

**NEWBERG CITY COUNCIL MINUTES
MAY 5, 2014, 7:00 PM
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

A work session was held at 6:00 PM preceding the meeting. Shane Ottosen and Tim Potter, ODOT gave a presentation regarding Newberg-Dundee Bypass. Councilors, the mayor, city manager, city attorney, city recorder, minutes recorder, and department heads were present with Councilor Mike Corey absent. Mayor Andrews called the executive session to order at 6:45 PM pursuant to ORS 192.660(2)(a) relating to employment of a public officer, employee, staff member or individual agent-city manager recruitment. Councilors, the mayor, city attorney, city recorder, and minutes recorder were present with Councilor Mike Corey absent. Executive session ended at 7:04PM. No action was taken and no decisions were made.

I. CALL MEETING TO ORDER

Mayor Andrews called the meeting to order at 7:16 PM.

II. ROLL CALL

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

Members Absent: Mike Corey (excused)

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| Staff Present: | Lee Elliott, city manager pro tem | Truman Stone, city attorney |
| | Jay Harris, interim public works director | Janelle Nordyke, finance director |
| | Jessica Pelz, assistant planner | Norma Alley, city recorder |
| | Steve Olsen, interim building & planning director | |
| | Nicole Tannler, minutes recorder | |

Others Present: David Russ, Barbara Jensen, Lewis Schaad, Deb Galardi, Chuck Zickefoose, Tony Rourke, Donald Gutherie, Robert Soppe, Phillip Smith, Art Smith, Rob Hallyburton, Dennis Gaibler, Sid Freeman, Jane Greller, Cathy Stuhr, Grace Schaad, and Brian Doyle

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. Lee Elliott, city manager pro tem, reported the Newberg Fire department pancake breakfast was a success. Thursday May 27, 2014 we are beginning the pedestrian safety program and this month with the walk/bike challenge.

V. PUBLIC COMMENTS

Mr. David Russ introduced himself and testified he was running for County Commissioner.

Ms. Barbara Jensen introduced herself and testified she was running for House District 25.

Mr. Lewis Schaad reported on the condition of the land at Corral Creek Reservoir which has a noxious weed problem. He stated it is going to take some work force to remove this problem. Mayor Andrews replied the city manager and his staff have heard your comments and will look into the problem.

VI. COUNCIL APPOINTMENTS

Consider a motion appointing Crystal Garcia to the Library Board serving a term expiring June 30, 2015, and Corina Kanen to the Library Board serving a term expiring June 30, 2018.

MOTION: Bacaon/Woodruff appointing Crystal Garcia to the Library Board serving a term expiring June 30, 2015, and Corina Kanen to the Library Board serving a term expiring June 30, 2018. Motion carried (6 Yes/0 No/1 Absent [Corey]).

VII. CONSENT CALENDAR

1. Consider a motion adopting **Resolution No. 2014-3129** directing staff to withdraw Newberg's current Urban Growth Boundary/Economic Opportunity Analysis application from Department of Land Conservation and Development.
2. Consider a motion adopting **Resolution No. 2014-3130** authorizing the city manager pro tem to execute an intergovernmental agreement with the city of Salem for the treatment and disposal of wastewater treatment sludge.
3. Consider a motion adopting **Resolution No. 2014-3135** granting a twelve-year agricultural lease to Harold Medici of land on the city's Oliver Springs property.
4. Consider a motion approving the March 3, March 4, March 17, and April 7, 2014, city council meeting minutes.

Items 1-3 and the March 17, 2014, minutes were pulled from Consent Calendar. Items 1 and 2 were discussed under New Business. Item 3 and the March 17, 2014, minutes were postponed to the June 2, 2014, meeting.

MOTION: Howard/Woodruff approving the March 3, March 4, and April 7, 2014, city council meeting minutes, as amended. Motion carried (6 Yes/0 No/1 Absent [Corey]).

VIII. PUBLIC HEARING

1. Consider a motion adopting **Resolution No. 2014-3131** adopting new monthly water rates, effective January 1, 2015.
2. Consider a motion adopting **Resolution No. 2014-3132** adopting new monthly wastewater rates, effective January 1, 2015.
3. Consider a motion adopting **Resolution No. 2014-3133** adopting new monthly stormwater rates, effective January 1, 2015.
4. Consider a motion adopting **Resolution No. 2014-3134** adopting new monthly springs water rates, effective January 1, 2015.

