

CITY OF NEWBERG / YAMHILL COUNTY
NEWBERG URBAN AREA MANAGEMENT COMMISSION MEETING

NUAMC Meeting Minutes

Tuesday, November 23, 2021, 7:00 PM

(This is for historical purposes as meetings are permanent retention documents and this will mark this period in our collective history)



I. CALL TO ORDER

Vice Chair Kit Johnston called the meeting to order at 7:03pm

II. ROLL CALL

Members Present:	Kit Johnston	Maryl Kunkel
	Mary Starrett	Alan Halstead
	Denise Bacon, alternate	Kriss Wright, alternate

Members Absent: Rick Rogers, excused
Jeff Musall, excused

Newberg Staff Present: Doug Rux, Community Development Director
Ken Friday, Yamhill County Planning & Development Director

III. APPROVAL OF October 26, 2021, MEETING MINUTES:

MOTION: Member Starrett and Member Halstead made a Motion to approve the October 26, 2021 meeting minutes and motion carried (5 Yes / 0 No / 1 abstained).

Member Bacon abstained her vote because she was not present at the October meeting.

IV. COMMUNICATIONS FROM THE FLOOR (5 minutes maximum per person) - For items not listed on the agenda

Ken Friday Yamhill County Planning & Development Director noted he is available to answer any questions the Commissioners might have.

Ken Katzaroff, Attorney at Schwabe, Williamson and Wyatt commented on the agreement the Commission is considering. He noted they have one small issue, potentially as it's drafted right now any hearing on an amendment that is considered by this Commission and then followed by an additional hearing before City Council and then the County Commissioners is on the record. He noted they may have some concerns that City Councilors or County Commissioners may have some additional evidence on a proposal and right now, given that it's limited to an on-the-record hearing before NUAMC there might be some procedural issues or questions down the line. He noted he is letting this Commission know, for their consideration as well as both City and County Commission.

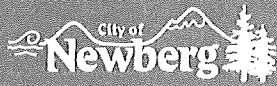
V. REPORT OF FINAL DISPOSITION OF AGENDA ITEMS FROM PREVIOUS MEETING:

None

VI. ORIENTATION

1. Recommendation for Member-At-Large position

CDD Rux noted the following individuals have been brought forward for consideration by NUAMC for the Member-at-large position. He noted each of the individuals will have an opportunity to provide their comments and desires to be Member-At-Large on NUAMC. He noted the following, one of the NUAMC Commissioners hopefully will make a



CITY OF NEWBERG / YAMHILL COUNTY
NEWBERG URBAN AREA MANAGEMENT COMMISSION MEETING

motion on a nomination, a second, and then a vote. The decision is not final because Newberg City Council and the Board of Commissioners have to ratify NUAMC's appointment for the Member-At-Large position.

1. Vicki Shepard Outside city limits, outside of UGB, within 1 mile of UGB
30230 NE Benjamin Road
Newberg, OR 97132

Vicki Shepard gave comments and concerns about the growth of the city and the impact on the surrounding areas. She noted a concern about the existing farmland and that it be preserved. She shared she was one of the office managers for Oregon Hazelnut Orchards and Mrs. Bryson down on Wilsonville Rd at Star Morning Farm. She is concerned that all farmlands be protected but also understands that the city needs to grow. She has been involved with the development of Crestview Crossing and the impact it had on the wetlands which is something that she would like to preserve.

Questions:

Member Wright asked considering this is a 3-year term, how does this position fit into your other responsibilities, and that you have no alternative available.

Vicki responded she is retired and noted in the summertime she is busy, she drives a rear-engine dragster starting in April and is finished racing in September/October, which is a family sport. She noted this position would fit in with her racing schedule.

Member Wright noted concerning the laws associated with this board, how would you go about becoming fluent in the laws associated with land use.

Vicki noted she has reviewed the minutes and changes that the board wants to make. She is also familiar with UGB and Friends of Yamhill County.

Member Wright asked what do you believe is your most important contribution to NUAMC.

Vicki noted she has lived in the Newberg area for 14 years and knows the city but doesn't know the aligning areas as she would like.

Member Starrett noted this is an At-Large-member position and according to certain specifications about this position is on your location and wanted to know where she is located.

