

NEWBERG CITY COUNCIL MINUTES
MARCH 17, 2014, 7:00 PM
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

A work session was held at 6:05 PM preceding the meeting. A presentation was given by Mr. Craig Honeyman, League of Oregon legislative director, regarding an update on the recent 2014 legislative session. All councilors, the mayor, city manager pro tem, city attorney, deputy city recorder, minutes recorders, and department heads were present. No action was taken and no decisions were made.

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:30 PM.

II. ROLL CALL

Members Present:	Mayor Bob Andrews	Bart Rierson	Mike Corey
	Lesley Woodruff	Denise Bacon	Ryan Howard
	Stephen McKinney		

Staff Present:	Brian Casey, chief of police	Lee Elliot, city manager pro tem
	Truman Stone, city attorney	Janelle Nordyke, finance director
	Paul Chiu, senior engineer	Barton Brierley, planning and building director
	Leah Griffith, library director	Less Hallman, fire chief
	Dave Brooks, IT director	Jennifer Nelson, deputy city recorder
	Mandy Dillman, minutes recorder	

Others Present: Sheryl Kelsh and Craig Honeyman

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. Lee Elliot, city manager pro tem, reported Mr. Barton Brierley, planning and building director, will be leaving the city for a new opportunity in California. Mr. Elliot said the permanent city manager replacement will be hired in May, 2014. Mr. Craig Pat received a high award for the wastewater treatment plant. Mr. Truman Stone, city attorney, and Mr. Elliot have a possible understanding with the Springs customer agreement and will be moving in that direction after the Citizens' Rate Review Committee meets tomorrow evening for a rate establishment. In conclusion, he applauded the police department for receiving the safest community in Oregon award.

V. PUBLIC COMMENTS

Mr. Robert Soppe mentioned the annexation approved by Resolution No. 2014-3118 indicates only some property owners have signed. He is hoping only those who have approved will be the ones with consent. Obviously, it is early in the process and they may have more approvals in the end. Mr. Soppe was involved with the 2007 URA expansion during which property owners raised concerns about having annexation forced upon them. He (and others) argued although forced annexations are legal in some situations, it has been the city's informal policy not to do so. He stated if the council changes this policy, it would make it more difficult to use the argument in the future. Mr. Soppe questioned the justification for having the city cover the expense

of this annexation. The stated justification about the properties generating tax revenues to cover the annexation expenses would likely be present for all annexations of properties that are not tax-exempt, yet the city requires other property owners pay the cost. He also asked for an evaluation of the situation, including the costs, financing, and taxation for revenue. Mr. Soppe suggested while the strategic assessment claims the annexation is timely because of the upcoming Springbrook Road improvements, Island #1 is nowhere near that portion of Springbrook Road and should be evaluated more carefully. Mr. Soppe stated funding should be established early, so they know what to expect. Councilor Ryan Howard asked if Mr. Soppe was proposing the property owners be assessed the \$10,000.00 cost of the annexation. Mr. Soppe replied he was, less some portion to cover the city property included in the annexation proposal. Councilor Denise Bacon asked for clarification of payment for coming before council and if the city must pay for council's suggestions. Mr. Barton Brierley, planning and building director, said she was correct.

VI. CONSENT CALENDAR

1. Consider a motion adopting **Resolution No. 2014-3118** initiating annexation proceedings for four "islands" of unincorporated land surrounded by city limits along Springbrook Road and city owned property at 2716 Wynooski Road.
2. Consider a motion adopting **Resolution No. 2014-3119** authorizing the city manager pro tem to enter into a construction contract with Nutter Corporation for the Wynooski-Riverfront Utilities Project in the amount of \$910,400.22, and to negotiate and approve any construction change orders not to exceed 15 percent of the original contract.
3. Consider a motion adopting **Resolution No. 2014-3120** authorizing the city manager pro tem to execute Amendment No. 2 to the professional services agreement with Parametrix, Inc., to complete additional utilities relocation design and project management for the Wynooski-Riverfront Utilities Project in the amount of \$160,080.00.
4. Consider a motion approving a sound permit for the George Fox University sponsored "Raffles, Runs and Caring Endeavors Newberg" event on Saturday, April 5, 2014, at Jaquith Park.
5. Consider a motion approving the city council minutes from November 18, December 2, and December 16, 2013.

