

NEWBERG CITY COUNCIL MINUTES
REGULAR SESSION
December 17th, 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 Mike Corey, Elise Yarnell Hollamon, Denise Bacon, Stephen McKinney, and Scott Essin. Councilor Johnson was absent. Staff present were City Manager Joe Hannan, City Attorney Truman Stone, City Recorder Sue Ryan, Finance Director Matt Zook.

Financial Statements: Councilor Corey asked about Transient Lodging Tax - how much is obligated to the General Fund ? FD Zook said city receives 65% of TLT. In this report that equals \$715,000.

Executive Session on pending litigation

Start: 6:05 p.m.

Stop: 6:30 p.m.

Staff: CM Hannan & CA Stone, Attorney Ron Guerra of Innova Legal Advisors

Topic: Update on Metro West lawsuit

CALL MEETING TO ORDER

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

ROLL CALL

Members Present:	Mayor Bob Andrews	Mike Corey
	Patrick Johnson	Denise Bacon
	Elise Yarnell Hollamon	Scott Essin
	Stephen McKinney	

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

CITY MANAGER'S REPORT: City Manager Hannan reported on city activities including the emergency preparedness breakfast for the faith based community, the final paperwork for the transfer of the Animal Shelter to the Friends group, meeting with George Fox regarding emergency preparedness, re-advertising the sale of the Butler property, being part of a conversation about homeless teens, and meeting with groups who wanted to do affordable housing projects. Councilor Essin said there were no churches near the Greens Subdivision to help in case of an emergency, and there had been conversation with the Chehalem Parks and Recreation District to take a water unit and with George Fox to provide housing.

COUNCIL APPOINTMENTS:

MOTION: Andrews/Bacon moved to approve the Mayor's appointment to the Housing Needs Assessment Project Advisory Committee of Sam Espindola from December 2018 to June 2019. Motion carried (7 Yes/0 No).

MOTION: Andrews/McKinney moved to approve the Mayor's appointment to the Community Visioning Advisory Committee of Denise Bacon (Council Liaison), Tiona Cage, Lacey Carroll, Sarah Hadley, Miriam Hall, Cyrus Ireland, Patrick Johnson (Council Liaison), Kate Jennings-Gregory, Julie Marshall, Julia Martinez-Pancarte, Suzanne Meenahan, Joe Morelock, and Brandon Porter from December 2018 to June 2019. Motion carried (7 Yes/0 No).

PUBLIC COMMENTS: Robert Soppe, Newberg resident, said he had many conversations with citizens about the Council when they had complaints. To those people he pointed out the Council was working toward what they believed was the good of the community and they spent a great deal of time toward bettering Newberg. To Councilors Essin and McKinney he thanked them for their time and effort. Even though he had different points of view, he never questioned their dedication or intentions. To Mayor Andrews, he thanked him for his time, effort, and dedication to the City. He had set a difficult standard for the new mayor.

Buddy Cook, Newberg resident, said he had been told by City Code Enforcement that occupancy in an RV on private property was not allowed in the City. He wanted to request an exception to that rule, and was told there was no process for exceptions. The person who lived in the RV was his brother-in-law and he lived there 4 days per week for his job and then went home for the weekend. Many times it was less than 4 days and not every week. He questioned whether he was in violation of the ordinance or not because the ordinance said it shall not exceed 14 days. The RV had been there for 5 years and had sewer, power, and wifi. His brother-in-law had told him that if it was a violation he would evacuate the premises. He requested a determination as to whether or not he was in violation, and if he was in violation if he could get an exception for three years. His brother-in-law was going to retire in 2-3 years. Mayor Andrews directed him to speak with the City Attorney about this issue.

Daniel Brown, Newberg resident, spoke about a nearby property that he perceived to be an intolerable nuisance. He requested the City create a nuisance code for high density neighborhoods. The property owner had ongoing body shop and mechanic work going on in his driveway, over the sidewalk, and in the street. There was frequent spray painting of vehicles, air hosing, and paint sanding debris into the street, and the storm drain that went into the creek behind the homes. This work was being done from 6 a.m. to 10 p.m. It often involved a compressor and pounding and grinding noise. Auto parts were stored on the front lawn and the sidewalk was impassible. This was impacting the resale value of close proximity homes. He filed a complaint with the City, and Code Enforcement could find no technical code violations. The property owner was highly oppositional and was well known to the police. This was a once quiet neighborhood and the code needed to be amended to protect high density neighborhoods.