Vicki Shepard noted she is located on Benjamin Road behind the Crestview Crossing development.

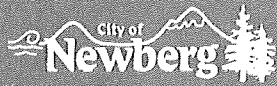
Member Starrett noted she is looking in terms of specifications regarding the Urban Growth Boundary area of influence.

Vicki responded she is within 1 mile outside the City Urban Growth Boundary.

2. Jack Lyda Outside city limits, outside of UGB, within 1 mile of UGB
11930 NE Honey Ln
Newberg, OR 97132

Jack Lyda shared he has lived approximately 40 years in Newberg. He has spent 20 years as an officer in the Air Force and is now retired. He lives just outside the Urban Growth Boundary and that it comes up to the back of his property. He lives on Honey Lane and is concerned that the people who live outside the city limits don't have a seat at the table or a voice on the process. He is also concerned about protecting farmland and would love to be a representative for those who live outside the city limits but call Newberg their home and have a Newberg address.

Member Wright asked if he has no alternative available and how does this position fit into your other responsibilities over the three-year term.



CITY OF NEWBERG / YAMHILL COUNTY NEWBERG URBAN AREA MANAGEMENT COMMISSION MEETING

Jack responded he is retired, has his sheep farm, and has time to work in contributing his time and being a part of the process.

Member Wright asked if you were unaware of some of the laws associated with this board, how would you learn about them.

Jack responded that he would take whatever steps are necessary to get access to the laws and documents. He noted he is no stranger to having to understand rules and processes after being an officer in the military with rules and following regulations. He noted he understands what is expected and required.

Member Wright asked if you are appointed, what do you believe is your most important contribution for this board.

Jack replied that being a voice for the people who are outside the Urban Growth Boundary and outside the city limits so they can be heard.

Member Kunkel asked if he has had any previous experience on city or county commissions or committees.

Jack responded no that this would be his first. He noted he has been involved in other organizations for example he was on the board for the National North American Shetland Sheep Breeders Association for 9 years and was the president of the organization for 1 year.

3. Philip Higgins
415 W Edgewood Drive
Newberg, OR 97132

Inside city limits, inside UGB

Philip Higgins noted he grew up locally in Yamhill County and his wife is third generation in Newberg. He went to George Fox University, and he has a degree in literature philosophy. He and his wife own and operate a commercial real estate brokerage in Newberg. He is currently the vice president elect for the Chehalem Chamber of Commerce, a committee member of the Newberg Economic Development Strategy, an elected member of the Newberg Ad-Hoc Urban Renewal Committee, as well as having served on the Newberg Ad-Hoc Economic Analysis Opportunity Committee and he is one of the founding members of the Yamhill Downtown Association and Economic Development Agency for the City of Yamhill, which was his hometown. He noted when he was asked if this committee would be something that would be of interest to him, he responded certainly, the city and the Urban Growth Boundary are things that are near and dear to him from both the standpoint of sensible growth and preservation of the farmland.

Member Wright asked which is more important, building new homes and commercial space, or rehabbing and better utilization of existing homes and storefronts.

Philip responded those two things should exist in tandem.

Member Wright asked with no alternative available, how does this position fit into your overall responsibilities for a three-year term.

Philip responded those of you who have had the pleasure of working with him in the past know that he has terrible work-life boundaries and is very much available at all times.

Member Wright asked if he were unaware of particular laws, how would you go about learning about them.

Philip noted he has an insatiable curiosity for things that are legal, and policy driven. He noted he is self-motivated at researching these things.

Member Starrett asked if he could give an idea whether he is inside the city limits, the Urban Growth Boundary, or what mile outside the Urban Growth Boundary.

Philip noted he lives within the city limits of Newberg.



CITY OF NEWBERG / YAMHILL COUNTY
NEWBERG URBAN AREA MANAGEMENT COMMISSION MEETING

Member Kunkel asked him what his previous experience on City Commissions and Committees and how they are relevant to this specific board.

Philip responded the Newberg Economic Development Strategy Committee has some overlapping agendas. He was also recently promoted to the Newberg Urban Renewal Committee, which is looking at the Urban Renewal Area as a Chamber representative since he is the vice president-elect and also has a lot of experience in real estate. He was also on the Newberg Ad-Hoc Economic Opportunities Analysis Committee; they were specifically looking at industrial and commercial land deficiencies within Newberg's 20-year plan.

