

NEWBERG CITY COUNCIL MINUTES
STUDY SESSION
March 27, 2017, 6:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)

A study session was held at 6:00 p.m. Present were Mayor Bob Andrews, Councilors Hayley Delle, Scott Essin, Patrick Johnson, Denise Bacon, and Stephen McKinney. Councilor Mike Corey was absent. Also present were City Manager Joe Hannan, City Attorney Truman Stone, City Recorder Sue Ryan, Finance Director Matt Zook, Human Resources Director Anna Lee, Information Technology Director Dave Brooks and Senior Accountant Daniel Keuler.

Also present were staff from Tualatin Valley Fire & Rescue including Division Chief Les Hallman, Public Information Officer Stefan Myers, and Division Chief Brian Sherrard.

Mayor Andrews called the meeting to order at 6:00 p.m.

PRESENTATION OF INFORMATION:

Division Chief Hallman presented how the City could proceed with annexing into the Tualatin Valley Fire and Rescue District for Fire and EMS services. Before contracting with TVF&R, the City had been facing limited staffing and a rising call volume that placed the City's fire and EMS services under a tremendous strain. The City had not been able to increase funding for such services since 2006, but there had been an increase in call volume of up to 40 percent. The delivery model included utilizing a combination of both career and volunteer firefighters, and it relied on volunteers to staff two fire engines overnight, which had become increasingly difficult to achieve. There was a nationwide shortage of volunteer firefighters and this led to them having a single engine with two firefighters on duty overnight, which was below the national industry standard for staffing a city of this size. The increasing call volume with limited staffing placed a serious strain on the career firefighters. Because of lack of funds, there did not appear to be any sign of relief. As the former Fire Chief for Newberg, his concerns increased about the safety of the community and firefighters. After contracting with TVF&R, the staffing and services were being provided at the proper level.

Division Chief Sherrard said the TVF&R and Newberg city contract began July 1, 2016. They had increased staffing to a three-person engine and truck company at two stations and two person medic units that responded out of each station. Starting in June 2017, the staffing would be four people on the engine and four people on the truck. There was a battalion chief that was on duty 24 hours a day, 7 days a week. Minimum staffing levels had been established for the water rescue team. Significant upgrades had been made at both stations on communications and infrastructure as well as adding two newer medic units to the system and a newer truck company. One of the biggest assets was TVF&R's depth of resources that were available. There were also more opportunities for training provided through TVF&R. They intended to continue the traditions of events and community-related services important to the City. The insurance service office (ISO) rating in the City was a 3, and an 8, 9, or 10 outside of the City. Should the annexation go through, Newberg would assume the ratings of TVF&R which was a 2 in the urban core and a 3 outside of the cities. The insurance companies that used ISO to set fire insurance rates could give a reduction in people's fire insurance premiums.

Division Chief Hallman said under the terms of the current contract that by July 1 a decision had to be made about moving forward with a permanent agreement. When the contract was originally set up, no in-depth study was done about how this would be achieved. It was thought that it would require a ballot measure and vote. Since that time, it was found out that they actually needed a decision by the Newberg City Council and not an election.

City Attorney Stone discussed a document he prepared about Frequently Asked Questions about the annexation of a City into a Special District (Exhibit A). He referred to ORS 198.866 and how it applied to this process. He said the City Council would approve a resolution, which would then go before the Fire District Board that would have the requirement to conduct an election unless there was an exemption. One exemption applicable to the City was if the population of the city was less than 20 percent of the population of the district. Newberg was at 5% of the district population and no election was required. This referred to the City annexing into the district but not the Newberg Rural Fire Protection District annexing in as they would be governed by a different statute.

Public Information Officer Myers said TVF&R was ready to do a public campaign to inform the Council's decision. This process would allow the community to have input about the level of service they preferred and the future of fire and EMS services in the community. Consultants from Campbell and Delong would be doing the work. Their objective was to

inform but not influence the decision through research. He shared his experience in community outreach to become acquainted with citizens and new programs the district had been offering to engage the community. He had worked with former volunteers and community groups to educate them about the district. The TVF&R campaign would include focus groups, a public attitude survey, direct mailings, and town halls.

