

A G E N D A
Revised 08/24/94
Ordinance/Legislative Committee
Sub-Committee of the Newberg City Council
Wednesday, 5:30 p.m.
August 24, 1994

The Noodle Restaurant
2320 NE Portland Road
Newberg, Oregon

Members:

- X Dave McMullen, Chair
- X T. Dan Wollam, Vice Chair
- X Shannon Stueckle, Member
- X Bob Engelke, Member

Staff: XTerrence D. Mahr (TDM)

- City Attorney
- X Duane R. Cole (DRC)
City Manager
- X Peggy Hall,
Legal Department

ABSENT: Donna Proctor, Mayor

OTHERS IN

ATTENDANCE: Mike Olberding, Community Service Coordinator

Chairman Dave McMullen called the meeting to order.

I. Approval of Minutes of June 20, 1994

MOTION: Wollam/Stueckle to approve the Minutes of June 20, 1994. (Unanimous).
Motion carried.

II. Election Update - Mayor and Council positions

TDM stated that the Tax Base Levy Measure would be reviewed by the Council at the September 6, 1994 City Council meeting. The ballot title is due at Yamhill County on September 8, 1994. The election will be a "walk-in" and not a "mail-in" election.

III. Ethics Code - City of Portland - formation of Ad Hoc Committee

Discussion was held concerning an ad-hoc committee comprised of the following:

- (2) City employees
- (1) Citizen
- (1) Elected official (City Council)
- (1) Appointed official (from one of the Council Committees)
- (1) Member from the Ordinance/Legislative Committee

6 Member Ad Hoc Committee

The ethics code would pertain to City employees as well as elected and appointed officials.

MOTION: Wollam/Engelke to initiate an Ad Hoc Committee and appoint Shannon Stueckle as the Ordinance/Legislative Committee member. (Unanimous). Motion carried.

IV. Codification - verbal

TDM stated that Committee member Dan Wollam did quite a bit of work on starting the codification project. TDM noted that the process is a long and involved one and some of the City's ordinances need to be updated during this process. The department heads each have a section that they are reviewing for changes. Some of the ordinances need to be repealed. The process should be that the Ordinance/Legislative Committee be the policy decision committee and then go to the Council for review and adoption. Administration, Municipal Court and other ordinances are in need of updating. TDM further added that other cities are in the same position. Council member Wollam stated that the biggest part of the work is done. It is a colossal "cut and paste" job. Mike Olberding stated that he would volunteer to be on the committee.

V. Litigation Update - verbal

(a) Horizon - land use

TDM noted that the matter would be heard at the September 6, 1994 City Council meeting.

(b) Javorski (Pride Furniture) - sale to Associated Furniture

Sale of the building and property to Associated Furniture Manufacturers, Inc. is set for September 1, 1994. The Community Development Department as well as the City Manager and the Legal Department have all worked together in making this sale work. The present building is a historic building that is planned for renovation. Associated Furniture is a company that duplicates "high end" furniture and sells it at reasonable prices. Bob Engelke stated that mobile home companies use their furniture for displays, etc. TDM noted that there are some environmental problems (removing tanks) on the property. Siding needs to be replaced and that eventually they intend to pave the parking lot. Associated Furniture Manufacturers, Inc. is made up of three partners (James C. Morton, James W. Edy and Donald G. Edy) who live in the area and are interested in the Newberg community.

(c) Scully - abatement

Default judgment is ready to be entered. There are also underground oil tank problems as well. The basement of the building has shown that there is oil leaking from somewhere. The prior owners attempted to give the City the building, but was rejected by the City due to the environmental problems. The City intends to force Mr. Scully or the prior owners to clean up the property and building. The City is also pursuing Municipal Court prosecution for ordinance violations by Mr. Scully in not cleaning up the property and building (nuisance). Mr. Scully was found guilty on two counts and was cited again for 4 additional violations at \$250 per day until the problem is corrected. Discussion was held concerning whether or not the building would have to be demolished to clean up the environmental problems. TDM noted that structural and environmental engineers would be assessing the property and advising the City staff accordingly. DRC noted that the former USNB building located at First and School Street has similar environmental problems and the bank of America building located at First and College has structural problems.

