

**ATTACHED IS AN UPDATED
AGENDA AND ADDITIONAL
INFORMATION FOR THE
July 20, 2009
CITY COUNCIL MEETING.**

**PLEASE INCLUDE THIS IN
YOUR PACKET:**

**Agenda
Replace**

**IX-2
Resolution No. 2009-2860
Additional Resolution**

Council accepts comments on agenda items during the meeting. Please fill out a form identifying the item(s) you wish to speak on prior to the meeting starting, if possible, or prior to the agenda item beginning and turn it into the City Recorder. (The exception is formal land use hearings, which requires a specific public hearing process.)

CITY OF NEWBERG
AMENDED CITY COUNCIL AGENDA
JULY 20, 2009
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM
401 EAST THIRD STREET

I. CALL MEETING TO ORDER*

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. CITY MANAGER'S REPORT

V. COUNCIL APPOINTMENT

Consider a motion [appointing Geoff Godfrey to the Library Board](#) for a term expiring on June 30, 2013.

VI. PUBLIC COMMENTS

(30 minutes maximum which may be extended at the Mayor's discretion; an opportunity to speak for no more than 5 minutes per speaker allowed)

VII. CONSENT CALENDAR

1. Consider a motion approving [Resolution No. 2009-2857](#) establishing the Affordable Housing Action Committee.
2. Consider a motion approving [City Council Minutes](#) for June 15, 2009.

VIII. PUBLIC HEARING

Consider a motion approving [Order No. 2009-0022](#) extending a non-conforming use on property located at 2004 East Mountainview Drive.
(Quasi-Judicial Hearing)

IX. NEW BUSINESS

Consider a motion approving [Resolution No. 2009-2859](#) settling the Verizon franchise fee audit for \$61,116.00.

Consider a motion approving [Resolution No. 2009-2860](#) authorizing the City Manager to enter into negotiations with GVS Contracting Inc. for a change order to the existing contract for the construction of the Columbia Drive LID project.

*The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

X. COUNCIL BUSINESS

XI. ADJOURNMENT

INDEX OF ORDERS, ORDINANCES AND RESOLUTIONS:

ORDERS:

Order No. 2009-0022 extending the deadline until July 1, 2010, to bring the property located at 2004 E. Mountainview Drive into compliance with the R-2 zone and remove the non-conforming use.

ORDINANCES:

None

RESOLUTIONS:

Resolution No. 2009-2857 establishing the Affordable Housing Action Committee.

Resolution No. 2009-2859 settling the franchise fee audit results with Verizon Northwest, Inc. in the amount of \$61,116.00 and delegating authority to the city manager to execute the Settlement Agreement.

Resolution No. 2009-2860 authorizing the City Manager to enter into negotiations with GVS Contracting Inc. for a change order to the existing contract for the construction of the Columbia Drive LID project.

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Manager's office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact Norma Alley, City Recorder, at (503) 537-1283.

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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 20, 2009

Order ___ Ordinance ___ Resolution XX Motion ___ Information ___
No. No. No. 2009-2860

SUBJECT: Authorize the City Manager to enter into negotiations with GVS Contracting, Inc. for a change order to the existing contract for the construction of the Columbia Drive Local Improvement District Project.

Contact Person (Preparer) for this
Resolution: **Howard Hamilton,**
Public Works Director

Dept.: Public Works Engineering

File No.:
(if applicable)

RECOMMENDATION:

Adopt **Resolution No. 2009-2860** authorizing the City Manager to enter into negotiations with GVS Contracting, Inc. for a change order to the existing contract for the construction of the Columbia Drive Local Improvement District Project.

EXECUTIVE SUMMARY:

The City of Newberg awarded a contract to GVS Contracting, Inc. to construct the Columbia Drive Local Improvement District (LID) Project for the original bid price of \$153,873.90. The engineer's estimate for this project was \$288,000 and the budgeted amount per account numbers 18-5150.702155 and 4-5150.717717 is \$280,000.

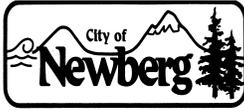
Due to unanticipated conflicts with existing utilities, the contractor will incur additional costs in time and materials to complete the job. Along Columbia Drive, conflicts with gas, fiber optic and water lines require adjustments of several catch basins and storm lines. Along College Street, a 10" cast iron waterline is in conflict with the placement of the curb and sidewalk. A new 10" ductile iron waterline will be placed 3' deeper to accommodate the new construction.

To complete this project a change order in an amount up to \$20,000.00 will be required. The new contract total with this change would be \$173,873.90 and represents an increase of 13.0% from the awarded contract. This total contract cost is still well under the engineer's estimate and the budgeted amount.

The contractor has pursued the work in a professional manner and even with the changes the contractor anticipates completing the job by August 14, 2009 as scheduled. There is planned work that the contractor will continue to pursue while this change order is approved and processed.

FISCAL IMPACT: This change order allows up to an additional \$20,000.00 to complete the project. This is an approved Capital Improvement Project in the 09/10 budget and is funded at \$280,000. This project is an LID Project and therefore costs will be borne by the property owners.

STRATEGIC ASSESSMENT: The property owners included in this district petitioned the City to consider an LID to improve their frontage. Columbia Drive is a minor collector street mostly unimproved along its frontage between College Street and Main Street.



RESOLUTION No. 2009-2860

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO NEGOTIATIONS WITH GVS CONTRACTING, INC. FOR A CHANGE ORDER TO THE EXISTING CONTRACT FOR THE CONSTRUCTION OF THE COLUMBIA DRIVE LOCAL IMPROVEMENT DISTRICT PROJECT

RECITALS:

1. The City of Newberg has awarded a contract to GVS Contracting, Inc. to construct the Columbia Drive Local Improvement District Project for the original bid price of \$153,873.90.
2. Completion of this project will require up to an additional \$20,000.00.
3. This project is part of the FY 2009/2010 Capital Projects budget under project numbers 18-5150.702155 and 4-5150.717717 with \$280,000 budgeted. The engineers estimate for this project was \$288,000.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

To authorize the City Manager to enter negotiations with GVS Contracting, Inc. for a contract change order up to an amount of \$20,000.00 to complete construction of the Columbia Drive Local Improvement Project.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 21, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon, this 20th day of July 2009.

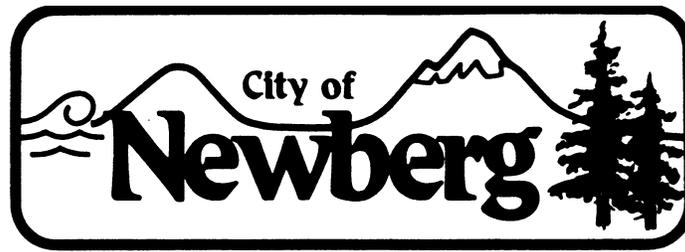
Norma I. Alley, City Recorder

ATTEST by the Mayor this 23rd day of July 2009.

Bob Andrews, Mayor

City Manager
(503) 537-1207

City Attorney
(503) 537-1206



414 East First St.
PO Box 970
Newberg, OR 97132

**CITY OF NEWBERG
CITY COUNCIL WORK SESSION
JULY 20, 2009
6:00 P.M.
NEWBERG PUBLIC SAFETY BUILDING
401 EAST THIRD STREET**

THE CITY COUNCIL OF THE CITY OF NEWBERG WILL HOLD A WORK SESSION TO REVIEW THE COUNCIL AGENDA ITEMS AND TO HEAR REPORTS FROM BOARDS, COMMISSIONS, AND COMMITTEES. NO ACTION WILL BE TAKEN ON THE AGENDA ITEMS.