John Campbell and Martha DeLong, Campbell DeLong Resources, introduced themselves. Mr. Campbell explained how they would provide research-based information for the district and City officials. Their experience included research and surveys in private and public sectors. They would meet with staff and learn about issues and dynamics to be informed about decisions, tradeoffs, and options. Step 1 would start with focus groups. He explained the technicalities of designing their survey instruments. Ms. DeLong said the focus groups would be comprised from a cross section of community members with two groups in different Newberg. She explained how the groups would work, and how they would document their responses so the City could review their experiences. There would also be a phone survey to represent low-income and Hispanic populations. She explained their sampling approach, criteria and questions. After data was collected, it would be processed by responses from different groups, such as age or gender, to see how they were similar and different. A complete report would be presented to Council.

There was discussion on where else the surveyors had worked, both sides of the issue and how long the focus groups would take. Chief Hallman said a lot of work needed to be done to meet the July 1 deadline of the contract. TVF&R was ready to do the research. They wanted feedback from the City for designing the survey instruments.

There was discussion that neither of the two Newberg fire stations would be closed, and the cost of service and rates. The TVF&R district has the same tax rate for all communities at \$2.08 going into the 2017-18 fiscal year. There was discussion about compression and how TVF&R worked with other entities on these issues. There was discussion on the timeline and why both the City and TVF&R were obligated to make a decision on moving toward annexation by July 1, 2017.

Councilor Essin was concerned the tax rate was higher than what citizens paid now. He wanted to ensure the same level of service. If the community did not want to annex, what would be the cost of the City running the fire service? Chief Hallman said the contract cost the City the same as before. TVF&R immediately increased staff and it would have taken the City 10 to 15 years to reach that level of service. In June, the staffing would increase again.

Finance Director Zook said staff analyzed the past two fiscal years. He referred to the taxable rate analysis in front of them (Exhibit B). In FY 15-16 the total net cost was \$1.81, an average cost of \$3.40 per average assessed value. He explained how those numbers were calculated. In FY 16-17 which showed the contract payment to TVF&R, the net cost was \$1.90 or \$3.97 of average assessed value. The permanent tax rate for Newberg was \$4.38 per 1,000 which levied \$7,435,000 in FY 15-16 and \$7,800,000 in FY 16-17. If the City was to reduce the tax rate for the cost of the fire rate, it would be \$4,300,000 or a tax rate of \$2.57 per 1,000. The TVF&R rate was \$2.10 for FY 15-16 and \$2.09 for FY 16-17. The combined rate was \$4.68. If they subtracted the Newberg permanent tax rate of \$4.38 from the TVF&R rate, the net difference would be 29 cents per thousand for FY 15-16 and for FY 16-17 it would be 19 cents per thousand.

City Manager Hannan said this explanation of providing fire service showed the actual cost in property taxes. The Council decided the tax annually. The City had partnered with the Newberg Rural Fire Protection District and the money they gave the City for service was given to TVF&R. If the Rural District chose to dissolve, the area would become part of TVF&R. If the Rural District chose to continue, they would have to look at other options to provide service. There was discussion on the cost for an average house being \$42 more per year to annex into the district.

Councilor McKinney said people wanted to know how much more the annexation would cost and what services they would receive for their money. The cost was \$42 more per household per year for TVF&R service but for the City to keep up the service, it would cost millions of dollars in personnel and equipment. The tax rate for TVF&R was made up of a permanent rate, like the City, and a bond rate. As the bonds went down, the price went down. The highest rate was \$2.10, and that was likely to go down as new assessed value came up. The \$42 was if the City reduced the rate from \$4.38 to \$2.48.

Chief Hallman explained typically the ownership of the fire station and assets would be assumed by TVF&R, but it would be negotiated after the annexation. CA Stone said the details would be worked out for the contract and the Council would have a role in deciding the negotiations.

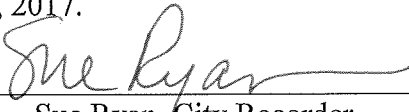
There was discussion on the city's property where the Fire Stations were located, and concerns about turning over the Fire Stations to the district. There was additional discussion on future negotiations. CA Stone explained the state mechanism and process for the City to annex into the TVF&R district. An election was not required and citizens could not force a vote. The City could do an advisory vote, however the cost would be around \$50,000. The Newberg Rural Fire District had their own choice to make about contracting with TVF&R.

