

**CITY OF NEWBERG CITY COUNCIL MINUTES  
SEPTEMBER 20, 2010  
7:00 P.M. MEETING  
PUBLIC SAFETY BUILDING TRAINING ROOM  
401 EAST THIRD STREET**

Work Session was held prior to the meeting. A general discussion occurred. No decisions were made.

**I. CALL MEETING TO ORDER**

Mayor Bob Andrews called the meeting to order at 7:00 PM.

**II. ROLL CALL**

Members

Present:	Mayor Bob Andrews	Denise Bacon	Ryan Howard
	Stephen McKinney	Bart Rierson	Marc Shelton
	Wade Witherspoon		

Staff

Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Barton Brierley, Planning and Building Director	Dain Eichel, Acting Public Works Director
	Norma Alley, City Recorder	Jennifer Nelson, Recording Secretary

Others

Present: Roger Wiltshire, Pat Haight, Hank Grum, Lynn Weygandt, Jessica Cain, Sara Starnes, Gregg Mindt, Loni Parrish, Sheryl Kelsh, and John Bridges

**III. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was performed.

**IV. CITY MANAGER'S REPORT**

Mr. Daniel Danicic, City Manager, announced the League of Oregon Cities (LOC) Annual Conference will be at the end of this week; he and others will be out of the office to attend, please discuss travel arrangements with the City Recorder. He also spoke about the upcoming scheduled Budget Committee meeting will be held to discuss the sustainable budgeting presentation.

**V. PUBLIC COMMENTS**

Mr. Roger Wiltshire spoke of the time restrictions for the public comments portion of the agenda. He stated if there were thirty minutes allotted for public comments and only one or two people signed up to speak then they should be able to have more than five minutes, or several people should be able to allocate their speaking time to allow one person to speak for the full thirty minutes. He also took issue with the council process at a previous meeting when the opponents were allowed to speak before the proponents; he did not feel each side had been allowed equitable process.

Ms. Pat Haight mentioned she asked the city manager and attorney if any money had been spent and how much was left from the animal shelter fund and they did not have an answer for her. She spoke of people donating money to this cause to build a new shelter and improve living conditions of the animals there. She said the money was not the City's to spend and wanted it all given back to the animal shelter committee.

Mr. Danicic said her passion is admirable and he appreciates the desire for construction. He asked if the Newberg Animal Shelter Friends (NASF) was making the request to have the money returned. Ms. Haight replied no, it was her request to have the money turned back over to NASF to be managed and put in the bank so it is not spent erroneously. Mr. Danicic continued by explaining funding have been budgeted to be spent, but not a dime has been spent without NASF knowing and agreeing with it.

Mr. Hank Grum expressed concerns that Council has split legislative powers to set rates by resolution, and his objections to the way the City does business. He was concerned about burdens being passed along to the taxpayers and felt water distribution should be in the hands of a private contractor.

## VI. CONSENT CALENDAR

1. Consider a motion approving **Resolution No. 2010-2919** supporting the submission of a grant application to the State of Oregon to fund bike/pedestrian improvements along College Street.
2. Consider a motion approving **Resolution No. 2010-2920** supporting Chehalem Park and Recreation District's grant application to the State of Oregon to fund construction of a multi-use path along Dayton Avenue.
3. Consider a motion approving a **proclamation** recognizing Police Canine Akay for his seven and one-half (7.5) years of distinguished service to the citizens of Newberg and Dundee as a member of the Newberg-Dundee Police Department.
4. Consider a motion approving a **proclamation** declaring September 17-23, 2010 as Constitution Week.

**MOTION:** Shelton/McKinney approving the Consent Calendar including **Resolution No. 2010-2919** supporting the submission of a grant application to the State of Oregon to fund bike/pedestrian improvements along College Street, **Resolution No. 2010-2920** supporting Chehalem Park and Recreation District's grant application to the State of Oregon to fund construction of a multi-use path along Dayton Avenue, a **Proclamation** recognizing Police Canine Akay for his seven and one-half (7.5) years of distinguished service to the citizens of Newberg and Dundee as a member of the Newberg-Dundee Police Department, and a **Proclamation** declaring September 17-23, 2010 as Constitution Week. (7 Yes/0 No) Motion carried.

Mayor Andrews read and presented the proclamations.

## VII. PUBLIC HEARING

Consider a motion adopting **Order No. 2010-0028** finding the conditional use permit/design review application for the proposed Fred Meyer gas station at 3300 Portland Road meets the applicable Newberg Development Code criteria, reversing the Planning Commission decision and approving the application.

TIME – 7:28 PM

Mayor Andrews opened the deliberation portion of the quasi-judicial public hearing as the record had been closed. He asked if there had been any further comments received.