4. David Wall Outside city limits, outside of UGB, within 1 mile of UGB
13750 NE Lake Shore Drive
Newberg OR 97132

David Wall introduced himself and noted he wants to be on this commission because after reviewing past history, the City of Newberg has had some touchy issues in trying to annex certain portions of property within his neighborhood into the city limits. He is a staunch proponent of protecting farmland and wanted to keep a pulse on that direction of this committee. He noted he is familiar with what's pending from the legislation as far as House and Senate Bills and how the growth is going to occur through cities of this particular population.

Member Wright asked, with no alternative available how does this position fit in your other responsibilities over a three-year term.

David noted that he has been retired since 2002 and has plenty of time.

Member Wright asked if he were unaware of the laws concerning this board, how would you go about orienting yourself.

David noted he is quite familiar in depth with Oregon Revised Statutes and also quite adept at the variety of State Senate House Joint Committees as well as the Newberg agendas for various committees. He noted he has a greater knowledge of what's going on in Oregon with reference to written testimonies before the Oregon Legislature than most people.

Member Wright asked how he would resolve conflicts that may arise between the board members.

David responded it depends upon the nature of the conflict. He noted he is a peaceful type of person, very well thought out and would listen to both sides.

Member Kunkel asked if he has had any previous experience on city or county commissions, committees or relevant experience outside this jurisdiction.

David responded that he has had no experience on any commissions or committees. He has dealt with large budgets, primarily with Oregon. He noted he is more knowledgeable than anybody that sits before him here tonight with what's going on in the State of Oregon with reference to written testimonies to the various legislative committees. He noted in reference to Newberg he is concerned about how committees are stocked with people that have conflicts of interests. He noted the UGB issues are quite significant with reference to how the city is going to grow and you have to watch out on who you put on these committees because of land-use issues and potential property values whether they increase or decrease. He noted with the variety of House measures and Senate measure you're going to see property values plummet with high-density and low-income housing. For example, Crestview Crossing project and the mixed use is going to cause Newberg a tremendous number of problems. He reviewed their water pollution control, storm CIP budgets and was not impressed. Citizens are being systematically driven away from their properties due to fee structures that municipal leaders lock and load their operating fees onto people's utility bills, and he noted he does not accept that. He noted the Crestview Landing project is going to be the start of a lot of problems within the City of Newberg in reference to increase in crime. He is paying attention to how this committee is going to attack building expansion and the



CITY OF NEWBERG / YAMHILL COUNTY NEWBERG URBAN AREA MANAGEMENT COMMISSION MEETING

housing types that are going in today. He doubts the vast majority of property owners within the City of Newberg have any idea of what's going to happen to them in reference to their properties. Those within the county have the same level of knowledge of what the State's planning to do with accessory dwelling units and other proposed building incentives.

MOTION: Member Starrett and Member Halstead made a Motion to appoint Jack Lyda as Member-at-large position

Discussion:

Member Wright commented on all the candidates Jack Lyda would be a good fit for this position even though his business was in the military he is retired, and she liked his responses.

Member Starrett noted because she lives outside the city limits but has a Newberg address, she doesn't feel represented, and she would like to feel included.

Member Kunkel noted that she likes Jack Lyda as well and thinks it's important to have someone representing outside the city limits. She noted it is helpful to have folks on the committee with experience working in different committees and commissions. Also, an understanding of the nature of the URA and UGB and the effects on both the city and residents outside the city.

Member Wright noted she likes the fact that Jack Lyda was on a board, even though it wasn't this kind of board it does exhibit some experience in this area, and he did it for nine years.

MOTION: Member Starrett and Member Halstead made a Motion to appoint Jack Lyda as Member-at-large and motion carried (6 Yes / 0 No).

CDD Rux noted to the Chair you have an affirmative 6-0 vote, and it will go forward to the Newberg City Council for ratification and then on to the County Board of Commissioners and he will coordinate with Ken Friday of Yamhill County.

