

CITY COUNCIL MINUTES
Monday, December 17, 2012, 7:00 PM
Public Safety Building (401 E. Third Street)

A work session was held prior to the meeting. A presentation was given by Jim Whitty of ODOT regarding New Road Financing Models. Councilors and the Mayor were present with Councilor Bart Rierson absent (excused); no action was taken and 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	Marc Shelton	Wade Witherspoon

Members Absent: Bart Rierson (Excused)

Staff Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Janelle Nordyke, Finance Director	Barton Brierley, Planning and Building Director
	Elaina Canutt, Financial Analyst	Paul Chiu, Senior Engineer
	Lee Elliot, Assistant City Manager	Jessica Nunley, Acting City Recorder
		Mandy Dillman, Minutes Recorder

Others Present: Charles Zickefoose, Robert Soppe

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. Daniel Danicic, city manager, reported the Newberg Volunteer Fire Fighter Association are working hard with Fred Meyer to provide toys for underprivileged children in our city. To date they have spent three and a half hours shopping and a total of \$13,722.00 on 1,291 items, which took 36 shopping carts and resulted in a receipt that was 74 feet and 2 inches long. All the toys are currently being wrapped at Station 20. The Critter Cabana fundraiser held at the Cultural Center tonight was well over their \$5000.00 goal when Mr. Danicic left to come to the council meeting.

V. PUBLIC COMMENTS

Mr. Robert Soppe listened to the audio from the last meeting and thanked Councilor Bart Rierson for raising the issue regarding accuracy of resolutions and motions and noting their importance. Mr. Soppe stated the other half of the issue has to do with the text of the resulting Resolution, Order, or Ordinance. He suggests Council establish a policy that if the motion is intended to result in such an action, it should appear exactly as voted upon and documented in the minutes with no subsequent editing by staff. He does not think having the recorder read back motions would be a burden. He thanked the two departing council members for their service; even though he may not always share the same views, he is appreciative of their work.

VI. COMMITTEE APPOINTMENTS

1. Consider appointing Rick Rogers and Thomas Barnes to the Newberg Urban Area Management Commission serving terms expiring December 31, 2015.

MOTION: **Shelton/McKinney** appointing Rick Rogers and Thomas Barnes to the Newberg Urban Area Management Commission serving terms expiring December 31, 2015. Motion carried (6 Yes/0 No/1 Absent [Rierson]).

2. Consider appointing Gary Bliss and Jason Dale to the Newberg Planning Commission serving terms expiring December 31, 2015.

MOTION: **Bacon/Howard** appointing Gary Bliss and Jason Dale to the Newberg Planning Commission serving terms expiring December 31, 2015. Motion carried (6 Yes/0 No/1 Absent [Rierson]).

3. Consider appointing Ronald Johns, Jay (Greg) Martin, and Suzanne Stich to the Traffic Safety Commission serving terms expiring December 31, 2015.

MOTION: **Witherspoon/Bacon** appointing Ronald Johns, Jay (Greg) Martin, and Suzanne Stich to the Traffic Safety Commission serving terms expiring December 31, 2015. Motion carried (6 Yes/0 No/1 Absent [Rierson]).

VII. CONSENT CALENDAR

1. Consider a motion adopting **Resolution No. 2012-3025** accepting the canvass of votes for the November 6, 2012, Biennial General Election.
2. Consider a motion adopting **Resolution No. 2012-3027** approving funds for a contract administrator position for the new animal shelter facility.
3. Consider a motion approving the October 1, 2012, November 5, 2012, and November 19, 2012, City Council meeting minutes.

Mayor Andrews pulled **Resolution No. 2012-3027** from consideration.

MOTION: **Howard/Bacon** adopting **Resolution No. 2012-3025** accepting the canvass of votes for the November 6, 2012, Biennial General Election and approving the October 1, 2012, November 5, 2012, and November 19, 2012, City Council meeting minutes, as amended. Motion carried (6 Yes/0 No/1 Absent [Rierson]).

VII. PUBLIC HEARINGS

Consider a motion adopting **Ordinance No. 2012-2757** adopting a new nonexclusive cable system franchise with Comcast of Oregon II, Inc.

(Legislative Hearing)

TIME – 7:15 PM

Terry Mahr, city attorney, presented the staff report (see official meeting packet for full report).

