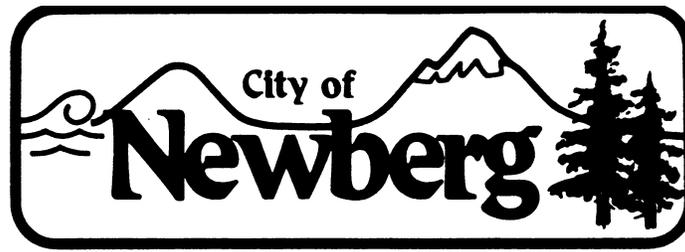


City Manager
(503) 537-1207

City Attorney
(503) 537-1206



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

**CITY OF NEWBERG
CITY COUNCIL WORK SESSION
JULY 06, 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.

EXECUTIVE SESSION PURSUANT TO ORS 192.660(2)(H) TO CONSULT WITH COUNSEL CONCERNING THE LEGAL RIGHTS AND DUTIES OF A PUBLIC BODY WITH REGARD TO CURRENT LITIGATION OR LITIGATION LIKELY TO BE FILED. NO DECISIONS WILL BE MADE.

DATED THIS 1ST DAY OF JULY, 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
JULY 6, 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. 2009-2858** authorizing the city to enter into negotiations with Rutan Construction, Inc. for a change order to the West Sheridan/North Harrison Sewer Replacement Project contract. (Pgs. 5-6)
2. Consider a motion approving a **Proclamation** declaring July 23-26, 2009, as Old Fashioned Festival Week. (Pgs. 7-8)
3. Consider a motion approving a **sound permit** for Newberg Friends Church for an event on July 12, 2009. (Pgs. 9-10)
4. Consider a motion approving **City Council Minutes** for May, 18, 2009, and June 1, 2009. (Pgs. 11-24)

VII. PUBLIC HEARING

1. Consider a motion approving **Ordinance No. 2009-2718** postponing the McClure Annexation (property located at 30295 Highway 99W) from the September 15, 2009, election to a later undetermined date. (Pgs. 25-32)
(Legislative Hearing)
2. Consider a motion approving **Order No. 2009-0021** establishing a Public Safety Fee for the purpose of funding three police officer positions. (Pgs. 33-74)
(Quasi-Judicial 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.

VIII. NEW BUSINESS

IX. COUNCIL BUSINESS

X. ADJOURNMENT

INDEX OF ORDERS, ORDINANCES AND RESOLUTIONS:

ORDERS:

Order No. 2009-0021 establishing a Public Safety Fee in the amount of three (3) dollars per equivalency dwelling unit (EDU) per month for the purpose of funding three (3) police officer positions.

ORDINANCES:

Ordinance No. 2009-2718 amending Ordinance 2009-2712 by deleting the direction to send the annexation ballot measure for property located at 30295 Highway 99W, Yamhill County tax lots 3215-500, 502 and 504, and Lots 3215B-100 through 4000, to the September 15, 2009 ballot, and adding that the City Council will reschedule the annexation ballot measure at their discretion by future resolution.

RESOLUTIONS:

Resolution No. 2009-2858 authorizing the city manager to enter into negotiations with Rutan Construction, Inc. for a change order to the existing contract for the construction of the W. Sheridan/N. Harrison Sewer Replacement Project authorized by Resolution 2009-2832.

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: July 6, 2009

Order ____	Ordinance ____	Resolution <u>XX</u>	Motion ____	Information ____
No.	No.	No. 2009-2858		

SUBJECT: Authorize the City Manager to enter into negotiations with Rutan Construction Inc. for a change order to the existing contract for the construction of the W. Sheridan/N. Harrison Sewer Replacement Project authorized by Resolution 2009-2832.

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

Dept.: Public Works Engineering

File No.:
(if applicable)

RECOMMENDATION:

Adopt **Resolution No. 2009-2858** approving negotiations for a contract change order for W. Sheridan/N. Harrison Sewer Replacement Project.

EXECUTIVE SUMMARY:

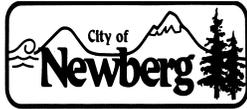
The W. Sheridan/N. Harrison Sewer Replacement Project has incurred and will incur additional costs in time and materials due to inaccurate City records and drawings used to establish site conditions and develop the design criteria. The problems included laterals (house connections) that were recorded at elevations and alignments that were in some cases substantially different from what was actually found to exist. The boring for a sewer lateral under First Street encountered portions of the old trolley tracks that required addition surface cuts and removal as well as additional paving in the ODOT right-of-way. The contractor’s work effort has been further delayed by such things as an unknown survey monument that needed to be replaced/worked around and unforeseeable actions of others; a disturbed citizen stopped work by blocking contractor access until the police removed his vehicle. Most of these problems were in the First Street portion of the project and required exigent actions by the contractor in order to restore service in a timely manner and/or complete work during the 8 p.m. to 4 a.m. working hours as directed by ODOT.

The Contractor’s bid was \$197,278.95. The contract had previously been modified with an initial change order for \$14,947.99 (7.5%). To complete this project an additional change order in an amount up to \$55,000.00 will be required. The new contract total with both changes would be \$267,226.94 and represents an increase of 35.4% from the awarded contract amount. The engineers estimate was \$268,650.00. The current budget has \$300,000.00 identified for this project.

The Contractor has pursued the work in a professional manner and even with all the delays the contractor was on schedule to complete the job prior to this Council meeting. To receive City Council approval on this change order, the project manager issued a “Stop Work” order. The project will require about two weeks to complete.