PRESENTATION BY BUMPERFUEL ON ALTERNATE FUELING STATION OPTIONS.

DATED THIS 14TH DAY OF JULY, 2009.

DANIEL DANICIC
CITY MANAGER

ACCOMMODATION OF PHYSICAL IMPAIRMENTS:

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● CITY MANAGER'S OFFICE: e-mail: dan.danicic@ci.newberg.or.us Fax: 537-5013 ●
Building: 537-1240 ● Public Works: 537-1273 ● Finance: 538-9421 ● Fire: 537-1230
Library: 538-7323 ● Municipal Court: 537-1203 ● Police: 538-8321 ● Maintenance: 537-1234 ● Utilities: 537-1205
Municipal Court Fax: 538-5393 ● Public Works Fax: 537-1277 ● Library Fax: 538-9720

"Working Together For A Better Community-Serious About Service"

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**CITY OF NEWBERG
CITY COUNCIL AGENDA
JULY 20, 2009
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM
401 EAST THIRD STREET**

I. CALL MEETING TO ORDER*

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. CITY MANAGER’S REPORT

V. COUNCIL APPOINTMENT

Consider a motion [appointing Geoff Godfrey to the Library Board](#) for a term expiring on June 30, 2013. (Pgs. 5-6)

VI. PUBLIC COMMENTS

(30 minutes maximum which may be extended at the Mayor’s discretion; an opportunity to speak for no more than 5 minutes per speaker allowed)

VII. CONSENT CALENDAR

1. Consider a motion approving [Resolution No. 2009-2857](#) establishing the Affordable Housing Action Committee. (Pgs. 7-9)
2. Consider a motion approving [City Council Minutes](#) for June 15, 2009. (Pgs. 11-17)

VIII. PUBLIC HEARING

Consider a motion approving [Order No. 2009-0022](#) extending a non-conforming use on property located at 2004 East Mountainview Drive. (Pgs. 19-27)
(Quasi-Judicial Hearing)

IX. NEW BUSINESS

Consider a motion approving [Resolution No. 2009-2859](#) settling the Verizon franchise fee audit for \$61,116.00. (Pgs. 29-35)

X. COUNCIL BUSINESS

XI. ADJOURNMENT

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INDEX OF ORDERS, ORDINANCES AND RESOLUTIONS:

ORDERS:

Order No. 2009-0022 extending the deadline until July 1, 2010, to bring the property located at 2004 E. Mountainview Drive into compliance with the R-2 zone and remove the non-conforming use.

ORDINANCES:

None

RESOLUTIONS:

Resolution No. 2009-2857 establishing the Affordable Housing Action Committee.

Resolution No. 2009-2859 settling the franchise fee audit results with Verizon Northwest, Inc. in the amount of \$61,116.00 and delegating authority to the city manager to execute the Settlement Agreement.

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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 20, 2009

Order ___ Ordinance ___ Resolution ___ Motion XX Information ___
No. No. No.

SUBJECT: Appointment of Geoff Godfrey to the
Newberg Public Library Board

Contact Person (Preparer) for this
Motion: Leah M. Griffith

Dept.: Library

File No.:
(if applicable)

RECOMMENDATION:

The Library Board requests that Mayor Andrews appoint Geoff Godfrey to the Newberg Public Library Board for a term of 4 years, July, 2009-June 30, 2013.

EXECUTIVE SUMMARY:

The library advertised an opening on the library board during April and May with an article in The Newberg Graphic, postings at the library and city hall, announcements on the library and city's websites and in the library newsletter and one application was received by the deadline.

The Library Board met and interviewed Geoff Godfrey at its regular board meeting on June 18, 2009. Mr. Godfrey recently moved to Newberg, but has already become a regular library user. He was aware of a number of library programs and services. He is a retired 6th grade teacher and worked for many years in a bookstore. He is very enthusiastic about library services.

The Board determined that Mr. Godfrey, with his teaching and bookstore experience along with his enthusiasm for libraries, would benefit the board in its actions.

The Board voted to recommend to Mayor Andrews that he appoint Mr. Godfrey to the Newberg Public Library Board for the term, July, 2009 – June 30, 2013.

FISCAL IMPACT:

None

STRATEGIC ASSESSMENT:

It is vital for the Library to have a complete library board to advise on policies and issues.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 20, 2009

Order _____ Ordinance ___ Resolution XX Motion ___ Information ___
No. No. No. 2009-2857

Establishment of the Affordable Housing Action Committee

Contact Person (Preparer) for this Ordinance: David Beam, AICP
Economic Development Planner

Dept.: Planning and Building

File No.: Gen File 09-007
(if applicable)

RECOMMENDATION:

Adopt **Resolution No. 2009-2857**, establishing the Affordable Housing Action Committee.

EXECUTIVE SUMMARY:

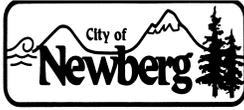
The City of Newberg has recognized that the community has an affordable housing issue. On May 8, 2008, the Newberg City Council passed Resolution No. 2008-2781, establishing the Housing for Working Families Ad Hoc Committee. The charge of the Committee was to "... identify and recommend tools appropriate for the Newberg community this are intended to encourage the development of housing for working families." On May 4, 2009, the Committee presented the *Newberg Affordable Housing Action Plan* to the City Council. At that meeting, City Council passed Resolution No. 2009-2843, stating their acceptance of the Plan.

As stipulated in Resolution No 2008-2781 that established the Ad Hoc Committee, the creation of the *Newberg Affordable Housing Action Plan* was Phase One of a longer process to help bring more affordable housing to Newberg. Phase Two of the City's comprehensive approach to this issue will include multiple efforts. In this phase, some of the actions outlined in the plan are ready to implement relatively quickly. Other affordable housing tools identified in the plan will require further development and refinement prior to their implementation.

To assist with the development and refinement of affordable housing tools, city staff recommends that the City Council form an Affordable Housing Action Committee by approving the attached Resolution No. 2009-2857.

FISCAL IMPACT: Staff time will need to be dedicated to support the work of the Committee.

STRATEGIC ASSESSMENT: The work by the Affordable Housing Action Committee will assist with the implementation of the *Newberg Affordable Housing Action Plan*.



RESOLUTION No. 2009-2857

A RESOLUTION ESTABLISHING THE AFFORDABLE HOUSING ACTION COMMITTEE

RECITALS:

1. The City of Newberg has recognized that the community has an affordable housing issue. On May 8, 2008, the Newberg City Council passed Resolution No. 2008-2781, establishing the Housing for Working Families Ad Hoc Committee. The charge of the Committee was to "... identify and recommend tools appropriate for the Newberg community this are intended to encourage the development of housing for working families." On May 4, 2009, the Committee presented the *Newberg Affordable Housing Action Plan* to the City Council. At that meeting, City Council passed Resolution No. 2009-2843, stating their acceptance of the Plan.
2. As stipulated in Resolution No 2008-2781 that established the Ad Hoc Committee, the creation of the *Newberg Affordable Housing Action Plan* was Phase One of a longer process to help bring more affordable housing to Newberg. Phase Two of the City's comprehensive approach to this issue will include multiple efforts. In this phase, some of the actions outlined in the plan are ready to implement relatively quickly. Other affordable housing tools identified in the plan will require further development and refinement prior to their implementation.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. Establishment and Role. There is hereby established an Affordable Housing Action Committee. This advisory committee of the Newberg City Council will recommend specific directions to help with the implementation of various actions identified in *Newberg Affordable Housing Action Plan*.
2. Committee Task. The Committee shall develop and refine various tools identified in the *Newberg Affordable Housing Action Plan* that will assist with the implementation of the Plan. Tools to be worked on that will encourage the development and retention of affordable housing include:
 - Reductions of development fees and property tax abatements
 - Expansion of existing city housing rehabilitation program
 - Creation of housing trust fund
 - Development of appropriate legislation
 - Development of housing education/outreach programs
 - Support for transitional and group housing

Subcommittees will be created from members of the full Committee as needed. Persons outside of the Committee and subcommittee memberships that are deemed to may be of assistance to their respective task may be invited to participate.