Councilor Ryan Howard asked why they removed the requirement of having a customer service location within 15 miles. Currently there are two; however, if they are not required they may close, especially if everything is

moved online. Mr. Mahr replied it gives companies more options for delivery and makes it much easier for installation. For example, instead of someone coming to install your cable they can now mail the box to you and you can plug it in. You also do not need to go to a customer service location to make a payment anymore, you can do it online. Councilor Howard mentioned he would like assurance there would be a customer service location nearby. Mayor Bob Andrews replied there are existing locations from previous franchise requirements.

Councilor Marc Shelton asked Mr. Danicic if the Public and Education Government (PEG) channel was able to move ahead of the three year anniversary or if they would need to wait until then to consider it. Mr. Danicic replied the PEG could go ahead. Councilor Shelton suggested other issues may come up at the three year anniversary and perhaps they should bring the issue up with Comcast before then. Mr. Mahr answered they do have the opportunity; it is not necessary to wait the full three years. Councilor Shelton mentioned that PEG is included with both Frontier and Comcast.

Staff recommends approval of **Ordinance No. 2012-2757**.

MOTION: Shelton/Bacon adopting **Ordinance No. 2012-2757** adopting a new nonexclusive cable system franchise with Comcast of Oregon II, Inc. Motion carried (6 Yes/0 No/1 Absent [Rierson]).

VIII. NEW BUSINESS

1. Consider a motion adopting **Resolution No. 2012-3026** accepting the 2011-2012 Fiscal Year Budget Audit.

TIME – 7:23 PM

Janelle Nordyke, finance director, and Elaina Canutt, financial analyst, presented the staff report accompanied by a PowerPoint presentation (see official meeting packet for full report). Staff recommends approval of **Resolution No. 2012-3026**.

Councilor Howard asked where the extra \$15.00 per thousand is coming from. Ms. Janelle Nordyke, finance director, replied debt is not subject to compression. Ms. Elaina Canutt, financial analyst, mentioned school districts do have compression in their ranks. Ms. Nordyke said they are subject to \$5.00.

Councilor Howard asked if the financing of debt is paid for by property taxes. Ms. Canutt replied it is. Councilor Howard asked for clarification if there is an allocation of the \$15.00 per thousand to cover the debts. He also asked if they are local option debts. Ms. Nordyke answered the city of Newberg has general obligation debt and city hall was built that way as well. Ms. Nordyke added it is only excluded from the caps if it is construction related, however, if it is operating related it can fall into the compression. Ms. Canutt said the city does not have any local option levies.

Councilor Shelton asked if auditors are chosen by bid. Ms. Nordyke replied they are and also by committee through a bid process. Councilor Shelton asked how much longer we have with these auditors. Ms. Nordyke said we have one year and then we would be looking for qualified municipal auditors. Councilor Shelton wondered how many accounts our auditors do. Ms. Nordyke mentioned they are located in Salem and audit many schools and municipalities, including Yamhill County and Dundee. Mayor Andrews asked if it would be strictly fiscal or a performance audit, or if it is done in two parts. Ms. Nordyke replied it is strictly financial and a compliance audit would be separate.

MOTION: Howard/Shelton to adopting **Resolution No. 2012-3026** accepting the 2011-2012 Fiscal Year Budget Audit. Motion carried (6 Yes/0 No/1 Absent [Rierson]).

2. Consider a motion adopting **Resolution No. 2012-3020** considering the formation of the College Street Local Improvement District and directing staff to prepare an engineer's report.

TIME – 7:06 PM

Lee Elliot, assistant city manager, and Paul Chiu, senior engineer, presented the staff report accompanied by a PowerPoint presentation (see official meeting packet for full report). Staff recommends approval of **Resolution No. 2012-3020**.

Councilor Howard asked if the separate cost of sidewalk and gutter improvements would be approximately \$120,000.00. Mr. Paul Chiu, senior engineer, answered it would be. Councilor Howard further questioned if it would be reduced by grant funding. Mr. Chiu replied they would be receiving \$800,000.00 in grant funding to do whatever is necessary for this project, not just sidewalk and gutter improvements.