Mr. Terrence Mahr, City Attorney, said there were no further comments, the draft findings were published and nothing was heard from either parties wanting the record reopened. There was a question of an article printed in the newspaper, but it offered no new information to enter into the record.

Mayor Andrews reminded everyone the motion was denied to deny the application at the previous council meeting and staff was asked to return with a re-write of the order with findings to support the application.

Mr. Barton Brierley, Planning and Building Director, presented the staff report noting this was originally presented to the Planning Commission (PC) with conditions; the PC agreed with the conditions, but not with the criteria being met, which is why they denied the request. He explained those same conditions were brought back in with an additional condition from the applicant to construct a fence on the west side of the canopy to block the headlights (see official meeting packet for full report).

**MOTION: Shelton/Rierson adopting Order No. 2010-0028 finding the conditional use permit/design review application for the proposed Fred Meyer gas station at 3300 Portland Road meets the applicable Newberg Development Code criteria, reversing the Planning Commission decision and approving the application.**

Councilor Wade Witherspoon stated he voted to support the PC decision, but he is not against adding a gas station to Newberg or to Fred Meyer. He supports infill development as long as it does not result in overall detrimental impacts; but, he believes the layout of this property is not conducive for a gas station and there will be major traffic impacts to the neighborhoods and adjacent intersections. He said he could vote yes if there were at least a four-way stop at the Springbrook Road exit, but the concrete barrier prevents left turns in or out of the parking lot which will cause drivers to go around into the neighborhood and behind the store. He is also concerned for the future costs of improvements to the Springbrook Road/99W and the Brutscher Road/99W intersections and what portion the City will be responsible for when the Oregon Department of Transportation (ODOT) decides they must be completed. He is not willing to put the City into the position to contribute to an estimated three million dollars for improvements at ODOT's whim. Mr. Mahr agreed his point was correct and the City would be partly responsible for those improvement estimates.

Mr. Brierley added the traffic is not attributed to one particular site and as the city grows over time the improvements will need to be made whether this is approved or not. It is hard to determine what percentage of the trips would actually be using the new gas station, however, since it would be partly gas station traffic and partly state highway traffic there could be some eligibility of funding through the state gas tax and federal funds; System Development Charges (SDCs) have been identified as the source for the remainder.

Councilor Bart Rierson is also concerned about the impacts to the neighborhoods and traffic because of the inability to turn off of Springbrook Road. He was also apprehensive about light coming through, but he felt it could be mitigated by the plantings and fence. He still does not support the application because of the traffic impacts.

Councilor Denise Bacon did not see a huge issue with not being able to turn off of Springbrook Road because she felt drivers will just move on to the next station rather than driving all the way around. She was sure Fred Meyer has thoroughly looked at this and since they are spending the money, they do not want to make customers trying to shop there angry or their customers will go elsewhere.

Councilor Marc Shelton appreciated having the conditions from the PC presentation and noted that since this is a Conditional Use Permit (CUP) those conditions need to be verified before the building permit can be issued by the City, so there is still a way to check those conditions are in place, especially with ODOT requirements. The City has no control over Highway 99W, but it has brought goods to our community and the addition of the concrete island on Springbrook Road reduces accidents. He supports the application because many groups have looked at this, including ODOT, and though there are concerns the final say has to come from the City only if conditions are met. He mentioned Portland Community College (PCC) will be in that area in less than a year anyway so improvements to the Brutscher/99W intersection are already anticipated; this is why the Southeast Transportation Plan is being worked on.

Councilor McKinney appreciated the mitigation of this problem between the previous meeting and this one and he is still in favor of denial of the PC decision. He thinks a gas station there is a good idea, past councils made this recommendation to them because it made sense then, and he would hate to hold Fred Meyer to higher standard than other vendors. He is uncomfortable telling any business what they may and may not vend. He added Fred Meyer is not the sole business contributing to these intersections; lots of businesses depend on them.

Councilor Ryan Howard reaffirmed this gas station will cause foreseen impacts, such as driving behind the building and deliveries being made from Portland, as well as unforeseen ones with traffic circulation once there is more development in the area. He will support this motion and will affirm this permit with these conditions.

Mayor Andrews had some reservations based on the idea that people will not do what is inconvenient. He believes consumers will drive further down the road to alternative fueling stations since turning left is not easy. He felt more commercial drivers are using other routes such as Hwy 219 already and they will catch Springbrook Road and come up from there. He has concerns with circulation, but feels they will occur with or without this addition. He will support this order because he does not believe there will be a detriment and as it is conditioned, it cannot be built if those issues are not met. The problems already exist today and will continue regardless of there being a fueling station at Fred Meyer or not.