The subcommittee organized to address the issue of potential development fee reductions shall consist of two members from the full Committee and members of the City's Rate Review Committee.

3. Membership.
 - A. The Newberg Mayor will appoint members of the Committee, with the consent of the Newberg City Council.
 - B. The Committee will consist of no more than 10 members who are not officials or employees of the City of Newberg.
 - C. The City shall solicit membership applications through advertising in the *Graphic* and through other general community announcements.
 - D. A majority of members shall be residents of the City.
 - E. In appointing members, the Mayor shall strive to include representatives from the following groups:
 - i. A city councilor;
 - ii. A planning commissioner;
 - iii. Affordable housing advocates from the public and/or private sector;
 - iv. Developers
 - v. Financial institutions;
 - vi. Citizens at-large representing a full range of income levels.
4. Organization. The Mayor will appoint a chair and vice-chair from among the membership. The Mayor shall also appoint a chair for any subcommittees.
5. Duration. The Committee will serve until it completes its task. It is anticipated that this committee will serve up to two years.
6. Meetings. The Committee will establish a meeting schedule as needed to accomplish its task.
7. Staff Support. The City staff will provide a secretary to the Committee and its subcommittees as well as other staff and consultation services as may be appropriate. The secretary will keep a record of committee proceedings.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 21, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon, this 20th day of July, 2009.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 23rd day of July, 2009.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through _____ Committee at ____ / ____ /200x meeting. Or, X None.
(committee name) (date) (check if applicable)

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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 20, 2009

Order ___ Ordinance ___ Resolution ___ Motion XX Information ___
No. No. No.

SUBJECT: Approve the June 15, 2009, City Council Meeting minutes.

Contact Person (Preparer) for this Motion: Norma Alley, City Recorder

Dept.: Administration

File No.:
(if applicable)

RECOMMENDATION:

Approve the June 20, 2009, City Council minutes for preservation and permanent retention in the City's official records.

EXECUTIVE SUMMARY:

On June 15, 2009, the City of Newberg City Council held a public meeting. At that meeting, minutes were recorded in text.

FISCAL IMPACT: None.

STRATEGIC ASSESSMENT: None.

**CITY OF NEWBERG CITY COUNCIL MINUTES
JUNE 15, 2009
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM
401 EAST THIRD STREET**

Work Session was held prior to the meeting. An update from planning on the development fee waiver was given and a report was given by the Traffic Safety Commission concerning the golf cart ordinance. No decisions were made.

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:00 PM.

II. ROLL CALL

Members

Present: Mayor Bob Andrews Denise Bacon Bob Larson
 Stephen McKinney Bart Rierson Marc Shelton
 Wade Witherspoon

Staff

Present: Daniel Danicic, City Manager Terrence Mahr, City Attorney
 Barton Brierley, Planning and Building Director Norma Alley, City Recorder
 Howard Hamilton, Public Works Director Jennifer Nelson, Recording Secretary
 Janelle Nordyke, Interim Finance Director

Others

Present: Sharon Bjorn, Mike McCullough, Mart Storm, Mike Hanks, Robert Soppe

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. Daniel Danicic, City Manager, discussed revisions and updates to the City website and those planning to attend the City/County Dinner.

V. PUBLIC COMMENTS

None.

VI. CONSENT CALENDAR

1. Consider a motion approving **Resolution No. 2009-2850** authorizing the city manger to enter into a contract with GVS Contracting, Inc. for the construction of the Columbia Drive Local Improvement District Project in the amount of \$153,873.90.
2. Consider a motion approving **Resolution No. 2009-2854** amend the Collective Bargaining Agreement pertaining to compensation between the City and the Newberg-Dundee Public Safety Association.

3. Consider a motion approving **Resolution No. 2009-2855** approving the 2009 annual evaluation of the city manager.
4. Consider a motion approving **Resolution No. 2009-2856** authorizing the City to purchase property located at 1409 South Sandoz Road from Baker Rock Resources.

This item was removed from the Consent Calendar and placed under New Business.

5. Consider a motion approving a sound permit for the Chamber's summer concert series.

MOTION: Larson/Shelton to approve the Consent Calendar as amended including **Resolution No. 2009-2850, Resolution No. 2009-2854, Resolution No. 2009-2855**, and a motion approving a sound permit for the Chamber's summer concert series. (7 Yes/0 No) Motion carried.

VIII. NEW BUSINESS

1. Consider a motion approving **Resolution No. 2009-2852** approving adjusted garbage and recycling serve rates for the Newberg Garbage Services, Inc., effective July 1, 2009.

TIME – 7:10 PM

Mr. Mike McCullough, Newberg Garbage & Recycling Service Consultant, and Ms. Sharon Bjorn, Newberg Garbage & Recycling Service Controller, presented the staff report and rate increase justifications (see official meeting packet for full report).

Councilor Marc Shelton asked about the increases, the difference from the original quote, and if these increases would be expected again at the next bi-annual review.

Ms. Bjorn stated the increases were due to the price of the new co-mingled recycling program and general cost of business increases that total 18%; she noted corrections were made to the previous quote to reflect this. She did not believe these same increases would be needed in 2011 because they should not need to be purchasing more equipment; however, the increases are dependant on the market.

Mr. McCullough further explained the solid waste and recycle industry experienced the largest negative fluctuation in revenue and this is to cover the general cost of running the business with the new operating costs including the latest technology with the new recycle program.

Councilor Bart Rierson asked about glass recycling not currently being available curbside and how to recycle compact fluorescent light bulbs conveniently.

Ms. Bjorn explained that glass is currently not available because it contaminates the co-mingled recycling process.

Mr. McCullough mentioned a program at a college that is working on replacing their lighting and looking for what to do with the left over fluorescent bulbs. He is unaware of a successful large scale recycling program for fluorescent bulbs; they would need to research this and return with information.

Councilor Larson asked by the garbage rates in Newberg is so much higher than the other surrounding communities.

Ms. Bjorn explained that McMinnville does not have a yard and debris program, Bend does not have a recycling program, and although Dundee does they are also due to catch up their rates in a short period of time, which will be close to the same as Newberg.

Mayor Andrews asked about some discrepancies with the general increase being 4.23% in one area and 3.5% in another. Staff noted the corrections would reflect a 4.23% increase.

MOTION: Rierson/Shelton to approve **Resolution No. 2009-2852** approving adjusted garbage and recycling serve rates for the Newberg Garbage Services, Inc., effective July 1, 2009. (7 Yes/0 No) Motion carried.