Councilor Shelton referred to a property in the meeting packet and asked if Oregon Department of Transportation (ODOT) is negotiating with them for right-of-way purchase with waivers. Councilor Shelton expressed concern of what would come about if only 25% of the cost could be recovered. Mr. Chiu clarified they will be looking at right-of-way and Local Improvement District (LID) portions separately so as not to complicate it, and more than likely it will not be 100% guaranteed on the right-of-way variables.

Councilor Shelton asked several questions about the time frame of the project and if they would be returning to council with an engineering report and data. Mr. Chiu replied they could come back with data if the council desired. The next step would be a hearing sometime in the spring, depending on the engineers report and LID configuration, to allow the public to comment. The right-of-way acquisition will be in January, 2014, and the project will start sometime in February, 2014, according to ODOT's schedule. Council should come to a decision on the LID this summer in order to be prepared.

Councilor Howard asked what the extra \$70,000.00 will be going towards if it is not intended for curbs and sidewalks. Mr. Chiu said it will be used for storm drainage, water treatment for runoff, and placing conduits in open ditches. Councilor Howard asked if the money beyond the \$120,000.00 would be used for striping bike lanes and other things. Mr. Chiu replied it would be used for that as well as design and construction.

Councilor Shelton asked if they could go down to a minimum of a 10.2% match if the bid price comes in lower than expected. Mr. Chiu said the standard of providing a little more than the minimum is common practice to make the project attractive. Councilor Shelton further inquired on the process if they go out to bid and do not have enough to cover the project because of lack of grant money. Mr. Danicic answered the final estimate is done after construction is complete and if costs come in lower they can extend the project and utilize more funds.

Mayor Andrews advised staff to put in a companion grant request for Aldercrest Drive to Foothills Drive improvements, and any savings from this project can potentially be used for the continuation.

Mayor Andrews opened public testimony.

Mr. Soppe stated last time Council heard the matter there was consideration of putting a higher burden on property owners with waivers as compared to those without. Some concerns were raised regarding the appropriateness of this. He suggested a very minimal interpretation of this. The property owners who have waivers gain a greater benefit from the LID than those without waivers. Before the execution of the LID those owners have a clear financial responsibility for the improvement. The burden is removed when the improvement is completed. The value of the removal of this more definite responsibility can be estimated and used to justify allocating a slightly higher cost to these property owners. Mr. Soppe agreed with a sentiment raised at a prior meeting that it would be unfair to give one neighborhood a perk the city was not offering to others. Even considering scenario 1A where 100% is recouped the property owners are receiving a 75% benefit

due to the grant. This is a perk that will not typically be offered to other property owners or developers, but seems fair because of the grant, which is a special opportunity. To offer an even greater perk by collecting scenarios B, C, and D, seems unfair. He wonders who would be reimbursing the SDC fund if it were used here and why it is more appropriate for those people to shoulder the burden.

Mr. Charles Zickefoose, a member of the Newberg First Presbyterian Church, expressed several objections to financial charges they will face if this project is approved. The church was required to put in a sidewalk when they added onto their building. The sidewalk terminates at the property line, making it unusable, and pedestrians favor the wide shoulder on the other side of the street to their sidewalk. The current sidewalk cost \$4,243.00 to build and this proposed project requires them to remove it and replace it with a new sidewalk. According to Exhibit "A", they are the highest assessed property of the project with waiver rights. They want to do their share as a non-profit, but feel it is out of proportion to require them to do this.

Councilor Shelton suggested the issue is not just the current sidewalk but the access to the parking lot as well. Mr. Zickefoose replied he has not heard what will happen there. Councilor Shelton expressed concern the improvements will reduce access to the parking lot and will push traffic onto Mission Street. Mr. Zickefoose stated he had contacted Mr. Chiu for information regarding the issue and has not heard back from him. Mr. Chiu said he intends to get together with Mr. Zickefoose to discuss in detail the intricacy of the property. Typically sidewalks are built to the elevation of the middle of the road, and unfortunately their sidewalk was not built to that standard. They recognize the situation the church is in and will decide what is fair when the time comes; however, they are not ready to address this issue yet.

Councilor Shelton stressed the importance of maintaining access to both College Street and Mission Street for the church itself and for Veritas School, which creates traffic issues every day of the week. Mr. Chiu said they will be looking into all possible situations.

