

**CITY OF NEWBERG
CITIZENS' RATE REVIEW COMMITTEE
WEDNESDAY, DECEMBER 11, 2013
7:00 PM MEETING
NEWBERG PUBLIC SAFETY BUILDING (401 EAST THIRD STREET)**

I. CALL MEETING TO ORDER

Chair Tony Rourke called the meeting to order at 7:05 PM.

II. ROLL CALL

Members Present: Tony Rourke, Chair Mike Gougler Rick Rogers
 Charles Zickefoose

Members Absent: Ernie Amundson (unexcused) Helen Brown (excused)
 Blair Didway, Vice-Chair (unexcused) Mayor Bob Andrews, ex-officio

Staff Present: Lee Elliott, City Manager Pro Tem Jay Harris, Interim Public Works Director
 Dawn Karen Bevill, Minutes Recorder

Others Present: Deb Galardi, Galardi Consulting, LLC; Donald Guthrie; Ken Lookabill; Bonnie Lookabill; Lisa Rogers; Deborah Tilden; Ralph E. Johnson; Steve Jaquith; Paul Jellum; Robert Soppe; Michael Roos; and John Rekow

III. PUBLIC COMMENTS

Ms. Lisa Rogers understands the springs customers pay additional funds for the use of the water, but is surprised as water is a necessity, not a luxury item. Many have no option and cannot dig a well. Morally, it is the city's obligation to include them as city users and the cost should be divided among all.

Ms. Deborah Tilden concurs with Ms. Rogers. The first day she took possession of her home in July, 2008, it had the first copper piping leak due to corrosion, which was the first of a long road of water issues. However, she was covered by American Home Shield (AHS), a home warranty provider. However, over the subsequent years from 2008 – 2012, there were so many copper leaks AHS cancelled the policy. Since then, she has replaced all the copper pipes in her home.

Mr. Ralph Johnson has lived in his home since 1956. Mr. Johnson asked the city to put in a new line due to rust sometime in the 1970's; the city declined, so Mr. Johnson and a neighbor replaced the 3,000 foot line. The county then blocked off Chehalem Drive and he was told he would not have to pay for the water because of the new pipeline run through a culvert under the road. The county also told Mr. Johnson he would have to pay for the water and he went before the county commissioner to work it out. In November, 1977, the water bill was \$10.00 and is now near \$140.00.

Mr. Steve Jaquith represents Gospel Chapel and has been on Oliver Springs since the mid-1980's. He appreciates the city helping them hook up to the springs, but now understands the hardship of coming into compliance with the improvements on the system. We pay 50% higher than others in the city and the pressure coming into the church without a reduction would still be at 100 pounds per square inch (PSI). There are occasions when the accumulating sediment in the baptistery is a concern.

Mr. Ken and Mrs. Bonnie Lookabill donated their testimony time to Mr. Donald Guthrie for his presentation.

Mr. Donald Guthrie handed out his presentation to the committee members (see official meeting packet for presentation). He testified the springs water users urge the committee to make a recommendation to the city council that fairly assesses rate increases consistent with past recommendations and stepping increases over a period of years to allow springs families an opportunity to absorb increasing rates without financial hardship. The springs families should not be unfairly treated or accept the financial burden of the city's spring's water system which has been used and in place as the city's water system for the past 90 years. It would appear the city's desire is to divest of a very old system, which by their own admissions is struggling to maintain operations at a reasonable cost, and saddle the current families with the financial hardship and challenge of making the system improvements necessary to pass state drinking water standards. Unfortunately, these challenges, as stated by city staff, include the need to upgrade or replace aging infrastructure. During the last rate review committee meeting the city engineer described the system as, "A spaghetti of different size and type of pipes of different age and conditions," such that the city is replacing sections each year. Today under ORS 448.131 and OAR 333-061-0034 treatment requirements and performance standards for corrosion control adopted in 1991, twenty-two years later they find the springs may still exhibit water quality issues with regards to lead and copper corrosion levels. Mr. Russ Reed, water treatment plant manager, testified on October 28, 2013, at the city council workshop presentation of the springs, that corrosion testing has always been a requirement, but it just has not been a problem because the sample testing for the corrosion has come from the city's main well and reservoir system. Mr. Guthrie asked if it was an omission that testing should have included a representative sampling of all distribution points of the system and would you not want to know if one well was going bad and quickly isolate the problem. Given the springs are located above the elevation of the reservoir and are gravity fed to families ahead of the reservoir there should have been much earlier concerns. The City of Newberg water quality report of 2012, mailed May, 2013, renames the Skelton and Snider Springs, "The Newberg Springs" and "Oliver Springs." The report sent to springs customers and state authorities states the Newberg Springs was created in 2009 and Oliver Springs in 2010 and the city is currently in the process of performing lead and copper testing. Both springs were disconnected and assigned their own Public Water System I.D. by the Oregon Drinking Water Program. This action gives the appearance of being disingenuous to past commitments and obligations to the spring's customers whose sole source of water quality protection since 1991 has been the City of Newberg. The financial hardship being imposed by Resolution No. 2008-2776 should require time be given to the springs families to evaluate all future options available to them including alternatives for private corrosion improvements in lieu of the city's proposed \$350,000.00 capital improvements, management of maintenance and operations, independent inspection of the current systems, and restructuring of contingency plans for system failures, contamination, emergency plans and back-up water supply.

