

**NEWBERG CITY COUNCIL MINUTES  
REGULAR SESSION  
DECEMBER 7th, 2015, 7:00 PM  
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)**

The work session was held at 6:00 p.m. preceding the meeting. Present were Mayor Bob Andrews, Councilors Lesley Woodruff, Stephen McKinney, Scott Essin, Denise Bacon, Mike Corey and Tony Rourke. Also present were Acting City Manager Police Chief Brian Casey, City Attorney Truman Stone, City Recorder Sue Ryan, Finance Director Matt Zook, Community Development Director Doug Rux, Library Director Leah Griffith, Public Works Director Jay Harris, Information Technology Director Dave Brooks, Fire Chief Les Hallman and Human Resources Consultant Nancy McDonald.

**REVIEW OF COUNCIL AGENDA:** Mayor Andrews asked for a correction to the minutes of November 16 on Page 8. The motion made was to approve the consent calendar with two items removed, not just approval of the resolution. Councilor Rourke asked for a correction to the minutes of November 16 on Page 10. There was a motion to adopt the Library Strategic Plan but not the City classification and compensation plan update and the rest of the wording in the motion.

**COUNCIL ITEMS:** Councilors Woodruff, Corey, Rourke, and Essin had items to discuss under Council Business.

**DEPARTMENT HEAD PRESENTATIONS:**

FD Zook reported on the Finance Department. He said the audit was being wrapped up and financial statements were being prepared. An audit report and Supplemental Budget would be brought to the Council in January. The Citizens Rate Review Committee has been meeting. The committee will be recommending to the Council a stormwater rate with a 9% increase and were considering a wastewater rate increase of 5.95%.

LD Griffith reported on the Library. The Library Strategic Plan was being implemented. The department would like to add Wednesday evening and Saturday afternoon hours. The Library received a grant to digitize historic newspapers. The Summer Reading Program and Tree Lighting events had good participation. The Library had put together information on holiday lights showing where to find decorated homes. They were working on a Technology Plan and building a new service desk upstairs. They had received many grants this year.

HR Consultant McDonald explained all of the components of the Classification and Compensation Study.

IT Director Brooks reported on the Information Technology department. He gave statistics on use of the City's website and the Help Desk. A security audit was done over the summer and there were a number of items to work on. They were planning projects and working on next year's budget.

CDD Rux reported on the Community Development Department. The Building Department was cleaning up records. There were 25-30 inspections per day and they reduced permitting timelines for single family homes. The Historic Commission reviewed two historic applications. The guidelines and administrative rules for the Affordable Housing Commission had been revised and staff was looking into funding for the housing trust. The Chamber submitted the latest in the America's Best Communities competition. The Planning Department had been busy with annexation applications and the Newberg Dundee Bypass and Wilsonville Road issue. The Urban Growth Boundary and urban reserves documents had been withdrawn from the Oregon Department of Land Conservation and Development. He reported on many different applications CDD was working on.

FC Les Hallman reported on the Fire Department. He said the Fire Department had decorated the City for Christmas and were continuing the Toy and Joy program. From January 1 to December 1 there had been 4,798 calls for service, a 7% increase from last year. Most of the service calls were EMS related. They would bring the draft contract with Tualatin Valley Fire and Rescue back to Council in February.

PWSD Harris reported on the Public Works Department. He discussed the record rainfall that had been happening and the system failures that followed. The Cal Portland site had been cleaned up and Library roof replacement was scheduled in January, street sweeping. Other projects included many Engineering items including street design and master plan

updates. There was discussion regarding a pipe under a house near 5<sup>th</sup> and Blaine that was deteriorating and how the Blaine Street project would address the issue.

PC Casey reported on the Police Department, which would hold the annual Shop with a Cop program on Saturday. There was a car pursuit that day with a drunk driver and three police cars had been damaged in the process of stopping the driver. Officers were working on some child internet porn cases, there had been a lot of car theft due to the holiday season and schools had requested active shooter training.

CA Stone reported on the Legal Department. He had been working on condemnation action for the Villa sidewalk acquisition. He then discussed current litigation and improving the filing system.

### CALL MEETING TO ORDER

The Mayor called the meeting to order at 7:00 p.m.

### ROLL CALL

Members Present:	Mayor Bob Andrews	Scott Essin	Stephen McKinney
	Lesley Woodruff	Denise Bacon	Mike Corey
	Tony Rourke		

Staff Present:	Brian Casey, Police Chief, Acting City Manager	Sue Ryan, City Recorder
	Truman Stone, City Attorney	
	Doug Rux, Community Development Director	Jessica Pelz, Associate Planner
	Jay Harris, Public Works Director	

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was performed.

