

NEWBERG CITY COUNCIL MINUTES
APRIL 6, 2015, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

A work session was held at 6:00 p.m. preceding the meeting. Present were Mayor Bob Andrews, Councilors Tony Rourke, Stephen McKinney, Mike Corey, Scott Essin, and Denise Bacon. Councilor Lesley Woodruff was excused. Also present were City Manager Jacque Betz, City Recorder Sue Ryan, City Attorney Truman Stone, Finance Director Matt Zook, and Public Works Director Jay Harris.

CA Stone suggested an edit to the minutes that would be adopted under the Consent Calendar during the business session. On page 4, the last sentence of the third paragraph was changed to “the funds could be spend on other tourism promotion or facilities at the City’s discretion.”

CM Betz, FD Zook, PWD Harris and Katie Schwab, of Wedbush Securities gave the staff presentation on debt refinancing. Ms. Schwab discussed the municipal bond market, bond process, and City’s debt that was eligible for refinancing. PWD Harris explained the debt projects and amounts that were still owed on each project. If these were refinanced, the City would save money on interest, pay off the debt faster, and allow them to bring on new debt when needed in the future.

Ms. Schwab discussed the security for the existing debt and sources of repayment. This was a full faith and credit refunding and those proceeds would go to the City. There was an opportunity to shorten the maturity and she explained how much would be saved through the refunding process. The total amount of debt was 11.6 million dollars and refinancing would consolidate the six loans to one loan. If the City refinanced it would be a savings of around \$850,000 over the next 11 years to 2026.

There was discussion regarding when the debts would be paid off if they did not refinance, the amount in reserve funds, the analysis of paying off the debts early without refinancing, the effect of the refinancing on the Public Works funds, upcoming review by the Citizens Rate Review Committee, using the savings for other capital improvement projects, and philosophy of staff to be fiscally responsible. CM Betz said unless Council disagreed, staff planned to do the internal work needed to start the process and it would come back to Council on May 4.

COUNCIL BUSINESS: Councilor Essin said the function of what he believed to be a state-run halfway house in Newberg was to integrate people who had been in prison into society. He was concerned about the facility’s oversight, safeguards of that facility and safety for both police officers and the community. Councilor Bacon did not think there were that many incidents to warrant changing anything at this time. City Attorney Truman Stone discussed the programs of the halfway house and people it served. He gave an update on the concerns regarding Chehalem Youth and Family Services. Mayor Andrews suggested Councilor Essin work with the City Manager and discuss it with the Police Chief to get a better understanding of the jurisdictional issues.

EXECUTIVE SESSION: Executive session pursuant to ORS 192.660 (2) (i) Performance Evaluations of Public Officers and Employees. The Council entered Executive Session at 7:00 p.m. The Council re-entered open session at 7:35 p.m.

CALL MEETING TO ORDER

The Mayor called the meeting to order at 7:35 p.m.

ROLL CALL

Members Present:	Mayor Bob Andrews Scott Essin Denise Bacon	Mike Corey Stephen McKinney	Tony Rourke Lesley Woodruff
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Staff Present:	Jacque Betz, City Manager Sue Ryan, City Recorder Jay Harris, Public Works Director Steve Olson, Associate Planner	Truman Stone, City Attorney Matt Zook, Finance Director Doug Rux, Community Development Director Mary Newell, Support Services Manager
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PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was performed.

PRESENTATIONS: Mayor Andrews read the proclamation declaring April 12-18, 2015, as National Public Safety Telecommunicators Week and presented it to Support Services Manager Mary Newell.

CITY MANAGER'S REPORT: CM Betz said as a follow up to the last meeting regarding the Transient Lodging Tax and Chehalem Valley Chamber of Commerce, a meeting had been scheduled with the Chamber Director to discuss collaboration for the future use and allocation of the funds.

PUBLIC COMMENTS: Sally Dallas, Newberg resident, spoke about the Temporary and Portable Sign Code. She said recently the Code Enforcement Officer picked up all portable signs that were on the street after hours. There were currently no exceptions, yet she was in a difficult position that her sign had to be on the sidewalk or it was not visible and she had one of the only stores without street frontage. She would like there to be exceptions or variations to the Code language.

CONSENT CALENDAR:

MOTION: Bacon/Woodruff moved to accept the Consent Calendar, including the March 16, 2015, meeting minutes as amended. Motion carried (7 Yes/ 0 No).

NEW BUSINESS: Audit Report and Financial Statements for June 30, 2014: Brad Bingenheimer of Boldt, Carlisle and Smith, LLC, spoke about the auditor's report. This was an unmodified report, which meant the financial statements presented fairly in all respects. He discussed the City's assets and liabilities, and stated there was a slight increase from last year. Regarding the General Fund, the City was right in line with the budget projections and revenues and expenditures were within budget.

