to increase the water, wastewater, and stormwater privilege tax from 5% to 7%. The Council had discussed addressing structural operating deficits during the next 5 years. These discussions led to including in the 2018-19 budget an increase to the privilege tax for water, wastewater, and stormwater. The amount of revenue generated from this adjustment over the next five years would be $304,000 to $330,000 annually to the General Fund. The Citizens Rate Review Committee had opposed the increase due to the impact to the reserves. The Council could request that the CRRC reconvene to reconsider the proposal. The added funds would reduce the operating deficit from $1.7 million to $1.375 million.

CM Hannan explained this would not increase the monthly fees, but would come out of reserves. The other funding options that would be coming before Council were to increase property taxes and the Public Safety Fee. FD Zook clarified the Budget Committee and Council had approved the budget with this proposed increase.This was a Code change, and would go on indefinitely.

Proponent: None

Opponent: Rick Rogers, CRRC Chair, said when they reviewed the proposal, it was a franchise fee increase but now it was being called a privilege tax. Utility rates were set by a formula. The CRRC deliberated on reserves, and capital improvement projects. Decreasing reserves by $300,000 or more per year would at some point increase rates. It would go back to the citizens in the form of a rate increase. This was a way of shifting General Fund dollars from the rate payer without them knowing what was happening. The CRRC would have looked at the rates, reserves, and capital projects differently had they known this would be adopted in the budget. They needed to be mindful of how the average citizen viewed their utility bill and the need for reserves in these funds.

There was a brief recess.

Councilor McKinney discussed how the City was facing a deficit related to the recent Charter amendment. Mr. Rogers explained the purview of the CRRC was the rates for water, wastewater, and stormwater and they made recommendations for those rates. The deficit elsewhere in the City's budget was not their purview. This proposed change reduced the CRRC's effort. Councilor Bacon said this was one way to help fix the deficit. Mr. Rogers said from his view, it was a way to transfer funds to the General Fund without citizen input.

CM Hannan said it was clear there was a deficit, and they would need to raise money from several sources. The City had very adequate reserves, over the best practice standard of 15%, and greater reserves would not help. The Council would have to make a difficult choice about raising money or making cuts. There could be an increase in the rates, property taxes, or Public Safety Fee, but that decision would go to the voters. He did not think they went around the CRRC, but had been transparent on the need for additional money. Mr. Rogers questioned why it was coming to the Council now when it had already been approved in the budget. He was pointing out what he thought public perception would be.

Undecided: None. Mayor Andrews closed the public hearing.

MOTION: Corey/Bacon moved to waive the second reading of the ordinance. Motion passed (5 Yes/2 No [Andrews, Johnson]).

Councilor Corey agreed with Mr. Rogers' statements about the timing and was also concerned about taking funds out of the reserves. This was a first step to reduce the General Fund deficit, and more would need to be done. He supported the ordinance. Councilor Johnson thought this process was an issue and would be voting against the ordinance. He was in favor of tabling it and sending it back to the CRRC.

CM Hannan explained it went to the CRRC to give them a heads up and to put in context what was coming. It was not a rate change process, but was what staff recommended. He was presenting revenue options first, and going to the voters before cuts were made. The City had a few years before there was a budget crisis. Staff was taking this one step at a time to bridge the gap, and take care of the deficit.

Councilor Essin said much of the City's funding was designated for certain things, and could not be used for the General Fund deficit. This would help with the budget while they worked on the option to go to the voters. Councilor Bacon said this went back to Measure 50 and how taxes could only be raised by 3%. This was not only about the Charter amendment. They had to do something together as a community or it would not be a community they would want to live in. Councilor McKinney said this was not the fault of the CRRC. The Council had been moving toward raising the franchise fee/privilege tax to 7% for several years.

There was discussion on process. CA Stone provided context for franchise fees/privilege taxes in the City and how 10 years ago the City moved away from franchise agreements to a contract with privilege tax. The franchise fee and privilege tax were the same just different approaches.

CM Hannan explained there would be no increases to the other privilege taxes because they were set by the legislature. He clarified the difference between the Transportation Utility Fee process and this process.

MOTION: Essin/Johnson moved to table the ordinance to August 6. Motion failed (3 Yes/4 No [Andrews, Bacon, Corey, McKinney]).

Mayor Andrews asked about adding a sunset clause of 2 years. In that time, it could be reviewed further while still collecting the additional revenue. CA Stone stated there was no legal impediment to adding a sunset clause.

Councilor Murray said the Council did not discuss that they would only be increasing three of the privilege taxes, and the others would stay at 5%.He did not think that was equitable. He was also concerned that there was no public involvement, and citizens would end up paying for the increase. He opposed the ordinance.

Councilor McKinney thought the other privilege taxes would be increased to 7% in the near term. He thought it would just put off the inevitable to go to the community at this time. He asked if the CRRC could be reconvened or if they had to wait for the two year cycle. Mayor Andrews said the Council could reconvene and give the CRRC additional activities.

CM Hannan clarified the other privilege taxes were at statutory limits and could not be increased to 7%. CA Stone explained Waste Management was still operating under a franchise and was the only provider outside the scope of this ordinance.CM Hannan said it had always been the intent to go to the voters, and his recommendation was for next May. They would have plenty of time to go to the community and do public outreach on the budget issues. Councilor Essin was not ready to vote on this, and would be voting no.

MOTION: Corey/McKinney moved to approve Ordinance 2018-2836, An Ordinance amending Newberg Municipal Code 12.05.370 to increase the water, wastewater, and stormwater privilege tax from 5% to 7% to be read by title only. Motion passed (4 Yes/3 No [Essin, Johnson, Murray]).

NEW BUSINESS: Resolution 2018-3490 Councilor Murray resignation

MOTION: Bacon/Corey moved to approve Resolution 2018-3490, A Resolution acknowledging the acceptance of the resignation of Councilor Matthew Murray, expressing the City's appreciation for his service, declaring a vacancy, and announcing the advertisement for qualified persons for appointment to fill the vacancy. Motion carried (7 Yes/0 No).

COUNCIL BUSINESS:
League of Oregon Cities Legislative priorities: The Council turned in their top and bottom priority choices.

ADJOURNMENT: The meeting was adjourned at 11:25 p.m.

ADOPTED by the Newberg City Council this day of August 20th, 2018.

Sue Ryan
Sue Ryan, City Recorder

ATTESTED by the Mayor this 23rd day of August, 2018.

Bob Andrews
Bob Andrews, Mayor