Mrs. Jay Harris, interim public works director, and Deb Galardi, Galardi Consulting LLC presented the staff report accompanied by a PowerPoint presentation (see official meeting packet for full report). Staff

recommends approval of Resolution No. 2014-3131 adopting new monthly water rates, effective January 1, 2015.

Mayor Andrews introduced the administrative hearing and called for any conflicts of interest or abstentions; none appeared.

Councilor Ryan Howard asked if there was any discussion of cost overrun and who was responsible. Ms. Deb Galardi said I do not believe there was but there was discussion for the future. Councilor Howard asked if she can elaborate on the divestiture and a one year lower rate. Mr. Harris said the divestiture was added to this while the two parties are trying to transfer the rights.

Mr. Chuck Zickefoose, citizens' rate review committee (CRRC) member, stated I believe that our process was very well done and how we go through the process is very fair to the residents. I appreciate the work of the staff and the consultant. We balance what is going on in the economy and what is needed for the city.

Mr. Tony Rourke, citizens' rate review committee chair, stated he is here to speak for the decisions on the rates. This is the first time I actually did not agree with the staff on the Spring rates and we do believe the rates on these systems do balance out. I do support the interim support contingent on divestiture. The 25% increase is just taking on some of that operation and maintenance and to work towards getting that system into the homeowners hands. If it does not happen in the time given the city will need to come up with the money and any lowering of these rates would be counter to that.

Councilor Howard said if divestiture does not happen in time given then the homeowners should be responsible for it. Mr. Rourke replied if divestiture does not happen then the city of Newbergs hand will be forced to get this done. Councilor Howard asked about the decision to recommend not recouping the chlorine that has been done and how that came about. Mr. Rourke said there was debate on the resolution and whether or not it should be fully recouped. Councilor Bart Rierson said Ms. Galardi talked about allocating cost, curious if you looked at re-use projects. Mr. Rourke replied we did talk about re-use but not as a system in of itself.

Mr. Harris said we are just replacing pipe on an emergency basis, which is more reactive maintenance. Councilor Howard asked if he is comfortable not recouping any of the money for the maintenance beforehand. Mr. Harris answered we have to go and fix the problems and if that happens we will come to the Council with that.

Councilor McKinney asked about the actual cost on the Springs Chlorination. Ms. Galadari said the \$37,000.00 is based on amortization and the rates have not been recovering up to 50%. Mr. Rourke said we all support the plan to work with springs homeowners to divest but if any debt is left or forgiven then the city still has that debt.

Mr. John Guthrie stated he wanted to thank the citizens' rate review committee and appreciated their recommendations. Tonight I am speaking on behalf of the Springs customers. We are waiting for a letter of intent from the city and ask any adjustments be put on hold until we can get that letter. The 2008 resolution spoke to the city taking responsibility of 50% of the springs system. The fact that it was not estimated correctly does not say it was not an immediate need. It seems to be unnecessary at this time because we may or may not need to include the coercion control.

Mr. Robert Soppe stated in 2008 the Council passed a resolution creating a special customer class for the Springs users. Through this resolution and the discussion that preceded its passing, the Council made a promise to the citizen ratepayers of Newberg. This promise was that these ratepayers would no longer be subsidizing the springs water system. He said tonight is the Council's first real opportunity to live up to that commitment.

He went on to say according to the facts presented by staff during the most recent round of CRRC meetings, the Springs rates have failed to live up to the 2008 commitment to the city ratepayers to have it self-funding. The operation and maintenance cost calculations were too low, the unanticipated additional expenses in the Chlorine Injection project were not included, and interest or rate-of-return was not included. Before the most recent round of CRRC meetings, neither the CRRC nor the Council was given an opportunity by staff to set rates that were consistent with the 2008 resolution. Mr. Soppe stated this appears to have been rectified by the present staff who has done an excellent job in providing information to the CRRC and to the Council to allow an informed decision to be made concerning Springs rates. I urge you tonight to follow through on the commitment the Council made in 2008 to the ratepayers of Newberg and to reject the rate recommendation that the CRRC has delivered to you. I urge you to pass the rates staff provided which are consistent with your commitment. He said as a separate issue, there was quite a bit of discussion and uncertainty with regard to two issues with the 2008 resolution. Those two issues were exactly which project or projects were to be included in the citizen's 50% share and whether or not future capital improvements were to be covered by Springs rates. The uncertainty did not need to occur, as the Council was very clear about this at the original meetings. The uncertainty arose because the original resolution was not written consistently, the meeting minutes are rather sparse, and the meeting was held when the Council had a policy of destroying audio recordings. I hope the Council will keep this in mind in the future when drafting resolutions and when reviewing minutes

A revised Resolution No. 2014-3134 was handed out. Items 4 and 5 were added to stay consistent with the citizens' rate review committee recommendation.