Mr. Bingenheimer said here were a few funds that were overspent by a small amount and were not in any major funds of the City. There were no other findings of non-compliance. He discussed the significant deficiencies in internal controls. With the change in City personnel, some expertise and institutional knowledge was lost in putting together financial statements and the auditors ended up preparing the financial statements. There was also difficulty getting a handle on court fines received. The City was in compliance with federal financial assistance program requirements.

Councilor McKinney asked for clarification on non-compliance for court fees. Mr. Bingenheimer said it was about segregation of duties as currently one person was in charge of the collection and recording of the court fines. Typically one person should not be responsible for an entire process. It was a matter of allocating resources to fix it.

MOTION: Bacon/McKinney moved to accept the annual auditor's report and financial statements for the fiscal year that ended June 30, 2014. Motion carried (7 Yes/ 0 No).

Resolution 2015-3179: PWD Harris said this resolution was a culmination of a year's work to purchase this property. The property for purchase was 3.9 acres on 3rd Street and the City would sell 3.3 acres on Wynooski Road. Acquisition of the property on 3rd Street would allow the City to plan a much better maintenance facility for the City. He noted typos in the resolution. If approved, a supplemental budget request would be brought back to Council.

MOTION: Rourke/Corey moved to adopt Resolution No. 2015-3179 authorizing the City to purchase property located at 520 West 3rd Street from the current owner Glacier Northwest; sell property at 2716 Wynooski Road to Glacier Northwest and authorizing the city manager to sign documents to complete the purchase and sale. Motion carried (7 Yes/ 0 No).

PUBLIC HEARING: Ordinance 2015-2780: Mayor Andrews opened the hearing at 8:00 p.m. He asked if there were any abstentions, bias, ex-parte contacts, conflicts of interest, or objections to jurisdiction. There were none. CR Ryan distributed late written testimony to the Council.

MOTION: Councilor Essin moved to accept the late written testimony. Motion died for lack of a second.

Staff Report: AP Olson said this was a public hearing on Medical Marijuana Dispensary Development Code amendments. The Planning Commission passed a resolution recommending the Council amend the Development Code to add Medical Marijuana Dispensaries as a type of commercial retail sales use, which would be allowed in the C2 and C3 zones. It would establish a 1,000 foot buffer around schools and parks and dispensary operating hours would be limited to 9 a.m. to 8 p.m. The State legislature was still developing guidelines for recreational marijuana and Council would address Recreational Marijuana Dispensaries at a later time. He gave a background on medical marijuana regulations and temporary moratorium that ended May 1. He then discussed what other cities had done regarding these dispensaries and the public comments that had been received. He explained how the use was similar to a pharmacy. The proposal established a buffer around schools and parks, but not around daycare facilities. A way to decrease crime was to not allow them to be open late at night.

AP Olson explained the distance measurement was from the property line of the park or school to the closest point of the premises of a dispensary. The word premises meant the dispensary building. He showed a map with the buffers around the schools and parks and areas where dispensaries could be located. There was still a significant portion of commercial area to place dispensaries. The Code amendment added two definitions, one for Medical Marijuana Dispensary and one for Career School. It also amended the Zoning Use Table to add Medical Marijuana Dispensary as a permitted use within the C2 and C3 zones and a footnote clarifying it was permitted, but would not be located at the same address as a State registered grow site or within 1,000 feet of a park or school. The footnote also included the regulations under State law and limited operating hours. The findings showed that the public noticing and hearing process had been done as required and that this would provide opportunity for new types of business as this use was legal under State law. Staff recommendation was to adopt the ordinance. It included an emergency clause because the moratorium ended May 1. The title for Ordinance 2015-2780 should be amended to add “and declaring an emergency.”

City Attorney Stone said the Federal government pre-empted State government and marijuana currently was illegal under Federal law. This ordinance would not change that, but would allow siting under the City’s zoning code in certain areas. Staff thought the 1,000 foot buffer around parks was consistent with the State approach of focusing on areas where minor children might be unsupervised. The buffer around schools and parks also showed up in Federal law, which created a safe harbor for children and would be consistent with how State and Federal law viewed these locations.

Councilor Bacon had an issue with the dance academy being labeled as a Career School. She did not think their main purpose was to draw people into a dance career. CA Stone thought it fit with the definition that came from the State statute. There was discussion regarding how the Federal law worked and excluding the C3 downtown zone.