Todd Enzoar, Newberg resident, affirmed what Mr. Brown had said about the public nuisance. He also lived in this neighborhood and the noise was constant from early morning to late at night. They had not approached the neighbor due to his reputation for violent interactions. The property was an eyesore and the spray painting had affected the sidewalks and City streets. He had made calls to Code Enforcement, but nothing was being resolved. If code changes could be made it would be helpful.

City Attorney Stone would discuss this issue with Code Enforcement and would follow up with the neighbors. Police Chief Casey had not been aware of this situation. They were willing to work with the neighbors to mitigate the issues.

Councilor McKinney asked if this business had a business license and was operating in the guidelines of the license. He was also concerned about children breathing the fumes from the paint. CA Stone would look into it and forward the information to Council. Mr. Brown said this was a hobby, not a business. However there was continual work on his cars. It was a townhome duplex where this was occurring. Councilor Bacon thought this hobby would still have to follow environmental standards.

David Wall, Newberg resident, announced Finance Director Zook received an award for the latest Comprehensive Annual Financial Report. He quoted from a law suit regarding the McClure's property and how they had a development agreement with the City to extend water services to the property and the McClure's agreed to develop the property with roads, water lines, and sewer facilities and annex the property. He asked for an accounting of the amount of money the City spent on this agreement since the annexation never took place.

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CONSENT CALENDAR:

MOTION: Corey/Bacon moved to approve the Consent Calendar: Resolution 2018-3516, A Resolution authorizing the City Recorder to execute a 10 foot wide easement to Lucas and Michelle Buyas; Resolution 2018-3504, A Resolution to authorize the City Manager to enter into a professional services agreement with WRK Engineers to design the city's Public Safety Building Seismic Retrofit Project; Resolution 2018-3515, A Resolution to authorize the City Manager to enter into a professional services agreement with HBH Consulting Engineers, Inc. to design the City's George Fox University Fire Flow Waterline Improvement Project; Resolution 2018-3517, A Resolution to authorize the City Manager to enter into a professional services agreement with HBH Consulting Engineers, Inc. to design the City's Wastewater Line and Manhole Replacement Inflow and Infiltration (I &I) Project; Resolution 2018-3519, A Resolution authorizing the City Recorder to Execute a quitclaim deed in favor of the State of Oregon, Department of Transportation, held by the City, located with the Newberg-Dundee Bypass Corridor, and Council Minutes for November 19th, 2018. Motion carried (7 Yes/0 No).

PUBLIC HEARINGS:

Ordinance 2018-2841: Legal Description:

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

Community Development Director Rux gave the staff report. The City Charter required the City to keep an up-to-date legal description of the corporate limits of the City. A consultant had been hired to update the legal description and it was before Council to approve. This would be an annual process.

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

MOTION: Bacon/McKinney moved to waive the second reading of Ordinance 2018-2841. Motion carried (7 Yes/0 No).

MOTION: Bacon/Johnson moved to approve Ordinance 2018-2841, An Ordinance adopting a new legal description of the Newberg City limits to be read by title only. Motion carried (7 Yes/0 No).

Resolution 2018-3519 Visit Newberg:

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

CDD Rux gave the staff report. He gave a background on the formation of the Transient Lodging Tax Committee in 2016. The Committee had worked for two years on what a permanent organizational structure to promote tourism in Newberg would look like. That organization was called Visit Newberg and was modeled after the McMinnville program. There were findings in the staff report that responded to the criteria for this organization. Visit Newberg would be a separate organization from the City. The agreement was for 3 years and established a process for forming Visit Newberg. In the first 6 months there would be Board elections, bylaws, and recruitment for an Executive Director. They would receive \$323,000 to be paid quarterly. There was also \$499,000 left in TLT funds not spent on marketing from 2017-2018. The City would give \$150,000 to \$200,000 Visit Newberg for startup costs. They would also need to develop a budget for fiscal year 2019-2020 and a business plan. The agreement had 3 one-year renewals with provisions for termination. There would be a separate agreement with Visit Newberg, and the Chamber for the Chamber to contract out administrative services. This would modify the current agreement between the City and Chamber for running the Visitors Center.

