

MINUTES
ORDINANCE/LEGISLATIVE COMMITTEE
SubCommittee of the Newberg City Council

Thursday, April 15, 1993

6:00 p.m.

Newberg Community Hospital

PRESENT: Donna Proctor, Mayor
Scott E. Reinhardt, Chairman
Elaine D. Smith, Vice Chair
Dave McMullen, Member
Shannon Stueckle, Member

STAFF PRESENT: Terrence D. Mahr, City Attorney
Duane R. Cole, City Manager
Peggy R. Hall, Legal Assistant
Mike Olberding, Community Service Coordinator

I. INTRODUCTION

The Ordinance/Legislative Committee was called into session. The notebooks were reviewed by each person.

II. ADOPTION OF MINUTES

The minutes of the March 10, 1993 meeting were adopted.

III. MUNICIPAL COURT UPDATE

Terry Mahr reviewed the Municipal Court update with the Committee. Mike Olberding, Community Service Coordinator also presented additional information.

IV. STOREFRONTING

Terry Mahr reviewed with the Committee the storefronting status. Mr. Mahr indicated that staff reviewed CeeJay's building, Gainer's, Baker's and Lacy Susan's. Scott Reinhardt stated that it should be reviewed with the Finance Committee but that the move should be expedited.

V. PERSONNEL RULES

Scott Reinhardt stated that he was concerned with the word "disability" in the Personnel Rules (pg. 3, **SECTION 2 EMPLOYMENT POLICIES**). Terry Mahr indicated

that he would revise the paragraph accordingly.

Dave McMullen stated that he was concerned about page 3, **SECTION 2 (3)(a)**, third sentence referencing probation periods. Mr. McMullen stated that he believes that 12 months is too long a period for probation in that most businesses have a six month probationary period. Terry Mahr said that he was concerned about termination without just cause. Mr. McMullen further noted that it ties in with the policy and goals for every employee of the City. The City should have a policy where there is a clear and definable job description which allows every employee the opportunity to get a clear job description. Duane Cole stated that he agrees with the long probation period and that it would not be politically good to change from 12 months to six months. Scott Reinhardt asked what does the additional six months give to the City? Mr. McMullen further stated that employees should have the job down by the end of the first month.

The Ordinance/Legislative Committee agreed that **SECTION 2 EMPLOYMENT POLICIES (3)(a) PROBATION** should read as follows:

- (a) **Each new employee with the City has a probationary period of twelve (12) months, except police officers who have an 18 month period.**

The Committee then noted the following change to (3)(b):

- (b) **Probationary employees will receive performance reviews during the probationary period. The reviews will be intended to provide necessary information to the employee, the supervisor and the City regarding the progress of the probationary employee.**

Duane Cole stated that employees receive vacation rights during the probationary period. Donna Proctor stated that she believes that the day after Thanksgiving should be removed from the holiday list on page 10 of the Personnel Rules.

The Committee noted that on page 6 the last sentence in paragraph (9) **RESIDENCE REQUIREMENT** should be deleted (**Such condition should be approved by the City Attorney**). Scott Reinhardt further noted that the City Manager and the City Attorney should work together on the residency requirements of new employees and that written approval must be obtained.

Dave McMullen stated that **SECTION 3 RULES OF CONDUCT AND DISCIPLINARY PROCEDURE (1)(G)** should reflect that there should be a limit on the amount of unexcused absences or events of tardiness. Mr. McMullen suggested that the limit be 2 unexcused absences and that tardiness be also limited to 2 times. Also, Mr. McMullen stated that he felt that no employee can take 8 separate instances of sick leave without being reviewed by the supervisor or City Manager. Discussion was held concerning who should monitor the employees's tardiness and sick leave accruals. Dave McMullen stated that he

would check with other agencies and find out their policy.

Further discussion was held concerning **SECTION 3 RULES OF CONDUCT AND DISCIPLINARY PROCEDURE (1)(L)** gambling on city premises, in City vehicles or during work hours. The Committee discussed various sports pools, etc. that some employees may be participating in and whether that was serious enough to bring up charges of gambling. This is not allowed during working hours in the City.