2. Consider a motion approving **Resolution No. 2009-2853** providing for a reduction of fees for certain qualifying affordable housing homes during the current recession.

TIME – 7:45 PM

Mr. Barton Brierley, Planning and Building Director, presented the staff report (see official meeting packet for full report).

Mayor Andrews opened the floor to public testimony.

Mr. Mart Storm thanked the Council for considering the proposal for thanked staff for putting it together. He was concerned with how a property would be established as low income vs. moderate income and if it would be based on the price or the income of the purchaser. He was also concerned about implementation of this program and whether they have to wait until occupancy or be required to have a permit before selling. He also wondered if calculations would be based on the federal housing program, which offers subsidized loans up to \$249K, or on the \$229K average set by the Coyote Homes proposal. He felt the same break given to Coyote Homes should also be offered to others because limiting others to only 10 houses when Coyote was allowed to build on 75 homes was not being equitable to all.

Mr. Mike Hanks stated he was partners with Mr. Storm and he agreed with his concerns.

Mr. Robert Soppe stated he was not opposed to the concept, but how it was proposed. He supports affordable housing but did not feel it should be considered revenue neutral and wondered how delaying the collection of funds for the City was justified. He felt System Development Charges (SDCs) create a fair system where growth pays for the cost of growth and by reducing or delaying the funds received for this purpose the City still has to identify a funding source that will replace the fees lost, since the costs for providing water, sewer, and public safety will not go away.

Mr. Brierley was given time to answer some of the questions posed by the public testimony. He stated the burden is placed on the developer to demonstrate the house is affordable, either by the selling price or by the income of the purchasers qualifying below the HUD guidelines for moderate or low income. The builder would need to convince him that it is an affordable project to qualify for this program. He emphasized the Coyote Homes deal was based on special circumstances that are not generally applicable to all development as they submitted all their permit applications in 2007; he did not feel it would be wise to enact the same fee reductions for any other projects. He noted the unit total of fee reductions for low income homes in Orchard Lair is \$3,700 vs. \$2,800 for this program, which is not that far off. He

also addressed the concerns for reducing or delaying funds from SDCs which is why they placed a cap at 10 units, to limit the City's exposure.

Councilor Rierson felt that based on the benefits to the City and community the Coyote Homes agreement cannot be compared to every other application and the same discount cannot be expected; however, this proposal is a good way to help fund other affordable housing projects.

Councilor Larson asked staff how they would monitor the requirement to have 75% of the labor and material coming from Newberg business sources. Staff replied when they had to demonstrate the project qualifies as affordable they would also need to show where they are intending to get the products and labor from; the numbers would have to reflect how much is intended to be spent locally. Tracking would occur through permits issued.

Councilor Shelton spoke of treating businesses with equity by giving them the same information and being transparent. He spoke of this being a way to stimulate the local economy just as the federal stimulus program is doing; money will be lost in order to provide affordable homes and keep people working. He did not feel the same offer to Coyote Homes can be offered to all but it is important to provide affordable housing and help builders to do that in this market.

MOTION: McKinney/Larson to approve **Resolution No. 2009-2853** providing for a reduction of fees for certain qualifying affordable housing homes during the current recession.

MOTION: Andrews/Rierson to amend **Resolution No. 2009-2853** by adding to the resolves to report semi-annually to Council about the progress of the program. (7 Yes/0 No) Motion carried.

Councilor Rierson supported this as a way to help provide affordable housing and offer more benefits to the community.

Councilor Denise Bacon said asking a builder to build affordably is like asking them to take a big pay cut; this is a way for the City to offer to share those costs to provide homes for everyone.

Councilor Wade Witherspoon felt there is an ethical obligation to those who were pulling permits in 2007. He wished to make sure that any builders with similar criteria as Coyote Homes are given the same opportunity to find a creative way of financing and receive the same special deal they were given.

MOTION: Shelton/Rierson to amend **Resolution No. 2009-2853** authorizing the Director to grant a reduction, equivalent to that approved under Resolution No. 2009-2839 for single-family dwelling permits submitted in 2007, providing similar or equivalent affordable housing for low or moderate income families.

Mr. Storm made arguments that other builders, including himself, would not have pulled more permits than they could afford to build and sell in that year especially when they did not know there would have been a possibility of reducing those fees. If they had known, they may have made the decision to pull more since they could have afforded it at the reduced cost.

Mr. Hanks added they are sensitive to this because their development is right next to the Orchard Lair development and they feel they can also provide houses affordably. They would like the same opportunity to construct as many as they can at the same SDC rate to compete with their product.

Mayor Andrews asked if they would be seeking mitigation from CPRD and the school district as well.

Mr. Storm replied they would only if they had enough units that met these criteria for fee reduction, then they would ask the school district to give the same and was unaware of how CPRD would address the Orchard Lair project.

Mayor Andrews recessed at 8:54 PM and reconvened at 9:07 PM.

Councilor Stephen McKinney said he was reluctant to support the amendment because he felt it was too broad and would like to wait for the builders to bring forth each proposal.

VOTE: To amend **Resolution No. 2009-2853** authorizing the Director to grant similar reductions to others providing equivalent affordable housing with permits submitted in 2007. (6 Yes/0 No/1 Abstain [McKinney]) Motion carried.

VOTE: To approve **Resolution No. 2009-2853** as amended. (7 Yes/0 No) Motion carried.

VII. PUBLIC HEARING

1. Consider a motion approving **Resolution No. 2009-2851** approving a hardship water connection at 832 South Springbrook Road.

TIME – 9:17 PM

Mayor Andrews called for any conflicts of interest or abstentions. None were stated.

Mr. Howard Hamilton, Public Works Director, presented the staff report (see official meeting packet for full report).

Councilor Rierson was concerned for the owners being responsible for paying the 150% rate for being outside of the City rather than 100%, since it is not their fault they were forced into paying for City water.

Mayor Andrews felt the consistency with the outside of City rate should be incorporated in the recitals. Staff referred to page 48 conditions of hardship agreeing to full cost of extending and meeting all standards and including all development charges, but with no specification to the 1.5 rate.

The public testimony was opened and closed. Staff recommended approval. The hearing was closed.

MOTION: **Shelton/Larson** to approve **Resolution No. 2009-2851** approving a hardship water connection at 832 South Springbrook Road including an amendment to the resolves that the rate shall be the same as out of city services rate, which is presently 1.5 times the in-city rate. (7 Yes/0 No) Motion carried.

2. Consider a motion approving **Ordinance No. 2009-2717** creating an Old Fashioned Festival Zone and allowing only merchants and vendors associated with the festival within the zone.

TIME – 9:40 PM

Mayor Andrews called for any conflicts of interest or abstentions. None were stated.

Mr. Brierley presented the staff report (see official meeting packet for full report).

Discussions followed as to the definition of a temporary merchant or street vendor and what other possible situations, such as kids selling lemonade or homeowners having a yard sale, would not fall under this definition.

Mayor Andrews opened and closed public testimony. Staff recommended approval. The public hearing was closed.

MOTION: Larson/Andrews to approve **Ordinance No. 2009-2717** creating an Old Fashioned Festival Zone and allowing only merchants and vendors associated with the festival within the zone, read by title only. (7 Yes/0 No) Motion carried.

VIII. NEW BUSINESS

3. Consider a motion approving **Resolution No. 2009-2856** authorizing the City to purchase property located at 1409 South Sandoz Road from Baker Rock Resources.