MOTION: McKinney/Corey adopting **Resolution No. 2014-3118** initiating annexation proceedings for four "islands" of unincorporated land surrounded by city limits along Springbrook Road and city owned property at 2716 Wynooski Road, adopting **Resolution No. 2014-3119** authorizing the city manager pro tem to enter into a construction contract with Nutter Corporation for the Wynooski-Riverfront Utilities Project in the amount of \$910,400.22, and to negotiate and approve any construction change orders not to exceed 15 percent of the original contract, adopting **Resolution No. 2014-3120** authorizing the city manager pro tem to execute Amendment No. 2 to the professional services agreement with Parametrix, Inc., to complete additional utilities relocation design and project management for the Wynooski-Riverfront Utilities Project in the amount of \$160,080.00, approving a sound permit for the George Fox University sponsored "Raffles, Runs and Caring Endeavors Newberg" event on Saturday, April 5, 2014, at Jaquith Park, and approving the city council minutes for November 18, December 2, and December 16 2013, [as amended]. Motion carried (7 Yes/0 No)

VII. NEW BUSINESS

1. Consider a motion accepting the Chehalem Valley Chamber of Commerce's second quarter report for the Visitor Information Center.

Ms. Sheryl Kelsh, Chehalem Valley Chamber of Commerce President/CEO, reported publications in several magazines, including Travel Oregon, for a second quarter. The Oregon events calendar was recently published with the Old Fashioned Festival and Camila Festival as well as other events. They have also received great feedback on the Travel Portland Guide advertisement. Additionally, they will be featured in the Portland Monthly Magazine for the Dragon Theater. The writer for AAA Magazine was well hosted in Newberg and instead of a few words of mention in his 1,000 page article; he wrote one 900 word article about Newberg and then a separate article about Hwy. 99W. She continued with statistics on the new lodging study from Travel Oregon, pointing out although countywide occupancies have improved and renting of available rooms exceeds the rate, there has been no growth in available rooms. A study is currently being conducted to discover how many visitors the city is losing to other towns because of the lack in room availability. The issue is Newberg does not have the right product. Two businesses have reported sending 2,500 guests back to Portland because they lacked the capacity to host them. Ms. Kelsh also mentioned they hosted visitors from Pakistan who also visited the state of Washington and east coast; they said their favorite location was the Newberg/Dundee area. Ms. Kelsh attended the Travel Oregon tourism conference where she worked with Travel Yamhill Valley to leverage a \$10,000.00 matching grant opportunity for countywide customer service training for front line staff. Paddle Oregon will be returning to Newberg once again. In conclusion, she mentioned the Chehalem Valley Chamber of Commerce has initiated a monthly small-business counseling course with Chemeketa Community College. Councilor Howard asked when Paddle Oregon will be coming and how the chamber will be greeting their arrival. Ms. Kelsh replied the third week in August; and they will greet them with a food and beverage reception. Mayor Andrews asked about money the visitor center receives from the city of Dundee. Ms. Kelsh explained they receive \$2,500.00 from Dundee; however, it was not included in this current report. Mayor Andrews asked it to be included in the next report.

MOTION: Rierson/Howard accepting the Chehalem Valley Chamber of Commerce's second quarter report for the Visitor Information Center. Motion carried (7 Yes/0 No).

2. Presentation of the Newberg Cultural District 2014 Annual Report.

Ms. Leah Griffith, Chehalem Cultural Center Executive Board of Directors chair, and Mr. Robert Soppe, presented the staff report accompanied by a PowerPoint presentation (see official meeting packet for full report).

Mayor Andrews asked if they would charge a fee for rental of the external and internal spaces. Ms. Griffith explained they only have rental fees for the external space and it is a small amount to help pay for website maintenance, improvements, landscaping, etc. Mayor Andrews further inquired if the street area is included in the rental because there are special procedures to charge a person to use a city street. Ms. Griffith replied they have not gotten far enough into the process to answer that yet. Mayor Andrews suggested having the city attorney examine the situation further. Mr. Soppe advised they not create concrete rules for the usage of the Cultural District properties until after they have had time to see how the space can be used most effectively. Ms. Griffith mentioned the Newberg Farmers Market is moving to Wednesday, as to not interfere with the Tunes on Tuesday program. Mr. Truman Stone read the wordage on street rental rules in the Cultural District and explained streets are included in the rental currently; the rental rate is left to the board to decide and the money received goes to whomever owns the piece of street. The intergovernmental agreement (IGA) delegates authority to the board by the council. Ms. Griffith mentioned Chehalem Parks and Recreation Department (CPRD) has delegated the plaza in front of the Chehalem Cultural District, so any funds received for CPRD properties will go to use at the Chehalem Cultural Center.

