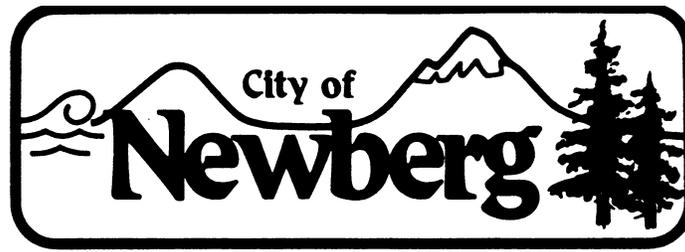


City Manager
(503) 537-1207

City Attorney
(503) 537-1206



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

**CITY OF NEWBERG
CITY COUNCIL WORK SESSION
JUNE 15, 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.

UPDATE FROM PLANNING ON THE DEVELOPMENT FEE WAIVER.

DATED THIS 5TH DAY OF JUNE, 2009.

DANIEL DANICIC
CITY MANAGER

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 the city recorder, at (503) 537-1283. For TTY service please call (503) 554-7793.

● 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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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
CITY COUNCIL AGENDA
JUNE 15, 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. 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)

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

VII. PUBLIC HEARING

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

(Legislative Hearing)

*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.

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.
(Quasi-Judicial Hearing)

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.
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.

IX. COUNCIL BUSINESS

X. ADJOURNMENT

INDEX OF ORDERS, ORDINANCES AND RESOLUTIONS:

ORDERS: None

ORDINANCES:

Ordinance No. 2009-2717 establishing a Festival Zone during the Old Fashioned Festival and restricting temporary merchants and Street Vendors operating within the festival zone.

RESOLUTIONS:

Resolution No. 2009-2850 authorizing the city manager to enter into contract for the Columbia Drive Local Improvement District Project with GVS Contracting Inc. in the amount of \$153,873.90.

Resolution No. 2009-2851 approving the water hardship connection at 832 S. Springbrook Road in Newberg.

Resolution No. 2009-2852 adopting adjusted garbage and recycling service rates for Newberg Garbage Service, Inc., effective July 1, 2009.

Resolution No. 2009-2853 authorizing a reduction in Water SDCs, Wastewater SDCs, and Community Development Fees for certain affordable dwellings during the current recession.

Resolution No. 2009-2854 approving the Amendment to Article 11 (Compensation Schedule) of the Collective Bargaining Agreement Between the City and the Newberg-Dundee Public Safety Association, and authorizing the City Manager to execute the agreement as well as delegating the authority to make the compensation amendment and interpret the agreement on behalf of the City.

Resolution No. 2009-2855 approving the 2009 annual Evaluation of the city manager.

Resolution No. 2009-2856 adopting authorizing the city to purchase property located at 1409 South Sandoz Road from the current owner Baker Rock Resources; authorizing the purchase contingent upon financing; and delegating the authority to the city manager to sign documents, negotiate any specific conditions, and complete the purchase.

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.

*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.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 15, 2009

Order ____ Ordinance ____ Resolution XX Motion ____ Information ____
No. No. No. 2009-2850

SUBJECT: Authorize the City Manager 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.

Contact Person (Preparer) for this Resolution:
Howard Hamilton, PW Director
Jason Wuertz, PE, Associate Engineer
Dept.: Public Works Department

RECOMMENDATION:

Adopt **Resolution No. 2009-2850** to authorize the City Manager to enter into a contract with GVS Contracting Inc. for the construction of the Columbia Drive Local Improvement District (LID) Project in the amount of \$153,873.90.

EXECUTIVE SUMMARY:

January 7, 2008, the City Council adopted Resolution No. 2008-2687 creating the Columbia Drive LID Group B and directing the City Engineer to prepare plans and solicit bids in accordance with Oregon Revised Statute (ORS) 279.

At the time of the Public Hearing, the estimated total project cost was \$329,877. After the design was completed the Engineer's Estimate was \$288,000.00.

The City solicited bids in accordance with ORS Chapter 279 Public Contracts. Twelve bids were received and opened on May 21, 2009. The bids ranged from \$153,873.90 to \$267,827.00.

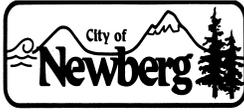
The lowest responsive bidder was GVS Contracting Inc. with a bid of \$153,873.90. This contractor has been verified with the Construction Contractors Board and Bureau of Labor and Industries (BOLI) and has no history of or pending actions by these agencies.

FISCAL IMPACT:

At the time of the Public Hearing, the estimated total project cost was \$329,877.00. After the design was complete the Engineer's Estimate was \$288,000.00. The low bid for the construction of the project is \$153,873.90 and this project is included in the approved Capital Projects Budget. The cost of this project will be repaid with interest by the property owners in the LID over a ten year term.

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 which is mostly unimproved along its frontage between College Street and Main Street. This street is heavily traveled both by vehicles and pedestrians and presents a hazard to pedestrian safety with a gap in pedestrian connectivity.



RESOLUTION No. 2009-2850

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACT FOR THE COLUMBIA DRIVE LOCAL IMPROVEMENT DISTRICT PROJECT WITH GVS CONTRACTING INC. IN THE AMOUNT OF \$153,873.90

RECITALS:

1. The City of Newberg advertised the Columbia Drive Local Improvement District Project and received twelve bids.
2. The Engineer’s estimate for this project was \$288,000.00. The lowest responsive bidder was GVS Contracting Inc. with a bid of \$153,873.90.
3. This project is part of the FY 2008-09 and FY 2009-10 CIP budgets.
4. This project will improve a street that is heavily traveled both by vehicles and pedestrians which presents a hazard to pedestrian safety with a gap in pedestrian connectivity.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

To authorize the City Manager to enter into a contract with GVS Contracting Inc. in the amount of \$153,873.90 to construct the Columbia Drive Local Improvement District Project.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 16, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon, this 15th day of June 2009.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 18th day of June 2009.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

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

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 15, 2009

Order ___ Ordinance ___ Resolution XX Motion ___ Information ___
No. No. No. 2009-2854

SUBJECT: Approve Police Association's Contract Amendment to the Compensation Schedule.

Contact Person (Preparer) for this
Resolution: Dawn Wilson

Dept.: City Attorney's Office

File No.:

(if applicable)

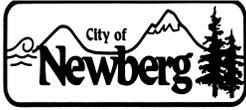
RECOMMENDATION:

Adopt **Resolution No. 2009-2854** to amend the Collection Bargaining Agreement pertaining to compensation between the City and the Newberg-Dundee Public Safety Association.

EXECUTIVE SUMMARY: The City manager and police chief have been communicating with the Newberg-Dundee Public Safety Association's (the "Association"), representative Senior Officer Scott Liston concerning wage adjustments for the contract period beginning July 1, 2009, through June 30, 2011. The Association is willing to forego some of the wage increase in recognition of the economic hard times in order to help the City with its budget problems. City has been notified that the Association has ratified the proposed amendment to the Compensation Schedule (Article 11 of the Collective Bargaining Agreement).

FISCAL IMPACT: The finance director has reported that the change will result in a savings to the City of approximately \$35,000.00.

STRATEGIC ASSESSMENT: This amendment will allow the police department to avoid lay-offs and save the City some resources which can be used for police services. This demonstrates to the community that the police officers, through the Association, are willing to make sacrifices and cooperate with the City. This reveals the dedication of the entire police department.



RESOLUTION No. 2009-2854

A RESOLUTION APPROVING THE AMENDMENT TO ARTICLE 11 (COMPENSATION SCHEDULE) OF THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY AND THE NEWBERG-DUNDEE PUBLIC SAFETY ASSOCIATION, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AS WELL AS DELEGATING THE AUTHORITY TO MAKE THE COMPENSATION AMENDMENT AND INTERPRET THE AGREEMENT ON BEHALF OF THE CITY

RECITALS:

1. City staff has been in discussions with the Newberg-Dundee Public Safety Association (“Association”) representatives concerning wages for the contract period July 1, 2009, through June 30, 2011.
2. The Association voted to accept the proposed amendment as contained in Exhibit “A,” which is hereby attached and by this reference incorporated.
3. Due to the poor state of the economy and in order to currently afford paying for the Agreement, City staff recommends acceptance of the Compensation Amendment by the City Council.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City approves the Compensation Amendment to the Association’s Collective Bargaining Agreement between the City and the Association, which is hereby attached as Exhibit “B,” and by this reference incorporated.
2. In recognition of the Association’s willingness to agree to the amendment to the Agreement, which is a concession by the Association in that it is a wage increase reduction, the City further agrees:
 - (a) There will be no reduction in staffing levels involving Association members’ positions throughout the remainder of the current contract term ending June 30, 2011;
 - (b) The City will make its best effort to make the public aware of the reduction in pay by the Association members, and;
 - (c) The city manager will continue to work with police administration to increase staffing to adequate levels as determined by the chief of police.

3. The city manager is authorized to execute the Amendment to the Agreement with the Association on behalf of the City and to interpret the Agreement.
4. The city attorney will review and approve the Agreement as to form and content.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 16, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon, this 15th day of June, 2009.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 18th day of June, 2009.

Bob Andrews, Mayor



**MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY
OF NEWBERG AND THE NEWBERG-DUNDEE PUBLIC
SAFETY ASSOCIATION**

Re: Change in Compensation Schedule in Article 11.1 (B) of the Collective Bargaining Agreement

Date: May 13, 2009

This document details a change in the compensation schedule agreed to by the members of the Newberg-Dundee Public Safety Association. This change in the contractual compensation was agreed to by the association members in an effort to help the City financially during the current economic recession. Below is the change to the contract offered by the Association.

ARTICLE 11. COMPENSATION SCHEDULE

11.1 SALARY SCHEDULE

(B) WAGE ADJUSTMENTS

Effective and retroactive to July 1, 2007, wages for all classifications will be adjusted by three percent (3%).

Effective and retroactive to January 1, 2008, wages for all classifications will be adjusted by one percent (1%).

Effective July 1, 2008, wages for all classifications will be adjusted by three percent (3%).

Effective January 1, 2009, wages for police officers will be adjusted by one percent (1%).

Effective July 1, 2009, wages for all classifications will be adjusted by 2 percent (2%).

Effective July 1, 2010, wages for all classifications will be adjusted by three and one half percent (3.5%).

Effective June 1, 2011, wages for all classification will be adjusted to reflect the originally agreed to compensation schedule which is as follows:

June 1, 2011	Per Hour Step A	Step A	Step B	Step C	Step D	Step E	Step F
Communications (CO1)	16.44	2,849	2,991	3,141	3,298	3,463	3,636
Communications (CO2)	17.26	2,991	3,141	3,298	3,463	3,636	3,818
Communications (CO3)	18.12	3,141	3,298	3,463	3,636	3,818	4,009
Animal Control	16.76	2,905	3,050	3,203	3,363	3,531	3,708
Records/Evidence Tech	16.44	2,849	2,991	3,141	3,298	3,463	3,636
Police Officer (PO1)	22.45	3,891	4,086	4,290	4,505	4,730	4,967
Police Officer (PO2)	23.57	4,086	4,290	4,505	4,730	4,967	5,215
Police Officer (PO3)	24.75	4,290	4,505	4,730	4,967	5,215	5,476

Further, recognizing the financial sacrifice members of the Public Safety Association are willing to make, the City agrees to the following:

- There will be no reduction in staffing levels through the duration of the current contract.
- The public will be made aware of the reduction in pay by the Association Members.
- The city manager will continue working with the Police Administration to increase staffing to adequate levels as determined by the Chief of Police.

Reviewed and agreed to on May ____, 2009.

 Sr. Officer Scott Liston
 Association President
 Representative for the Association

 Dan Danicic
 City Manager – City of Newberg
 Representative for the City

***Subject to ratification by the City Council
 on June 15, 2009.**

Exhibit "B"
to Resolution No. 2009-2854
(Total pages: 5)

Amendment to Collective Bargaining Agreement
between the City of Newberg, Oregon and Newberg/Dundee Public Safety Association
for the period of July 1st, 2009-June 30th, 2011.

Article 11, page 15 of Agreement is amended as follows:

ARTICLE 11.COMPENSATION SCHEDULE

11.1 SALARY SCHEDULE

(A) ADVANCEMENT WAGE SCHEDULE (No amendment- remains the same)

(B) SALARY WAGE ADJUSTMENTS

Effective and retroactive to July 1, 2007, wages for all classifications will be adjusted by three percent (3%).

Effective and retroactive to January 1, 2008, wages for all classifications will be adjusted by one percent (1%).

Effective July 1, 2008, wages for all classifications will be adjusted by three percent (3%).

Effective January 1, 2009, wages for police officers will be adjusted by one percent (1%).

Effective July 1, 2009, wages for all classifications will be adjusted by 2 percent (2%).

Effective July 1, 2010, wages for all classifications will be adjusted by three and one half percent (3.5%).

Effective June 1, 2011, wages for all classification will be adjusted to reflect the originally agreed to compensation schedule which is as follows:

June 1, 2011	Per Hour Step A	Step A	Step B	Step C	Step D	Step E	Step F
Communications (CO1)	16.44	2,849	2,991	3,141	3,298	3,463	3,636
Communications (CO2)	17.26	2,991	3,141	3,298	3,463	3,636	3,818
Communications (CO3)	18.12	3,141	3,298	3,463	3,636	3,818	4,009
Animal Control	16.76	2,905	3,050	3,203	3,363	3,531	3,708
Records/Evidenc e Tech	16.44	2,849	2,991	3,141	3,298	3,463	3,636
Police Officer	22.45	3,891	4,086	4,290	4,505	4,730	4,967

(PO1)							
Police Officer (PO2)	23.57	4,086	4,290	4,505	4,730	4,967	5,215
Police Officer (PO3)	24.75	4,290	4,505	4,730	4,967	5,215	5,476

(C) SALARY SCHEDULE ADJUSTMENTS

The salary schedule is attached as Schedule "A" and by this reference incorporated.