TIME – 9:55 PM

Mr. Mahr presented the staff report (see official meeting packet for full report).

MOTION: Larson/Shelton to approve **Resolution No. 2009-2856** authorizing the City to purchase property located at 1409 South Sandoz Road from Baker Rock Resources. (7 Yes/0 No) Motion carried.

IX. COUNCIL BUSINESS

TIME – 10:12 PM

Mayor Andrews mentioned the League of Oregon Cities (LOC) conference in October and polled the Council for those planning to attend.

X. ADJOURNMENT

The meeting adjourned at 10:26 PM.

ADOPTED by the Newberg City Council this ____ day of July, 2009.

Norma I. Alley, City Recorder

ATTEST by the Mayor this ____ day of July, 2009.

Bob Andrews, Mayor

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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 20, 2009

Order XX Ordinance Resolution Motion Information
 No. 2009-0022 No. No.

SUBJECT: Request for extension of deadline to remove non-conforming use from residential area. Property at 2004 E. Mountainview Drive was annexed in June, 2008 and has a July 1, 2009 deadline to remove commercial contractor use from site.

Contact Person (Preparer) for this Order: **Steve Olson, AICP**

Dept.: **Planning & Building**

File No.: ANX-07-005
(if applicable)

RECOMMENDATION:

Adopt **Order No. 2009-0022**, which extends the deadline to remove the non-conforming use from the site at 2004 E. Mountainview Drive until July 1, 2010.

EXECUTIVE SUMMARY:

The property at 2004 E. Mountainview Drive was annexed into the city in June, 2008 as part of the Alice Way annexation. Prior to the annexation the property had Yamhill County VLDR-1 zoning (Very Low Density Residential) and an IND (Industrial) comprehensive plan designation. The site did not have industrial zoning. Upon annexation the zoning changed to City R-2 (Medium Density Residential), and the comprehensive plan designation changed to MDR (Medium Density Residential). At the time of the annexation the site appeared to be primarily a residential use which had some construction materials on the site; it did not appear to be a non-conforming use. At some point the property owner began using the site more heavily for storage of construction material and equipment, and the City received a code enforcement complaint. Upon investigation, it was determined that the construction material and equipment storage use would be allowed in an industrial zone but not in a residential zone. The Newberg Development Code has a provision that addresses the annexation of non-conforming uses and allows a reasonable time period for the removal of the use. This time period ranges from one to ten years, at the discretion of the Council (below).

151.269 ANNEXATION OF NON-CONFORMING USES.

*When a non-conforming use, as described in §§ 151.140 through 151.149 is annexed into the city, the applicant shall provide a schedule for the removal of the non-conforming use for the Planning Commission and City Council. At time of approval of the annexation, the City Council may add conditions to ensure the removal of the non-conforming use during a reasonable time period. The time period may vary from one year to ten years at the discretion of the City Council.
 (Ord. 96-2451, passed 12-2-96)*

This means that the property owner has one year after annexation to remove the non-conforming use, unless the Council has granted additional time. Staff advised the property owner of the time limit, and the property owner has removed the construction materials (gravel, concrete rubble, plastic pipes) from the site. The construction equipment (backhoe, trailer, truck) is still on the site. The owner has written a letter requesting a 6 month to one year extension of the non-conforming use deadline, due to the difficulty of finding an alternate affordable storage site. They stated that they will continue to work on bringing the property into compliance.

FISCAL IMPACT: None.

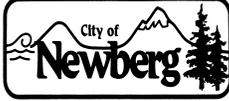
STRATEGIC ASSESSMENT: The property owner has taken some steps to bring the property into compliance with the residential zone, and has improved the appearance of the site. Granting an additional year to bring the property into full compliance should give the property owner adequate time to find another affordable storage location for the commercial contractor business.

ATTACHMENTS:

Order 2009-0022 with:

Exhibit "A": June 5, 2009 letter from Robert J. Long

1. Location map
2. Site map
3. Site photos



ORDER No. 2009-0022

AN ORDER EXTENDING THE DEADLINE UNTIL JULY 1, 2010, TO BRING THE PROPERTY LOCATED AT 2004 E. MOUNTAINVIEW DRIVE INTO COMPLIANCE WITH THE R-2 ZONE AND REMOVE THE NON-CONFORMING USE

RECITALS:

1. The property at 2004 E. Mountainview Drive was officially annexed into the City of Newberg on June 17, 2008 when the City Council approved Resolution 2008-2794, accepting the result of the May, 2008 general election. This property, along with others along Alice Way, changed from Yamhill County VLDR-1 (Very Low Density Residential) zoning to City R-2 (Medium Density Residential) zoning upon annexation. The comprehensive plan designation also changed upon annexation from IND (Industrial) to MDR (Medium Density Residential).
2. The property at 2004 E. Mountainview Drive appeared to be primarily a residential use but had been in use as a contractor's storage area for construction materials and equipment at the time of annexation. This use would be allowed in an industrial zone, but is a non-conforming use in a residential zone. Newberg Development Code §151.269 addresses the annexation of non-conforming uses and intends to allow a reasonable time period for the removal of the use. The time period may vary from one year to ten years at the discretion of the Council.
3. The owners of 2004 E. Mountainview Drive, Robert and Linda Long, were informed of the one-year deadline (by July 1, 2009) to bring the site into compliance with the residential zone. The owners did remove the construction materials from the site and improve the appearance of the property, but have not yet removed the construction equipment from the site.
4. On June 8, 2009 the City received a letter from Robert and Linda Long (Exhibit "A") requesting a 6 month to one year extension of the deadline to remove the non-conforming use from the site. They noted that they have had difficulty locating an affordable storage location, and stated that they would continue to work on getting the property into compliance with the residential zone. Exhibit "A" is hereby attached and by this reference incorporated.
5. The City Council finds that the property owners have endeavored to bring the site into compliance with the R-2 zone, and that a one-year extension will allow the owners sufficient time to find an alternate affordable storage site and bring the property into full compliance.

THE CITY OF NEWBERG ORDERS AS FOLLOWS:

The deadline to bring the property at 2004 E. Mountainview Drive into compliance with the R-2 residential zone and remove the non-conforming use is extended until July 1, 2010.

➤ **EFFECTIVE DATE** of this order is the day after the adoption date, which is: July 21, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon, this 20th day of July, 2009.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 23rd day of July, 2009.

Bob Andrews, Mayor

QUASI-JUDICIAL HISTORY

By and through _____ Committee at ____ / ____ /200x meeting. Or, X None.
(committee name) (date) (check if applicable)

EXHIBIT "A"

Robert and Linda Long
616 Harvard Court
Newberg, OR 97132
(503) 554-1319

June 5, 2009

Barton Brierley
Planning & Building Director
City of Newberg
P. O. Box 970
Newberg, OR 97132

RE: Request for Extending of Deadline - Industrial non-conforming use at 2004 E. Mountainview Drive/R-2 Residential Zone

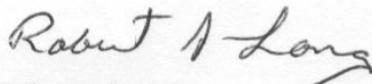
Dear Mr. Brierley:

We have received notice of the zoning change of our property at 2004 E. Mountainview Drive and we hereby request that the City Council extend the deadline to remove the non-conforming use.