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Councilor Johnson had issues with the organization not yet being in existence, and the Council passing a resolution. CA Stone explained the City had engaged outside legal counsel who met with the incorporators whom were responsible to file the paperwork to become an organization. Once papers were filed, they would call an organizational meeting to elect a Board of Directors. The Board would then ratify the acts of the incorporators. The resolution authorized a future agreement with an entity that did not yet exist. It was anticipated that the contract would be further refined in the future. CDD Rux clarified if there were substantial changes to the contract, the agreement would come back to the Council. There was discussion on how the structure would work, and how the contract could be terminated.

Councilor Johnson had a concern that Visit Newberg would not be required to follow public records and meetings law since their major funding would be public dollars. CDD Rux said they had to follow the regulations for 501(c) (6) organizations. Councilor McKinney asked what those regulations were in relationship to public meetings law. CDD Rux did not know. Councilor McKinney said in terms of the public involvement, how many opportunities were there for discussions to go sideways. CDD Rux said if Visit Newberg proposed substantial changes then the agreement would be brought back to Council. Councilor Johnson asked who was doing what part of the work. CDD Rux said Visit Newberg would be doing the majority of the work and City staff would be on the outside. There would be City staff coordinating between Visit Newberg and the City regarding the budget.

Councilor Johnson asked if they should set up a one-time grant from the City to start up the 501(c) (6) and create a contractual agreement with Visit Newberg. CDD Rux said that would be a different agreement than the one before Council tonight. The current contract gave assurances that there would be funds to do the necessary activities, not only covering the startup costs. There was discussion on the current agreement, funding that Visit Newberg would receive, and how the contract between the Chamber and Visit Newberg would have to be worked out between those two entities.

Mayor Andrews said on Page 3 of the findings for the estimated contract award, the findings said the contract price was \$353,000 and that there would be a one-time lump sum of unexpended funds of \$499,663. If they approved the contract, they would also adopt the findings. CDD Rux said staff could go back to modify findings to reflect what was in the agreement. Councilor McKinney clarified for new Councilors coming on to the Council that they would be reading for the findings on many of the issues that would come before them. He thought the agreement was too nebulous and was not in favor of it. Councilor Johnson suggested tabling the resolution.

Proponents: Dennis Lewis, Shannon Buckmaster, and Rob Felton, TLT Committee members, favored the resolution. They were there as resources to help clarify the agreement. Mr. Lewis thought this agreement was an opportunity for the community to become a part of the larger world of marketing. They had worked on this for 2 years. Those people recommended for the Board had a lot of marketing and tourism experience.

Mr. Felton said in regard to the public meetings law, this organization would be similar to how the Chamber operated. The City had a contract with the Chamber. Every year the Chamber reported to the Council at a public meeting where there was public discussion. Anyone could attend the Board meetings, but the meetings would not be noticed or recorded. Ms. Buckmaster said this was a starting point and they had included several opportunities for amending the agreement. If they did not start somewhere, it simply would not start and they would be in the same place one year from now.

Councilor Johnson said the difference between the Chamber and this organization was the sole revenue would be coming from public dollars. He asked if they knew what the rules for a 501(c)(6) would be ? Ms. Buckmaster said the Chamber operated as a 501(c) (6) organization, and there would be ex-officio City officials serving on the Board. They would have minutes, and could enter into executive sessions.

Councilor Johnson would like to see those rules if they were going to table this item tonight. He asked why they did not go with this as a grant first to get the 501(c)(6) set up with a Board, then come to the City with an agreement, and then recruit for an Executive Director. He asked if they could walk through why they went with this model. Mr. Lewis said they had to have Council approval for the plan to move forward. They were being responsible with the TLT funds, and had taken advice from other communities that had gone through this process. There were other funds the new organization could go after and the Executive Director would be working toward that end.

Ms. Buckmaster asked CA Stone to give clarity about a 501(c) (6), and the timing for appointing a Board of Directors. CA Stone explained for any corporation the first order of business was to elect a board because without a board there was no one to act on the behalf of the corporation. Ms. Buckmaster clarified they had to approve the business plan before approving the 501(c) (6) organization that would provide the structure for moving forward. CA Stone agreed it was common to have some uncertainty when forming organizations and once the corporation was established, the Board of Directors looked at what was done on behalf of the corporation by people who were representing an entity yet to be formed and ratify those actions retroactively.

Mr. Felton said they would be asking people to apply to be the Executive Director and if all they had was a temporary grant to start up, but there were no assurances that it would go forward, that might hinder recruitment. Councilor Johnson asked what would happen if the decision was delayed until the new year. Ms. Buckmaster said any delay would not be serving the community well as they would be missing opportunities and partners. Councilor McKinney said the City was very good at building partnerships. He liked the concept of building additional partnerships, and augmenting the funds beyond the tax. Citizens held the Council responsible for what happened with public money, and these were large sums.