Public Testimony:

Douglas Heuer, Newberg resident, was an advocate for Ordinance 2015-2780. There had been many studies done on cannabis and every government agency that conducted studies concluded its relative safety. He thought marijuana was the most useful plant there was and putting restrictions on it was counter-productive to the economy. However, it was still a felony for a doctor to prescribe marijuana. The classification of a medical marijuana facility dispensing a prescribed drug was a faulty one and he thought it violated federal law.

Mayor Andrews closed the public testimony at 8:28 p.m.

Staff recommendation:

AP Olson said the recommendation from the Planning Commission and staff was to adopt the ordinance as amended by staff to change the distance measurement to match the State measurement and amending the ordinance title to include “and declaring an emergency.”

Mayor Andrews closed the hearing at 8:31 p.m.

Action by the City Council:

MOTION: Bacon/Corey moved to waive the second reading of the ordinance. Motion passed 6 Yes/ 1 No [McKinney].

Councilor Essin asked about the City's culpability by passing the ordinance. CA Stone did not think there was any exposure to the City by adopting this ordinance. Councilor McKinney said the Chief of Police and District Attorney advised the Council not to support these types of ordinances. It was violating their oath to the Constitution. He would oppose the ordinance. Councilor Rourke asked what would happen if they did not adopt the ordinance. CA Stone said it would be an allowed use in the commercial zones and only the State restrictions would apply.

Mayor Andrews supported the ordinance as it was in the City's best interest to have some regulation on how and where the dispensaries were sited.

MOTION: Corey/Woodruff moved to adopt Ordinance 2015-2780, amending the Newberg Development Code to add Medical Marijuana Dispensaries (MMD) and as allowed uses in some Commercial zoning districts, not allow them in other zoning districts, establish buffers around schools and parks where dispensaries would not be allowed, and establish operating hours with the changes proposed by staff.

Deliberation of Council:

There was discussion regarding the State regulations that would be in place if the Council did not pass the ordinance. Councilor Woodruff said this was new to everyone in government and they had to start somewhere and see what happened. Councilor Corey said it was going to happen anyway and these were more restrictions than the State had. Councilor McKinney said it only happened if people acquiesced to a process that asked them to violate their oaths to the Constitution. Mayor Andrews said this was not a matter of permitting medical marijuana in Newberg as that had already been decided, but was how best the City could manage the situation as it was put before them. He did not think it was a violation of the oath, but was a zoning regulation on how best to administer it in this community. Councilor Essin said this was regulating more than the State, and he thought eventually there would be consequences with the Federal government. He thought they should go with the State rules. Councilor Bacon also wanted to stay with the rules of the State only.

Motion passed 4 Yes/3 No [Bacon, Essin, McKinney].

PUBLIC HEARING: Resolution 2015-3184: Mayor Andrews opened the hearing at 8:55 p.m. He asked if there were any abstentions, bias, ex-parte contacts, conflicts of interest, or objections to jurisdiction. There were none.

Staff Report: AP Olson said a similar action came before the City on Springbrook Road, and the requirement was to treat this as a legislative hearing and pass a recommendation by resolution. This was a recommendation to Yamhill County for Hazelfern Cellars, which would be outside the City limits and Urban Growth Boundary but in the Urban Reserve Area. The request was for a Conditional Use Permit for the winery. It would convert an equestrian facility to a winery and vineyard. He discussed the future property layout. The City would like the County to only approve development in the Urban Reserve Area that was limited in scope and was consistent with future urban development. The finding staff made was they were not proposing any new buildings, but converting an existing barn to a winery, and was limited in scope. Most of the site was being planted as a vineyard, which kept the land intact and not divided. This would allow for future urban development. Staff recommended adoption of the resolution, recommending that Yamhill County approve the Conditional Use Permit. The urban reserve areas were planned to be developed in 20-40 years, and there were utility service limitations for that area. He said how quickly it would be developed depended on development extending services to the edge. Also all annexations were voluntary.

Public Testimony: None.

Mayor Andrews closed the public testimony at 9:02 p.m.

Staff recommendation:

AP Olson said staff recommended adoption of the resolution.

Mayor Andrews closed the hearing at 9:03 p.m.

Action by the City Council:

MOTION: Rourke/Woodruff moved to adopt Resolution 2015-3184, recommending that Yamhill County approve the proposed winery Conditional Use Permit at 4008 NE Zimri Drive. Motion carried (7 Yes/0 No).

COUNCIL BUSINESS: None.

ADJOURNMENT: The meeting was adjourned at 9:35 p.m.

ADOPTED by the Newberg City Council this 20th day of April, 2015.



Sue Ryan, City Recorder

ATTESTED by the Mayor this 24th day of April, 2015.



Bob Andrews, Mayor