Mr. Paul Jellum testified in 1986 he purchased seven acres to build a home and visited with the city attorney at that time, Mr. Terrence Mahr, showing him the deed to their property. Mr. Mahr told them they would be supplied with free water from the city and directed the city to not charge Mr. Jellum for water. That changed in 2008, when the city decided to no longer honor those deeds; after 80 years they decided they no longer needed the springs water, discontinued springs system support, and negate the deeds. Even though the city continues to hold ownership of the water system and the water rights they began charging for the maintenance and operation of the system. He said in August, 1980, he received a letter from the city stating they would no longer provide courtesy water to him and he must immediately pay for a water account or have his water shut off. In 2007, the city indicated they would fully honor all agreements and commitments to the customers, but Resolution No. 2008-2776 stated covenants and agreements are no longer legally binding. He asked why the city then continues to claim water rights and the delivery system, why was the copper problem not addressed earlier, why has he been drinking potentially harmful water since 1991 without being notified, and why should he pay the same amount for water as others. The city owns the water and the system and has been the beneficiary of the

water and is shifting the responsibilities to the users. It is distressing and unreasonable for the citizens' rate review committee to recommend he pay more than other outside users.

Mr. Robert Soppe said he has several concerns. First, Chair Tony Rourke commented the citizens' rate review committee (CRRC) only makes recommendations to the city council and does not set rates, but it has been his experience that recommendations of this committee are greatly considered by the council. Second, the proposed rate structure was not consistent with city council Resolution No. 2008-2776. In particular, the resolution stated all costs other than the specific capital project would be covered through the rate structure. Since the passing of the resolution, this has not been the case. Setting the capital project aside, he has heard nothing in the last meeting or in the presentation to account for the fact revenues have not been covering expenses since the resolution. While it is appropriate the new rate structure attempts to ensure this deficit does not repeat itself, it should not overlook the imbalance occurring for the last five years. The deficit occurred because the phasing in of the rate increases and the absence of a rate increase two years ago. Phasing of rates was asked at the council meeting two years ago and it was made clear this would not relieve the spring's users of the obligation to cover expenses during those years. There have been questions raised regarding the intent of the city council when the resolution was passed and is very unfortunate the resolution is not written more clearly, that minutes are not more thorough, and the city policy was to destroy audio recording for council meetings after one year; any one of these could have clarified the intent. Three questions of the council's intent were raised; the first on how urgently the council wanted to divest the city from the spring's system, and while the intent was clear to those attending that meeting, the council divestiture should have no impact on the appropriate rates to recommend at this meeting. There was also a question raised about whether the council was including capital projects other than the chlorine injection project when it agreed to 50% participation by the resident water users. While Mr. Soppe agrees the council should have worded the resolution more precisely, there was no question at the meeting as to what project was being specified. The third and most significant question was what the council had resolved to pay for by springs user rates, specifically were capital projects to be covered by rates. Close reading of the resolution makes it very clear, as it states it was created within the water rate methodology a separate rate structure for this class to account for operational, maintenance, capital and customers costs associated with the spring's system. Item 5(f) in the resolution states customers will be responsible for payment of all necessary expenses associated with the operation and maintenance of the system and capital costs were not mentioned in this item but also did not exclude them. Item 5(k) states the springs customer class will pay rates designed to pay for the cost of the system, as well as the operation and maintenance of the system. He urged the committee to follow the Resolution No. 2008-2776 and recommend rates covering the deficit occurring over the last five years, as well as the full cost of the current corrosion control project.