Councilor Johnson asked about the economic development program and the work that would be done before an Executive Director was hired. Mr. Lewis said they wanted to hire the Executive Director as soon as possible. They did not want to make decisions on how to spend the resources as a committee, but wanted someone to lead the charge with them. Councilor Yarnell Hollamon said the other part of the business plan was to elect the Board of Directors. Did they support the 9 individuals for appointment? Mayor Andrews said they were not at the point to be discussing the Board yet.

Opponents: None. Mayor Andrews closed the public hearing. CDD Rux recommended adoption of the resolution.

CA Stone said this item was a public hearing because the proposed contract was being exempted from standard purchasing rules. The findings were required to exempt the contract. Mayor Andrews asked if staff had amended the language of the findings.

CDD Rux said on Page 3 of the RCA under B2, the estimated contract price would be \$323,751. In the initial Fiscal Year 2019-2020 there would be a distribution of unexpended funds estimated at \$499,663 to be negotiated with the contractor. CDD Rux said the amount in Fiscal Year 2021-2022 would be changed to \$348,121.

MOTION: Johnson/McKinney moved to table Resolution 2018-3519 until the second meeting in January. Motion passed (4 Yes [Bacon, Corey, McKinney, Johnson]/3 No [Andrews, Essin, Yarnell Hollamon]).

Resolution 2018-3512 Supplemental Budget:

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

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Finance Director Zook said explained what was included in the supplemental budget. This included: Replacement of a police dog through a generous donation, Planning Department grants, seismic retrofit grant for the Public Safety Building, management training expenditure, software costs related to the TVF&R transfer, part-time internships to help with projects, an additional server to help increase network capacity and provide redundancies, and carry over funds for 6 capital projects. This would be an additional \$3 million of appropriations, most of which was off-set by revenue. Councilor Johnson asked about the modifications to the pavement project. Public Works Director Harris would send the Council an email outlining those modifications.

Proponents: None; Opponents: None. Mayor Andrews closed the public hearing. FD Zook recommended adoption of the resolution.

MOTION: Corey/Bacon moved to approve Resolution 2018-3512, Adopting Supplemental Budget #1 for Fiscal Year 2018-19. Motion carried (7 Yes/0 No).

NEW BUSINESS: Resolution 2018-3520 Visit Newberg appointments:

CDD Rux said this was a companion piece to the earlier Visit Newberg item under the public hearing. On Page 3 of the Council's RCA was a list of nine individuals and three alternates who were recommended for the Board of Directors. The City Council could not appoint the Board, but could recommend individuals for it. There was also a recommendation for ex officio members to the Board including Councilor Yarnell Hollamon to represent the City Council.

CM Hannan requested adding the City Manager as an ex officio member as well. Councilor Yarnell Hollamon recommended moving Christian DeBenedetti to the top list because of his experience in marketing on a national scale, and move Robert Griffin to the alternate list due to his multiple absences on the TLT Committee.

Councilor McKinney wanted to hear from the TLT Committee about that recommendation due to the situation of a difficult personality. Ms. Buckmaster agreed Councilor Yarnell Hollamon. She said at times a difficult personality could bring lively conversation, and a more thorough evaluation of due process. The candidates were vetted by industry and professionalism. More than half were existing TLT Committee members, which brought consistency and succession planning between the TLT Committee and the newly formed organization.

Mr. Felton said Councilor Yarnell Hollamon's recommendation reflected what the Committee felt. He was in support. Mr. Lewis concurred with the recommendation as well. Councilor McKinney asked if Mr. DeBenedetti had made threats about lawsuits. Mr. Lewis said not to his recollection. Mr. Felton said they did not have a combative relationship with Mr. DeBenedetti in their roles on the Committee.

Councilor Johnson asked why the Council member wasn't given a vote on the new Board but was an ex-officio member. Mr. Felton said they were trying to limit the membership to 9, and to get as many industry professionals as possible.

Ms. Buckmaster had offered to be an ex-officio member representing the Chamber to allow for greater industry representation. Her experience would still be considered for all decisions, but it invited more voices to the table. Councilor McKinney asked if the Board members were residents of Newberg. Mr. Felton replied no, the bylaws stated they did not have to be.