2. Review of Newberg Urban Area Growth Management Agreement Amendments

CDD Rux noted he is going to simplify and use the acronym IGA, so he doesn't have to repeat NUAGMA over and over. The IGA between the City of Newberg and the County was entered into in 1979 and amended in 1998 in regard to the process for reviewing land-use applications in Urban Reserve designated areas. The process for the designated Urban Reserve Areas were gone through in 1995/1996 so the document is relatively old because NUAMC has not met in almost 12 years. He noted there are some updates needed for the document because in the last seven years it has not been looked at.

CDD Rux noted there are some references to the Administrative Rules that were no longer in place or have been modified. There were committees that we're in place back in the late 70s, when the committees were going through and creating their Comprehensive Plans and they've now gone by the wayside. There was a lack of clarity about Urban Reserve Areas and authority to review those. NUAMC has reviewed Urban Reserve Areas in the past based on research, three different times. The question had been brought up that it needs to be clear in the IGA if NUAMC really has that authority because the language in the agreement refers to Comp Plan Amendments. The County has their Comp Plan and Newberg has their Comp Plan, but these are the reserves that have to be in both agencies Comp Plans. It has been asked who initiated this. He noted he has updated this document that is 41/42 years old because Newberg has been going through the process of looking at; do we have a need for additional land for growth of Newberg over the course of the next 20 years. He noted this is why Newberg has reconvened NUAMC to have these discussions. NUAMC does not make the final decision on the IGA, it is the responsibility of the Newberg City Council and Yamhill County Board of Commissioners. He noted with his conversations with the County staff, they wanted to make sure they were sharing the proposed modifications and updates with NUAMC because they would be operating under them. He has put together a memo to outline the different sections of draft changes, along with a clean draft which is subject to changes and modification.



CITY OF NEWBERG / YAMHILL COUNTY NEWBERG URBAN AREA MANAGEMENT COMMISSION MEETING

Ken Friday shared that the County Planning Attorney has recently retired, and he would like to have the County's legal counsel review the document because it's going to eventually go before the Board of Commissioners and legal counsel. He also noted he agrees with Ken Katzaroff that it's a lot easier and is less confusing to the public if there are de novo hearings. The public would come and testify with no limits, so people aren't suspicious of the limits put on their testimony. He noted he would concur with this observation that at least that section ought to be modified to allow for the Board of Commissioners to hold de novo hearings.

CDD Rux turned the discussion over to the commission members for questions or comments based upon the material presented in the packet in regard to making amendments and updates to the Intergovernmental Agreement between Newberg and the County.

Member Halstead noted on page 10 of the packet item 5 Urban Services, b. Union Growth Boundary should be Urban Growth Boundary which is a typing error.

CDD Rux noted that error has been brought to his attention and the correction will be made in the future document before it goes to Newberg City Council and County Board of Commissioners.

Member Halstead asked where you would insert the notion about the de novo hearings between the County Board and the City.

CDD Rux responded it's referenced in the document where it says "on the record" that would be changed to a de novo hearing.

Ken Friday noted to look in section 7, subsection 2 and several paragraphs down, the beginning says following public hearings.

Member Bacon noted she would agree with the change because she would feel uncomfortable hearing something without being able to ask questions to get a better understanding and to feel people are actually heard when they come before the body.

CDD Rux noted in the original modifications is the de novo process it puts the weight on NUAMC to take that particular testimony. He noted to remember NUAMC makes recommendations to the City Council and to Yamhill County Board of Commissioners. After a case comes before NUAMC it then goes to the City Council. It was de novo, based upon the record of all of the discussions that occurred at NUAMC. If you do a de novo hearing in front of the City Council, there can be new testimony and new evidence which is entered into the record which NUAMC may have never considered. The next step is the City Council makes a decision by ordinance and it gets forwarded onto Yamhill County Board of Commissioners, and under de novo construct is that new evidence and new testimony could be entered into before the Yamhill Board of Commissioners, but the City Council would not have that same information and would they make the same decision. He noted there needs to be a discussion, so the Board of Commissioners and City Council can make the same decision if new evidence or testimony is entered and what kind of process to be used. He also noted under the contract it raises the question, who makes the final decision. In the IGA if there's disagreements between the City Council and the Board of Commissioners, they would then come together and mediate.

CDD Rux responded to Ken's comment, yes Yamhill County Counsel would look at the drafting with all the track changes. He noted the City did take the lead and worked with Newberg's legal counsel to clean up as much of the old document as possible and shared it with Yamhill County staff.

