

MINUTES
Ordinance/Legislative Committee
Sub-Committee of the Newberg City Council
Wednesday, 5:30 p.m.
November 16, 1994

****NEWBERG PUBLIC LIBRARY**

****CHANGE IN LOCATION****

Members:	<u>X</u> Donna Proctor, Mayor	Staff:	<u>X</u> Terrence D. Mahr (TDM)
	<u>X</u> Dave McMullen, Chair (DMc)		City Attorney
	<u>X</u> T. Dan Wollam, Vice Chair (TDW)	<u>X</u>	Duane R. Cole (DRC)
	<u>X</u> Shannon Stueckle, Member (SS)		City Manager
	<u>X</u> Bob Engelke, Member (BE)	<u>X</u>	Peggy Hall, Legal Department

I. Approval of Minutes of September 21, 1994

Chairman Dave McMullen stated that the minutes were approved as read.

II. Election Update

- (1) Mayor and Council positions
- (2) Tax Base Levy Measure

TDM stated that the tax base measure failed (by 50 votes). TDM reviewed with the Committee the "recount" procedure (1/5th of 1% of the total votes cast). Discussion was held concerning the absentee ballots and election results in general. Shannon Stueckle asked if anyone could ask for a recount. TDM stated yes, but it was \$15.00 per precinct (6 precincts at \$15.00 = \$90.00). TDM further advised the Committee that the next time a tax base measure can be presented to the voters is at the next general election (November, 1996). Only levies or serial levies can be done before that time. TDM then reviewed the Mayor's race with Donna Proctor being re-elected for another two year term as Mayor. TDM further added that Don Wright won the City Council position over James Harney by approximately 10 votes.

III. Codification Project - Verbal Update

- (1) Repealing Ordinances
 - (a) City Administrator
 - (b) Hospital Commission

Committee member Dan Wollam stated that he has been working with Roxanne Gibbons from the Legal Department in updating the City's ordinances into the code format. All general ordinances have been put into the codification process except the Planning section. The Community Development Department is working on getting this finalized. Mr. Wollam further added that he is also working on the indexing process. Mr. Wollam also noted that no changes are being made to the content of the ordinance compilation/codification, but to the style and format. TDM stated that he remembered the last time the compilation was done. It is a major project and the City is fortunate to have Mr. Wollam devote his time to this project.

TDM noted that changes are also being made for revision or repealing of certain ordinances: City Administrator and Hospital Commission ordinances will be revised and/or repealed. Mr. Wollam stated that the Ordinance/Legislative Committee will review the final and then seek the Council's approval and or recommendation for upgrading certain ordinances.

MOTION: TDW/DMc to repeal the City Administrator and Hospital Commission ordinances. (Unanimous). Motion carried.

IV. Litigation Update

(1) Scully - abatement

TDM stated that the City obtained court orders allowing the City to take possession of the Francis Theater. A resolution was approved by the Council for the City Manager to take action without the public bidding process. The Contractors are not willing to take away part of the wall due to the potential liability and they were not inclined to bid on the portion, they wanted all of the demolition work. The demolition process is to begin in November and should be completed by January. Environmental problems have not arisen as of this date. The City Manager has indicated that the City could possibly use economic development revolving loan funds (EDRLF) to help defer some of the cost. The City is also exploring State and Federal funds as well. Discussion was held concerning the prior owners (Francis Family) and their liability. TDM stated that the prior owners (Francis) has divested their interest in the property. It would appear that there is no personal obligation on the part of Francis.

TDM added that the abatement process allows for a lien to be placed on the property for the remodel or demolition of the building. DRC noted that Casey Havens has indicated some interest in the property for a performing arts center. The cost to rehabilitate the building is estimated at \$250,000. TDM noted that there would be a meeting of the adjacent property owners concerning the process of the demolition once the demolition contractor has been appointed. Discussion was also held

concerning the City's extended liability for roping off the area and making the area secure so that no one could get hurt while passing by. Discussion was also held concerning the former theater marquee lettering has been changed. Staff indicated that it was not the City's doing and that they would investigate. TDM stated that Nicoli Engineering prepared an assessment report on the condition of the building. Mr. Nicoli indicated that the building is not in a position that it would fall down on anyone. TDM further added that the abatement process has taken some time to get through due to Mr. Scully's actions. Asbestos may also be involved.

TDM also reviewed with the committee the problem with a five-plex in which residents are causing problems. TDM noted that the owner has also been contacted concerning the continued problems. The owner of the property can be held accountable for his/her residents on the abatement nuisance process. TDM noted that before next meeting that a letter would be sent to the owner advising of the situation and that corrective measures needed to be taken. Dave McMullen stated that he did not feel that it was fair that an owner be held responsible for his/her tenants. An appeal process could include going before the City Council.