Mayor Andrews asked how critical the deadline was to meet. Chief Hallman explained the deadline of July 1 was for the City to say yes or no that they wanted to have a permanent relationship with TVF&R. Mayor Andrews asked if there was any reason for them to not to proceed with canvassing the community. There were no objections from the Council.

There was discussion on the importance of knowing the impact of how much it would be now compared to how much in the future if the City annexed, the budgetary impact to the City of reducing the tax rate from \$2.10 to \$1.90, the process for changing the tax assessment or the rate and the process for raising the tax rate back up without a vote, and the timelines for getting an advisory vote onto the November 2017 election and the benefits of holding such a vote.


ADJOURNMENT: The meeting was adjourned at 8:00 p.m.

ADOPTED by the Newberg City Council this 17th day of April, 2017.



Sue Ryan, City Recorder

ATTESTED by the Mayor this ¹⁴7 day of April, 2017.



Bob Andrews, Mayor

Frequently Asked Legal Questions on TVF&R Annexation:

Q: What is the mechanism for a city to annex to a district?

A: Oregon Revised Statutes (state law) governs the process, specifically ORS 198.866. Under this statute, the governing body of a city may propose annexation to a district for the purpose of receiving service from the district. Once a city proposes annexation, most other decisions are left to the board of the district. This applies to all special districts, including fire districts.

Q: Is the procedure different for the Newberg Rural Fire Protection District to annex?

A: Yes, the statutes provide different procedures for a city to annex into a fire district, versus an existing fire district to come under the jurisdiction of a different fire district.

Q: Is this statute new?

A: The statute has been in place since 2003, but it is relatively rare for a city to annex into a special district. It is more common for a city to annex land being served by a special district.

Q: What decisions are made by the district board?

A: The district board will approve or disapprove the city's annexation proposal. If approved, the district board shall call an election in the district, unless an election is not required under specific exceptions.

Q: What are the exceptions to the election requirement?

A: There are two exceptions in the statute; one of the two applies to Newberg. If the population of the city is less than 20 percent of the population of the district, the district board is not required to call an election. Newberg's population (~ 24,000) is approximately five percent (~ 5.33%) of the TVF&R district population (~ 450,000).

Q: What happens if the district board does not call an election?

A: The district board will adopt an order or resolution approving the annexation and certify that to the city. No additional steps are required of the city council or district board, but there are approval steps at the county and state level to acknowledge the annexation.

Q: What happens if the district board calls for an election?

A: The district board will set an election date for voters in the district. The city is required to call an election in the city on the same date specified by the district board. This would be a special election. According to the Yamhill County Clerk's Office, a special election would cost approximately \$50,000.

Q: Can the electors of the city force a vote?

A: The statute provides that the electors of the district can request an election by petition, triggering both a vote in the district and a parallel vote in the city. There is no mechanism in the statute for the electors of the city to separately petition for a vote.

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Re: FAOS
Topic: NFRB Annexation

Q: Can the city hold an advisory vote within the city, without the vote in the district?

A: Yes, a non-binding, advisory vote could be held by the city without a vote in the district. Again, this would be a special election and the cost to hold such a vote would be approximately \$50,000.

Q: If the council adopts a resolution proposing annexation and no vote occurs, is there a way to legally challenge the resolution?

A: The adoption of a resolution, as an administrative action by the council, is generally not subject to review by the courts, except when such action is contrary to the law. This means that a court would only examine if the action was allowed or disallowed by law, not whether a decision was a good idea or not. That being said, the law in Oregon on review of governmental actions has been described by the Oregon Supreme Court as “unpredictable” and the Court noted that “the most intelligent lawyer rarely can advise the client with any measure of confidence” how to proceed.