Member Wright asked if it was possible when new testimony is received, as part of the procedure, can it go back to NUAMC board.

CDD Rux responded that could be another potential amendment to the IGA. For example, something goes to NUAMC and to City Council first, could the City Council refer it back to NUAMC for additional consideration or reconsideration of their recommendation. This language is not in this agreement at this time, potentially it could be added which might be of some value to NUAMC.



CITY OF NEWBERG / YAMHILL COUNTY NEWBERG URBAN AREA MANAGEMENT COMMISSION MEETING

Member Starrett noted she would feel more comfortable if Director Friday and the County Counsel has a chance to look at some areas that might be ambiguous or areas of concern and discussions with CDD Rux prior to the next meeting, then we could go ahead and approve the amendments.

Member Kunkel asked CDD Rux if we move to approve the updated bylaws before it goes before County Counsel what would happen.

CDD Rux noted NUAMC is not approving the IGA or bylaws, we are only sharing information with you to get your feedback and if there are some areas to consider making changes to because NUAMC is only advisory. He noted he and Ken would come up with a final version of the document that would go both to the City Council and to the Board of Commissioners for review and adoption.

Member Kunkel noted you're not asking for a motion tonight; you're asking to make recommendations on the proposed bylaws and recommendations to go before County Counsel and CDD Rux and Ken Friday will make changes that County Counsel thinks is necessary to document it before it goes before the County Board of Commissioners and the City Council.

CDD Rux noted tonight they had a conversation on having de novo hearings or on the record and with that he will talk with Ken and the County Counsel and Newberg legal department to come to some type of conclusion. He noted the decision on the modifications to the IGA rest with the City Council and the Board of Commissioners.

Member Kunkel asked if this document with the changes will come back before NUAMC.

CDD Rux responded yes, if this is the desire of the Commission.

Ken Friday responded yes it would be appropriate, both the City Council and the County Board of Commissioners would want NUAMC members input and how to do this.

Member Halstead noted he understands wanting de novo hearings because he has been in too many hearings where it's said I'll just wait and bring it up at the next level and we run a test through the Planning Commission. If we don't get what we want, we change our argument the next time around. The idea of a de novo hearing is to force the proponent or opponent to make their argument at the lowest point. This also creates a problem that you don't get enough participation at that point from the public to make a good decision. He noted unlimited de novo hearings are also a problem because it just keeps opening up a can of worms. He added it needs to be a de novo hearing with the option of the city and the county to open it to public testimony.

Member Starrett had a question on the process. If the suggested revisions are made and then brought back before NUAMC, they don't need an actual motion from the Commission it's basically a consensus and at what point do we consider this a group motion.

CDD Rux responded there is no motion or vote from NUAMC to change the IGA. He noted the hope is that there be some consensus in the final version that could then be taken forward to the City Council and the Board of Commissioners for their consideration. At that level there could be some additional modifications to the intergovernmental agreement between the City and the County.

CDD Rux noted when this document was originally created there was no NUAMC, and this was an IGA that was negotiated by Newberg and County staff and forwarded onto City Council and the Board of Commissioners, and it was adopted. Similar process occurred in 1998 after Newberg had done its Urban Reserve process and coordinated with the County, there was a new section added to the IGA about the process for land-use actions taking place within the Urban Reserve Areas. With the Urban Reserve Area, there is a process that has to go through the City Council for a recommendation and goes to the County for consideration on that land-use action.

Member Halstead noted if you go back in time there is a Newberg Dundee component to the agreement. Newberg was anticipating expanding towards Dundee along Dayton Avenue, and the residents of that no man's land between Newberg

and Dundee did not want to be incorporated and taken over by Newberg. Dundee did not want Newberg to move towards them and wanted to stay separate. This was part of the reasoning behind the original operations of NUAMC.

CDD Rux noted from the conversation this evening, what he heard is that Ken and he will coordinate and get a refreshed document to bring back in front of NUAMC for consideration and comments before moving onto the City Council and the Board of Commissioners.