### CITY MANAGER PRO TEM'S REPORT:

PC Casey, Acting City Manager, stated that City Manager Pro Tem Rhodes wanted to report that he participated in a Chamber of Commerce Board meeting on December 1 and that he congratulated Library staff for a successful tree lighting program. CMPT Rhodes also attended a radio dispatch meeting.

**COUNCIL APPOINTMENTS:** Mayor Andrews asked for approval of appointments to several City committees.

**MOTION: Bacon/Rourke** moved to ratify the Mayor's appointments to City Committees: **Budget Committee:** Reappointment of Helen Brown and Beth Koschmann to the Budget Committee for three year terms from January 1, 2016 to December 31, 2018; to appoint Miles Baker as a new member to the Budget Committee for a three year term from January 1, 2016 to December 31, 2018; **Historic Preservation:** Reappointment of Ryan Howard and Geary Linhart to the Historic Preservation Commission for three year terms from January 1, 2016 to December 31, 2018; **Planning Commission:** To reappoint Gary Bliss and Jason Dale to the Planning Commission for three year terms; **Traffic Safety Commission:** To reappoint Ronald Johns and Chris Kelley to the Traffic Safety Commission for three year terms from January 1, 2016 to December 31, 2018, to appoint Daniel Emslie and Tanya Williams as new members to the Traffic Safety Commission for three year terms from January 1, 2016 to December 31, 2018, to appoint Zoe Jenkins to a vacant nonvoting Student Commissioner position for a term of January 1, 2016 to June 30, 2016. Motion carried (7 Yes/ 0 No).

### PUBLIC COMMENTS:

Damon Talbot, Newberg resident, addressed the need for social media in government and emergency management. He thought the City should look into adopting a social media plan and procedures for all departments. It was important to have consistent branding, messaging, and protocols. The City should also work with local partners in this effort and connect with existing social groups. He listed the topics that had been recently discussed on social media regarding Newberg. He thought many more topics could be addressed. He was willing to discuss this topic further with the City.

## **CONSENT CALENDAR:**

**MOTION: Rourke/Corey** moved to approve minutes from November 2 and 16 as amended, approved a Noise Variance request for ODOT for the OR 99W Bypass Project from December 7, 2015 to March 31, 2017 that would allow for nighttime work as needed during the hours of 7 p.m. and 7 a.m., and approved Resolution 2015-3243, A Resolution authorizing the City Manager Pro Tem to enter into a contract for professional services with Bob Murray & Associates for the provision of City Manager Recruitment Services. Motion carried (7 Yes/ 0 No).

## **PUBLIC HEARING – LEGISLATIVE:**

### **Ordinance 2015-2788, Comp Plan Population Projections:**

Mayor Andrews opened the public hearing and called for any abstentions, conflicts of interest, or objections to jurisdiction. There were none.

AP Pelz presented the staff report. Oregon Administrative Rules required counties to adopt and maintain a 20 year coordinated population forecast including all the cities within the County. In 2010, Newberg did not have a population forecast and coordinated with Portland State University for the work. It was adopted as Appendix D of the South Industrial Area Urban Growth Boundary report. When that report was repealed this year, the population forecast was repealed with it and there was not a mechanism to readopt it because of changes in State law. There were administrative rules allowing the City to rely on the 2012 acknowledged coordinated population forecast for future planning. The new population forecast would be completed in June 2017.

Councilor Woodruff asked about the terms acknowledged and adopted. AP Pelz replied adopted was at the local level, and acknowledged was at the State level.

There was no public testimony, oral or written. Staff recommended adoption of the ordinance. Mayor Andrews closed the public hearing.

**MOTION: Rourke/Bacon** moved to waive the second reading of the ordinance. Motion carried (7 Yes/ 0 No).

**MOTION: Rourke/Corey** moved to adopt Ordinance 2015-2788, An Ordinance updating the Historic Population and Population Projections Sections of the Comprehensive Plan. Motion carried (7 Yes/ 0 No).

## **CONTINUED BUSINESS:**

### **Resolution 2015-3206, Springs Divestiture:**

PWSD Harris gave the staff report. Council had directed staff to research possibilities including leasing the Springs property. Revisions to the resolution included: The City would retain ownership of the properties and lease them to the Chehalem Springs Water Association, Springs users would be responsible for 20% of the cost for the chlorine treatment project in 2008, The water rate increase scheduled for January 1, 2016, would be suspended until the outcome of the final negotiations and agreement for transfer of the system which would take about six months, and The system would remain static while the negotiations were going on. This meant the City would not do any capital projects, no new customers would be added, and no parts of the system would be removed. There were some estimated operations and maintenance costs included in the staff report.