The Committee reviewed page 10, **5(e)(A)(B) CHEMICAL TESTING**. The Committee discussed the grounds the City would have to have appropriate testing done and the implications that would arise if the employee chose not to take the test versus the employee taking the test and failing. Would the City assume the employee guilty if he/she chose not to take the test and take appropriate termination action against the employee, or allow the employee to take the test and if positive results indicate the use of alcohol or controlled substances, then the employee would have the choice of termination or enter into a rehabilitation program. Terry Mahr stated that in all instances, the City would have to have reasonable cause to believe that the employee was using alcohol or controlled substances. Scott Reinhardt stated that he believes that the Personnel Rules need to be revised to allow for certain ramifications for denial and reasonable suspicion similar in **SECTION 3 RULES OF CONDUCT AND DISCIPLINARY PROCEDURE (1)(A) INSUBORDINATION**. Mr. McMullen further stated that there is a difference between the habitual offender and the occasional (lunch time or afternoon) drinker. Duane Cole said that drug testing should be mandatory. Terry Mahr stated that he would review what other policies say concerning employees not taking the test versus the employee taking the test and failing. Scott Reinhardt stated that he feels that the City Manager and the City Attorney should review this policy and make a recommendation of what they feel would be best. Dave McMullen stated that he would review this for the manager's book.

Terry Mahr further stated that the City should institute drug programs and work towards random drug testing. Scott Reinhardt stated that he feels that other Council members have mentioned to him that they want to press forward on the drug testing issue and that it should not be dropped.

The Committee reviewed page 14 **(5) DISPUTE RESOLUTION** and stated that this section may need to be tabled until the Manager's Personnel Rules are done and refined.

The Committee next reviewed page 20, **(2) VACATIONS** and noted that the following sentence be amended as follows:

Any accrued vacation carried over to the next calendar year requires approve of the City Manager.

Donna Proctor stated that she believes that the vacation should be used in the current

fiscal year. Duane Cole said that he had concerns with employees carrying over vacation time without good reason. If the Council chose to make employees use their vacation time accrued in the fiscal year, it would eliminate about 100 hours of accrued vacation time for certain employees (Ben Erb and Denny Brown). Duane Cole stated that the maximum accrual is twice the allowed amount. Duane Cole stated that when he came to the City in 1989, there was quite a few employees that had a lot of vacation time accrued on the books. Duane Cole stated that there was a resolution involving the vacation accrual (Resolution No. 91-1640) was passed on December 2, 1991. Duane Cole further noted that the procedure that the City is following is outlined in that Resolution and prefers that the program stay the way it is for right now. Duane Cole also noted that employees lose one-half of their sick pay when they leave the City's employ. Committee members discussed the City placing a limitation on the amount of sick leave that the City would pay in the event an employee leaves the City - one month accrual. Duane Cole said that he has in the past, due to extreme circumstances, approved sick leave and vacation accrual in excess of the amount allowed. Committee members expressed their concern with employees taking extended vacations and the reduction in work flow in the department or the increase load on others. Scott Reinhardt stated that if certain programs are already in the works, that they could remain, but in the future, the policy should be stated differently. Dave McMullen stated that the present sick leave policy allows employees the opportunity to not have to show up for work. The Committee decided that the policy should be that at the time of termination or discharge from employment with the City, employees should only be paid for un-used sick leave, even if 3 months accrued, up to one month. Discussion was held concerning whether or not the City would be sued if their sick leave and vacation rights were taken away. Duane Cole suggested that the department heads review the vacation calendars with their staff at the beginning of each year to schedule vacations. This policy and procedure should also be set out in the manager's notebooks as well.

Discussion was held concerning removing the day after Thanksgiving from the present holiday schedule. Donna Proctor suggested that the employees should take the day off without pay if that is what they wanted to do. Terry Mahr stated that this could be a bargaining chip for future negotiations. Dave McMullen stated that the City presently offers a number of extra days due to holidays and floating holidays. Dave McMullen further noted that USNB first year employees receive 5 days vacation. Scott Reinhardt said that he feels that management needs to look at this current policy in more detail. Duane Cole stated that if the City had to buy back each holiday from all of the employees, it would cost the City approximately \$11,000 per holiday. Even with the current budget constraints, Duane Cole stated that it would take a consensus of the Council and employees to make this type of change. Duane Cole said this is an issue that could be dealt with at the meet and confer process with the Council scheduled for May. Terry Mahr stated that some businesses go to a "personal leave" policy that incorporates vacation and sick leave. The Committee stated that possible deletions in the holidays would be the day after Thanksgiving, Veteran's Day and Presidents Day. The Committee discussed the possibility of removing SECTION 5 FRINGE BENEFITS (1)(b) entirely. Dave McMullen stated that salaries may have to be adjusted. The Committee stated that a cafeteria plan program is a possible solution.