**LABOR AGREEMENT
BETWEEN THE
CITY OF NEWBERG POLICE DEPARTMENT
AND THE
NEWBERG-DUNDEE PUBLIC SAFETY ASSOCIATION**

**SCHEDULE "A"
(ARTICLE 11.1 –SALARY SCHEDULE)**

July 1, 2007	Per Hour Step A 3%	Step A	Step B	Step C	Step D	Step E	Step F
Police Association							
Communications (CO1)	14.75	2,557	2,685	2,819	2,960	3,108	3,263
Communications (CO2)	15.49	2,685	2,819	2,960	3,108	3,263	3,426
Communications (CO3)	16.26	2,819	2,960	3,108	3,263	3,426	3,597
Animal Control	15.04	2,607	2,737	2,874	3,018	3,169	3,327
Records/Evidence Tech	14.75	2,557	2,685	2,819	2,960	3,108	3,263
Police Officer (PO1)	19.94	3,456	3,629	3,810	4,001	4,201	4,411
Police Officer (PO2)	20.94	3,629	3,810	4,001	4,201	4,411	4,632
Police Officer (PO3)	21.98	3,810	4,001	4,201	4,411	4,632	4,864

January 1, 2008	Per Hour Step A 1%	Step A	Step B	Step C	Step D	Step E	Step F
Police Association							
Communications (CO1)	14.90	2,583	2,712	2,848	2,990	3,140	3,297
Communications (CO2)	15.65	2,712	2,848	2,990	3,140	3,297	3,462
Communications (CO3)	16.43	2,848	2,990	3,140	3,297	3,462	3,635
Animal Control	15.19	2,633	2,765	2,903	3,048	3,200	3,360
Records/Evidence Tech	14.90	2,583	2,712	2,848	2,990	3,140	3,297
Police Officer (PO1)	20.14	3,491	3,666	3,849	4,041	4,243	4,455
Police Officer (PO2)	21.15	3,666	3,849	4,041	4,243	4,455	4,678
Police Officer (PO3)	22.21	3,849	4,041	4,243	4,455	4,678	4,912

July 1, 2008	Per Hour Step A	Step A	Step B	Step C	Step D	Step E	Step F
Police Association	3%						
Communications (CO1)	15.35	2,660	2,793	2,933	3,080	3,234	3,396
Communications (CO2)	16.11	2,793	2,933	3,080	3,234	3,396	3,566
Communications (CO3)	16.92	2,933	3,080	3,234	3,396	3,566	3,744
Animal Control	15.65	2,712	2,848	2,990	3,140	3,297	3,462
Records/Evidence Tech	15.35	2,660	2,793	2,933	3,080	3,234	3,396
Police Officer (PO1)	20.75	3,596	3,776	3,965	4,163	4,371	4,590
Police Officer (PO2)	21.79	3,776	3,965	4,163	4,371	4,590	4,820
Police Officer (PO3)	22.88	3,965	4,163	4,371	4,590	4,820	5,061

January 1, 2009	Per Hour Step A	Step A	Step B	Step C	Step D	Step E	Step F
Police Association	1% Police Only						
Communications (CO1)	15.35	2,660	2,793	2,933	3,080	3,234	3,396
Communications (CO2)	16.11	2,793	2,933	3,080	3,234	3,396	3,566
Communications (CO3)	16.92	2,933	3,080	3,234	3,396	3,566	3,744
Animal Control	15.65	2,712	2,848	2,990	3,140	3,297	3,462
Records/Evidence Tech	15.35	2,660	2,793	2,933	3,080	3,234	3,396
Police Officer (PO1)	20.95	3,632	3,814	4,005	4,205	4,415	4,636
Police Officer (PO2)	22.00	3,814	4,005	4,205	4,415	4,636	4,868
Police Officer (PO3)	23.11	4,005	4,205	4,415	4,636	4,868	5,111

July 1, 2009	Per Hour Step A	Step A	Step B	Step C	Step D	Step E	Step F
Police Association	3.5%						
Communications (CO1)	15.65	2713	2849	2992	3142	3299	3464
Communications (CO2)	16.44	2849	2992	3142	3299	3464	3637
Communications (CO3)	17.26	2992	3142	3299	3464	3637	3819
Animal Control	15.96	2766	2905	3050	3203	3363	3531
Records/Evidence Tech	15.65	2713	2849	2992	3142	3299	3464
Police Officer (PO1)	21.38	3705	3890	4085	4289	4503	4729
Police Officer (PO2)	22.44	3890	4085	4289	4503	4729	4965
Police Officer (PO3)	23.57	4085	4289	4503	4729	4965	5213

July 1, 2010	Per Hour Step A	Step A	Step B	Step C	Step D	Step E	Step F
Police Association	3.5%						
Communications (CO1)	16.20	2808	2949	3097	3252	3414	3585
Communications (CO2)	17.01	2949	3097	3252	3414	3585	3764
Communications (CO3)	17.87	3097	3252	3414	3585	3764	3953
Animal Control	16.52	2863	3007	3157	3315	3481	3655
Records/Evidence Tech	16.20	2808	2949	3097	3252	3414	3585
Police Officer (PO1)	22.12	3835	4026	4228	4439	4661	4895

Police Officer (PO2)	23.23	4026	4228	4439	4661	4895	5139
Police Officer (PO3)	24.39	4228	4439	4661	4895	5139	5395
June 1, 2011 Police Association	Per Hour Step A	Step A	Step B	Step C	Step D	Step E	Step F
Communications (CO1)	16.44	2,849	2,991	3,141	3,298	3,463	3,636
Communications (CO2)	17.26	2,991	3,141	3,298	3,463	3,636	3,818
Communications (CO3)	18.12	3,141	3,298	3,463	3,636	3,818	4,009
Animal Control	16.76	2,905	3,050	3,203	3,363	3,531	3,708
Records/Evidence Tech	16.44	2,849	2,991	3,141	3,298	3,463	3,636
Police Officer (PO1)	22.45	3,891	4,086	4,290	4,505	4,730	4,967
Police Officer (PO2)	23.57	4,086	4,290	4,505	4,730	4,967	5,215
Police Officer (PO3)	24.75	4,290	4,505	4,730	4,967	5,215	5,476

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 15, 2009

Order ____ Ordinance ____ Resolution XX Motion ____ Information ____
No. No. No. 2009-2855

SUBJECT: Resolution Approving the Annual Evaluation of the City Manager

Contact Person (Preparer) for this Resolution: **Bob Andrews, Mayor**

Dept.: **Administration**

File No.:
(if applicable)

RECOMMENDATION:

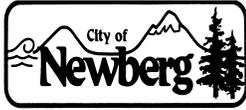
Adopt **Resolution No. 2008-2855** approving the annual evaluation of the city manager.

EXECUTIVE SUMMARY:

The City Council performed an annual evaluation of the city manager. That evaluation was held during executive session in which no decisions were made. This resolution is to solidify that evaluation and to provide a formal guidance of his performance.

FISCAL IMPACT: None.

STRATEGIC ASSESSMENT: The evaluation of the city manager is necessary in order to increase communication between the City Council and the city manager concerning the performance of the city manager in accomplishing his assigned duties and responsibilities.



RESOLUTION No. 2009-2855

A RESOLUTION APPROVING THE 2009 ANNUAL EVALUATION OF THE CITY MANAGER

RECITALS:

1. In accordance with the Newberg City Charter, the City Manager is the Chief Executive Office of the City of Newberg, which reports directly to the Mayor and City Council and is supervised by the governing body.
2. The City has a contract with the City Manager and pursuant to that contract; the City Council will evaluate the City Manager in Executive Session.
3. The Open Meetings Law of the State of Oregon allows the evaluation of the job performance of the Chief Executive Officer to be conducted in Executive Session by the City Council and pursuant to such Standards, Criteria, and Policy Directives adopted by Resolution No. 1999-2191 on July 19, 1999.
4. The Mayor, City Councilors, and the City Manager met in Executive Session on June 1, 2009, to discuss the City Manager's annual evaluation.
5. The Mayor has submitted the written evaluation which will be placed in the City Manager's personnel file after being adopted by the Council.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The written evaluation of the City Manager, which is attached as Exhibit "A" and by this reference incorporated, is hereby adopted.
2. The City Manager shall be given a copy of the evaluation to sign and may make any written comments after which the written evaluation shall be placed in the City Manager's personnel file.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 16, 2008.

ADOPTED by the City Council of the City of Newberg, Oregon, this 15th day of June, 2009.

Norma I. Alley, City Recorder

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

Bob Andrews, Mayor

**City Manager (Daniel Danicic)
Annual Written Evaluation – 2009
By Newberg City Council**

The City Council has received a written report from the City Manager concerning his performance during his evaluation period. The respective Mayor and Councilors have met with the City Manager in executive session on June 1, 2009, to discuss their evaluation of his performance from April 20, 2008, to April 19, 2009.

The City Council has evaluated the performance of Daniel Danicic as the City Manager of the City of Newberg. As part of the evaluation Council reviewed the report given them by the City Manager indicating his self-evaluation during the evaluation period. The Council assessed the Manager’s performance in seven major categories:

1. City Council Relationships
2. Public Relations
3. Effective Leadership of Staff
4. Fiscal Management
5. Communication
6. Personal Traits
7. Intergovernmental Affairs

Overall the Council found the Manager’s performance fell between excellent and exceeds expectations. The Council felt the working relationship with the city manager was excellent and improving as time went on. The Council expressed satisfaction with the initial goal setting and looks forward to further long-range strategic planning in partnership with the city manager.

DATED this ____ day of June, 2009.

Bob Andrews, Mayor

Denise Bacon, Councilor

Bob Larson, Councilor

Stephen McKinney, Councilor

Bart Rierson, Councilor

Marc Shelton, Councilor

Wade Witherspoon, Councilor

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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 15, 2009

Order ___ Ordinance ___ Resolution XX Motion ___ Information ___
No. No. No. 2009-2856

SUBJECT: A Resolution Authorizing The City to Purchase Property Located at 1409 South Sandoz Road from the Current Owner Baker Rock Resources and Authorizing the City Manager to sign documents to complete the purchase.

Contact Person (Preparer) for this Resolution: **Howard Hamilton, Director of Public Works/Larry Fain, Senior Engineer**

Dept.: **Public Works Department**

File No.:
(if applicable)

RECOMMENDATION:

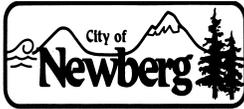
Adopt **Resolution No. 2009-2856** authorizing the City to Purchase Property Located at 1409 South Sandoz Road from the Current Owner Baker Rock Resources and Authorizing the City Manager to sign Documents to Complete the Purchase.

EXECUTIVE SUMMARY:

1. The City has recognized the requirement to obtain the Baker Rock Resources property at 1409 South Sandoz Road. This approximately 20 acre tract is contiguous with and immediately east of the City's Wastewater Treatment Plant (WWTP). As such it is ideally suited for the required expansion of the WWTP as indicated in the WWTP Facilities Plan Update (October 2007). Additionally it offers an excellent site for a future PW Maintenance Yard and other City facilities and functions. The City has been in negotiations with Baker Rock Resources over the last several years. Most recently the City Council passed Resolution 2008-2756 which authorized the City Manager to continue this effort.
2. In accordance with that Resolution, the staff subsequently entered into an agreement with Baker Rock Resources to jointly appraise the property and set a purchase price using separate professional independent appraisers. The City hired the appraisal firm of Integra Realty Resources – Portland (Brian A. Glanville), while Baker Rock Resources hired Lyon & Associates (James Lyon). Together both firms were able to establish an appraised value of \$1,930,000 for the property. Exhibit "A" to the Resolution No. 2009-2856 is the cover letter of that joint-appraisal report, dated May 14, 2009. The entire report is on file with the City.
3. As agreed to in the agreement with Baker Rock Resources, the City staff is now ready to recommend to the City Council that the purchase of Baker Rock Resources property at 1409 South Sandoz Road be concluded for the purchase price of \$1,930,000.00, which is the appraised value plus additionally the associated closing costs.

FISCAL IMPACT: Adequate loan and an annual loan payment program have been incorporated into the FY 2009/2010 budget for this project. Purchase is contingent on the City actually obtaining the loan. Associated closing costs will come from the existing FY 2009/2010 budget.

STRATEGIC ASSESSMENT: Purchase of the property facilitates the required expansion of the Wastewater Treatment Plant. This very important part of the City's infrastructure can be expanded in order to have the capacity to serve the needs of the citizens of the City.



RESOLUTION No. 2009-2856

A RESOLUTION AUTHORIZING THE CITY TO PURCHASE PROPERTY LOCATED AT 1409 SOUTH SANDOZ ROAD FROM THE CURRENT OWNER BAKER ROCK RESOURCES; AUTHORIZING THE PURCHASE CONTINGENT UPON FINANCING; AND DELEGATING THE AUTHORITY TO THE CITY MANAGER TO SIGN DOCUMENTS, NEGOTIATE ANY SPECIFIC CONDITIONS, AND COMPLETE THE PURCHASE

RECITALS:

1. The City staff and consultants have identified the property at 1409 South Sandoz Road as the ideal site for the expansion of the Wastewater Treatment Plant and a future PW Maintenance Yard as well as other City facilities.
2. The City in conjunction with Baker Rock Resources has obtained a joint real appraisal for the property. That “Value Conclusion” is \$1,930,000 for the entire property.
3. The property owner Baker Rock Resources have agreed to sell the entire property to the City for the \$1,930,000.
4. The Finance Department of the City is securing the necessary funding under acceptable conditions to finance the purchase of the property.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. **Purchase Conditions** – The City shall proceed with the purchase of the entire property at 1409 South Sandoz Road, Newberg, Oregon. The subject parcel is a vacant land containing an area of 19.68 acres or approximately 857,261 square feet. The purchase price is to be \$1,930,000.00 plus normal reasonable closing expenses. Attached is the cover letter of the joint-appraiser report, which sets out the value conclusion (appraised value). Said letter is hereby attached as Exhibit “A,” and by this reference incorporated. In addition, the full joint-appraisal report is available and on file with the City of Newberg, as well as being available electronically through the City’s Website.
2. **Financing Conditions** – The City is presently securing the necessary funds to purchase the property under acceptable conditions. The Finance Department is working with the financial institution to secure the financing. The purchase is contingent upon financing being obtained.
3. **City Manager Authority** – The City Council delegates to the City Manager the authority to approve all necessary financing for the purchase; enter into the necessary Purchase and Sale Agreement; to negotiate any necessary provisions of the sale agreement; and to sign all necessary documents to complete the agreement and purchase the property located at 1409 South Sandoz Road, Newberg, Oregon. Additionally, the draft Purchase and Sale Agreement is hereby attached as Exhibit “B,” and

by this reference incorporated.

4. **City Attorney Approval** – All documents and agreements will be reviewed and approved as to form and content by the City Attorney.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 16, 2009.
- **ADOPTED** by the City Council of the City of Newberg, Oregon, this 15th day of June, 2009.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 8th day of June, 2009.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

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

Exhibit "A"
To Resolution 2009-2856
Page 1 of 5

May 14, 2009

Mr. Howard Hamilton – Public Works Director
City of Newberg
Represented by- Mr. John Junkin
Garvey Schubert Barer
121 SW Morrison Street
Eleventh Floor
Portland, Oregon 97204

Todd Baker – President
Baker Rock Crushing
Represented by – Mr. Robert Preston
Elliott Ostrander & Preston
Attorneys at Law
707 SW Washington Street
Suite 1500
Portland, OR 97205

SUBJECT: Market Value Appraisal
Newberg Industrial Land
1409 South Sandoz Road
Newberg, Yamhill County, Oregon 97132
Integra Portland File No. 134-2008-0321
Lyon & Associates File No. 09-204

Dear Messrs. Junkin and Preston:

We are pleased to submit the accompanying appraisal of the referenced property. The purpose of the appraisal is to develop a joint opinion of the market value of the fee simple interest in the property. The clients for the assignment are Bullivant Houser Bailey PC and Elliott Ostrander & Preston. The intended use is for property disposition purposes.