Mayor Andrews clarified the resolution would be amended to recommend Christian DeBenedetti as one of the nine Board members, to move Robert Griffin to an alternate, and to add the City Manager as an ex officio member.

MOTION: Bacon/Corey moved to approve Resolution 2018-3520 as amended, A Resolution recommending members to the initial Board of Directors of Visit Newberg and appointing a City Council non-voting Board member. Motion carried (6 Yes/1 No [McKinney]).

Draft Business Plan Visit Newberg

CDD Rux said with the tabling of the earlier resolution, this item would be tabled as well. Mayor Andrews said before they tabled it, there was one person who signed up to speak. Ms. Buckmaster thought they had put together a competitive and appealing package for recruiting an Executive Director. She offered a supplemental industry and local cultural training and a personal commitment to support the success of this position.

Camellia Funding request of \$14,000:

CM Hannan said this was a request for marketing funds for the Camellia Festival. The City was currently in transition with Transient Lodging Tax funds. The Camellia Festival needed to market their event, and that matched with the mission of the TLT fund. Newberg was the Camellia City and the advertising would bring people to the City. Two TLT grants had been returned to the City for projects that had not happened, and he recommended using those funds for the request. He clarified this would only be granted this one time and that the festival would look to Visit Newberg for advertising for next year.

There was discussion on why this organization should receive funding, advertising Newberg for events, the Camellia being representative of the City, and the timeline for the Festival's needs.

Carissa Burkett, Co-Chair of the Camellia Festival, said they received \$8,000 last year from the TLT funds for marketing and were able to increase attendance by 1,000 people and increased the percentage of people coming outside of Newberg. The \$14,000 would help the festival continue to grow. Brian Stewart, Co-Chair of the Camellia Festival, said Newberg was the Camellia City per State legislature and had its own camellia. It was a wonderful tool to bring people to the City.

Councilors Bacon and Essin were in favor of funding the request.

Shannon Buckmaster, Chehalem Valley Chamber of Commerce, stated the Chamber had contributed to the festival for the past two years as well. She thought the request for \$14,000 was appropriate. However, she cautioned against reliance on a significant source of funding without a back-up plan. She said what they would do for one organization they should do for all. It would open up questions by other events who would also like funding. She supported the Camellia Festival. She asked if there was a different budget category than TLT funding that could be used so there would be no conflict or perceived bias to fund this request.

Councilor McKinney asked if the Chamber was supporting the festival financially this year. Ms. Buckmaster said they were helping in volunteer marketing and recruitment, but not financially due to tabling their TLT funds in preparation for the new Visit Newberg organization.

MOTION: Bacon/McKinney moved to approve the Camellia funding request of \$14,000.

Deliberations: Councilor Johnson was concerned about the unintended consequences and the message it would send, especially if another community organization requested funds. Councilor Yarnell Hollamon also was concerned about the perception, especially when the Chamber was tabling their funds.

Councilor Bacon explained because of the transition, the Chamber's TLT funds were frozen. If they were continuing on the way they had in the past, the Chamber had supported the festival financially. Councilor McKinney said there was a difference between the Chamber's and the City's TLT monies. The Camellia Festival predated any TLT grants. If any festival deserved the funding to continue growing, it was the Camellia Festival as it represented the City and brought in many visitors.

Councilor Yarnell Hollamon thought it opened up a policy question for other organizations that also represented Newberg. Councilor Bacon said this was a good investment as it was a successful local festival that brought tourists to Newberg. Motion carried (7 Yes/0 No).

COUNCIL BUSINESS:

Mayor Andrews reminded the Council about City Day at the Capitol on January 24. CA Stone reported on the sale of the Animal Shelter which was almost complete.

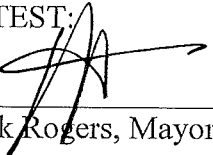
Councilor Essin spoke about the leadership of Mayor Andrews and how he had improved the City during his time as Mayor. He also thanked staff for their work. He discussed the water reuse system and how the City was responsible to pay for it. He supported the request to reduce the fee of the one water reuse user. The most important thing he learned on Council was the need to listen. A lot of big decisions were coming up, and he encouraged the Council to listen to staff and the community. PWS Director Harris announced a Christmas potluck on Wednesday.

ADJOURNMENT: The meeting was adjourned at 10:32 p.m.

ADOPTED by the Newberg City Council this day of January 22, 2019.



Sue Ryan, City Recorder

ATTEST:


Rick Rogers, Mayor