Councilor Howard asked what percentage increase would be required to get the full cost. Ms. Deb Galardi said on the operation and maintenance side of things the 25% recovers most of that but not the pipe replacement or coercion control. You would be short \$16,000.00 on pipe replacement and \$41,000.00 on coercion control. The 2015 rate is just an interim rate.

Councilor Bart Rierson asked about timing and if it is a reasonable assumption that the city and springs users can work through this before December 2014. Mr. Harris said the formation of a water district will take up some of their time and think it would be difficult to get it done before the end of the year.

MOTION: Howard/Rierson adopting Resolution No. 2014-3131 adopting new monthly water rates, effective January 1, 2015. Motion carried (6 Yes/0 No/1 Absent [Corey]).

MOTION: Howard/Rierson adopting Resolution No. 2014-3132 adopting new monthly wastewater rates, effective January 1, 2015. Motion carried (6 Yes/0 No/1 Absent [Corey]).

MOTION: Howard/Rierson adopting Resolution No. 2014-3133 adopting new monthly stormwater rates, effective January 1, 2015. Motion carried (6 Yes/0 No/1 Absent [Corey]).

Councilor Rierson said he will be supporting Resolution No. 2014-3134 and thinks overall what we are doing is fair. We are all facing a citywide increase in rate cost and I would encourage them to work with staff to come to those agreements for divestiture.

Councilor McKinney said I think that users should be paying the rates. The CCRC should have been meeting on this much sooner and if it was another department people would have lost employment on this. It is with reluctance that I will be in support of this resolution. I am glad for Robert's report and this should have been taken care of years ago.

MOTION: Howard/Bacon adopting Resolution No. 2014-3134 adopting new monthly springs water rates, effective January 1, 2015 as revised. Motion carried (6 Yes/0 No/1 Absent [Corey]).

X. NEW BUSINESS

1. Consider a motion adopting **Resolution No. 2014-3129** directing staff to withdraw Newberg's current Urban Growth Boundary/Economic Opportunity Analysis application from Department of Land Conservation and Development.

Ms. Jessica Pelz, assistant planner, presented the staff report (see official meeting packet for full report).

Mayor Andrews opened public testimony.

Mr. Phil Smith stated I serve on the city planning commission and we recommended the city apply for the M4 land and since then it has been city policy to pursue the urban growth boundary (UGB). My first comment is that the city should welcome the views of special interest groups, however, the city should not only listen to them. The city should consider many goals and the important one is to listen to the citizens. It has been obvious for more than 10 years the city has not had a good supply on industrial land and the M4 designation was created for large lot industrial projects. The city has not used this designation.

Mr. Art Smith said serving as chair of the planning commission I was totally unsure what the Newberg Graphic newspaper had said. I want to clarify what the paper reported is not at all what the commission had done. Councilor McKinney said I want to commend you on coming in and correcting what was said in the paper.

Mr. Rob Hallyburton testified I am more here to provide information for the Council and take questions. I did not know staff was going to recommend going forward with the litigation. The land conservation and development commission (LCDC) is prepared to pay for the assessment and we would not ask for any assistance on that part and we can work with you in any reasonable time frames.

Mr. Dennis Gaibler said I thought we came up with a great plan including areas to be used as industrial zones. We had great access to highways and great proximity to water supply and power. The way I see it Newberg can scatter industrial throughout the city, do nothing, or go forward and find a strategy, which pursues the plan we put together. If the residents were ever given a chance to vote on the annexation, they would go for it. The environment aspect of the industrial area would keep many from driving in and out of town. The best choice is to do what is needed to get this in.