The appraisal is intended to conform with the Uniform Standards of Professional Appraisal Practice (USPAP) and the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.

To report the assignments results, we use the summary report option of Standards Rule 2-2 of USPAP. Accordingly, this report contains summary discussions of the data, reasoning, and

Exhibit "A"
To Resolution 2009-2856
Page 2 of 5

Howard Hamilton
Todd Baker
May 14, 2009
Page 2

analyses that are used in the appraisal process whereas supporting documentation is retained in our file. The depth of discussion contained in this report is specific to the needs of the client and the intended use of the appraisal.

The subject is a parcel of vacant land containing an area of 19.68 acres, or approximately 857,261 square feet. The property is currently zoned HI, Heavy Industrial, by Yamhill County. However, it is considered very likely that the subject will be annexed into the City of Newberg in the near future.

Based on the valuation analysis in the accompanying report, and subject to the definitions, assumptions, and limiting conditions expressed in the report, our opinion of value is as follows:

VALUE CONCLUSION			
Appraisal Premise	Interest Appraised	Date of Value	Value Conclusion
Market Value	Fee Simple	October 1, 2008	\$1,930,000

The opinions of value expressed in this report are based on estimates and forecasts that are prospective in nature and subject to considerable risk and uncertainty. Events may occur that could cause the performance of the property to materially differ from our estimates, such as changes in the economy, interest rates, capitalization rates, financial strength of tenants, and behavior of investors, lenders, and consumers. Additionally, our opinions and forecasts are based partly on data obtained from interviews and third party sources, which are not always completely reliable. Although we are of the opinion that our findings are reasonable based on available evidence, we are not responsible for the effects of future occurrences that cannot be reasonably foreseen at this time.

It is noted that current financial and real estate markets are in a state of instability and there are limited transactions that provide reliable evidence of current market value. It is uncertain whether there will be a continued deterioration in market conditions or a slow recovery in the near future. A prolonged or severe economic downturn will likely cause values to decline, especially if liquidity in the capital markets is not restored. We have analyzed available data and have applied adjustments that we consider reasonable in light of current uncertainties; however, we caution the users of this appraisal that the value conclusion reported herein may have a lesser degree of reliability than it would in a more normal market.

Exhibit "A"
To Resolution 2009-2856
Page 3 of 5

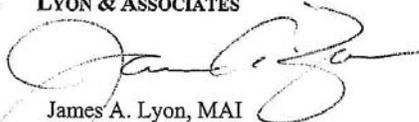
Howard Hamilton
Todd Baker
May 14, 2009
Page 3

If you have any questions or comments, please contact the undersigned. Thank you for the opportunity to be of service.

Respectfully submitted,

INTEGRA REALTY RESOURCES - PORTLAND

LYON & ASSOCIATES



Brian A. Glanville, CRE, FRICS, MAI
Certified General Real Estate Appraiser
Oregon Certificate #C000160 (Exp. 4/30/11)

James A. Lyon, MAI
Certified General Real Estate Appraiser
Oregon Certificate #C000255 (Exp. 8/31/09)

Exhibit "A"
To Resolution 2009-2856
Page 4 of 5

APPRAISAL OF REAL PROPERTY

Newberg Industrial Land
1409 South Sandoz Road
Newberg, Yamhill County, Oregon 97132

PREPARED FOR:

Mr. Howard Hamilton – Public Works Director
City of Newberg
Represented by- Mr. John Junkin
Garvey Schubert Barer
121 SW Morrison Street
Eleventh Floor
Portland, Oregon 97204

Todd Baker – President
Baker Rock Crushing
Represented by- Mr. Robert Preston
Elliott Ostrander & Preston
707 SW Washington Street
Suite 1500
Portland, OR 97205

EFFECTIVE DATE OF THE APPRAISAL:

October 1, 2008

REPORT FORMAT:

Summary

INTEGRA REALTY RESOURCES - PORTLAND

File Number: 134-2008-0321

LYON & ASSOCIATES

File Number: 09-204

Exhibit "A"
To Resolution 2009-2856
Page 5 of 5



Newberg Industrial Land
1409 South Sandoz Road
Newberg, Oregon

Exhibit "B"
To Resolution 2009-2856
Total Pages: 8

-- DRAFT --

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement ("**Agreement**") is made as of this _____ day of _____ 2009, by and between Baker Rock Crushing, Inc., an Oregon Corporation ("**Seller**") and City of Newberg, Oregon, an Oregon municipal corporation ("**Purchaser**").

RECITALS

- A. Seller is the owner of that certain real property, together with all rights, easements, rights-of-way and appurtenances thereto and all improvements thereon, located at 1409 South Sandoz Road, Newberg, OR, as more particularly described on Exhibit A attached hereto and by this reference incorporated herein (the "**Property**");
- B. Purchaser desires to acquire the Property for the public purposes of, among other things, the expansion of the City of Newberg sanitary sewer treatment facility and relocation of city shops and has adopted a public necessity resolution, attached hereto as Exhibit B, in accordance with ORS 35.235 of Buyer's intent and determination to use its eminent domain authority in the event it is unable to reach an agreement with Seller on the Purchase Price to be paid for the Property; and
- C. Seller is willing to sell to Purchaser the Property under and because of the threat of Purchaser's exercise of the power of eminent domain to condemn the Property in the event the parties were unable to reach an agreement on the sale of the Property.

AGREEMENT

NOW THEREFORE, in consideration of the following mutual covenants and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. **Agreement to Purchase and Sell.** Seller agrees to sell the Property to Purchaser, and Purchaser agrees to purchase the Property from the Seller, on the terms and conditions set forth in this Agreement.
2. **Purchase Price.** The purchase price for the Property shall be one million nine hundred thirty thousand dollars (\$1,930,000) (the "Purchase Price"). The Purchase Price shall be paid as follows:

2.1 At Closing, Purchaser shall deliver to the Title Company the Purchase Price, in cash or by wire transfer of funds or cashier's check, in the amount of one million nine hundred thirty thousand dollars (\$1,930,000), subject to adjustment for pro-rations as provided herein.

3. Conditions Precedent to Purchaser's Obligation to Purchase. Purchaser's obligation to purchase the Property shall be subject to the satisfaction or waiver of all the conditions precedent set forth below within the applicable time periods specified. The following conditions are solely for the benefit of Purchaser and may be waived only by Purchaser.

3.1 Title. Within ten business (10) days after the Execution Date, Seller shall deliver to Purchaser a preliminary title report from the Title Company (the "**Preliminary Report**"), together with legible copies of all documents shown therein as exceptions to title, showing the status of Seller's title to the Property. Purchaser shall have five (5) business days after receipt of a copy of the Preliminary Report within which to give notice in writing to Seller of any disapproval of any exceptions set forth in the Preliminary Report. Within five (5) business days after the date of such notice from Purchaser, Seller shall give Purchaser written notice of whether it is willing and able to remove the disapproved exceptions. Within five (5) business days after the date of such notice from Seller, Purchaser shall elect whether to purchase the Property subject to the disapproved exceptions that Seller is not willing or able to remove, or terminate this Agreement. On or before the Closing Date, Seller shall have removed all disapproved exceptions to which Purchaser disapproves and which Seller agrees that Seller is willing and able to remove (the "**Permitted Exceptions**"). Notwithstanding the foregoing procedure regarding disapproved exceptions, Seller shall be unconditionally obligated to remove prior to Closing any mortgages or deeds of trust, or unpaid real property taxes. At Closing, the title insurance policy to be delivered by Seller to Purchaser at Closing shall contain no exceptions other than the Permitted Exceptions and the usual preprinted exceptions in an owner's standard form title insurance policy, except Purchaser shall have the right to request an extended coverage title insurance policy that deletes the usual preprinted exceptions as provided in Section 0 below.

3.2 Inspection. Within thirty (30) calendar days after the Execution Date ("**Inspection Period**"), Purchaser shall have approved, in Purchaser's sole discretion, the physical condition of the Property and other matters affecting the suitability of the Property for Purchaser's intended use. Within five (5) business days after the Execution Date, Seller shall provide Purchaser with copies of all files, records, governmental permits, appraisals and notices, plans, drawings, surveys and soil, engineering and environmental reports, and all leases, maintenance contracts and other agreements relating to the Property. At reasonable times and upon reasonable prior notice to Seller, Purchaser and its representatives, agents, and contractors shall have the right to enter upon the Property, at Purchaser's own cost and expense, with the right to conduct soil tests, engineering studies, surveys, building inspections and other investigations, tests and studies in order to attempt to satisfy the condition set forth in this Section 0. Purchaser shall indemnify, defend and hold harmless Seller, its shareholders, directors, officers, employees, successors and assigns from and against all claims, liens, liabilities, damages, losses, costs or expenses (including, without limitation, attorney fees) arising from or relating to the entry on or inspection of the Property by Purchaser, its representatives, agents, contractors or invitees. Purchaser's obligation to indemnify, defend and hold harmless is subject to the limitations of the Oregon Tort Claims Act and shall survive the termination of this Agreement and/or Closing.

3.3 Documents. Seller shall have signed, acknowledged and delivered all documents and instruments to the Title Company as required in Section 0 of this Agreement.

3.4 Representations, Warranties and Performance. All representations and warranties by Seller in this Agreement shall be true on the Closing Date as if made on that date, and Seller shall have timely performed all of Seller's obligations hereunder.

3.5 No Material Adverse Effect. Prior to Closing, there shall have occurred no event, casualty or claim with respect to the condition of the Property or Seller's ability to perform its obligations under this Agreement, that would have a material adverse effect on Purchaser's realization of the benefits of the Property.

If any of the foregoing conditions have not been satisfied or waived in writing by Purchaser within the applicable time periods specified, this Agreement shall automatically terminate and Purchaser shall be entitled to the return of the Note, with no further liabilities or obligations on the part of either party.

4. Operations Through the Closing Date. From and after the Execution Date, through and including the Closing Date, Seller, at its sole cost and expense, shall (a) keep all existing insurance policies affecting the Property in full force and effect; (b) provide all services and continue to operate, manage and maintain the Property in such condition so that the Property shall be in substantially the same condition on the Closing Date as on the Execution Date, reasonable wear and tear excepted; (c) not enter into, extend, renew, modify or replace any leases or other obligations or agreements affecting the Property without the prior written consent of the Purchaser, which consent may be withheld in Purchaser's sole discretion; (d) not voluntarily subject the Property to any additional liens, encumbrances, covenants, conditions, easements, rights of way or similar matters; (e) not make any alterations to the Property except in the ordinary course of business; (f) pay for all capital and other improvements (including labor and materials) which are performed or contracted for by Seller at or prior to the Closing Date; (g) promptly notify Purchaser of any material change in any condition with respect to the Property or of any event or circumstance which Seller becomes aware of which makes any representation or warranty of Seller under this Agreement untrue or misleading in any material respect.

5. Closing and Possession.

5.1 Closing Date. The consummation and closing (herein defined as the "Closing") of the purchase and sale contemplated by this Agreement shall be held at the offices of the Title Company at First American title Company of Oregon, 775 NE Evans Street, McMinnville, OR 97128 and shall occur at a date mutually agreed to by the parties but no later than July 17, 2009 (the "Closing Date").

5.2 Closing Documents. The following shall be delivered at or prior to the Closing:

(a) Seller shall deliver to the Title Company (i) an executed and acknowledged statutory form of warranty deed (the "Deed"), conveying title to the Property free of all encumbrances except the Permitted Exceptions; and (ii) an affidavit pursuant to which Seller states that it is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended; (iii) certified copies of notices to tenants, satisfactory to Purchaser, terminating any parking or other rights to the Property; and (iv) the Seller's share of closing costs and prorations as provided herein, in cash or by wire transfer or by cashier's check.

(b) Purchaser shall deliver to the Title Company (i) the sum set forth in Section 0 of this Agreement, subject to adjustment for prorations and other credits as provided herein; and (ii) the

Purchaser's share of closing costs and prorations as provided herein, in cash or by wire transfer of funds or by cashier's check.

(c) Seller and Purchaser shall each execute and deliver such other documents as may be required by the Title Company in connection with the Closing, including but not limited to escrow instructions consistent with the terms of this Agreement.

5.3 Title Insurance. At Closing, Seller shall provide, at Purchaser's expense, a standard owner's title insurance policy in the amount of the Purchase Price, insuring title vested in the Purchaser or its assignees or nominees, subject only to the standard printed exceptions and the Permitted Exceptions. Purchaser shall have the right, if Purchaser elects, to cause the title policy to be issued as an extended coverage policy, provided Purchaser pays the additional premium and all survey costs associated therewith.

5.4 Closing Costs and Prorations.

(a) Purchaser shall pay all recording fees that shall be payable in connection with this transaction. Purchaser and Seller shall each pay one-half of the costs of the escrow fees, if any, incurred in connection with the Closing. Seller and Purchaser shall each pay the fees and expenses of their respective attorneys and consultants in connection with this transaction.

(b) All real property taxes, assessments, utilities and other expenses with respect to the Property shall be prorated and adjusted between the parties as of the Closing Date.

5.5 Section 1033 Exchange. Seller may be entitled to structure the conveyance of the Property by means of a like kind exchange transaction designed to allow such party to defer the recognition of taxable gain pursuant to Section 1033 of the Internal Revenue Code, and Purchaser shall reasonably cooperate with Seller as reasonably requested by Seller with respect thereto, provided that Purchaser does not warrant or guarantee any such right of Seller.

5.6 Possession. Purchaser shall be entitled to possession of the Property on the Closing Date.

6. Seller's Representations and Warranties. Seller represents, warrants and covenants to Purchaser as follows:

6.1 Seller has all requisite power and authority to execute and deliver this Agreement and perform Seller's obligations hereunder and upon execution this Agreement will constitute the valid and binding agreement of Seller enforceable in accordance with its terms.

6.2 Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code, as amended, and Seller shall deliver to Purchaser at Closing an affidavit in confirmation of this Section.

6.3 Seller has, as of the date of this Agreement, and will have as of Closing, the title to the Property in the Preliminary Report.

6.4 No attachment, execution, proceeding, assignment for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceeding is pending or threatened against Seller.

6.5 Seller has not received any notice of any violation, and to Seller's knowledge the Property is not in violation, of any law, ordinance, regulation or order or requirements applicable to the Property, including but not limited to land use approvals, permits and recorded covenants, conditions, restrictions or easements applicable to the Property.