**MOTION:** Adopting **Order No. 2010-0028** finding the conditional use permit/design review application for the proposed Fred Meyer gas station at 3300 Portland Road meets the applicable Newberg Development Code criteria, reversing the Planning Commission decision and approving the application. (5 Yes/2 No [Rierson, Witherspoon]) Motion carried.

Mayor Andrews called a recess at 8:01 PM.

## VIII. NEW BUSINESS

Consider a motion establishing the funding methodology for a Visitor Information Center.

TIME – 8:09 PM

Mr. Danicic presented the staff report (see official meeting packet for full report). With the recommendation that the City enter into a five (5) year contract with the Chamber for \$35,000.00 per year including an annual CPI adjustment.

Ms. Lynn Weygandt, Windrose Conference and Meeting Center, said her first client in 2003 was from the Visitor Center and she has since averaged two to three referrals every couple of weeks from them or more. She said if it were not for the people at the Chamber of Commerce and the Visitor Center, she would not be doing as well as she is; they have made a huge impact on her business.

Ms. Jessica Cain, President of the Chamber of Commerce Board of Directors, reported the current budget for the entire organization is \$300,000.00 with 10% or \$30,000.00 being contributed by Newberg. Because of budget constraints and staff cutbacks they are not able to market Newberg at the same level they have been. She spoke of their role in bringing tourism to Newberg and said a direct contribution from the hotel taxes received as a result makes sense. She urged the council to consider the Chamber's budget needs for helping the city.

Councilor McKinney asked when the free rent from the Chehalem Park and Recreation District (CPRD) ceases. Ms. Cain said they have until the end of this year in December.

Mayor Andrews asked what portion of their \$300,000.00 Chamber budget is contributed to the Visitor Center.

Ms. Sheryl Kelsh, Executive Director of the Chehalem Valley Chamber of Commerce, replied 18% of total budget this year is used to support the Visitor Center.

Ms. Sara Starnes, Distinctive Destinations, deals with lodging and hospitality in Newberg and supports additional funding for the operations of the Visitor Center. She said it is an essential amenity for guests at the inn and they use the Visitor Center's services to refer guests for things to do and places to go as well as historic information. She has received many positive comments about the friendly and knowledgeable staff and would love to see the center grow and expand.

Mr. Gregg Mindt, Travel Yamhill Valley (formerly Yamhill Valley Visitors Association), spoke of the benefits of tourism as an economic drive for a community and how it was a good use of funds to fund the Visitor Center and other Chamber activities. He spoke of 22% being the baseline or minimum contribution to tourism and spoke of what other cities are doing, noting the City of Albany went beyond that because they saw a need to sustain tourism activity. He said The Allison Inn & Spa is an example of what tourism can do for a community and he urged council to work with the industry and the Chamber to look what can be done beyond what is being done for tourism as the economic fabric of the community.

Councilor Witherspoon asked what mechanism other cities are using to fund visitor centers and if they are percentage based or allocated on an annual basis. Mr. Mindt replied percentage based contributions with three to five year contracts work best for the facilities to do well; he said it is a turnaround investment.

Councilor McKinney asked if it was usually customary to participate at the level of 50%. Mr. Mindt said it is common to see 50% or more for marketing purposes more than for facilities.

Ms. Loni Parrish said the Chamber does a great job and as the wine industry grows it will be more competitive and we need to stay ahead. The Chamber has really reached out for group advertising and marketing and The Allison is part of the package now. It is important to support them to bring in more business and every guest spends money here; occupancy rates will go up and bring more money in.

Ms. Kelsh spoke of national and international media representation that occurred for Newberg as a result of The Allison being built and said the Visitor Center attracts all these visitors through volumes of articles and information about our community. She urged Council to reconsider the proposal to fund the Visitor Center with a fixed percentage of the TRT because it is fair to both parties. She said they cannot continue to sustain the services they have been providing if they continue to cut operations costs and staff at their current funding level.

Councilor Witherspoon asked for clarification on the percentage of the TRT they are seeking. They are seeking 25% of the TRT, not the previously mentioned 22%.

Councilor Howard asked if any other cities contribute to their budget. Ms. Kelsh replied the City of Dundee made a small contribution, but not more than three thousand dollars. Councilor Howard asked if this funding would directly add to the services provided. Ms. Kelsh replied it would go to restore the 50% of staff hours already cut and balance out what was already contributed.

Mayor Andrews asked if the Chamber is marketing primarily for Newberg or the entire area it serves. Ms. Kelsh replied they market for the entire area. He asked for clarification on the contributions they receive from Yamhill County and other cities including Dundee, Sherwood, and Dayton. Ms. Kelsh replied the County does not collect a TRT and there were no contributions other than one from Dundee.