(d) Villareall - recovery of 1987 camaro

TDM noted that this is an issue wherein the Yamhill County District Attorney's Office handled a RICO forfeiture matter for the City. The Judge ruled that the grounds were not good enough for seizure of the vehicle (the incident happened in Yamhill County but was noted in Multnomah County. The arrest was made by Newberg officers). The Newberg Police Chief was not happy with the results and questioned whether or not the City Attorney should now act as the forfeiture counsel for the City. The Judge awarded \$3,000 in attorney fees to the Defendant. It is important that the relationship with the District Attorney's Office remain positive. Involving RICO funds, the funds are shared by the federal government as well as the City and other agencies involved. RICO funds are to be used for police activities.

VI. Environmental Enforcement - Light industrial property issues

Discussion was held concerning regulating the process. TDM reviewed the attached conversation memo with the Committee. TDM noted that there was a need for beefing up the ordinance provisions with regard to environmentally sensitive matters. Better code enforcement is needed.

VII. Insurance Claims - verbal update

(a) Heinzl - water damage

Damage reported to Public Works Department and the Public Works crew did a follow-up report. The contractor is liable for a water main breakage.

(b) Francis - sewer back-up

Contractor declares mis-location of sewer lines. Insurance company for the City has denied the claim.

(c) Betty Grayson - apartment eviction

This involved a police department stand-by. Since this occurrence, the Police Chief is in the process of initiating a "writ of assistance" policy issued by the Court to defer liability where the police officers are merely standing by and not initiating the eviction or other action.

(d) Dvorak/Bailey - reckless driving/failure to yield to pedestrian

Discussion was held concerning whether or not a police officer would have the authority to cite a person into court or not. Matters such as this may well be sent to District Court in Yamhill County for review and prosecution.

VIII. Municipal Court - benchmark and report to Finance Committee

TDM introduced Mike Olberding as the Community Service Coordinator. TDM further noted to the Committee that Newberg's successful program has been used in various other state and other county operations. The Finance Committee will be reviewing the Court's revenue and operation process. The Yamhill County District Attorney's Office will not be prosecuting cases that involve bad checks, criminal trespass or harassment matters. The District Attorney's Office is "streamlining" their process. The Court is in the process of providing benchmark figures to help monitor the Court's progress. Discussion was held concerning the amount of backlog cases Rick Mills was handling and how many remained. Further discussion was held concerning putting liens in judgment dockets for citation non-payment.

IX. New Business

(a) Unnecessary Noise Ordinance

TDM reviewed the attached information from DRC and the further research by TDM on unnecessary noise. TDM further noted that there has been discussions with the Police Chief concerning the following suggestions:

- (1) Clarifying what "unnecessary noise" is;
- (2) Making sections of the City Ordinances clearer - cite immediately or follow abatement process;
- (3) Cite persons - officers to take action

Further discussion was held concerning citing persons and putting them out of business due to the noise (industrial areas). Testing of potential problem areas may be needed. Present City Ordinances do not give decibel levels.

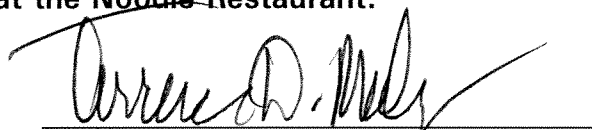
(b) PERS Initiative Measure 8; City Response

DRC reviewed the PERS initiative which provides for a 6% decrease in employee pay effective January 1, 1995 due to the PERS contribution. TDM and DRC discussed concerns they had addressed to Local Government Pool Institute (LGPI) and the potential problems. DRC noted that the City presently has 96 employees and 4 retirement programs:

12% plan (6% employee/6% City)
General employee plan (which also provides for two types of plans)
PERS
Police and Fire employee plan

DRC noted that the City has not been contacted by union representatives concerning the PERS legislation. Discussion was held on how the City would be impacted. The City would need to adopt the initiative prior to the November election. Various Committee members voiced their personal opinions on whether they were for or against the issue. Committee member McMullen stated that he was sitting on the fence because he needs further clarification. Mike Olberding stated that people voted to limit property taxes and ways to save money. DRC noted that it may be moved to the October, 1994 City Council agenda to allow for further input and discussion. Committee member Wollam stated that he feels that the employees should have not to pay for something that they are not supposed to pay for. DRC noted that there is wide spread discussion and concern in other cities. DRC noted that Pendleton voted 15 to 2 to accept PERS.

The meeting adjourned at 7:35 p.m. The next meeting is set for Wednesday, September 21, 1994 at 5:30 p.m. at the Noodle Restaurant.



Terrence D. Mahr
City Attorney