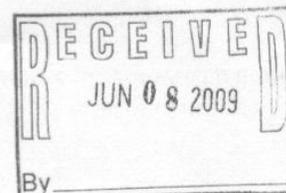
We have made great progress in cleaning up the area but still have some work to do. Since this property was used as our construction storage area prior to the annexation into the city the task of finding other storage facilities has created a great hardship. Between today's economy and the fact that our construction company has not had any work this year, we find ourselves having financial problems in locating affordable storage.

We will continue to work on getting the property in compliance with the current zoning, but do need additional time and hereby request an extension of six months to a year. We appreciate your consideration of this request.

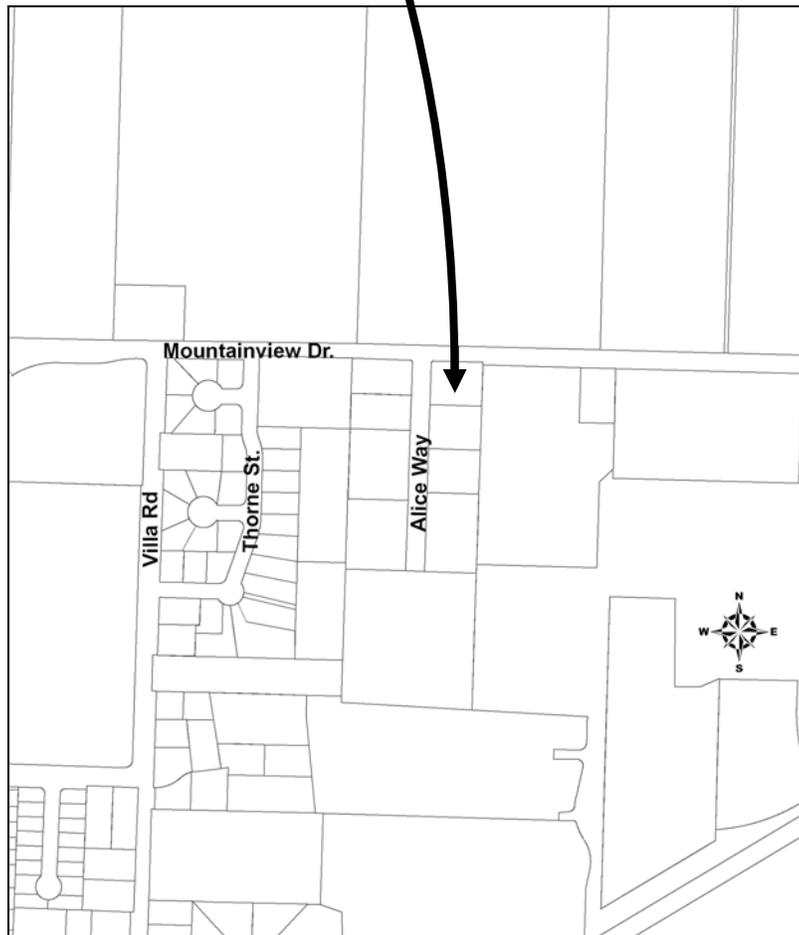
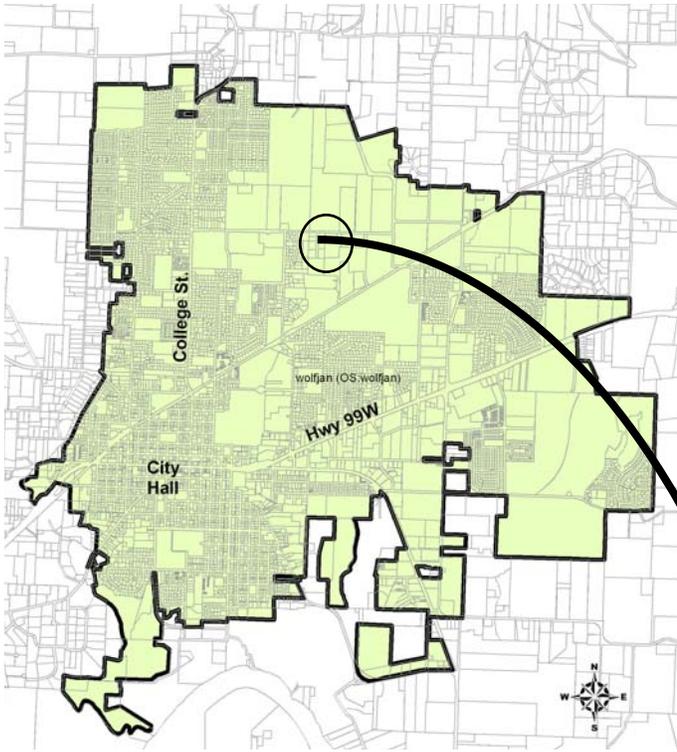
Sincerely,



Robert J. Long



ATTACHMENT 1: LOCATION MAP
2004 E. Mountainview Drive



ATTACHMENT 2: SITE MAP
2004 E. Mountainview Drive



ATTACHMENT 3: SITE PHOTOS
2004 E. Mountainview Drive
Photos taken walking north along Alice Way



Southwest corner of property



West side of property



West side of property, farther north



Northwest corner of property (construction sign refers to Hazelden project, not this site)

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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 20, 2009

Order ___ Ordinance ___ Resolution XX Motion ___ Information ___
No. No. No. 2009-2859

SUBJECT: Agree to settle the franchise fee audit results with Verizon in the amount of \$61,116 and delegate authority to the city manager to execute the Settlement Agreement.

Contact Person (Preparer) for this
Resolution: Dawn Wilson

Dept.: City Attorney's Office

File No.:
(if applicable)

RECOMMENDATION:

Adopt **Resolution No. 2009-2859** settling the Verizon franchise fee audit for \$61,116.00.

EXECUTIVE SUMMARY:

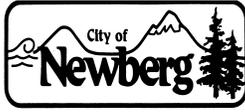
It is prudent for the City to audit vendors of franchise fee payments to the City. Therefore, the City entered into an Intergovernmental Agreement ("IGA") with the City of Hillsboro around December 20, 2002, in order to hire a consultant to review and analyze franchise fees paid by Verizon Northwest, Inc. (franchisee).

An audit was performed on behalf of the member Cities of Oregon Municipal Audit Review Committee ("OMARC"). The City previously paid \$6,123.01 to participate in this audit. The member Cities are listed in exhibit "A" to the Agreement, and those Cities are Durham, Mill City, Dayton, Lafayette, Bandon, Conquille, Reedsport, Happy Valley, Sandy, Brookings, Silverton, Fairview, Cornelius, La Grande, Sherwood, Troutdale, Wilsonville, Newberg, Forest Grove, Tualatin, McMinnville, Lake Oswego, Tigard, Hillsboro, Beaverton, Gresham, and Portland.

The length of the audit extended much longer than anticipated. The IGA was extended in August, 2008, with Resolution No. 2008-2803 to January 1, 2010, or upon the completion or other resolution of the Franchise Telecommunications Financial Review. The audit has been completed, and this is the recommended settlement. The Agreement requires all Cities to agree before it is effective.

FISCAL IMPACT: The City will receive \$61,116 from overdue franchise revenues as a result of the audit.

STRATEGIC ASSESSMENT: Settling with the above-listed figure will save further staff time to negotiate and review audit reports. This audit has taken significantly longer than expected, and to consummate the audit matter now would be most prudent for the City. This agreement has been reached with all the Cities working together.