Mr. Michael Roos stated all the information presented by Mr. Guthrie was very thorough, but did take exception to the testimony regarding the spring's costs and the obligation of the customers on the system. In Resolution No. 2008-2776, Item 5(i) states the city shall pay half the cost of immediate necessary improvements to the spring's system. Springs customers should not be held 100% responsible for the improvements. In regard to the erosion testing obligation the city had from 1991, by taking those samples below the spring's system represents a failure to acknowledge a different water source then the city was testing.

Mr. John Rekow testified he submitted testimony into the record (see official meeting packet for full report). He has paid to have some research done and is unsure how the committee can offer an opinion on the water rights of springs families without everyone looking at the court agreement because that was the agreement everyone was working off of. He asked what the consequences are if the city forces the spring's customers into a lawsuit. If the customers were to win the lawsuit the city would have to pay court costs and then there could be damages. The city may have to go back and repair and live up to the court agreement. The theory that the city only has to fix what is broken goes squarely against what was spelled out in the lawsuit. As Mr. Rekow sees it, if the city is forced to go back and abide by the court order it could cost the city much money.

Mr. Don Guthrie stated 5(f) in Resolution No. 2008-2776 says the city is willing to continue operating the springs system but the customers will be responsible for payment of all necessary expenses associated with operation and maintenance of the system; not for capital costs. He asked in 2008, after 20 years of not doing proper testing for copper and lead, now springs customers should have to pay the costs for fixing the system. Springs customers pay their taxes and for city services such as fire and police. It is disingenuous to ask 75 customers to pay for a chlorination system and triple the rates.

IV. CONSENT CALENDAR

Approval of October 24, 2013, minutes

MOTION: Rourke/Gougler moved to approve the October 24, 2013, citizens' rate review committee meeting minutes. Motion carried (4 Yes/0 No/3 Absent [Amundson, Brown, Didway]).

V. CONTINUED BUSINESS: TIME – 7:46 PM

1. Springs Rates

Ms. Deb Galardi, Galardi Consulting LLC, gave the springs rate evaluation, explained the two summary slides from the last meeting, reviewed the operation and maintenance (O&M) costs for the chlorine treatment (CT) project at 50%, and then the corrosion control and 100% and 50%.

Mr. Rick Rogers asked if the \$350,000.00 of needed improvements were distributed over all users in the city what that total would be. Ms. Galardi replied less than 10 cents. Mr. Rogers stated the city made efforts in the mid-1990s to treat for corrosion in the city system but not for the springs users and contends that in 2008 the necessary improvements were not handled and cannot see how the intent of the resolution was addressed. He believes part of the contention among the spring's customers is the deferred maintenance. Also, what are the costs to be covered is the question.

Mr. Lee Elliott stated the council wants 100% recovery; the 50% recovery is dialogue begun by the spring's customers. Chair Rourke suggested the committee recommend to council to consider various elements; a two-prong approach to answer directly 100% recovery and add on any other recommendations other than the 100% cost recovery.

Mr. Rogers recommended not asking the spring's customers to pay \$350,000.00 because of the known need in 1991 and no retroactive charge for any shortfall. If there is additional debt service in the future should be run into the rates, but if the estimates have been off and to charge more because of it, he does not believe is customary.

Mr. Guthrie clarified the springs customers are asking the city to allow them to look at alternatives such as an outside, independent professional water group to provide this at far less cost than \$350,000.00 as all are skeptical as to the last chlorine improvement that was over a 100% estimated cost. He asked for three months to do so.

Mr. Elliott recommended first establishing the 100% recovery cost rate as the city council requested and suggested staff meet with the springs customers during this process to look at divestiture, whatever that

definition may be. In speaking with staff, Mr. Elliott explained part of the challenge faced by the customers and the city are the Department of Environmental Quality (DEQ) requirements.

MOTION: Gougler/Zickefoose moved to recommend the two options; provide a rate based on O & M to include pipe replacement costs and old capital costs; and a second rate with O & M and future capital costs of the project chlorine corrosion project; and recommend city council allow the springs customers a time certain to determine if it be more cost effective to act independently. (3 Yes/1 No [Rogers]/3 Absent [Amundson, Brown, Didway])

2. Water Rates

Committee consensus was to move the water rates discussion to the next meeting, scheduled for Thursday, December 19, 2013.

VI. ADJOURNMENT

Chair Rourke adjourned the meeting at 9:18 PM.

Approved by the Citizens' Rate Review Committee on this 2nd day of April, 2014.

Matt Zick R-3-15
Citizens' Rate Review Committee Recording Secretary

[Signature] 12-3-15
Citizens' Rate Review Committee Chair

Minutes signed by current Chair & Secretary on 12/3/15 to complete the records, as the signatures were not obtained at time of approval.

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