6.6 Except for the threat of condemnation by Purchaser, there is no claim, action, litigation, arbitration or other proceeding pending against Seller which relates to the Property or the transactions contemplated hereby and, to Seller's knowledge, there is currently no governmental investigation, threatened litigation or arbitration proceedings to which Seller is, or would be, a party which relates or would relate to the Property.

6.7 Except for the lease, a copy of which is attached hereto as Exhibit C, the Property is not the subject of any leases, contracts or other oral or written agreement except this Agreement and agreements disclosed in the Preliminary Report.

6.8 Other than real property taxes disclosed in the Preliminary Report, Seller has no knowledge of any other real property taxes, system development changes or other assessments or charges which have been or will be assessed against the Property.

7. Purchaser's Representations and Warranties. Purchaser represents and warrants to Seller as follows:

7.1 Purchaser has all requisite power and authority to execute and deliver this Agreement and the documents to be executed at Closing or otherwise in accordance with the terms of this Agreement and this Agreement is valid and binding on Purchaser in accordance with its terms.

7.2 Neither the entering into of this Agreement nor the consummation of the transaction contemplated hereby will constitute or result in a violation or breach by Purchaser of any judgment, order, writ, injunction or decree issued against or imposed upon it, or will result in a violation of any applicable law, order, rule or regulation of any governmental authority.

7.3 In the event the Newberg City Council reduces, changes, eliminates, or otherwise modifies the funding for the purchase of the Property, or if funding from any federal, state, or other sources is not obtained to allow for the purchase of the Property, then Purchaser may elect not to close on the purchase of the Property, and Seller agrees to abide by any such decision.

8. Survival of Representation and Warranties. The representations and warranties set forth in Section 0 and Section 0 of this Agreement shall survive Closing and delivery of the Deed.

9. Condition of Property. Purchaser agrees that the Property is being sold and conveyed by Seller and accepted by Purchaser "AS IS," without any representation or warranty by Seller except as expressly set forth herein. The language set forth in the attached Exhibit D is incorporated into this Section 9 by this reference.

10. Remedies. In the event that Seller shall fail to close this Agreement due to a default by Seller, Purchaser may either (i) terminate this Agreement by written notice thereof delivered to Seller on or before the Closing Date, (ii) enforce specific performance of this Agreement, or (iii) pursue any other remedies at law or in equity.

11. Assignment. The provisions of this Agreement shall be binding on and inure to the benefit of the parties hereto, as well as their respective heirs, executors, administrators, successors and assigns; provided, however, that this Agreement may not be assigned or transferred by Purchaser at any time without the prior written consent of Seller, which consent may be withheld for any or no reason.

12. Real Estate Commission. Purchaser and Seller each represents and warrants to the other that they have not dealt with any broker or similar individual or entity in connection with this Property and have not agreed to pay a commission to any broker or similar individual or entity. Seller and Purchaser each agrees to reimburse and indemnify the other and hold the other harmless from and against any and all claims, liabilities, losses and expenses, including but not limited to attorneys' fees and costs, incurred in connection with all claims for commissions or other compensation that may be made by anyone claiming through the indemnifying party in connection with this Agreement or the Property. The provisions of this Section shall survive Closing or termination of this Agreement.

13. Notices. Any notice, offer, acceptance, consent or other communication required or desired to be given or delivered under this Agreement shall be in writing and shall be given (a) by hand, (b) by United States, certified registered mail, postage prepaid, return receipt requested, (c) by overnight delivery (e.g., by Federal Express) or (d) facsimile, with original mailed by U.S. Mail or overnight delivery. If notice is to be given to Purchaser, it shall be addressed as follows:

City of Newberg, Oregon
Attn: Terry Mahr, City Attorney
414 E. 1st Street
PO Box 970
Newberg, OR 97132
Fax: 503 537 1206

With a copy to: Garvey Schubert Barer
121 SW Morrison St., Eleventh Floor
Portland, OR 97204
Attention: John M. Junkin
Fax: 503-226 0259

If notice is to be given to Seller, it shall be given to Seller at:

Fax: _____

With a copy to: _____

The addresses set forth above may be changed by notice given in accordance with the terms of this Section. If given by hand, facsimile or made by overnight delivery, such notice or other communication shall be deemed sufficiently served or given for all purposes hereunder upon delivery,

and if by mail, such notice or other communication shall be deemed sufficiently served or given for all purposes hereunder on the date set forth on the return receipt.

14. Severability. The invalidity or enforceability of a particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

15. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the sale and purchase of the Property, and this Agreement supersedes all prior and contemporaneous oral or written agreements, discussions and understandings of the parties hereto. There are no agreements, representations, warranties or other terms between the parties except as expressly stated in this Agreement. This Agreement may be amended only by an instrument in writing signed by the party against whom enforcement of any change is sought.

16. Governing Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Oregon.

17. Further Cooperation. Purchaser and Seller further agree they will execute such other and further documents as may be necessary or desirable to complete the transfer of the Property and to satisfy the obligations described in this Agreement, all to the end that this Agreement and the transactions and undertakings contemplated by this Agreement may and will be carried out and consummated in the most expeditious and convenient manner.

18. Effectiveness. This Agreement shall not be effective or binding on either party unless and until a fully executed copy is received by both parties hereto. If this Agreement is not executed by both parties on or before June 16, 2009, this Agreement shall be of no effect, any offer to purchase the Property from the Seller on the terms and conditions herein shall expire.

19. Miscellaneous.

19.1 The captions contained herein are for convenience only and shall be disregarded in the construction of this Agreement.

19.2 This Agreement may be executed in counterparts, each of which, once they are executed, shall be deemed to be an original, and such counterparts shall together constitute one and the same agreement binding on the parties hereto.

19.3 In the event of any dispute arising out of or relating to this Agreement, whether suit or other proceeding is commenced or not, and whether in mediation, arbitration, at trial, on appeal, in administrative proceedings or in bankruptcy (including without limitation any adversary proceeding or contested matter in any bankruptcy case), each party shall bear its own costs and expenses incurred, including but not limited to reasonable attorney fees.

20. **STATUTORY NOTICE.** THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

PURCHASER:

SELLER:

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____

PDX_DOCS:432749.1

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 15, 2009

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

SUBJECT: Consideration of a sound permit application for Chehalem Valley Chamber of Commerce concert series.

Contact Person (Preparer) for this Motion: **Chris Bolek**

Dept.: **Newberg-Dundee Police Dept.**

File No.:
(if applicable)

RECOMMENDATION:

Approve a sound permit for the Chehalem Valley Chamber of Commerce concert series on July 7, 14, 21, 28 and August 4, 11, 18, 25, 2009.

EXECUTIVE SUMMARY:

The music concert featuring live bands is scheduled for eight Tuesdays in July and August, between the hours of 6:30 pm and 8:30 pm at Rotary Centennial Park on the adjacent grass behind Central School. Event notices will be distributed to residents within a three block area.

The City Manager is authorized to approve sound permits for events where the sound will be kept at 200 feet or less (Title IX: General Regulation, Chapter 95.39 (B) (3) *Nuisance, permitted exceptions* of the Newberg Municipal Code). However, because amplified sound will travel **more than 200 feet**, we are seeking approval from the City Council.

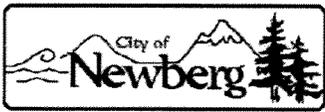
The concert is sponsored by the Chehalem Valley Chamber of Commerce. A minimum of one Chamber staff member and two committee members will be at each event. The Chehalem Valley Chamber of Commerce estimates approximately 300 individuals will be in attendance. No admission will be charged, food vendors will be on site, and alcohol will be served.

Chehalem Park and Recreation District Representative Jim McMaster has given written consent for the requested use as evidenced by her signature on the Sound Application Permit.

The Chehalem Valley Chamber of Commerce has met all the requirements for a sound permit. Seeing no reason to deny, the Newberg-Dundee Police Department recommends approval of the permit.

FISCAL IMPACT: None

STRATEGIC ASSESSMENT: None



Newberg-Dundee Police Department
 401 E. 3rd Street
 Newberg, Oregon 97132
 (503) 537-1280

DANCE PERMIT APPLICATION
SOUND PERMIT APPLICATION
 (Allow a minimum of 10 working days to process)

Fee: \$10.00 per dance

RECEIVED
 MAY 12 2009

APPLICANT: Chehalum Valley Chamber of Commerce
Sheryl Kelson DRIVERS LICENSE # 2621281 DATE: 5/11/09

ADDRESS (street, city, zip code): 415 E Sheridan St Newberg

TELEPHONE: HOME _____ BUSINESS: 503-538-2014

EVENT SPONSOR: Chehalum Valley Chamber of Commerce

ADDRESS (street, city, zip code): 415 E Sheridan St

EVENT LOCATION: Rotary Centennial Park corner Sherman & School

DATE OF EVENT: 7/7, 7/14, 7/21, 7/28, 8/4, 8/11, 8/18 & 8/25 DANCE: TIME: _____ to _____ SOUND: TIME: 6:30 to 8:45 PM

TYPE OR NATURE OF EVENT (please choose one of the following):

*Concert over at 8:30...
 This will allow for encore*

- Public Commercial or noncommercial even with audible sound OVER 200 ft. **(requires City Council approval allow 30 working day minimum to process)**
- Noncommercial event with audible sound of 200 ft. or less
- Public
- Private/Invitational

NUMBER OF PEOPLE EXPECTED: 300-500

(All events are subject to Newberg Police Department Reserve personnel or other private security personnel)

WILL A FEE BE CHARGED FOR ADMITTANCE TO THE EVENT? Yes No

WILL ALCOHOLIC BEVERAGES BE PRESENT ON THE PREMISES? Yes No

TYPE AND AMOUNT OF SECURITY PROVIDED FOR THE EVENT: Four alcohol monitors

DESCRIBE PROVISIONS FOR THE CONTROL AND DISPENSING OF ALCOHOLIC BEVERAGES

(Will a licensed OLCC server be on site or will alcohol be dispensed without consumption controls and oversight?)

Wine will be available & served by licensed OLCC server

I have read and understand the rules contained on the back of this form. The statements and information provided above are in all respects true, complete and correct to the best of my knowledge and belief. Tentative plans must substantially conform to all standards, regulations and procedures officially adopted by the City of Newberg.

Sheryl Kelson
 Applicant Signature

Jim McManis
Chehalum Park Rec.
 Property Owner Signature

FOR CITY OF NEWBERG USE ONLY (comments & conditions)

Police Services Request attached Liquor Application attached Insurance Certificate attached OLCC Permit attached
 Police OK by - See attached RCA -> Council Date: _____

City Manager approved denied Signature _____ Date: _____

City Council approved denied Mayor's Signature _____ Date: _____

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 15, 2009

Order ____	Ordinance ____	Resolution <u>XX</u>	Motion ____	Information ____
No.	No.	No. 2009-2851		

SUBJECT: Water hardship request at 832 S. Springbrook Road.

Contact Person (Preparer) for this Resolution: Howard Hamilton, PW Director Jason Wuertz, PE, Associate Engineer Dept.: Public Works Department
--

RECOMMENDATION:

Adopt **Resolution No. 2009-2851** approving a hardship connection at 832 S. Springbrook Road to the City Springs Water System based on the City Council’s interpretation of the findings of fact.

EXECUTIVE SUMMARY:

Jack & Darlene Swonger reside in and own the property at 832 S. Springbrook Road (Tax Lot No. 1800). The property is located outside the Newberg City Limits but is an island surrounded by the City. Refer to Exhibit “A” for a vicinity map.

This property has been served by a well in the past prior to the construction of the ODOT project along Highway 219 & Springbrook Road. Prior to ODOT construction, the well was tested and found to have enough quantity and was of good quality. After construction was completed the well was tested again and found to not be a suitable potable water source. Currently, the residents are purchasing bottled drinking water. ODOT has applied for a water hardship on behalf of Jack and Darlene Swonger (See Exhibit “B”).

The City of Newberg has an existing 8” water line to the north of this property. A 2” water line could be brought across the new Springbrook Road and a new ¾” water meter will be installed to serve the Swonger property. Cost to install the meter and system development charges are estimated to be \$6,299. All of the new water lines installed would be within City right-of-way or City owned easements. The use of the City water provided would be limited to domestic use only.

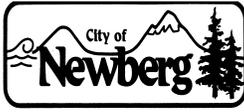
Municipal Code of Ordinances Title V Chapter 52 authorizes the Newberg City Council to approve hardship connections to the City’s water system provided the criteria contained in Section 52.12 is met. Staff has prepared findings relative to Section 52.12 (Exhibit “C”) and finds that the criteria have been met.

FISCAL IMPACT:

Adopting this resolution will bring one additional rate payer to the City’s water system.

STRATEGIC ASSESSMENT:

Construction of the ODOT Highway 219/Springbrook Road Project has caused the Swonger’s well to produce poor quality water not suitable for consumption. ODOT has applied for a water hardship on behalf of Jack & Darlene Swonger. The City recommends the adoption of this resolution to ensure the safety and health of the Swonger family.



RESOLUTION No. 2009-2851

A RESOLUTION APPROVING THE WATER HARDSHIP CONNECTION AT 832 S. SPRINGBROOK ROAD IN NEWBERG

RECITALS:

1. Jack & Darlene Swonger own and reside at the property at 832 S. Springbrook Road (Tax Lot No. 1800). The property is located outside the Newberg City Limits. A vicinity map is shown in Exhibit "A." Exhibit "A" is hereby attached and by this reference incorporated.
2. Prior to the ODOT construction project at Highway 219 & Springbrook Road, the Swongers had a domestic well which produced a good quality and quantity of water. This well was tested at the end of the ODOT project and found not to be suitable for consumption.
3. ODOT has applied for a water hardship on behalf of Jack & Darlene Swonger. The application is shown in Exhibit "B". Exhibit "B" is hereby attached and by this reference incorporated.
4. The City of Newberg has an existing 8" water line to the north of this property. A 2" water line could be brought across the new Springbrook Road and a new ¾" water meter will be installed to serve the Swonger property. Cost to install the meter and system development charges are estimated to be \$6,299. The Swongers would be responsible for the cost of the waterline extension. All of the new water lines installed would be within City right-of-way or City owned easements. The use of the City water provided would be limited to domestic use only.
5. Municipal Code of Ordinances Title V Chapter 52 authorizes the Newberg City Council to approve hardship connections to the City's water system provided the criteria contained in Section 52.12 is met. Staff has prepared findings relative to Section 52.12 and finds that the criteria have been met. The findings are shown in Exhibit "C". Exhibit "C" is hereby attached and by this reference incorporated.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

The City Council hereby approves the request to provide a hardship connection to the City water system for property located at 832 S. Springbrook Road based on the criteria, findings and testimony presented in the hearing on June 15, 2009.