V. Municipal Court

- (1) Receipts/Projection**
- (2) Weekly Activity Report**
- (3) General Orders**
- (4) Suspensions**
- (5) Collections**
- (6) Backlog**
- (7) Standards of Timely Disposition**
- (8) Ordinance No. 94-2393 (Fees)**

TDM stated that the Legal Department is continuing with the City Prosecutor position at the moment but is seriously monitoring the court's activity and progress in the collection of fines and assessments. TDM requested continued support to extend the City Prosecutor program for another 3 months to allow for a better reporting of the activity of the Court. TDM noted that the other alternative would be to discontinue the City Prosecutor position. Cutbacks would have to be instituted which would mean that more serious citations (crimes, etc.) would be sent to District Court for prosecution. DRC stated that ODOT is looking for money to help fund the State Police program (general highway safety). The State Police had 150 officers about 10 years ago and now has approximately 400 officers. Highway safety is important here as well. The City needs officers too. TDM reviewed the standards and performance (full service courts). It is the Court staff's intention to prosecute all cases within 90 days from issuance of the citation. TDM reviewed the types of citations processed in

Municipal Court (ordinance violations, traffic and misdemeanors).

TDM reviewed the proposed Ordinance changes concerning the Municipal Court. The ordinance reflects proposed changes involving court appointed attorney fees (repealing Ord. 1643) and having one ordinance to handle the Court fees and fines.

MOTION: TDW/DMc to recommend the appropriate changes to the Council for passage at the December or January meeting of the City Council. (Unanimous). Motion carried.

VI. Continued Business

(1) Ethics Code - Ad Hoc Committee

To be continued to another meeting.

VII. New Business

(1) Council Member Compensation

TDM reviewed the Council compensation information. TDM noted that the City's Charter provides that increases to Council compensation has to be done in the odd number year prior to the election. The Charter provides as follows:

"Section 13. Salaries. The compensation for the services of each city officer and employee shall be whatever amount the council fixes. No increase in the compensation of council members, however, shall take effect until the first of the odd-numbered year immediately following the first biennial general election after the increase is ordered."

TDM noted that the City could provide for a "per diem" amount rather than an increase in compensation. The amount that the council members receive as compensation (\$8 per meeting) actually repays them for out-of-pocket expenses incurred by the Council members. Donna Proctor stated that the City of Coos Bay pays \$25 per meeting to each Council member. Committee members expressed their views on the compensation subject. DRC noted that the ordinance, as presented, would not go into effect until January, 1997. Discussion was also held concerning the IRS definitions on compensation, per diem and out-of-pocket expenses. Committee member Bob Engelke stated that the IRS allows \$25 per day without receipts (per diem).

Committee Chair Dave McMullen further inquired about the definition of the "meetings" that would be compensated. DRC stated that it was the regularly

scheduled Council meetings. Discussion was held among the members concerning what constitutes a legally scheduled meeting of the Council. DRC said it was not very clear but that a policy could be in place to make the definition clearer. TDM stated that the ordinance could read "per diem for reasonable expenses".

Committee member Shannon Stueckle stated that she feels that the amount paid to Council members should be raised to \$15 per meeting rather than the \$8 per meeting presently in effect. TDW asked whether it would impact the City's budget. DRC noted that it would not.

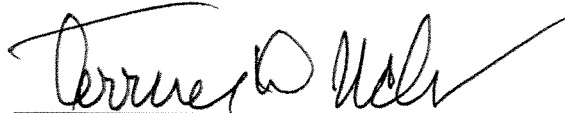
MOTION: DMc/TDW to place the matter on the December 5, 1994 City Council agenda. (Unanimous). Motion carried.

(2) Legal Department Report

Peggy Hall, paralegal in the Legal Department, reviewed the status reports presented. One report reflected the amount of time spent by Ms. Hall (categorized by departments). The other report reflected a matter status report indicating cases monitored by the Legal Department. Discussion was held concerning the Lamoreaux and Day litigation and whether or not the City was still a party to the action. TDM reviewed the particulars with the Committee. The City was dismissed out of the case months ago. The City was issued a subpoena to appear and provide testimony on the zoning standards, etc. The trial has been reset to February, 1995.

TDM stated that another issue is the subpoenas that are being presented to the officers for their appearance in court. When expert testimony is requested, the regular \$30 fee plus mileage will be raised.

Chairman Dave McMullen adjourned the meeting at 6:48 p.m.



Terrence D. Mahr
City Attorney