Oregon Revised Statute -

198.866 Annexation of city to district; approval of annexation proposal; election.

- (1) The governing body of a city may adopt a resolution or motion to propose annexation to a district for the purpose of receiving service from the district. Upon adoption of an annexation proposal, the governing body of the city shall certify to the district board a copy of the proposal.
- (2) The district board shall approve or disapprove the city’s annexation proposal. If the district board approves the proposal, the district board shall adopt an order or resolution to call an election in the district unless otherwise provided in subsection (3) of this section.
- (3) The district board is not required to call an election if:
 - (a) The population of the city is less than 20 percent of the population of the district; or
 - (b) The entire boundary of the city is encompassed within the boundary of the district.
- (4) Notwithstanding subsection (3) of this section, if 10 percent of the electors or 100 electors of the district, whichever is less, sign and present to the county board a petition requesting an election, the board shall call an election in the district. The petition shall be in conformity, to the greatest extent practicable, with ORS 198.750, 198.760, 198.765 and 198.770.
- (5) The order or resolution of the district board shall include the applicable matters specified in ORS 198.745. In addition the order or resolution may contain a plan for zoning or subdistricting the district as enlarged by the annexation if the principal Act for the district provides for election or representation by zone or subdistrict.
- (6) The district board shall certify a copy of the resolution or order to the governing body of the city.
- (7) Upon receipt of the resolution or order of the district board, the governing body of the city shall call an election in the city on the date specified in the order or resolution of the district board.
- (8) An election under this section shall be held on a date specified in ORS 255.345 that is not sooner than the 90th day after the date of the district order or resolution calling the election. [1983 c.142 §2 (enacted in lieu of 198.865); 1993 c.417 §1; 2003 c.219 §1]

**City of Newberg
Property Tax Levy Analysis for Fire Operations**

	2015-16			2016-17		
	\$	Tax Rate	Cost on average AV	\$	Tax Rate	Cost on average AV
Expenditures	\$ 3,540,320	\$ 2.09	\$ 393	\$ 3,719,450	\$ 2.09	\$ 437
Revenue-(other than property tax)						
Newberg Rural Fire Contract	(330,204)	\$ (0.19)	\$ (36)	(340,102)	\$ (0.19)	\$ (40)
Conflagration reimbursement	(150,000)	\$ (0.09)	\$ (17)	-	\$ -	\$ -
Net Cost	<u>\$ 3,060,116</u>	<u>\$ 1.81</u>	<u>\$ 340</u>	<u>\$ 3,379,348</u>	<u>\$ 1.90</u>	<u>\$ 397</u>
Newberg Permanent Tax Rate	\$ 7,435,500	\$ 4.3827	\$ 824	\$ 7,803,903	\$ 4.3827	\$ 917
Less Reduction in Newberg Levy for Fire Cost	(3,060,116)	\$ (1.81)	\$ (340)	(3,379,348)	\$ (1.90)	\$ (398)
Net Levy	<u>\$ 4,375,384</u>	<u>\$ 2.5727</u>	<u>\$ 484</u>	<u>\$ 4,424,555</u>	<u>\$ 2.4827</u>	<u>\$ 519</u>
TVF&R Rate (Permanent, Local Option Levy, and General Obligation Bond rates combined)		\$ 2.1078	\$ 396		\$ 2.0978	\$ 439
Combined Tax Rates		\$ 4.6805	\$ 880		\$ 4.5805	\$ 959
Newberg Permanent Tax Rate		\$ (4.3827)	\$ (824)		\$ (4.3827)	\$ (917)
Difference		<u>\$ 0.2978</u>	<u>\$ 56</u>		<u>\$ 0.1978</u>	<u>\$ 42</u>
Assessed Value (AV)		\$ 1,696,556,941			\$ 1,780,615,477	
Real Market Value (RMV)		\$ 2,199,658,073			\$ 2,380,377,182	
Ratio of AV to RMV		77%			75%	
Avg Sales Price Newberg Dundee Urban (from Yamhill Co Assessor's Office)		\$ 244,058			\$ 279,039	
Ratio of AV to RMV		77%			75%	
Average Assessed Value (AV) for Newberg homes		\$ 187,925			\$ 209,279	

Note: Emergency Medical Services activity is not included in this analysis as that activity is covered by user fees.

City Council Meeting
 Date: 3/27/17
 Re: Property Tax Levy Analysis
 Topic: TVF&R Contract