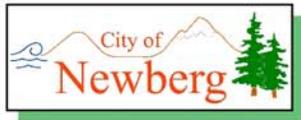
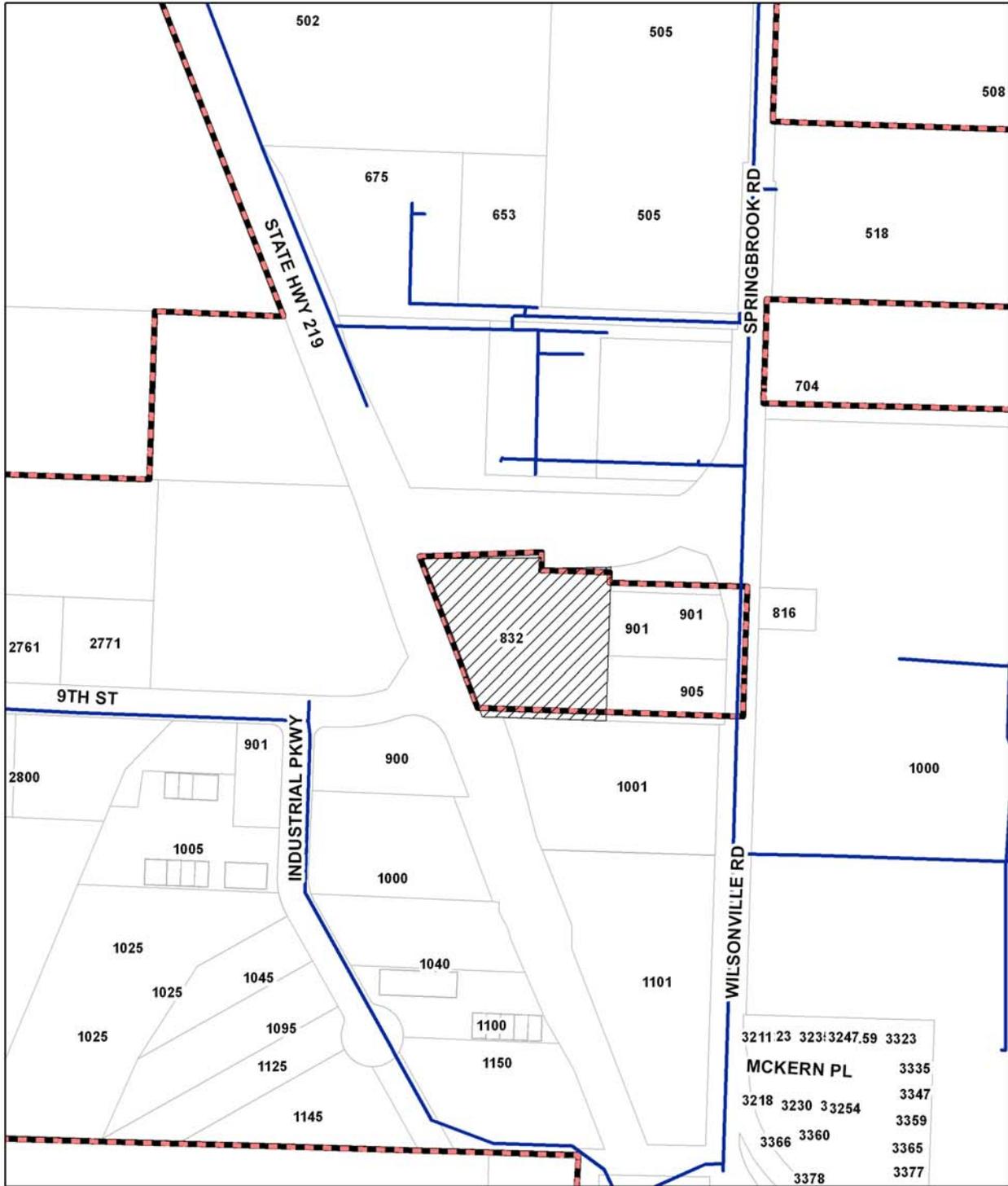
➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 16, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon, this 15th day of June 2009.

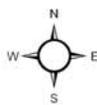
Norma Alley, City Recorder

ATTEST by the Mayor this 18th day of June 2009.

Bob Andrews, Mayor

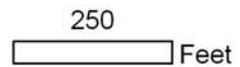


Last Update: Friday, May 29, 2009
 File: P:\GIS_Engl\832springbrook_waterhardship.mxd



Legend

-  Newberg Water Line
-  Newberg City Limits





Oregon

Theodore R. Kulongoski, Governor

Department of Transportation
Region 2 Tech Center
Right of Way & Utilities
455 Airport Road SE, Bldg. A
Salem, OR 97301-5397
(503) 986-2601
Fax: (503) 986-2622

May 12, 2009

City of Newberg
Mr. Jason Wuertz
PO Box 970
414 E. First Street
Newberg, OR 97132

RE: Request for Hardship Water Connection
Jack & Darlene Swonger Residence
832 S. Springbrook Rd.
Township 3S, Range 2W, Section 21, Tax Lot 1800

Dear Mr. Wuertz:

Thank you for your time regarding the Swonger hardship water request. ODOT requests that the City on Newberg grant a hardship for a water connection for the above mentioned property because of the following reasons:

Newberg Code 52.12 (A) Eligibility

1. *The new or additional water connection can be used only to supply water to an existing structure and will not be used to allow any development.*
The lot is currently a single family dwelling and there is no intention to change use in the foreseeable future. The residence is currently being served by a well. The well was working and producing good quality water prior to ODOT's OR219: Springbrook to Wynooski project. The well is still producing water, but the quality is in question. This may be due to the age of the well or other factors, the reason for the water quality change is simply difficult to determine. The well will be disconnected, pipes capped, and a backflow device installed. ODOT has had extensive conversation with a well professional, obtained quotes and recommendations. Please see the attached ODOT internal notes.

2. *Annexation of the property*
Annexation is not immediately foreseeable. Please see the City of Newberg's correspondence (copy attached) addressing the annexation issue when this residence was hooked into the City's sewer system. ODOT understands that an agreement between the Swongers and the City of Newberg currently exists.

Newberg Code 52.12 (B) Hardship Determination

1. *A genuine hardship exists.*

Per my conversations with Floyd Sippel of Sippel Well Drilling, the quality of water is in question. Mr. Sippel recommended to ODOT that the water not be used for consumption, but that the water could be used for other home functions such as washing clothes, doing dishes etc. The Swongers are currently consuming bottled water.

2. *All other alternatives have been investigated*

ODOT has had conversations with Sippel Well Drilling, Yamhill County and the City of Newberg. All parties have concluded that hooking into the City's system is a prudent decision regarding water quality and safety.

3. *The dwelling is in close proximity.*

The City of Newberg, ODOT's proposed contractor (G.V.S. Contracting) and ODOT met on site to explore potential hook-up options. Per the City's request, the water connection would be made from the north. Please see the email dated May 6, 2009 @ 11:46am outlining the specific requirements. There is an easement already in place to accommodate the new service.

Once again, thank you for your consideration for this hardship request. If there are any additional questions or requirements, please do not hesitate to contact me.

Regards,



Roxanne Hanneman
ODOT Region 2 Right of Way
503-986-2613

Encl.

Cc: L. Fain/City of Newberg
D. Danicic/City of Newberg
Swonger Family

HANNEMAN Roxanne M * ODOT

From: HONEYWELL Frederick G
Sent: Tuesday, February 24, 2009 3:24 PM
To: HONEYWELL Frederick G; HANNEMAN Roxanne M * ODOT
Cc: CELIA Jean
Subject: Swonger Well

I met with Floyd at the site to go over what issue and possible correction were possible.

1. Floyd's first concern is the new driveway that is on Swonger's property. Floyd is concerned because he stated that his drill rigs weigh 56,000 lbs and he is afraid of damage to the paved driveway.
 2. Floyd stated that he would rather wait until dry weather so that if he has to go into Swonger's property, he could access from the East side and drive through Swonger's field.
 3. Floyd is also concerned that the Swonger well is in excess of 30 years in age and he states that there is a very good possibility of the casing in the well starting to fail. Floyd stated that there is a very good chance that this is the area where the contamination is getting into the water. I did ask about pulling the casing and Floyd stated that he does not think that is a good idea because it could fail or break during removal. Floyd stated that the best thing to do is to over size and drill around the old well and then remove the casing and replace it with new casing and the fill around the new casing.
 4. Floyd did bring up the issue that when he starts any action on the well that the Swonger's will not have any water to use in the house. We did discuss that drinking water can be bought, but they will still have to have water to operate the other functions of the home (flushing toilets, washing clothes, doing Dishes -etc) and this can be a real problem. We did discuss the possibility of laying a ground line to other neighbors if they were willing to allow this. We also discussed the possibility of bringing in a Potable Water tank for the Swonger's to use.
 5. Floyd did state that he feels the first plan of action is to remove the pump and send a TV camera down the well to look for any obvious problems with the well. But even this means that the Swonger's will be without water for a few days while the pump and water pipe and electrical is pulled out of the well.
 6. Floyd did state that he felt the best solution to this situation is to check into hooking up the Swonger's to city water.
- I told Floyd that I would go back and discuss this with Roxanne and that I would get back to him in one or two days to discuss with him what was decided to go with.

HANNEMAN Roxanne M * ODOT

From: HANNEMAN Roxanne M * ODOT
Sent: Wednesday, May 06, 2009 11:46 AM
To: 'Dale Smith'
Cc: 'russ.thomas@ci.newberg.or.us'; 'jason.wuertz@ci.newberg.or.us'; OTTOSEN Shane;
KANOFF Krag S
Subject: Newberg Water Hookup Project

ODOT Project: OR219 Springbrook - Wyooski, Swonger File

Hi Dale,

Thanks once again for your time last week. Per my conversation with the City of Newberg today, the City would like to see the water connection coming from the north as we discussed on site with the following requirements:

An 8 inch line in the easement

Bore 4 feet below the ditch

Bore under the road

2 inch line with a 4 inch poly sleeve

The meter can be set on the south side of the planter strip, with a blow off which will allow maintenance to open and drain stagnate water

3/4 inch pipe to the property is acceptable (I don't recall what size is currently going into the house, but I think it's 1 inch)

Send plans to the City of Newberg. You're contact is Russ Thomas at 503-537-1233. Please keep Russ in the loop on the details and work with him on City specifications.

The City will be inspecting.

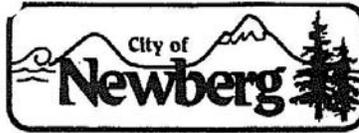
Jason, if I missed any thing or misstated something, please feel free to correct me.

ODOT Construction, anything??

THANK YOU ALL!!

Regards,
Roxanne Hanneman
ODOT Region 2 Right of Way
503-986-2613

Newberg City Hall
(503) 537-1240
www.ci.newberg.or.us



Public Works Department
Engineering Division
(503) 537-1273

PUBLIC WORKS DEPARTMENT

P.O. Box 970 • 414 E. First Street • Newberg, Oregon 97132 • (503) 537-1273 • Fax (503) 537-1277

October 6, 2006

Roxanne Hanneman
455 Airport Rd. SE. Bldg. A
Salem, OR 97301

Dear Roxanne:

It does appear that the City of Newberg has sanitary sewer facilities in the vicinity of the Swonger's property at 816 S. St. Paul Hwy, Newberg, OR. We understand that ODOT and the Swonger's are interested in connecting the single-family residence to this sanitary line.

This connection can be approved subject to certain conditions since the property is located outside of the City limits. In general these conditions will be as follows:

1. Payment of the sewer connection fee and sanitary sewer systems development charge.
2. Connection between the residence and public sewer will be at the property owner's expense.
3. An agreement signed by the property owner's and recorded in Yamhill County that at the time Jack and Darlene Swonger move off the property, an application to annex the subject property will be submitted to the City of Newberg within 90 days with all appropriate fees at the expense of property owner's.

If you find these conditions acceptable, please let the City of Newberg know. We will then prepare the formal documentation for the property owner's review and signature.

Sincerely,



Daniel Danicic, PE
Public Works Director

RECEIVED
RIGHT OF WAY / UTILITIES
OCT 11 2006
REG. 2 TECH CENTER

Cc: Terry Mahr

"Working Together for a Better Community – Serious About Service"

K:\WPADMIN\MISC\KARAN\Correspondence\letter to Roxanne Hanneman.doc

FINDINGS

Requests for hardship exceptions to allow water connections outside of City limits are governed by City Municipal Code of Ordinances Title V Chapter 52.

Section 52.12. Exceptions due to Hardships. An exception to Section 52.11 may be granted by the City Council in cases of hardship. The following process shall be used in determining whether the exception shall be granted, and the criteria shall be strictly applied with the burden of proof upon the applicant:

(A) *Eligibility. The applicant must meet the following criteria:*

1. The new or additional water connection can be used only to supply water to an existing structure and will not be used to allow any new development.

Response: The new water connection will only be used to supply water to an existing structure and no new development is proposed.

2. Annexation of the property upon which the structure is located is not immediately feasible.

Response: Annexation of the property is not immediately feasible because the zoning requirements would not allow this property to be used as a private residence.

(B) *Hardship Determination. A request for a new or additional water connection due to hardship shall be accompanied by evidence of the following:*

1. A genuine hardship exists due to quality and/or quantity of water for domestic consumption.

Response: Domestic drinking water was originally provided by a well that has failed due to the ODOT Construction project. Water quality is not suitable for consumption.

2. All other alternatives have been investigated and are not economically feasible.

Response: A well drilling company looked at drilling a new well but determined it was not an economical option. The parcel is not very large and there was little chance of finding a good water source that is not contaminated. Also, the heavy well drilling equipment would damage the new driveway that was recently installed.

3. The dwelling to be served is in close proximity of existing services, either private or public and the granting of the additional connection would not overburden existing lines, either private or public, or overburden the City's water supply.

Response: The new meter would be a standard ¾" domestic meter that connects from the existing 8" City water system to the north. The location of the connection is on the property to the north. An easement along this 8" line is already in place. No new easement would be necessary. The new service would not over-burden the water line or the City water supply.

- (C) *Application for Hardship. A request in letter form, for a hardship exception to Section 52.11 shall be made to the City Council. The request shall be accompanied by a statement and evidence to be used in the determination. The request shall be reviewed and a recommendation made to the Council by the Public Works Department prior to the Council's consideration of the matter. A granting of the request for an exception can be made by the Council, provided that all the conditions stated in division (B) do exist.*

Response: A letter has been submitted by the owner. It is attached to the Request for Council Action (Exhibit "B") for review by City Council.