Councilor McKinney did not feel the City has done the best job with the TRT in regards to the Chamber because of reliance on business licenses to fill in for costs, so business owners get tacked twice which is not the best solution. He also felt it is important to fuel the talent, especially with a return on their investment of revenue coming into the city.

Mr. John Bridges, Attorney, spoke of laws surrounding the TRT and the percentage contributed as a result of the 2002-2003 budget critical year when the law came into play and how the City must pay the same amount paid in that year. The law says you have to pay what you spent on July 1, 2003, which was 22%. He does not know where staff comes up with the 17.6% figure because of \$18,000.00 given to the Visitor Center as well as \$5,000.00 for the Old Fashioned Festival which is not counted towards this percentage. He said the Visitor Center and the Chamber are good partners with the City and they give a voice to the community the City cannot communicate. He spoke of the impact on traffic to the area and the economy to businesses in the area, recapturing the traditional downtown, and the future of the community. Adequately contributing to the Visitor Center is a natural way to partner with them at an appropriate level for the job they do.

Mayor Andrews asked about other sources of funds for the Chamber. Mr. Bridges spoke of County elected officials supporting through membership dues and that all commissioners are members, chamber members sponsor events and advertise in the directory and newsletters as well, there was a grant from the Cultural Center, donations from Tunes on Tuesday.

Discussions followed on the discrepancy between the 17.6% and 22% figure and the details of the law pertaining to the baseline being set in 2003. Mr. Mahr felt the argument was not relevant because an ordinance was in place which does not require the City to do more than the 17.6%. Discussions continued on maintaining fiscal flexibility rather than being locked into a set percentage as well as investing in other groups that promote Newberg other than the Chamber and Visitor Center.

**MOTION: Rierson/Witherspoon** to establish a funding methodology for the Chehalem Valley Chamber of Commerce Visitor Information Center by decoupling the business license and the Transient Room Tax (TRT) funding to pay fully out of TRT revenue, increase funding to 25% from TRT, and draft a 5 year contract.

Councilor McKinney asked how much 25% would be. Councilor Rierson replied it would be \$56,000.00.

Councilor Bacon agreed with the motion because she did not want to end up with some kiosk somewhere with a bunch of flyers. The work the Chamber and Visitor Center does can be seen in the economy and tourism creates jobs. She felt this offered something back to the business owners and wished to get needed funding to them as soon as possible.

Councilor Witherspoon spoke of increasing tourism as being part of the top three council goals and felt no one can do it better than the Chamber. Their track record has proven it is a good investment.

Councilor Howard said he is in favor of decoupling the business license from the TRT but he was not in favor of funding at a set percentage because although it is only \$56,000.00 now this figure can increase greatly because of The Allison and it needs to be considered how much an appropriate amount to be contributing is. He would like to have a condition for the Chamber to attempt to get contributions from other cities. He also felt the City should be funding the Visitor Center, but this should not reduce the Chamber's contribution to it.

Councilor Shelton felt the City would be losing flexibility if this passes and supported taking smaller steps to get there. Since we do not know what 25% will look like in five years he is not ready to jump into that kind of a plan. He would not support the motion as it stands.

Discussions followed on what the contribution could look like down the road, the current fiscal contingency availability, and possibly approving a scope of work associated with the expenditure of the funding received. Some suggested funding the \$56,000.00 this year and dealing with the action of decoupling later while working out goals they would like to see achieved or worked towards within the five year contract before the percentage is set.

**VOTE:** To establish a funding methodology for the Chehalem Valley Chamber of Commerce Visitor Information Center by decoupling the business license and the Transient Room Tax (TRT) funding to pay fully out of TRT revenue, increase funding to 25% from TRT, and draft a 5 year contract. (5 Yes/2 No [Howard, Shelton]) Motion carried.

**IX. COUNCIL BUSINESS**

TIME – 10:14 PM

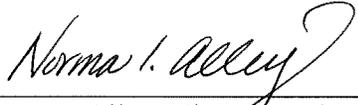
Mr. Mahr gave updates on current litigation.

Discussions commenced on accessibility of public records online and records requests and safety concerns and the recent accident at 2<sup>nd</sup> Street and Hwy 219.

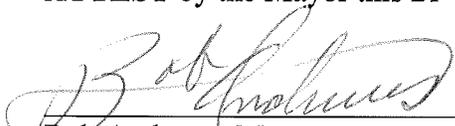
**X. ADJOURNMENT**

The meeting adjourned at 10:30 PM.

**ADOPTED** by the Newberg City Council this 18<sup>th</sup> day of October, 2010.

  
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Norma I. Alley, City Recorder

**ATTEST** by the Mayor this 21<sup>st</sup> day of October, 2010.

  
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Bob Andrews, Mayor