Mr. Sid Friedman stated he is representing friends of Yamhill county and we share the cities goals. If the city ends up with no UGB we will not feel like we have won. As we have repeatedly said compromise is the best thing, not to do just nothing or all. A decision to decline mediation would essentially go back to square one and is a costly and ineffective approach. Breaking up the UGB into many spaces is not going to do what is needed. The LCDC and land use board of appeals (LUBA) have left it up to the city to move forward by accepting mediation while still respecting the law and the environment. We are hopeful a balanced resolution can be reached. Mr. Truman Stone asked if he was prepared to speak on the issues Mr. Smith brought up like the M4 land. Mr. Friedman said we agree there is a need for more industrial land, but believe all the goals need to be balanced. Both of those bodies suggest a conclusion that the UGB is weighted more heavily. We do agree Newberg needs more industrial land including larger lots.

Ms. Jane Greller testified I was hoping to hear the word compromise, which is encouraging to me, and that we are willing to at least consider mediation to try to figure this out. Whatever council decides, you should be confident this is going to be workable. I would encourage council to analyze whatever decision staff comes back with making certain it is a good strategy. Thank you for considering mediation.

Ms. Cathy Stuhr stated she is here as a planning commissioner. Last Wednesday the Newberg Graphic claimed the planning commission recommended breaking the UGB into smaller pieces. No one voted on anything for the UGB. They did not speak to any staff or planning commission members. To the paper, I say shame on you. I agree there are some substantial issues with the application but give us a chance to get it right. Not everyone is going to be happy in the process. I urge you to consider formal mediation. The economic success requires we have land for growth.

Mr. Lewis Schaad said I encourage you to work together through mediation.

Ms. Grace Schaad testified I am one of the objectors for the UGB and I am speaking as a private citizen and farmer. The compromise has been proposed previously with representatives of council and objectors. I am encouraged that perhaps this time there is compromise. I support a compromise through mediation.

Mr. Brian Doyle said one attractive place about Oregon is urban planning, so I have great respect for the land use this state has set up. I would urge the city to respect LUBA and LCDC decisions and they deserve your attention. I urge you to go forward.

Mayor Andrews closed the public testimony.

Staff recommends tabling Resolution No. 2014-3129.

MOTION: McKinney/Howard table Resolution No. 2014-3129 table pending the results of the preliminary mediation assessment. Motion carried (6 Yes/0 No/1 Absent [Corey]).

MOTION: Rierson/Woodruff directing staff to begin the mediation assessment process. Motion carried (6 Yes/0 No/1 Absent [Corey]).

2. Consider a motion adopting **Resolution No. 2014-3130** authorizing the city manager pro tem to execute an intergovernmental agreement with the city of Salem for the treatment and disposal of wastewater treatment sludge.

Mr. Jay Harris, interim public works director, presented the staff report (see official meeting packet for full report).

MOTION: Howard/Rierson adopting **Resolution No. 2014-3130** authorizing the city manager pro tem to execute an intergovernmental agreement with the city of Salem for the treatment and disposal of wastewater treatment sludge. Motion carried (6 Yes/0 No/1 Absent [Corey]).

XI. COUNCIL BUSINESS

Councilor Howard reported he wanted to remind everyone during the month of May there is a walk or bike challenge and you can track your commute on the city website.

XII. EXECUTIVE SESSION

1. Executive Session pursuant to ORS 192.660(2)(a) relating to employment of a public officer, employee, staff member or individual agent – City Manager Recruitment.

This session was held during work session.

MOTION: McKinney/Rierson to offer an employment contract to the top city manager candidate. Motion carried (6 Yes/0 No/1 Absent [Corey]).

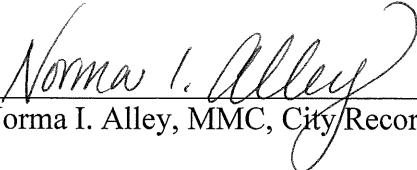
2. Executive Session pursuant to ORS 192.660(2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. – Villa Road Sidewalk

Mayor Andrews called the executive session to order at 10:05PM. Executive session was held with all councilors, except Councilor Corey, the mayor, city manager, city attorney, and city recorder present; no action was taken and no decisions were made. Mayor Andrews closed the executive session and opened the public meeting at 10:30PM.

XII. ADJOURNMENT

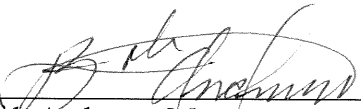
Meeting adjourned at 10:30 PM.

ADOPTED by the Newberg City Council this 7th day of July, 2014.



Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 10th day of July, 2014.



Bob Andrews, Mayor