The Committee reviewed page 26 referring to **SECTION 6 GENERAL PERSONNEL INFORMATION (1) DEPARTMENT RULES AND REGULATIONS.**

The Committee decided to delete the following sentence from the general employees Personnel Rules manual, but placed in the Manager's manual:

Departmental rules will automatically expire one year after adoption, unless expressly renewed by the Department Head with the approval of the City Manager.

The Committee further noted the following change to paragraph (1) as follows:

Copies of all rules shall be provided to the City Attorney, so a complete set of all City rules are centrally located and accessible.

The Committee reviewed page 29, **(3) EDUCATIONAL REIMBURSEMENT (c)** and noted that the first sentence should read as follows:

The City shall allow time off without pay, and reimburse employee for expenses of attending classes, lectures, conferences or conventions when attendance is on a regular basis, with prior approval of the employee's department head, when employee's grade is a "C" or higher.

Duane Cole stated that he will review this particular section and work with the City Attorney is rewriting this section to conform with the City's present policy concerning educational reimbursement.

The Committee reviewed page 31, **(8) SAFETY AND ON-THE-JOB INJURIES (D)** and made the following changes:

Meetings shall be a minimum of once every month as scheduled by the Committee.

The Committee reviewed page 33, **(9) EMPLOYEE SAFETY RESPONSIBILITIES (g)** and made the following changes:

Whenever operating a City vehicle, employees shall comply with all motor vehicle laws.

Terry Mahr reviewed with the Committee the City's current equal opportunity employment policy and the Personnel Rule changes that need to be instituted:

1. EEOC policy - more detail
2. Drug testing
3. Job application revision
4. Job descriptions
5. Pre-employment drug screening

6. Management notebook
 - (a) Evaluation manual
 - (b) Evaluation process
 - (c) Individual employee goal setting

Duane Cole stated that Local Governmental Personnel Institute (LGPI) has a model for cities to follow and that he will obtain a copy.

VI. COMPILATION PROJECT (Chapter One)

Scott Reinhardt asked the Committee if they wanted to start the review of the review of Chapter 1 of the Compilation review. Scott Reinhardt further noted that he would suggest that the Committee review this matter at the next scheduled meeting. Terry Mahr stated that there are a few items that needs the Committee's attention and review:

1. The Initiative and Referendum process - the City presently has its own policy and procedure. There is much confusion concerning the use of both policies.
2. The adoption of the City Manager ordinance.
3. The adoption of the City Attorney ordinance.
4. The adoption of the Municipal Court ordinance.
5. Review of the Council's ethics ordinance.

VII. OTHER

Scott Reinhardt thanked the Committee members and City staff for their participation and input.

Scott Reinhardt pointed out to staff that the City's Compilation, Section 2.6-3 concerning the Community Development Committee should be reviewed for changes as it notes that the Planning Director and the Public Works Director shall act as staff to the Committee.

Terry Mahr stated that he hopes to have a project list prepared for future meetings to enable the Committee to respond to all of the issues addressed at the meetings. Mr. Mahr further noted that City staff will be meeting on April 20th to review the findings for the storefronting project to review the proposed cost to the City for the relocation of the Municipal Court, the Legal Department and the Mayor's office at the building formerly known as CeeJay's.

Scott Reinhardt further noted that the Council Committee make-up and absences,

service on committees, etc. should be a matter to be discussed in future Ordinance/
Legislative Committee meetings.

Terry Mahr stated the next scheduled meeting is set for Thursday, May 13, 1993 at 6:00 p.m. Staff will make the appropriate arrangements with the Hospital for conference room scheduling.

The meeting adjourned at 8:35 p.m.



Terrence D. Mahr
City Attorney

Note - Issues for Next Meeting:

1. Report on storefronting/Municipal Court update.
2. Final comments on Personnel Rules.
 - (a) Report from department head review.
 - (b) Outline of related projects.
 - (c) Implementation
3. Compilation
 - (a) Review of Chapter One
 - (b) Repeal of Initiative and Referendum Ordinance.