RESOLUTION No. 2009-2859

**A RESOLUTION SETTTLING THE FRANCHISE FEE AUDIT RESULTS WITH
VERIZON NORTHWEST, INC. IN THE AMOUNT OF \$61,116.00 AND
DELEGATING AUTHORITY TO THE CITY MANAGER TO EXECUTE THE
SETTLEMENT AGREEMENT**

RECITALS:

1. The City entered into an Intergovernmental Agreement with the City of Hillsboro around December 20, 2002, in order for the City of Hillsboro to hire a consultant to work for several municipalities to review and analyze franchise fees paid by Verizon Northwest, Inc. (franchisee).
2. An audit was performed on behalf of the Oregon Municipal Audit Review Committee (“OMARC”) concerning the privilege taxes/franchise fees paid by Verizon to the OMARC member Cities. Those Cities are Durham, Mill City, Dayton, Lafayette, Bandon, Conquille, Reedsport, Happy Valley, Sandy, Brookings, Silverton, Fairview, Cornelius, La Grande, Sherwood, Troutdale, Wilsonville, Newberg, Forest Grove, Tualatin, McMinnville, Lake Oswego, Tigard, Hillsboro, Beaverton, Gresham, and Portland.
3. The City previously paid \$6,123.01 to participate in this audit.
4. The audit revealed that Verizon owes the City \$61,116.00.
5. Due to the extensive and unexpected amount of time invested to perform the audit and reach such settlement, the City staff recommends acceptance of the Settlement Agreement by the City Council.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City approves the settlement reached with Verizon Northwest. The Settlement Agreement is hereby attached as Exhibit “A,” and by this reference incorporated.
2. The city manager is authorized to execute the Settlement Agreement with Verizon Northwest on behalf of the City.
3. The city attorney will review and approve the Settlement Agreement as to form and content.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 21, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon, this 20th day of July, 2009.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 23rd day of July, 2009.

Bob Andrews, Mayor

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is between Verizon Northwest Inc. ("Verizon"), a Washington corporation, and Newberg ("City"), an Oregon municipal corporation. Verizon and the City are referred to collectively herein as "the Parties."

RECITALS

- A. Verizon pays to the City a Privilege Tax/Franchise Fee on exchange access service revenue pursuant to Oregon Revised Statutes 221.515 ("Privilege Tax").
- B. A group of Oregon cities formed the Oregon Municipal Audit and Review Committee ("OMARC"), to review and analyze Privilege Tax revenues received from Verizon ("Review").
- C. There is a dispute between Verizon and OMARC regarding the alleged under- or overpayments due to the City for the review period commencing on January 1, 2002 and continuing through December 31, 2005 ("Review Period"), which, if underpaid, would constitute a debt to the City.
- D. Verizon and the City are desirous of avoiding further expense in undertaking the Review, and desire and agree to provide for payment, in accordance with the terms of this Settlement Agreement, and thereby to settle and resolve any and all potential claims and disputes between them with respect to the Privilege Taxes paid during the Review Period, except as set forth herein ("the Claim").

NOW, THEREFORE, the Parties, through their undersigned representatives who are fully authorized to take the actions contemplated herein, pursuant to the foregoing recitals and in consideration of the following mutual promises, covenants and agreements, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

AGREEMENT

1. Privilege Tax. The City and Verizon agree that, subject to Section 4 of this Agreement, in consideration for the payment of the Claim in the amount set forth in Section 3 of the Agreement, Verizon shall be deemed to, and shall have paid all of the Privilege Tax that was due and owing for the Review Period, including interest or penalties, and that upon payment of such amount, the City shall not undertake any collection activity with respect to the Privilege Tax for the Review Period except as provided for herein.

2. Effective Date. The Effective Date of the Agreement shall be the date of the last signature hereon, however, it is the intent of Verizon to enter into a similar agreement with the other Oregon cities listed in Exhibit A and notwithstanding the date of the last signature in this Agreement, this Agreement will not be effective until the date of the last signature on all Agreements with each of the Oregon cities listed in Exhibit A. Should an Agreement not be secured by Verizon with any one of the cities listed in Exhibit A, this Agreement will not be effective.

3. Amount. Within sixty (60) days of the Effective Date, Verizon agrees to pay the City and the City agrees to accept from Verizon the total amount of \$61,116 (“the Amount”). Subject to Section 4 of this Agreement, the City agrees that receipt by the City of payment of the Amount shall constitute a release by the Parties of all claims, known and unknown, that each party may have against the other with respect to the Privilege Tax for the Review Period (“Released Claims”). Payment shall be made at the address provided for notices in Section 9 of this Agreement. Regardless of the Effective Date, Verizon and the City agree that for purposes of any interest owed on the Privilege Tax during the Review Period pursuant to any applicable agreement between Verizon and the City and/or OMARC, the Amount will be deemed to have been paid on December 31, 2008.

4. No Waiver. The Parties acknowledge that there is a dispute regarding the calculation of revenues subject to payment of Privilege Taxes under Oregon law. The Parties agree that this payment is made for the purpose of compromise and for the purpose of concluding the Review. Notwithstanding any other provision of this Agreement, including the release set forth in paragraph 3, Verizon and the City each reserve their rights in all other forums and contexts

concerning the interpretation of Oregon law and administrative rules and any other applicable regulation concerning the calculation, collection and payment of Privilege Taxes. Subject to the terms of any other applicable agreement between Verizon and the City and/or OMARC, the City expressly reserves the right to assert any claims it may have regarding Verizon's calculation of revenues, subsequent to December 2005, that are subject to the payment of Privilege Taxes under Oregon law. The Released Claims include all claims for under or overpayments of the Privilege Tax for the Review Period.

5. This Agreement does not apply to, or release Verizon from payment of any taxes or fees, other than the Privilege Tax.

6. **No Admission.** The Parties agree that this Agreement is made solely for purposes of settlement and that by entering into this Agreement neither of the Parties is making any admissions as to the substantive factual or legal issues regarding the Claim, and that in the event of future unrelated disputes regarding payment of the Privilege Tax that become due and owing after the Review Period, that this Agreement may not, and shall not, be introduced into evidence in any administrative or judicial action.

7. **Voluntarily Entered.** The Parties represent and warrant that this Agreement is entered into voluntarily by the Parties with full knowledge of the consequences and implications of the obligations set forth herein. The Parties also represent and warrant that they have had the opportunity to be represented by counsel of their choice throughout the negotiations which preceded the execution of this Agreement, and in connection with the preparation and execution of this Agreement, and that they have carefully and thoroughly reviewed this Agreement in its entirety.

8. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and may be amended or modified only by a writing signed by the Parties hereto. Notwithstanding any provision of this Agreement, this Agreement does not supersede any prior written agreements between Verizon and the City and/or OMARC.

9. Notices. All notices required or permitted to be given or to be made upon any party hereto shall be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed to have been received for purposes of this Agreement on the day the notice is personally delivered or deposited in the mail.

(a) All notices to Verizon regarding this Agreement should be sent to:

Mark Scovic
Mail Code HQE01H02
600 Hidden Ridge
Irving TX 75038

David Mielke
Mail Code HQE02E70
600 Hidden Ridge
Irving TX 75038

(b) All notices to the City regarding this Agreement should be sent to:

Dan Danicic
City Manager
P.O. Box 970
Newberg, OR 97132

10. Governing Law; Venue. The terms, provisions, interpretations and enforcement of this Agreement shall be governed by the laws of the State of Oregon, without regard to conflict of laws analysis. Any litigation between the Parties arising out of or related to this Agreement shall be brought and maintained in the Circuit Court for Yamhill Oregon. Provided, if any litigation arising under this Agreement is brought in a federal forum, it shall be brought and maintained in the United States District Court for the District of Oregon in Portland, Oregon.