### **Public Comments:**

Robert Soppe, Newberg resident, said he was undecided on this issue. He read his written testimony submitted earlier in the day. While he was a proponent of divestiture of the Springs system, the present resolution did not appear to be a reasonable method. Documentation was lacking or was inconsistent. An example was claimed of an analysis of the revenue of the Springs system that covered the operation and maintenance of the system since 2008. This was contrary to what had been released in the past and there was no documentation provided. The resolution claimed it met the intent of Resolution 2008-2776, which was incorrect. It only met some of the intent, but did not meet the intent for the full cost recovery of operation, maintenance, and capital costs from the Springs customers. Staff failed to follow the direction of the Council for the Springs customers to pay 50% of the chlorine treatment project in 2008. Staff had discussed 20% of the cost, which was something Council should decide. Mr. Harris clarified some of the issues regarding the treatment project and that the chlorine treatment project was oversized by a factor of 5 because the need to treat the water was in excess of the needs of the Springs users. He found it troubling that this was the first time such comments had been made

in the last seven years. The oversize claim contradicted the resolution, which stated the current system of 72 residential service connections was currently near the maximum without constructing storm reservoirs. The financial justification for the divestiture was questionable. The analysis claimed the Association could operate the system at 2015 rates and break even assuming they would be responsible for the same capital expenditures but would have the benefit of lower operational costs. It did not make sense that the City would incur financial losses even after raising rates significantly if the Association could break even with similar expenses other than a slight decrease in operating costs. The resolution discussed financial impact and potential future expenses that the City would avoid with divestiture, but it did not include the loss of \$460,000 of future cash flow.

Paul Jellymn was an owner of property in the City and also in the Springs district. He was in favor of the resolution because it was fair and right. He gave Mr. Guthrie the rest of his time in order to explain his position.

Donald Guthrie was a representative of the Springs District customers. He was in favor of the divestiture. He submitted a copy of a 1922 agreement between the City and the original land owners regarding the Springs District for the record. The land owners were forced by condemnation to turn over their water supply. It did not start in 2008. The Springs customers felt the 2008 resolution was unilaterally written over the top of a contractual agreement entered into in 1922 in perpetuity. In that agreement the City was to keep at all times at its own expense all of the Springs infrastructure operational. In 2008 the City made statements that they did not have the obligation to honor the agreement or manage the Springs. According to the City's consultant, two thirds of the pipe had never been replaced or dealt with. Many easements to get on the properties to manage the system had never been signed. The City was going on people's properties without the necessary signed easements to take care of pipes. Springs customers wanted to take over the system to have stability in water rates. Every extra dollar not needed for operations and maintenance would go into a reserve to take care of pipe replacement and the corrosion control system. They were not taking over a system in good repair or a reserve budget for pipe replacement. They could not drink the water currently as they were under another boil notice. He thought a lot could have been taken care of during the last 87 years. The Association had retained legal counsel to help draft the current agreement. He trusted the Council would honor the efforts and complete the negotiations for transfer of ownership.

Terry Guthrie asked Council to approve the resolution as it was written.

Stan Gaibler was a board member of the Chehalem Springs Water Association. He was in support of the resolution. Two years ago they had submitted a letter of intent to work towards divestiture of the Springs system. They had spent countless hours working through the process with City staff. He encouraged the Council to vote in favor of the resolution as it was written so they could take the system over.

Mike Roos was a Springs customer and board member of the Chehalem Springs Water Association. He hoped the resolution would be adopted that night. There was a misstatement of fact regarding the water rates for the Springs customers. The statement had been made that the rate increases agreed to in 2008 and signed off by the Finance Director were never put into effect. That was wrong as each increase was applied in the appropriate timeframe in which they were ordered. He had proof of the increases in the report of his water billings provided by the City water billing department. The CRC raised the rates in 2015 to \$7.73 per 100 cubic feet and the current City rate was about half of that. The inclusion of Atkinson Spring in the divestiture was not without reason. Even though there were only a few customers who could currently be serviced by this spring, they needed it as an emergency water source and potential source of water for adding new customers to the system.

Silas Olson, Newberg resident and consultant for the Chehalem Springs Water Association, stood by the statement he made previously about water production being ten times consumption. He supported the 80/20 cost sharing proposal. The reason why some would say it was efficient and some would say it was over-engineered was that there was a contact chamber that was engineered to handle peak times and there was always a steady supply of water. He thought the system should be engineered by a variable gallons per minute to meet the demand. He thought there was a legal obligation to provide water to this area. The only options available to the City were to operate and maintain it, be sued by the State if they did not run it anymore, or find someone to take it over. He suggested not getting caught up whether or not Chehalem Springs Water Association would save money or run it for more or less.