- (D) *Conditions of Hardship. Any exception granted shall be subject to the following conditions:*
- 1. The owner of the property shall agree to pay the full cost of extending services to the parcel with all services meeting City standards and including all development charges.*
 - 2. The owner of the subject property agrees to annex to the City at such time as annexation is legally possible and is requested by the City.*
 - 3. Water shall be for domestic purposes only and no water granted under this exception shall be permitted for agricultural use.*
 - 4. A written agreement as to the conditions under which the exception was granted shall be recorded on the Yamhill County Deed Records with the applicant paying all fees.*

Response: The owner agrees to pay the appropriate cost of extending services to the parcel in accordance with City standards. Further, he agrees to annex to the City of Newberg when it is requested. These conditions will be incorporated into a legal agreement should City Council choose to approve this hardship.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 15, 2009

Order ____ **Ordinance** XX **Resolution** ____ **Motion** ____ **Information** ____
No. **No. 2009-2717** **No.**

SUBJECT: Creation of an Old Fashioned Festival Zone, allowing only temporary merchants and street vendors associated with the festival within the zone.

Contact Person (Preparer) for this Ordinance: Barton Brierley

Dept.: Planning and Building

File No.: G-09-006
(if applicable)

RECOMMENDATION: Adopt **Ordinance No. 2009-2717**, creating an Old Fashioned Festival Zone, allowing only temporary merchants and street vendors associated with the festival within the zone.

EXECUTIVE SUMMARY: The attached ordinance would prohibit temporary merchants and street vendors from operating near the Old Fashioned Festival. Currently, vendors within Memorial Park must register with the festival and pay a fee for a booth. A few vendors have tried to skirt paying the fee by operating just outside the festival area. This has several impacts: (1) It has a negative effect on festival proceeds and on the vendors who do pay for space, and (2) it does not allow effective coordination of traffic flow, space needs, and people flow during the festival.

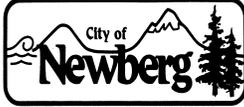
The ordinance would create a “festival zone” where this limit applies. The festival zone would be the area between 1st Street, Blaine Street, 9th Street, and Meridian Street. See Attachment A.

If adopted, we would send notice of the ordinance to existing registered street vendors and temporary merchants.

This ordinance would allow festival organizers to approach any vendor in violation of the ordinance and request that they not operate in the area. If there continue to be issues, the City could enforce the ordinance. Violations would be a Class 2 civil infraction, carrying a \$500 fine.

FISCAL IMPACT: There would be some costs associated with enforcing the ordinance if vendors will not comply. There would be some additional revenue to the Old Fashioned Festival if these vendors register with the festival.

STRATEGIC ASSESSMENT: The Old Fashioned Festival is very important to maintaining the culture and character of the community. This ordinance would show increased support to the festival.



ORDINANCE No. 2009-2717

AN ORDINANCE ESTABLISHING A FESTIVAL ZONE DURING THE OLD FASHIONED FESTIVAL AND RESTRICTING TEMPORARY MERCHANTS AND STREET VENDORS OPERATING WITHIN THE FESTIVAL ZONE

RECITALS:

1. Each year the City of Newberg and community participate in a week, in July, celebrating community spirit and cooperation known as the Old Fashioned Festival.
2. The City of Newberg is a participant in many ways and welcomes the community each year to join them in the Old Fashioned Festival activities, and enjoy the friendship and sense of community built by a festival of this extent.
3. Funding to make the event possible comes from the generous donations of many businesses, individuals, the City of Newberg, and from fees charged to vendors participating in the event.
4. In past years, a few street vendors and temporary merchants have operated near the Old Fashioned Festival area, and have taken advantage of the publicity and community donations provided by the Festival to sell their goods, without participating in the costs that are essential to making the festival successful.
5. Also, the Old Fashioned Festival requires much coordination to insure a smooth flow of events, activities, people, traffic, set up, and clean up. Vendors who are not officially associated with the event can disrupt this smooth flow.
6. The City wishes to support the Old Fashioned Festival, and wishes to insure that those temporary merchants and street vendors operating near the festival are contributing to the success of the festival.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

The following shall be added as Newberg Code § 113.20:

§ 113.20 Old Fashioned Festival Zone. During the Old Fashioned Festival, as proclaimed by the Mayor and City Council, an Old Fashioned Festival Zone shall be in effect. The festival zone shall be bounded by and shall specifically include properties abutting both sides of South Blaine Street on the west, East First Street on the north, East Ninth Street on the south, and South Meridian Street on the east. During the Old Fashioned Festival, no short term temporary merchant or street vendor shall operate within the Festival Zone, except those operating under authority of the official Old

Fashioned Festival committee. Vendors shall present identification necessary to show this authority.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: July 15, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon, this 15th day of June, 2009, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

Norma I. Alley, City Recorder

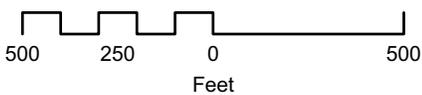
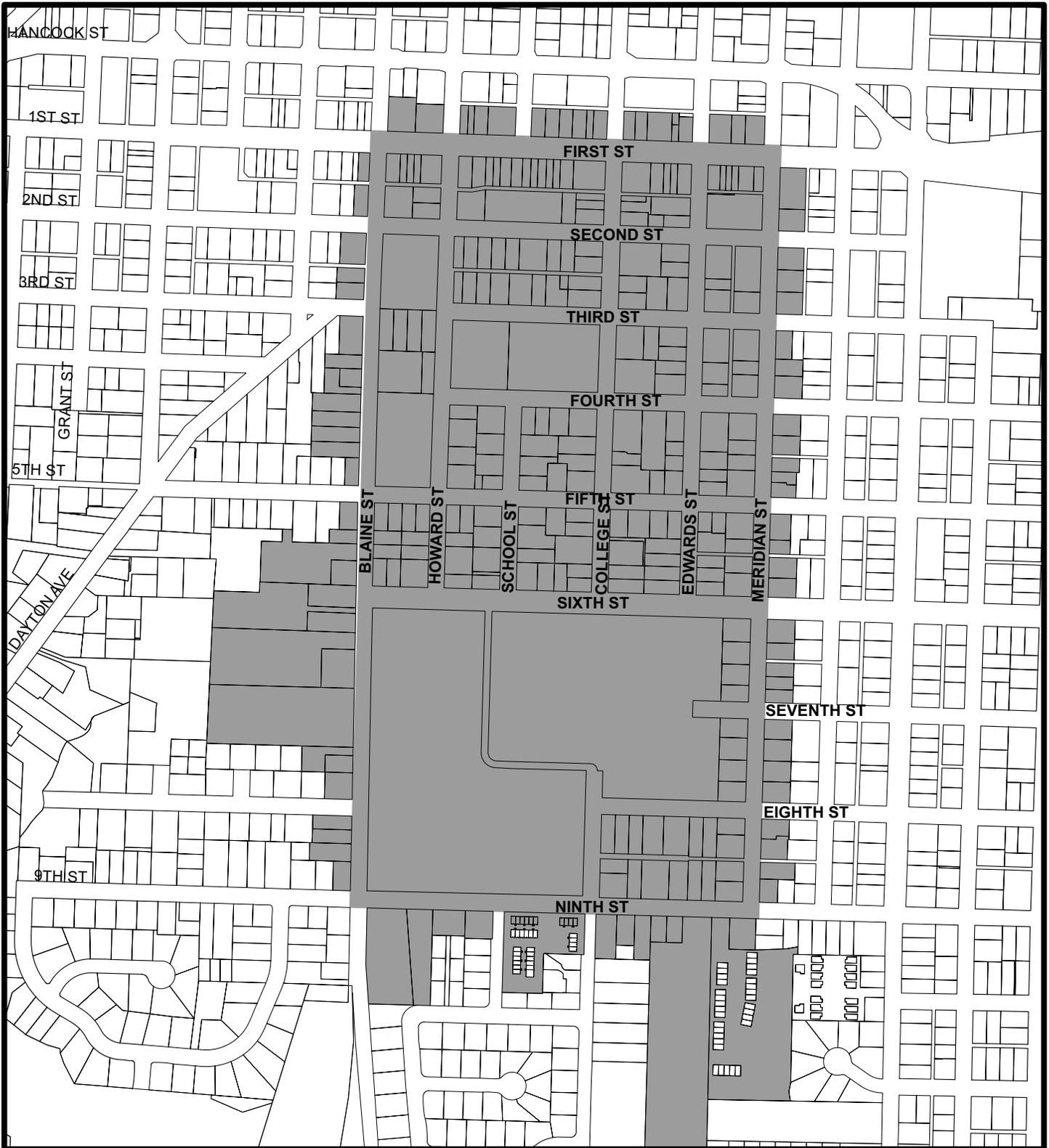
ATTEST by the Mayor this 18th day of June, 2009.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

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

Old Fashioned Festival Zone



scale



REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 15, 2009

Order ____ Ordinance ____ Resolution XX Motion ____ Information ____
No. No. No. 2009-2852

SUBJECT: Approving Adjusted Garbage and Recycling Service Rates for Newberg Garbage Service, Inc. Effective July 1, 2009.

Contact Person (Preparer) for this
Resolution: Daniel Danicic, City Manager

Dept.: Administration

File No.:

(if applicable)

RECOMMENDATION: Adopt **Resolution No. 2009-2852** approving adjusted garbage and recycling service rates for Newberg Garbage Service, Inc. effective July 1, 2009.

EXECUTIVE SUMMARY:

The City of Newberg has an exclusive franchise with Newberg Garbage Service, Inc. for the hauling of garbage and refuse and the collection of recyclable materials within the city. The franchise agreement gives the City of Newberg the right to regulate and fix rates for garbage and recycling services.

On January 19, 1999, the City Council adopted Resolution No. 99-2160 increasing Newberg garbage rates and required that the garbage rates be reviewed every two years.

Recently approved rate increases:

- a. July 1999 - 3.39%
- b. July 2001 – 18.5%
- c. July 2003 – 0%
- d. July 2007 – 3.5%

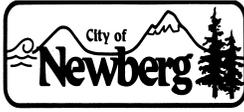
Newberg Garbage Service, Inc. has submitted a solid waste & recycling rate review report for calendar years 2007 and 2008 (Exhibit A). Based on the results of this review, the company is requesting a 4.23% general rate increase effective July 1, 2009. The rate review report and proposed schedule of rates are attached for the Council's review and consideration.

FISCAL IMPACT:

If approved, garbage and recycling rates for customers within the City of Newberg will increase by 3.5%. For the typical residential customer, the monthly rate would increase from \$17.31 to \$18.04 per month – an increase of \$0.73 per month. Newberg assesses a franchise fee of 3% of gross annual revenue (\$79,041 in 2008). The proposed FY 09/10 City budget estimated franchise revenue of \$80,000.

STRATEGIC ASSESSMENT:

The City of Newberg strives to provide a clean and healthy environment for its citizens. Newberg Garbage Service, Inc. has and continues to offer excellent garbage collection and recycling services to the community. It is necessary to set collection rates that are adequate to ensure that these services continue to be delivered and improved upon.



RESOLUTION No. 2009-2852

A RESOLUTION ADOPTING ADJUSTED GARBAGE AND RECYCLING SERVICE RATES FOR NEWBERG GARBAGE SERVICE, INC., EFFECTIVE JULY 1, 2009

RECITALS:

1. The City of Newberg has an exclusive franchise with Newberg Garbage Service, Inc. for the hauling of garbage and refuse and the collection of recyclable materials within the city. The franchise agreement gives the City of Newberg the right to regulate and fix rates for garbage and recycling services.
2. On January 19, 1999, the City Council adopted Resolution No. 99-2160 increasing Newberg garbage rates and further required that the garbage rates be reviewed every two years.
3. Newberg Garbage Service, Inc. has submitted a solid waste & recycling rate review report for calendar years 2007 and 2008, hereby attached as Exhibit "A" and by this reference incorporated. Based on the results of this review, the company is requesting a 4.23% general rate increase effective July 1, 2009.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

The garbage and recycling rates for individual services proposed in the Newberg Garbage Service, Inc. rate review report of May 8, 2009, herein incorporated as Exhibit "A", are hereby adopted and shall take effect on July 1, 2009.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 16, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon this 15th day of June 2009.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 18th day of June 2009.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

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

Newberg
GARBAGE & RECYCLING
 Service

May 8, 2009

Mr. Dan Danicic, City Manager
City of Newberg
414 East 1st Street
Newberg, Oregon 97132

Re: Newberg Garbage Service, Inc.
City of Newberg Solid Waste & Recycling Rate Review

Dear Mr. Danicic:

Enclosed is Newberg Garbage and Recycling Service's every-other-year rate review report for calendar years 2007 and 2008 Revision. Based on the results for 2008 the Company is requesting a general cost of doing business rate increase of 4.23%. The effective date of the increase is requested for July 1, 2009.

The revision is made to include additional information requested by City staff on the comparative analysis of rates. Five additional cities have been included of like size to Newberg. Also noted by asterisk are the cities with similar cart recycling and yard debris service.

Sincerely,

Sharon Bjorn

Sharon Bjorn
Controller

Enclosure

Newberg Garbage & Recycling Service

**Presentation To The City Of Newberg's
City Staff
On Review of Solid Waste & Recycling Rates
July 1, 2009**

**Revised
May 8, 2009**

Prepared by:

Newberg
Garbage & Recycling
Service
Post Office Box 1000
Newberg, Oregon 97132
538-1388

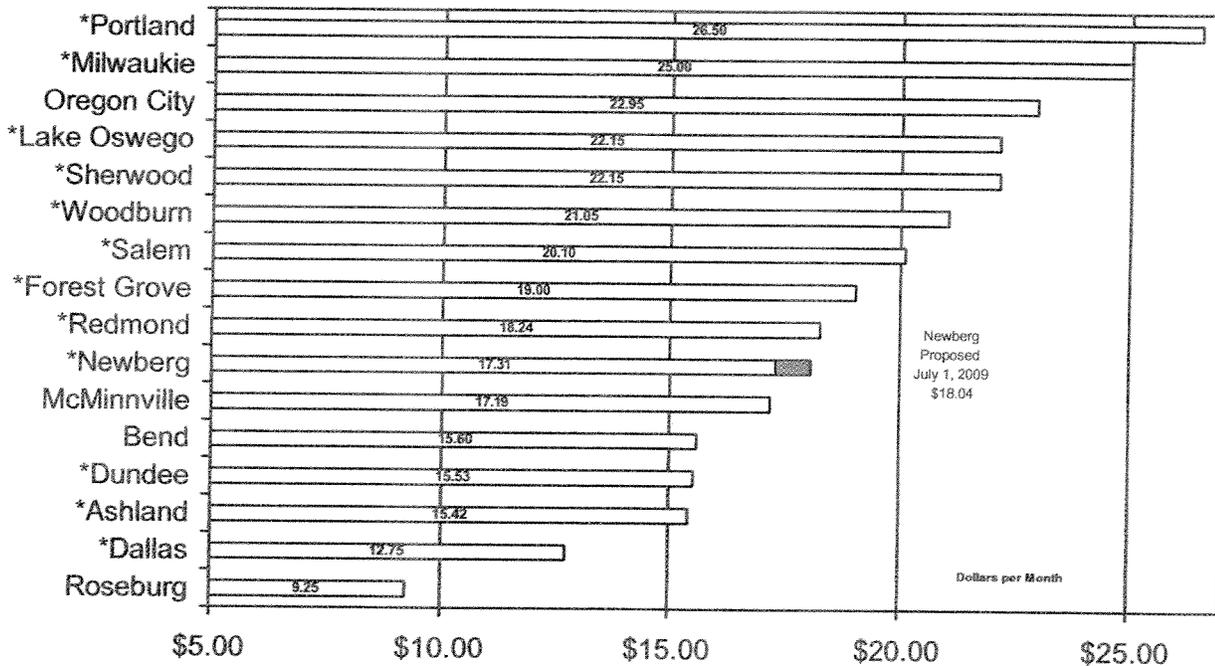
Executive Summary

Newberg Garbage & Recycling Service (the Company) is requesting a 4.23% increase in collection rates in the City of Newberg to be effective July 1, 2009. This increase is the net result of a decline in the customer base growth rate, and a general increase in the cost of doing business, principally fuel and disposal costs. These factors are netted with the effects of improved collection efficiencies. The last cost of doing business rate increase in the City of Newberg was 3.5% effective July 1, 2007.