11. Binding Obligation. The obligations of the Parties set forth in this Agreement shall be binding on the Parties, their successors and assigns.

12. Warranty of Authority. Each party to this Agreement hereby covenants and represents that the individual signing on its behalf is fully empowered to bind the party to the obligations and commitments set forth herein.

13. Counterparts. This Agreement may be executed in counterparts and by facsimile, and, if so executed, will be effective as if simultaneously executed at the time of receipt of the last executed counterpart.

14. No Party Deemed Drafter. The Parties agree that this Agreement has been negotiated by the Parties, by and through their respective counsel, all of whom have participated in the drafting hereof. The Parties agree that any rule of construction which provides that a document is to be construed against the draftsman shall not apply.

15. Severability. In case any one or more of the provisions of this Agreement shall be found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired. Further, any provision found to be invalid, illegal or unenforceable shall be deemed, without further action on the part of the Parties to this Agreement, to be modified, amended and/or limited to the minimum extent necessary to render such clauses and/or provisions valid and enforceable.

16. No Assignment. City represents and warrants that it has not previously pledged, encumbered, assigned or transferred, or purported to pledge, encumber, assign or transfer any Released Claims.

IN WITNESS WHEREOF, the undersigned Parties have duly executed this Agreement to be effective on the date as set forth in Section 2 hereof.

VERIZON NORTHWEST INC.

CITY OF Newberg

By: _____

By: _____

Name: David Valdez

Name: _____

Title: President _____

Title: _____

Date: _____

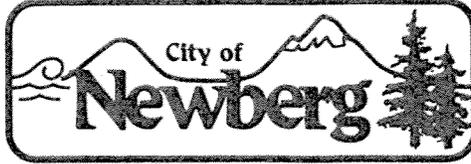
Date: _____

NEWBERG CITY COUNCIL MEETING INFORMATION

DATE of Meeting: July 20, 2009

Prepared by: Norma Alley

Councilors	Roll Call	MOTION Topic: Consent Calendar – Res. 2857 & 6/15/09 Minutes	MOTION Topic: Library Board Appointment	ORDER NO. 2009-0022 Topic: Non-Conforming Use Extension	RESOLUTION NO. 2009-2859 Topic: Verizon Audit	RESOLUTION NO. 2009-2860 Topic: Columbia Drive LID Project Change Order	Res/Ord/Order # _____ Topic:	Res/Ord/Order # _____ Topic:
ANDREWS, Bob, Mayor	X	YES	YES	YES	YES	YES		
BACON, Denise	X	YES	YES	YES	YES	YES		
LARSON, Bob	X	YES	YES	YES	YES	YES		
McKINNEY, Stephen	X	YES	YES	YES	YES	YES		
RIERSON, Bart	X	YES	YES	YES	YES	YES		
SHELTON, Marc	X	YES	YES	YES	YES	YES		
WITHERSPOON, Wade	X	YES	YES	YES	YES	YES		
ROLL CALL VOTES		YES: 7 NO: 0 Absent: 0 Abstain: 0	YES: 7 NO: 0 Absent: 0 Abstain: 0	YES: 7 NO: 0 Absent: 0 Abstain: 0	YES: 7 NO: 0 Absent: 0 Abstain: 0	YES: 7 NO: 0 Absent: 0 Abstain: 0	YES: NO: Absent: Abstain:	YES: NO: Absent: Abstain:
Department:			Library	Planning	Legal/Finance	Public Works		
CHANGES: (Yes/No)								
MOTION (1st/2nd):		Rierson/ Larson	Andrews/ Rierson	Larson/ Rierson	Shelton/ Larson	Larson/ Witherspoon		



PUBLIC COMMENT REGISTRATION FORM

**PLEASE COMPLETE AND PRESENT THIS FORM
TO THE RECORDER**

**WHEN ADDRESSING THE COUNCIL
PLEASE STATE YOUR NAME PRIOR TO SPEAKING**

In order to make ORAL COMMENTS and/or provide input at the meeting, you must provide the following requested information. It would be appreciated if you would provide a copy of any documentation or exhibits you would like to submit on the subject. You will be limited to speak only to the subject you indicate. If you wish to speak on another matter on the agenda, please fill out a separate Public Comment Registration Form for each item you wish to speak on.

(If you are attending the meeting to observe and do not intend to speak, you do not need to fill out a Public Comment Registration Form.)

DATE OF MEETING: 7/20/9

SUBJECT: Library Board Recommendation

Public Hearings Only:
Proponent: _____ Opponent: _____ Undecided: _____ (Quasi-Judicial Hearing Only)

Name: Geoff Godfrey
Please print legibly

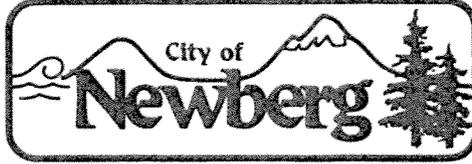
Mailing Address: 3714 Coffey Ln.

Phone No.: (971) 832-8133

Email: godfreykitty@yahoo.com

THANKS! This form helps us spell your name correctly for the permanent record and helps the Mayor determine time limits.

Please do not release my address, phone number or email in a public records request.



PUBLIC COMMENT REGISTRATION FORM

**PLEASE COMPLETE AND PRESENT THIS FORM
TO THE RECORDER**

**WHEN ADDRESSING THE COUNCIL
PLEASE STATE YOUR NAME PRIOR TO SPEAKING**

In order to make ORAL COMMENTS and/or provide input at the meeting, you must provide the following requested information. It would be appreciated if you would provide a copy of any documentation or exhibits you would like to submit on the subject. You will be limited to speak only to the subject you indicate. If you wish to speak on another matter on the agenda, please fill out a separate Public Comment Registration Form for each item you wish to speak on.

(If you are attending the meeting to observe and do not intend to speak, you do not need to fill out a Public Comment Registration Form.)

DATE OF MEETING: 7-20-09

SUBJECT: Newberg Animal Shelter

Public Hearings Only:

Proponent: Opponent: Undecided: (Quasi-Judicial Hearing Only)

Name: Joanne Wiitala
Please print legibly

Mailing Address: _____

Phone No.: _____

Email: jwiitala@georgefox.edu

THANKS! This form helps us spell your name correctly for the permanent record and helps the Mayor determine time limits.

Please do not release my address, phone number or email in a public records request.

NASF will sponsor a booth at the Old Fashioned Festival July 23-26.

We will sell and raffle various items to benefit the new shelter, as well as thank the public for their years of support.

As you know, we hope to break ground on the new shelter sometime this September and are very pleased with the new property the city has purchased.

Our last major fund raiser prior to breaking ground is Viva Dog Vegas,

scheduled for Sat. Sept. 26 at 5 pm at the Chehalem Armory.

NASF and Wild Bill's Casino are teaming up for a great time of gambling, raffles, silent auction and great prizes.

Tickets are \$25 and include \$20 scrip and dinner by McKillip's Catering.

Tickets can be purchased at our Old Fashioned Festival booth or by contacting Robin Luttrell at 503.537.9244.