Allan Hopp owned property in the Springs District that was one of the original properties included in the 1922 agreement. He recommended the resolution be adopted as written. He addressed the letter written by Charlie Harris that implied the Association was doing something nefarious by forming a non-profit. There were multiple small water districts on the fringes of Newberg who were purchasing water from the City and nearly all of them were set up as non-profits. All of the proceeds would go back into maintaining rates and the system.

CA Stone said Joseph O'Halloran was an applicant with property in the Springs District who wanted to transfer their service from one parcel to another parcel that they owned. The Springs Association did not want any major changes made while going through the negotiations process. The applicants concern was that the resolution would bar the change from occurring in the future. CA Stone suggested a change to Paragraph 5 on Page 47 which would read, "To allow time to complete the conveyance of the system to the Association, the City shall temporarily suspend all modifications to the Springs system except with the consent of the Springs Association until the ownership transfer was completed or until June 30, 2016."

**MOTION: Rourke/Bacon** moved to adopt Resolution 2015-3206, A Resolution approving the lease of approximately 87.3 acres of City property, and the transfer of water rights, waterline and access easements, water treatment and delivery infrastructure, and authorizing the City Manager Pro Tem to negotiate and execute the necessary documents to complete the conveyance of the City Spring's water system to the Chehalem Spring's Water Association as amended.

Deliberations:

Mayor Andrews said he would vote in favor of the resolution.

Councilor McKinney asked about the table on Page 38, were all of those numbers correct? PWSD Harris said yes, they came directly from the resolutions.

Councilor Rourke supported the resolution because keeping the property changed the math. He explained it would take the City about 5 ½ years to have numbers balance at the 50/50 mark and it would be less than 2 ½ years at the 80/20 mark.

Motion carried (7 Yes/ 0 No).

There was a brief recess.

**NEW BUSINESS:**

**Resolution 2015-3244, Code amendment initiation:**

CDD Rux gave the staff report. He said this resolution would initiate the process for time, place, and manner regulations for medical marijuana growers and processors. The Council created a subcommittee on marijuana, which chose to address the medical marijuana components first due to a March 2016 deadline.

**MOTION: Rourke/Corey** moved to adopt Resolution 2015-3244, A Resolution initiating an amendment to the Newberg Municipal Code, Title 15 Development Code for Time, Place and Manner Regulations for Medical Marijuana Growers and Processors. Motion carried (7 Yes/0 No).

**COUNCIL BUSINESS:**

Councilor Woodruff asked about the use of social media and the City's plans for future communications. PC Casey discussed the effectiveness of social media in getting information out and the systems the City was currently using. He would relay the message to the emergency planning staff. Councilor Rourke thought it could go further than emergency planning and staff could develop a communications strategy. CA Stone said CMPT Rhodes developing a City-wide communications plan. He explained the challenges of social media and public records law and retention.

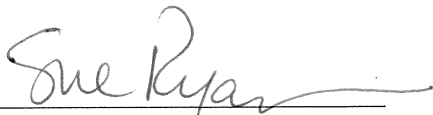
Councilor Essin discussed infrastructure plans for the City and how it could handle high water incidents. PWSD Harris said they were tracking down why sewer lines flooded and studies for Springbrook basin and Hess Creek improvements.

Councilor Corey discussed Chehalem Youth and Family Services (CYFS) and its issues effect on neighborhoods. He would like staff to look into closing these homes. Councilor McKinney suggested meeting with the CYFS Board. PC Casey explained some of the issues. which was not limited to neighborhoods. CA Stone discussed multiple meetings staff had with the Board. Mayor Andrews concurred with Councilor McKinney to give the Board one more chance to do what was necessary. He also wanted to see what came out of the DHS investigation first.

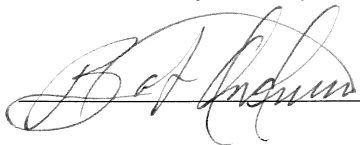
Councilor Rourke asked about the status of federal and state funding for the Newberg Dundee Bypass. Mayor Andrews discussed how the bypass was a high priority corridor that was nationally recognized and how that opened it up for more federal and grant funding. He explained the Yamhill County Parkway Committee's role and how they dealt with transportation issues including the bypass. The next phase of the bypass had been discussed, which was proposed to be from Highway 219 to the base of Rex Hill. He also discussed a possible road use fee rather than gas tax for building roads.

**ADJOURNMENT:** The meeting was adjourned at 9:20 p.m.

**ADOPTED** by the Newberg City Council this 4th day of January, 2016.

  
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Sue Ryan, City Recorder

**ATTESTED** by the Mayor this 7<sup>th</sup> day of January, 2016.

  
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Bob Andrews, Mayor