3. Review of Newberg Urban Area Management Commission Bylaws Amendments

CDD Rux noted back in 1980 when NUAMC was formed there were a set of bylaws created and approved by the Newberg City Council and the County Board of Commissioners. Those bylaws have not been amended or updated since 1980. As they work through possible changes and modification updates to the intergovernmental agreement, they also need to make changes to the bylaws because there are elements that are in the IGA that are embedded in the bylaws. He noted in regard to the IGA, there was a perception that there may be some lack of clarity about NUAMC role in the area of Urban Reserves, which this document updates. Where the document referred to Commissioners, they changed to NUAMC. They suggested that under Article II. Purpose, that it's clearly written that Urban Reserves are part of the review of NUAMC. They clarified changes to Comprehensive Plan to areas outside of the Urban Growth Boundary but within the area of influence. They updated the membership component to mirror what would be in the proposed amendments to the IGA.

CDD Rux noted under Article VI. Duties and Responsibilities, they did some clean up to references to Administrative Rule provisions that no longer exist or have been modified, so that it would say we are complying with statewide land-use planning Goal 14, ORS 197 or 197A and related administrative rules.

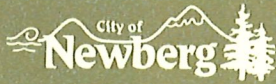
CDD Rux noted under Article V. Organization, they changed Commission to NUAMC, so it's consistent throughout the document. Newberg's structure was changed because they don't technically have a planning department it is now Community Development Department with different divisions. He noted they looked to clarify about when the minutes needed to be done. He noted under Article V. item F. property owner requesting, they proposed some language on coordinating who may initiate amendment, because it could be the County might initiate an amendment, the City could initiate an amendment, or property owner could initiate an amendment. He added that the notice for meetings needs to be at least 10 days prior, noting that the City and the County have some different noticing requirements. There are different parts of State law and Administrative Rules that have to be administered. Under Article VI. Meetings, changing Commission to NUAMC members and clarifying some of the procedures that occur in the meetings, for example when to call the meeting to order, conflicts of interests, bias and ex-parte. There were some additional clarifications about testimony in opposition following the sequence of applicant proponents and opponent's rebuttal which are under the quasi-judicial. If there is a legislative item that came before NUAMC it is outlining what steps on those processes would be. He noted under Article VII. Voting, changing the Commission reference to NUAMC. They added a new Article VIII. Conflicts of Interest, which is to make sure NUAMC members are abiding by all the laws. Staff on both the County and the City are trying to make sure that everything is clean, appropriate and are following State law requirements. He noted similar to the IGA there is no decision required from NUAMC, they are needing comments, feedback and additional corrections or modifications. Similar to the IGA they would run this by County Counsel, get their feedback and bring back another version for consideration and feedback before it goes to City Council and the Board of Commissioners for adoption of the bylaws. He also noted they added Article IX. Parliamentary Authority and Article X. Amendment to Bylaws they changed Commission to NUAMC members.

Member Wright asked when there is a conflict of interest on one agenda item and an alternate member comes in for that item, does the alternate stay for the whole meeting or just the one item.

CDD Rux responded the alternate would attend for only the one item that was a conflict of interest.

CDD Rux noted with no additional comments on the bylaws he will coordinate with Ken and County Counsel to see if there are any suggested revisions. He will bring the bylaws back along with the IGA to NUAMC to see the final version before going onto City Council and the Board of Commissioners for consideration.

4. PUBLIC HEARINGS - None



CITY OF NEWBERG / YAMHILL COUNTY
NEWBERG URBAN AREA MANAGEMENT COMMISSION MEETING

5. ITEMS FROM STAFF

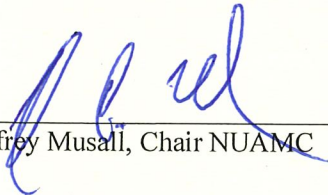
CDD Rux noted the next meeting is to be determined and will be coordinated with the County. He noted it will continue to be on the third Tuesday at 7:00pm and he will send notification to members by email.

6. ITEMS FROM COMMISSIONERS - None

7. ADJOURN

Vice Chair Kit Johnston adjourned the November 23, 2021, NUAMC meeting at 8:21pm

**APPROVED BY THE CITY OF NEWBERG/YAMHILL COUNTY, NEWBERG URBAN AREA
MANAGEMENT COMMISSION (NUAMC) this (), 2022**



Jeffrey Musall, Chair NUAMC



Fe Bates, Recording Secretary