IX. COUNCIL BUSINESS

1. Discussion regarding Phase 2 of the Newberg-Dundee Bypass in relation to the Transportation System Plan (TSP).

Mr. Barton Brierley, planning and building director, presented the staff report accompanied by a PowerPoint presentation (see official meeting packet for full report).

Discussion followed on the moratorium on properties in the area. It was determined the moratorium was from 2006 to 2011, and there is no current formal agreement that property owners will not build in the purposed bypass path. The areas in question are zoned as residential professional, which would include houses, senior housing, nursing homes, professional offices, or similar facilities.

3. Trees in the Carnegie Court area.

Councilor Ryan Howard explained several small trees planted on the north side of Carnegie Court may impede view during concerts and other events because of the new location of the Tunes on Tuesday stage. Additionally the lawn area has been found to be in poor shape and may not handle the volume of people using the area for Tunes on Tuesday. He asked the council to give permission for grass improvements as well as the possibility of removing several trees. Discussion commenced on shade availability with tree removal and not currently providing shade. The Tunes on Tuesday stage will be left up over the summer for the library's outdoor summer activities to provide more shade than was available in previous years. Ms. Griffith gave details regarding the location of trees to be removed and grass areas needing more sand put down.

MOTION: **Rierson/Bacon** to pursue reinforcing grass in Carnegie Court and the possibility of removing several trees, by the city manager.

Discussion commenced on how the project would be funded; it would be considered normal city maintenance and covered under the landscaping budget.

VOTE: **Rierson/Bacon** to pursue reinforcing grass in Carnegie Court and the possibility of removing several trees, by the city manager. Motion carried (7 Yes/0 No).

2. Revisit Marijuana Dispensary discussion.

Mayor Andrews explained Mr. Brain Casey, chief of police, asked the council to revisit the marijuana dispensary moratorium discussion; however, no decisions will be made tonight.

Mr. Brad Berry, Yamhill County district attorney, presented a report regarding the deficiencies in House Bill 3460 and medical marijuana dispensaries and testimony supporting a moratorium on these types of facilities in the city of Newberg (see official meeting packet for full report). Mr. Berry reported the main problem with medical marijuana is that it is unregulated. He encouraged council to take advantage of the one-year moratorium in order to watch how other states or handling dispensaries and the evolution of marijuana as a legal substance. His main concerns were for the effects of increased availability, advertisements geared towards, and usage for youth, dangers in car fatalities, and the inability to measure marijuana consumption and levels of psychoactive ingredient in drivers. He also spoke of detrimental effects on neighborhoods with storefronts attracting suspicious loitering, crime and danger for children; lawsuits and expenses created for cities by the presence of the dispensaries; and gave examples of problems recently caused in Newberg with marijuana without the ease of access from a dispensary. Finally, since marijuana is still illegal by federal law, cities supporting the conducting of dispensaries are disobeying the law.

Councilor Denise Bacon asked if it would be easier to control dispensaries instead of random growers. Mr. Berry explained if they allowed, then both dispensaries and growers will be present; in addition, previously illegal sales and businesses will be able to return to selling synthetic variations of marijuana as well.

Mayor Andrews wished to confirm that packaging and marketing are currently unregulated and asked if there are really only four persons in the entire state allowed to manage all dispensaries. Mr. Berry said this was currently unregulated and the statement about the four persons was true.

Councilor Howard asked how the dispensaries could be unregulated and unlicensed. Mr. Berry explained the products, quantity or qualities are unregulated. The only requirement is they must sell to cardholders and hold a license; however, no regulation occurs after licensing.

Councilor Stephen McKinney explained he has seen marijuana wreak havoc on peoples' lives and felt it needs regulation and distribution should be through a pharmacy like any other drug. He also felt voting to allow dispensaries is a violation to the constitution and the laws they took an oath to uphold.