Councilor Stephen McKinney asked if \$9,000.00 will be paid for the acquisition of the far right hand corner of the church property. Mr. Chiu said yes. Councilor McKinney informed Mr. Zickefoose this might mitigate their expense in having to rebuild the sidewalk.

Councilor Wade Witherspoon encouraged Mr. Chiu to think creatively in regards to removal of the sidewalk and perhaps they may be able to incorporate it to save the church some money. Mr. Chiu said he is in favor of saving the sidewalk; however, it has drainage issues due to its elevation so he is not optimistic about saving it.

Councilor Denise Bacon asked if there was a way to discount the cost of sidewalk replacement since the city did not know the project was going to happen. Mr. Danicic replied they will recognize the cost difference between the old sidewalk and the new one and will not expect them to pay the full price again. Once staff comes back with assessment information, each property owner will be notified and allowed to comment.

Mr. Zickefoose explained they did not match the elevation of the sidewalk to the middle of the road because pedestrians would have had to step up onto a sidewalk that goes nowhere.

Staff summarized the options from the staff report.

MOTION: Shelton/Bacon adopting Resolution No. 2012-3020 considering the formation of the College Street Local Improvement District and directing staff to prepare an engineer's report.

Councilor McKinney understands Mr. Soppe's concern that option A1 will cause a substantial decrease in obligation to perform this project and allows for a group of citizens to get a major perk. Less than 100% could be preferential treatment; however, judging from the figures he will support the motion.

Councilor Howard feels that covering some percent for sidewalk and curb improvement, engineering, construction, and striping on the roads could be fairly portioned to land owners.

Councilor Shelton regrets the decision to increase the cities match by ten percent to make the grant more attractive. He feels they could have obtained the grant without the original number. He supports the council concept of fairness and equity for citizens.

Mayor Andrews stated it may be a potential conflict of interest for him to comment since he is a member of the church; however, he agrees with Councilors McKinney and Shelton. He also feels the church will receive some mitigation in regards to redoing their sidewalk.

VOTE: Shelton/Bacon adopting Resolution No. 2012-3020 considering the formation of the College Street Local Improvement District and directing staff to prepare an engineer's report based on option 1A as shown in Exhibit "A". Motion carried (6 Yes/0 No/1 Absent [Rierson]).

IX. COUNCIL BUSINESS

TIME – 8:31 PM

Mr. Danicic began discussion on the South Industrial Urban Growth Boundary (UGB) amendment. The goal is to come back in January with items to adopt. Mr. Barton Brierley, planning and building director, reported the county commissioners asked the city to adopt the county population forecast and consider dividing the application into two parts to avoid an appeal. They discussed dividing the application with property owners in the area and they feel the application should be submitted as is, and dividing it would not comply with state laws. Councilor McKinney asked if there was any objection to adopting the population forecast, if the division was a compromise of geography, and how it was proposed to be divided. Mr. Brierley replied there is no objection to adopting the population forecast and they did not specify how to divide the application.

Mayor Andrews asked how defensible dividing the UGB proposal would be with regard to state laws. Mr. Brierley answered dividing along the lines proposed by Friends of Yamhill County would not be defensible.

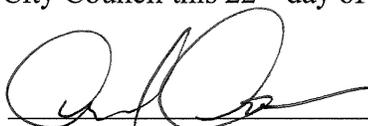
Councilor Shelton asked how defensible was the total acreage Commissioner Mary Stern suggested to compromise with Friends of Yamhill County. He thought they may have suggested breaking up the application in order to get the total acreage desired. Mr. Brierley feels the application is very defensible. It is the courts job to make sure the numbers are based on facts, and appeals should be based on facts, not on if they disagree with your number. He mentioned reducing the acreage will not improve defensibility of the application.

Councilor Witherspoon asked if tonight staff was looking for guidance on whether they should include the population forecast and whether to move forward on the application as one piece. Mr. Brierley said that is correct, they are looking for council's opinion. Councilor Witherspoon, Mayor Andrews, and Councilor Howard all said they are in agreement with adding the population forecast but not on splitting the application.

X. ADJOURNMENT

The meeting adjourned at 8:51 PM.

ADOPTED by the Newberg City Council this 22nd day of January, 2013.



Daniel Danicic, City Recorder

ATTEST by the Mayor this 24th day of January, 2013.



Bob Andrews, Mayor