This request will result in raising monthly rates on one 35-gallon roll cart, once-a-week service from the current \$17.31 to \$18.04. The net effect of this proposed rate increase on the average single-family residential customer in Newberg is \$0.73 per month.

Shown in the following chart, is a comparison of residential collection rates in selected jurisdictions to the current and proposed rates for the City of Newberg customers.

**Comparative Analysis of Rates at Dec, 2008
One 35 Gal Cart Weekly Service By Jurisdiction**



*These cities have similar commingle recycling and yard debris cart service
Based on the 2007 US Census the following Cities are of similar size to Newberg:
Ashland, Forest Grove, Milwaukie, Redmond, Roseburg and Woodburn

Background

A review of rates every two years is called for by City of Newberg Resolution No. 99-2160 effective January 1, 1999. The purpose of this report is to provide information to support the administration of solid waste and recycling collection rates. This report covers calendar years 2007 and 2008. The objective of reviewing rates every two years is to avoid large, infrequent adjustments. The Company believes this objective is being met.

The cost of service model used in the reviews has been consistently applied. The model provides an objective basis for the allocation of allowable costs to jurisdictions serviced by common labor, vehicles and administrative services. The operating ratio range, used in the model, is a means of tracking

performance against a set of predetermined limits. An operating ratio (O/R) expresses, as a percent, the relationship of operating expenses to operating revenue. The upper limit of 91.5 % and the lower limit of 85.5% provide a 6 percentage point window, allowing 3 percentage points above or below the operating ratio target of 88.5%. When operations result in a current O/R outside the window, this triggers a rate adjustment upon review of the contributing factors.

Current Operating Results

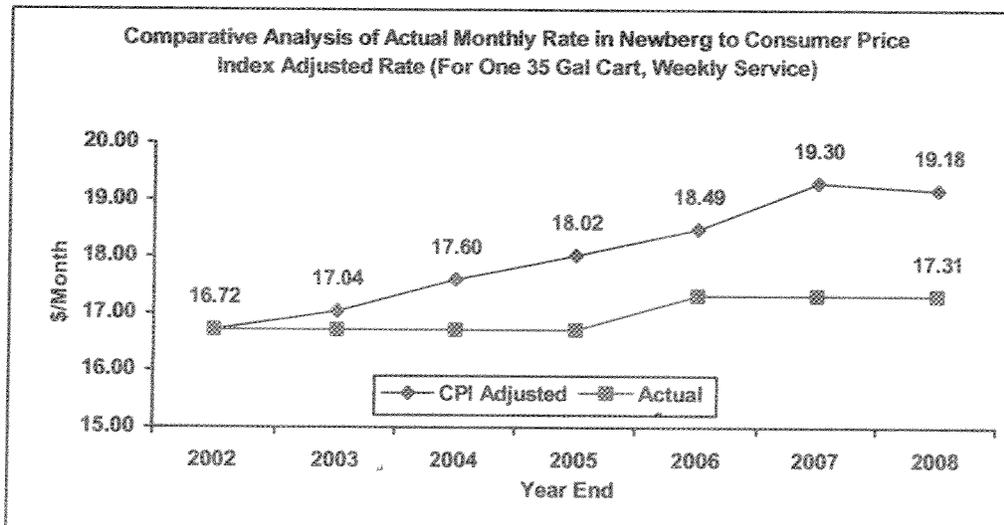
The following table shows the Company operated at an O/R of 92.35% and 89.90% for the years 2008 and 2007, respectively. Year 2008 falls outside the established range discussed above. The model results form the basis for this 4.23% rate increase request.

Rate Review - Operating Ratio Calculation	2008 <u>Actual</u>	2007 <u>Actual</u>
Allowable Expenses		
Disposal Costs	\$957,662	\$896,754
Labor Costs	\$655,621	\$644,157
Operational Costs	\$725,481	\$708,722
General and Administrative	<u>\$431,069</u>	<u>\$404,872</u>
Allowable Expenses	\$2,769,833	\$2,654,505
Subtract Franchise Fees	<u>(\$79,041)</u>	<u>(\$76,914)</u>
Total Allowable Expenses with OR Applicable	\$2,690,792	\$2,577,591
Actual Revenue	\$2,992,756	\$2,943,997
Current Operating Ratio	92.35%	89.90%
Revenue Required for 88.5% OR	\$3,040,443	\$2,912,532
Add Franchise Fees	\$79,041	\$76,914
Total Revenue Required	\$3,119,484	\$2,989,446
Percentage Increase	4.23%	1.54%

Review of Contributing Factors

1. Inflation:

The following chart illustrates the time value of money over the period 2002 to 2008. The last rate adjustment in this period of 3.50% is reflected in the year 2006.



As the chart above shows, from 2002 to the end of 2008, an inflation-adjusted rate as measured by the Pacific Cities Consumer Price Index (i.e., CPI-U West-B/C) would equate to a monthly rate of \$19.18 versus the actual current Newberg rate of \$17.31. The difference of \$1.87 (\$19.18 less \$17.31) represents a 10.8 percent increase over the six-year period.

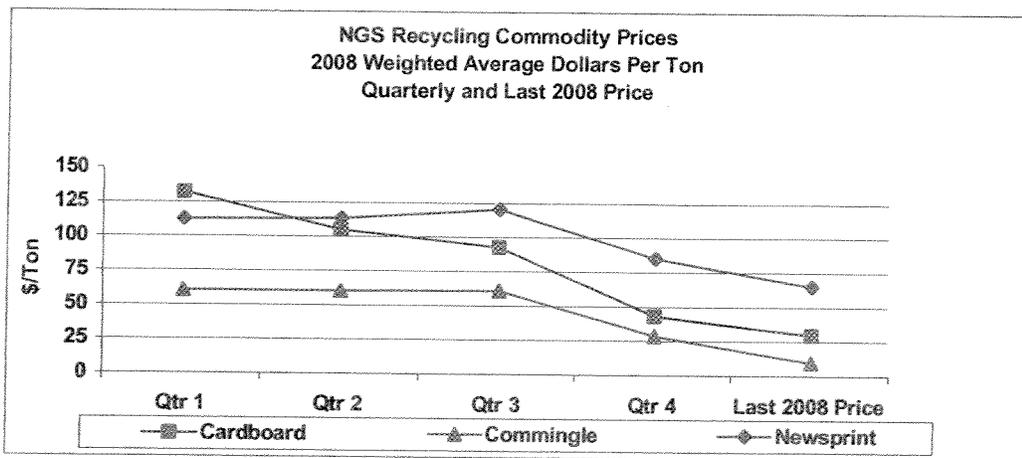
2. Customer Growth & Continued Efficiencies:

In 2008 the slowdown in the local economy is reflected in a lower solid waste customer growth rate compared to recent years. The growth rate for calendar year 2008 dropped to 1.7% from a 3.4% growth rate in 2007.

A third split body truck was added in June 2007 for a total of three split body trucks providing curbside recycling and garbage collection. The expected gain in efficiencies, as measured by customer pickups per man-hour, has been realized over the past three years by investing in new curbside collection technology. However, the decrease in customer growth in 2008 places upward pressure on collection rates and is a contributing factor in this rate adjustment request. The upgrade in collection vehicles will have a stabilizing impact on collection rates going forward.

3. Recycling Commodities Market Collapse

Domestic and foreign recycling markets declined throughout 2008. The following chart displays the decline using quarterly weighted average selling prices per ton by commodity. Early 2009 prices do not indicate an early recovery. The impact of this trend may require a review of rates before the next bi-annual review in 2010.



Conclusion:

Based on the results of the cost of service model, the Company is requesting a 4.23% general cost of doing business rate increase to be effective July 1, 2009. It should be noted that funding for any new programs would be considered during the development of the program.

Attachments to this Rate Review:

Appendix A - The current & proposed schedule of rates for collection services provided in the City of Newberg, Oregon.

Current rates effective July 1, 2007 per Resolution 2007-2710 dated 05/21/07.

Proposed rates to be effective July 1, 2009 upon approval of this request for a 4.23% rate increase.

**Current & Proposed
Schedule of Rates
For City of Newberg Collection Services
Requested to be Effective
July 1, 2009**

Appendix A

NEWBERG GARBAGE SERVICE, INC.	Current	Proposed	Proposed
City of Newberg Current Rates Approved on May 21, 2007 by Resolution No. 2007-2710	Rates Jul 1, 2007	Adjustment 4.23%	Rates Jul 1, 2009
Residential Rates - Monthly			
One Minican Weekly (20 Gal) Curbside	\$16.05	\$0.68	\$16.73
One Can Weekly (32 Gal) Curbside	\$17.31	\$0.73	\$18.04
Each Additional Can	\$10.19	\$0.43	\$10.62
One Can Weekly (Non-Curbside)	\$19.02	\$0.80	\$19.82
Each Additional Can	\$11.79	\$0.50	\$12.29
One Can Monthly (Curbside)	\$12.67	\$0.54	\$13.21
65 Gallon Cart Weekly (Curbside)	\$21.29	\$0.90	\$22.19
95 Gallon Cart Weekly (Curbside)	\$23.39	\$0.99	\$24.38
Recycling-Only Service	\$6.44	\$0.27	\$6.71
Additional Recycling Cart	\$2.71	\$0.11	\$2.82
Multiple Residential Units and Mobile Parks			
(Single Billing) Monthly			
One Minican Weekly (20 Gal) Curbside	\$14.45	\$0.61	\$15.06
One Can Weekly (32 Gal) Curbside	\$15.76	\$0.67	\$16.43
Each Additional Can	\$8.93	\$0.38	\$9.31
One Can Weekly (Non-Curbside)	\$17.31	\$0.73	\$18.04
Each Additional Can	\$10.36	\$0.44	\$10.80
One can weekly (Enclosed Cans)	\$17.77	\$0.75	\$18.52
Each Additional Can	\$10.36	\$0.44	\$10.80
One Can Monthly (Curbside)	\$12.67	\$0.54	\$13.21
Recycling - Only Service	\$6.44	\$0.27	\$6.71
Call Rates (In Route)			
Regular customer - additional can curbside	\$2.58	\$0.11	\$2.69
Regular customer - additional can non-curbside	\$3.15	\$0.13	\$3.28
Cash customer - per can (will call) on route	\$6.35	\$0.27	\$6.62
Bill customer - per can (will call) on route	\$6.92	\$0.29	\$7.21
Call Rates (Outside Route)			
Call-back charge	\$6.13	\$0.26	\$6.39
Appliances - Hourly plus disposal			
One packer truck - One man (Hourly Rate)	\$68.69	\$2.91	\$71.60
One packer truck - Two men (Hourly Rate)	\$85.87	\$3.63	\$89.50
Additional Rate Information			
Weekly Walk-in rate:one cent per foot after the first fifty feet.			
Extra - 32 gal can equivalent - curbside	\$2.63	\$0.11	\$2.74
Extra - 32 gal can equivalent - non-curbside	\$3.21	\$0.14	\$3.35
Recycling Contamination Charge	\$9.32	\$0.39	\$9.71
Triple Change of Service Charge	\$10.35	\$0.44	\$10.79
Overweight charge (taking 2 men to lift weight safely)	\$2.29	\$0.10	\$2.39
Oversized can charge (taking 2 men to lift bulk)	\$2.29	\$0.10	\$2.39
Restart - Service stopped for Nonpayment	\$10.35	\$0.44	\$10.79
NSF Check Charge - See Footnote	\$10.35	\$9.65	\$20.00
Commercial Services			
35 Gallon Cart Weekly	\$20.06	\$0.85	\$20.91
65 Gallon Cart Weekly	\$22.32	\$0.94	\$23.26
95 Gallon Cart Weekly	\$24.43	\$1.03	\$25.46
Commercial Container - Weekly Service			
1 Yard	\$71.16	\$3.01	\$74.17
1-1/2 Yard	\$96.67	\$4.09	\$100.76
2 Yard	\$123.33	\$5.22	\$128.55
3 Yard	\$175.74	\$7.43	\$183.17
4 Yard	\$230.79	\$9.76	\$240.55
5 Yard	\$282.91	\$11.97	\$294.88
6 Yard	\$366.75	\$15.51	\$382.26
Footnote: NSF Charge is being increased by flat rate to \$20, not by % increase			

Exhibit "A"