Councilor Bacon reminded the council of Councilor Howard's proposal they instill regulations such as locked safes, security cameras, and keeping product behind separate doors, where only licensed card holders can enter. She said she is on the compassionate side of the argument and wants to see people who need medication to be able to receive it; she does not feel opening dispensaries will make marijuana more accessible to others than it currently is. Furthermore, she spoke about the Harvard studies Councilor Howard had previously presented which shows addiction is not real.

Chief Casey appreciated Councilor Bacon's concern for those with medical needs; however, for every one person using marijuana for true medical relief, he sees 95 other people using it for illegal purposes. He feels there are alternative medications for pain relief. He agreed dispensaries could have cameras and alarms; however, banks are the most secure buildings in a city and they still are robbed. Additionally, he explained pharmacies could not sell medical marijuana because it is a federally illegal substance. Nine percent of people arrested for marijuana crimes have medical marijuana cards. Chief Casey felt crime rates would increase and have a detrimental effect of the city of Newberg if dispensaries are allowed. For those needing marijuana for true medical purposes, they are already receiving it and can continue to receive it without having dispensaries in this city. He encouraged the council to reconsider and not allow dispensaries.

Mayor Andrews asked what actions other cities in Yamhill County have taken. Mr. Berry explained there is a moratorium on dispensaries in unincorporated areas in Yamhill county and he last heard McMinnville was contemplating higher regulations. He was unsure of other cities' decisions, but agreed with Chief Casey some cities will allow dispensaries, creating pockets where people will congregate and cause illegal activities. He said he would look into what other cities are thinking.

Councilor Mike Corey asked where this leaves the city since the governor has not signed the bill yet and if the city is liable for litigation. Mr. Berry said the bill will pass whether the governor signs or not and has heard nothing indicating the governor does not approve of the one year moratorium. Councilor Corey asked about the possibility of lawsuits between cities. Mr. Berry did not see Yamhill County having any lawsuit issues. Councilor Corey suggested they poll Newberg residents to discover whether they want dispensaries in their town. Councilor Bacon pointed out citizens will be voicing an opinion when property owners will not allow them to rent their properties. Mr. Stone agreed, stating he heard the downtown business and property owners are not in favor of dispensaries in Newberg. He felt it would be best to put the moratorium in place; if council decided to allow it later, zoning limits could be set as to where dispensaries can operate to help avoid negatively affecting the business community. Mr. Stone felt it would be better to take Mr. Berry's "wait and see" approach with the moratorium because once marijuana is legalized, they may not be able to undo it.

Mayor Andrews expressed his desire to accept the moratorium. He asked Mr. Berry if persons needing medical marijuana have access to it currently. Mr. Berry explained the law authorizes a person with a medical marijuana card to have someone grow and provide it for them legally. Mayor Andrews was given clarification they would not be denying anyone who uses marijuana legitimately with this action. A discussion followed on how to proceed.

MOTION: Rierson/Andrews to direct staff to return with a request for council action (RCA) regarding a moratorium against medical marijuana dispensaries in Newberg at the April 7, 2014, city council meeting.

Councilor Howard said he believes medical marijuana dispensaries can be a good source of income, as well as reducing marijuana's presence on the black market. Councilor Bart Rierson felt there was a lot of one-sided information presented tonight and asked to see more material in defense of the subject.

VOTE: To direct staff to return with a request for council action (RCA) regarding a moratorium against medical marijuana dispensaries in Newberg at the April 7, 2014, city council meeting. Motion carried (6 Yes/1 No [Howard]).

4. Budget discussion.

A discussion was held on the public safety fee increase and the hospitality management fee and it was decided both need to be further discussed later.

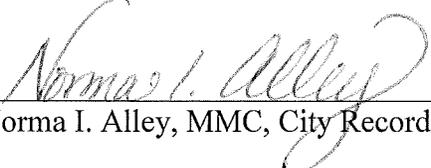
5. Update on Villa Road sidewalk.

Mr. Stone reported the legal department sent out a legal bulletin last week and the bid for the sidewalk came back as expected. They have enlisted an arborist to consider trees that could potentially cause issues and do not have anything further to state until they hear back from him.

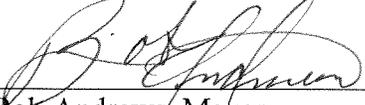
X. ADJOURNMENT

The meeting adjourned at 10:24 PM.

ADOPTED by the Newberg City Council this 5th day of May, 2014.


Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 8th day of May, 2014.


Bob Andrews, Mayor