NEWBERG GARBAGE SERVICE, INC. City of Newberg Current Rates Approved on May 21, 2007 by Resolution No. 2007-2710	Current Rates Jul 1, 2007	Proposed Adjustment 4.23%	Proposed Rates Jul 1, 2009
Commercial Container - Each Additional Weekly Stop			
1 Yard	\$53.83	\$2.28	\$56.11
1-1/2 Yard	\$84.93	\$3.59	\$88.52
2 Yard	\$110.10	\$4.66	\$114.76
3 Yard	\$155.57	\$6.58	\$162.15
4 Yard	\$197.15	\$8.34	\$205.49
5 Yard	\$236.38	\$10.00	\$246.38
6 Yard	\$280.28	\$11.86	\$292.14
Commercial Container - Short Term Service (Includes delivery, pickup, one week rental, and first stop)			
1-1/2 Yard	\$33.03	\$1.40	\$34.43
2 Yard	\$40.86	\$1.73	\$42.59
3 Yard	\$54.65	\$2.31	\$56.96
4 Yard	\$68.12	\$2.88	\$71.00
Commercial Container - Short Term Service - Each Add'l Wkly Stop			
1-1/2 Yard	\$23.11	\$0.98	\$24.09
2 Yard	\$31.16	\$1.32	\$32.48
3 Yard	\$44.22	\$1.87	\$46.09
4 Yard	\$58.34	\$2.47	\$60.81
Cardboard recycling container only (non solid waste customer) - 40% of published rates			
Medical Waste Rates - per Tub or Box			
Large Generator (3 or more containers per stop)			
48 Gallon Steri-Tub	\$35.65	\$1.51	\$37.16
21 Gallon Steri-Tub	\$30.33	\$1.28	\$31.61
35 Gallon Box with liner	\$30.93	\$1.31	\$32.24
19 Gallon Box with liner	\$26.08	\$1.10	\$27.18
Small Generator (2 or fewer containers per stop)			
48 Gallon Steri-Tub	\$46.00	\$1.95	\$47.95
21 Gallon Steri-Tub	\$40.68	\$1.72	\$42.40
35 Gallon Box with liner	\$41.28	\$1.75	\$43.03
19 Gallon Box with liner	\$36.43	\$1.54	\$37.97
Miscellaneous Rates - All Customers			
Sharps Container and Disposal at NGS Office			
4.7 quart - per container	\$10.35	\$0.44	\$10.79
10 quart	\$15.53	\$0.66	\$16.19
23 quart	\$20.70	\$0.88	\$21.58
Sharps Container and Disposal on Route			
4.7 quart - NGS container	\$20.70	\$0.88	\$21.58
10 quart	\$25.88	\$1.09	\$26.97
23 quart	\$31.05	\$1.31	\$32.36
Sharps Container and Disposal on Route			
4.7 quart - per Others container	\$10.35	\$0.44	\$10.79
10 quart	\$12.94	\$0.55	\$13.49
23 quart	\$15.53	\$0.66	\$16.19
Sharps Container Purchase Only			
4.7 quart - per container	\$5.18	\$0.22	\$5.40
10 quart	\$10.35	\$0.44	\$10.79
23 quart	\$15.53	\$0.66	\$16.19
Special Service Fee - per hour	\$68.69	\$2.91	\$71.60
Spill Kit - Small Volume	\$15.53	\$0.66	\$16.19
Misc medical supplies billed separately at cost			

NEWBERG GARBAGE SERVICE, INC.	Current	Proposed	Proposed
City of Newberg Current Rates Approved on May 21, 2007 by Resolution No. 2007-2710	Rates Jul 1, 2007	Adjustment 4.23%	Rates Jul 1, 2009
Dropbox Rates - Loose Rate			
10 Yard	\$170.72	\$7.22	\$177.94
20 Yard	\$281.63	\$11.91	\$293.54
30 Yard	\$415.15	\$17.56	\$432.71
40 Yard	\$541.32	\$22.90	\$564.22
50 Yard	\$676.66	\$28.62	\$705.28
Delivery charge - first box	\$17.17	\$0.73	\$17.90
Dropbox Rates - Compactor Rate			
10 Yard	\$272.62	\$11.53	\$284.15
15 Yard	\$364.30	\$15.41	\$379.71
20 Yard	\$448.22	\$18.96	\$467.18
25 Yard	\$562.50	\$23.79	\$586.29
30 Yard	\$646.42	\$27.34	\$673.76
40 Yard	\$837.27	\$35.42	\$872.69
Additional Rate Information			
One dropbox truck - (one man) hourly rate	\$74.42	\$3.15	\$77.57
One dropbox truck & trailer - (one man) hourly rate	\$91.60	\$3.87	\$95.47
Mileage - per mile over 10 miles round trip	\$1.89	\$0.08	\$1.97
Permanent Dropbox Rental Rates			
Permanent rent - per \$1,000 box value	\$27.82	\$1.18	\$29.00
20 yard dropbox	\$46.32	\$1.96	\$48.28
30 yard dropbox	\$58.16	\$2.46	\$60.62
40 yard dropbox	\$62.00	\$2.62	\$64.62
50 yard dropbox	\$72.08	\$3.05	\$75.13
Screen lid	\$11.13	\$0.47	\$11.60
Metal covered lid	\$14.02	\$0.59	\$14.61
Container enclosure charge for large containers	\$22.89	\$0.97	\$23.86
Demurrage - daily charge	\$4.57	\$0.19	\$4.76
Description - Additional Service & Rate Information			
Tires:			
Car tires off rim	Plus NTRC Disposal	\$2.63	\$0.11
Car tires on rim	Plus NTRC Disposal	\$2.63	\$0.11
Truck tires off rim	Plus NTRC Disposal	\$2.63	\$0.11
Truck tires on rim	Plus NTRC Disposal	\$2.63	\$0.11
Other Special Rates and Charges			
Note: compactor or other dropboxes must not be compacted or loaded to the point where the loaded vehicle will exceed truck weight laws, or to the point where the compactor or other dropbox cannot be dumped by normal dumping methods.			
Fees mean the mileage charge plus costs or penalties that may be incurred due to overweight dropboxes.			
Other Services Subject to Fees and Charges			
Weekend service for dropboxes shall be 1.5 times the regular rate and shall be arranged with the collector prior to service.			
Tenants are responsible for waste collection fees (unless separate payment arrangements are made by the landlord).			
Definition of Extra			
Bundles, boxes, sacks and other - based on volume, securely tied and limited to 60 lbs; 1.5 X 1.5 X4 feet will be equivalent to a full garbage can.			
Plastic bags securely tied and limited to 30 lbs will be equivalent to a full garbage can. Plastic bags to be used for occasional additional garbage, not as full-time garbage cans.			

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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 15, 2009

Order ____	Ordinance ____	Resolution <u>XX</u>	Motion ____	Information ____
No.	No.	No. 2009-2853		

SUBJECT: Fee reductions for affordable housing projects during the current recession

Contact Person (Preparer) for this Resolution: Barton Brierley, AICP

Dept.: Planning and Building

File No.: Fees – 2009-0615
(if applicable)

RECOMMENDATION:

Adopt **Resolution No. 2009-2853** providing for a reduction of fees for certain qualifying affordable homes during the current recession.

EXECUTIVE SUMMARY: At the April 13, 2009 meeting, the City Council directed staff to prepare a proposal that would allow some reduction in fees for affordable homes during the current recession. The Council emphasized three main principles: (1) The reduction should facilitate the construction of affordable homes; (2) The reduction should facilitate construction of homes during the current economic recession to stimulate the local economy and address current budget shortfalls, and (3) the reduction should be generally available to builders in the community, with notice to all potential applicants.

Staff has prepared the attached resolution in response to the Council’s request. Staff continues to meet with local builders on this issue, and may provide some revisions prior to the Council meeting. If adopted, the resolution would allow the Planning and Building Director to reduce fees for up to 10 qualifying moderate and low income units as follows:

1. **Water system development charges:** The reduction would be **\$431** for moderate income units, and **\$862** for low income units. This is the estimated water rate revenue for one year (two years for low-income units).
2. **Wastewater system development charges:** The reduction would be **\$795** for moderate income units, and **\$1,590** for low income units. This is the estimated wastewater rate revenue for one year (two years for low-income units).
3. **Community development fees:** The reduction would be **\$178** for moderate income units, and **\$356** for low income units. This is the estimated property tax revenue on improvements for one year (two years for low-income units).

The total reduction would **\$1,404** for moderate income units, and **\$2,808** for low income units.

FISCAL IMPACT: With this resolution, the City would be foregoing approximately the following amount of revenue:

Water SDCs:	\$5,603
Wastewater SDCs:	\$10,766
Community Devt.:	<u>\$2,314</u>
Total:	\$18,683

Budgets are currently tight in all funds, and cannot sustain any losses unless these revenues are made up elsewhere.

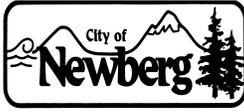
The reductions are made on the assumption that if the reductions are not granted, then the construction will be delayed one year (past 6/30/2010) for moderate income units, or two years for low income units. Thus, if construction is delayed, the City would forego utility and property tax revenue in the interim. By stimulating the projects to move forward sooner, the City would gain this utility and tax revenue. Thus, the fee reduction becomes revenue neutral.

STRATEGIC ASSESSMENT: This resolution would help some affordable housing projects move forward, and provide an economic stimulus during the current recession.

The Council should be concerned about the effect of any fee reductions on City revenues. The Public Works Department has delayed most capital projects due to lack of funds. Delaying collection of these revenues is not likely to affect immediate construction projects. In the long term, these funds must be “made up” by rate collection in order to keep future projects on schedule.

Staff is currently optimistic that Planning and Building revenues will meet projections. Our budget was based on the City issuing permits for 120 new dwelling units from January 2009 to July 2010. As of the end of May, 2009, we have issued permits for 90 of these new dwellings. Thus we are well on our way to meeting our residential development projections.

On the commercial side, we also are well on our way to meeting revenue targets. Our budget was based on the City issuing permits for \$30.8 million in commercial construction projects from January 2009 to July 2010. As of the end of May, 2009, we have issued permits for commercial construction valued at \$12.2 million. Notable projects still on the horizon are the PCC campus and the Dayton School District \$11.8 million dollar bond improvements. Thus, we are cautiously optimistic that we are on course to meet our revenue projections. With our previous reductions in staff and a significant amount of work authorized, staff is very busy.



RESOLUTION No. 2009-2853

**A RESOLUTION AUTHORIZING A REDUCTION IN WATER SDCs,
WASTEWATER SDCs, AND COMMUNITY DEVELOPMENT FEES FOR
CERTAIN AFFORDABLE DWELLINGS DURING THE CURRENT
RECESSION**

RECITALS:

1. The City recently adopted an affordable housing plan. One strategy in the plan is to consider reducing fees for affordable housing projects.
2. Due to the current recession, housing construction, including construction of affordable housing, has slowed significantly.
3. The Council would like to provide some reductions in fees for a limited number of dwelling units to stimulate the local economy and to create opportunities for affordable housing.
4. Fee revenue foregone by this resolution is anticipated to be offset by future utility and property tax revenues.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. **Authorization for Fee Reductions:** The Planning and Building Director is hereby authorizes to reduce fees for up to 10 affordable dwelling units that meet the criteria below. Applicants shall demonstrate that the criteria are met. The Planning and Building Director shall determine whether a particular application meets these criteria. The applicant shall enter into an agreement to fulfill the terms of the reduction. Reductions will be awarded on a first-come/first-served basis. However, the Director may limit awards to a single builder/developer if initial interest appears broad.
2. **Eligibility Criteria:** This fee reduction is applicable to construction of new affordable dwellings that meet all of the following criteria:
 - a. The applicant can demonstrate that the dwelling would be for a moderate income or low income household, as defined in the Newberg Affordable Housing Action Plan (which adopts HUD guidelines).
 - b. The applicant can demonstrate that approximately two-thirds of the construction and materials dollars spent will employ workers living in or companies/branches primarily doing business in the Newberg area.
 - c. The building permit must be issued by June 30, 2010.
 - d. The certificate of occupancy for the dwelling must be issued by June 30, 2011.

3. **Fee reduction:** The Planning and Building Director is hereby authorized to issue fee reductions for up to 10 affordable dwelling units that meet the applicability standards above.
 - a. For moderate income units:
 - i. A reduction of **\$431** in water system development charges.
 - ii. A reduction of **\$795** in wastewater system development charges.
 - iii. A reduction of **\$178** in community development fees.
 Total reduction is: **\$1,404** per dwelling.
 - b. For low income units:
 - i. A reduction of **\$862** in water system development charges.
 - ii. A reduction of **\$1,590** in wastewater system development charges.
 - iii. A reduction of **\$356** in community development fees.
 Total reduction is **\$2,808** per dwelling.
4. **Timing of payment:** For projects approved under this resolution, payment of all system development charges may be delayed until after building permit issuance, but must be paid in full prior to issuance of certificate of occupancy.
5. **Notice:** The Director shall provide notice of this resolution to potentially interested parties.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 16, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon, this 15th day of June, 2009.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 18th day of June, 2009.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

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

NEWBERG CITY COUNCIL MEETING INFORMATION

DATE of Meeting: June 15, 2009

Prepared by: Norma Alley

Councilors	Roll Call	MOTION Topic: Consent Calendar – Res. 2850, 2854, & 2855, and Chamber Sound Permit	RESOLUTION NO. 2009-2851 Topic: 832 S. Springbrook Rd. Water Hardship AMENDED	ORDINANCE NO. 2009-2717 Topic: Creation of Old Fashioned Festival Zone	RESOLUTION NO. 2009-2852 Topic: Garbage Rates	RESOLUTION NO. 2009-2853 Topic: Fee Reduction for Affordable Housing – ADDED LANGUAGE #6 TO MAKE A REPORT TO COUNCIL	RESOLUTION NO. 2009-2853 Topic: Fee Reduction for Affordable Housing AMENDED THE ADDED LANGUAGE #6	RESOLUTION NO. 2009-2853 Topic: Fee Reduction for Affordable Housing AS AMENDED
ANDREWS, Bob, Mayor	X	YES	YES	YES	YES	YES	YES	YES
BACON, Denise	X	YES	YES	YES	YES	YES	YES	YES
LARSON, Bob	X	YES	YES	YES	YES	YES	YES	YES
McKINNEY, Stephen	X	YES	YES	YES	YES	YES	ABSTAIN	YES
RIERSON, Bart	X	YES	YES	YES	YES	YES	YES	YES
SHELTON, Marc	X	YES	YES	YES	YES	YES	YES	YES
WITHERSPOON, Wade	X	YES	YES	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: 7 NO: 0 Absent: 0 Abstain: 1	YES: 7 NO: 0 Absent: 0 Abstain: 0
Department:			Engineering	Planning	Administration	Planning	Planning	Planning
CHANGES: (Yes/No)			Yes	No	No			Yes
MOTION (1 st /2 nd):		Larson/ Shelton	Shelton/ Larson	Larson/ Andrews	Rierson/ Shelton	Andrews/ Rierson	Shelton/ Rierson	McKinney/ Larson

NEWBERG CITY COUNCIL MEETING INFORMATION

DATE of Meeting: June 15, 2009

Prepared by: Norma Alley

Councilors	Roll Call	RESOLUTION NO. 2009-2856 Topic: Purchase of 1409 S. Sandoz Rd. Property	Res/Ord/Order # _____ Topic:					
ANDREWS, Bob, Mayor	X	YES						
BACON, Denise	X	YES						
LARSON, Bob	X	YES						
McKINNEY, Stephen	X	YES						
RIERSON, Bart	X	YES						
SHELTON, Marc	X	YES						
WITHERSPOON, Wade	X	YES						
ROLL CALL VOTES		YES: 7 NO: 0 Absent: 0 Abstain: 0	YES: NO: Absent: Abstain:	YES: NO: Absent: Abstain:	YES: NO: Absent: Abstain:	YES: NO: Absent: Abstain:	YES: NO: Absent: Abstain:	YES: NO: Absent: Abstain:
Department:		Legal						
CHANGES: (Yes/No)		Yes						
MOTION (1st/2nd):		Larson/ Shelton						