FISCAL IMPACT: These two change orders dictate an additional \$70,000.00 has been required to complete the project. This is an approved Capital Improvement Project in the 08/09 and 09/10 budgets and is funded at \$300,000.00.

STRATEGIC ASSESSMENT: This project is replacing facilities that are at or near failure and are that require unreasonable demands of our maintenance division.



RESOLUTION No. 2009-2858

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO NEGOTIATIONS WITH RUTAN CONSTRUCTION, INC. FOR A CHANGE ORDER TO THE EXISTING CONTRACT FOR THE CONSTRUCTION OF THE W. SHERIDAN/N. HARRISON SEWER REPLACEMENT PROJECT AUTHORIZED BY RESOLUTION 2009-2832

RECITALS:

1. The City of Newberg has awarded a Contract to Rutan Construction, Inc. to construct the W. Sheridan/N. Harrison Sewer Replacement Project for the original bid price plus an approved change totaling \$212,226.94.
2. Completion of this project will require up to an additional \$55,000 resulting in a total cost of \$267,226.94.
3. This project is part of the FY 08/09 and 09/10 Capital Projects budget under project number 04-5150-706362 with \$300,000.00 budgeted. The engineers estimate for this project was \$268,650.00.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

To authorize the City Manager to enter negotiations with Rutan Construction for a contract change order up to an amount of \$55,000.00 to complete construction of the W. Sheridan/ N. Harrison Sewer Replacement Project.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: July 7, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon, this 6th day of July 2009.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 9th day of July 2009.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 6, 2009

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

SUBJECT: Approve a Proclamation declaring July 23-26, 2009, as Old Fashioned Festival Week.

Contact Person (Preparer) for this Motion:

Dept.:
File No.:

(if applicable)

RECOMMENDATION:

Adopt Request to approve a proclamation declaring July 23-26, 2009 as Old Fashioned Festival Week.

EXECUTIVE SUMMARY:

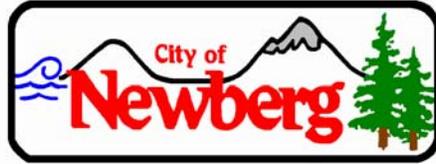
Every year the Old Fashioned Festival is put on in the City of Newberg the last full weekend in July, this year the festival will be held July 23-26, 2009.

FISCAL IMPACT:

None

STRATEGIC ASSESSMENT:

Approving this proclamation supports the Council's goal of enhancing Newberg's community and being actively involved in community events.



PROCLAMATION

***A PROCLAMATION FROM THE CITY OF NEWBERG
DECLARING JULY 23-26, 2009 AS
OLD FASHIONED FESTIVAL WEEK IN THE CITY OF NEWBERG.***

WHEREAS, the City of Newberg is a community that hosts many gatherings, numerous celebrations, and a variety of entertainment venues; and

WHEREAS, each year the City of Newberg and community participate by celebrating community spirit and cooperation, in July; and

WHEREAS, 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 camaraderie and sense of community built by a festival of this extent; and

WHEREAS, the many Old Fashioned Festival events during the week bring the community together for fun and entertainment. This is the Twenty-Ninth (29) Anniversary Year of the festival and is a special time for everyone involved in this important community event. In honor of Oregon's Sesquicentennial, the theme for this year is, "150 Years of Precious Memories".

NOW, THEREFORE, LET IT BE PROCLAIMED by the Mayor and City Council of the City of Newberg, that July 23-26, 2009 is hereby designated:

***OLD FASHIONED FESTIVAL WEEK
IN THE CITY OF NEWBERG***

DATED this 6th day of July, 2009.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 6, 2009

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

SUBJECT: Consideration of a sound permit application for Newberg Friends Church

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

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

File No.:

(if applicable)

RECOMMENDATION:

Approve a sound permit for the Newberg Friends Church for July 12, 2009, from 10:30 am to 11:45 am.

EXECUTIVE SUMMARY:

This outdoor worship service is scheduled for Sunday, July 12, 2009, between the hours of 10:30 am and 11:45 am at the Newberg Friends Church property located at 307 S. College St., Newberg, Oregon.

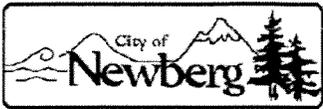
This worship service will feature amplified live instruments / band and singing. The City Manager is authorized to approve sound permits for events where the sound will be kept at 200 feet or less (Title IX: General Regulation, Chapter 95.39(B)(3) *Nuisance, permitted exceptions* of the Newberg City code). However, because sound from this concert will travel **more** than **200 feet**, we are seeking approval from the City Council.

This worship service is sponsored by the Newberg Friends Church located at 307 S. College St., Newberg, Oregon. Sharon Macy, Office Administrator is the contact person and estimates approximately 300 individuals will be in attendance. No admission will be charged.

The Newberg Friends Church 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

APPLICANT: Newberg Friends Church DRIVERS LICENSE # _____ DATE: 6/2/09

ADDRESS (street, city, zip code): 3075 College Newberg 97132

TELEPHONE: HOME _____ BUSINESS: 503 538 8381

EVENT SPONSOR: _____

ADDRESS (street, city, zip code): _____

EVENT LOCATION: Newberg Friends Church - 3075 College

DATE OF EVENT: 7/11/09 DANCE: TIME: _____ to _____ SOUND: TIME: 10³⁰/a to 11⁴⁵/a

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

- Public Commercial or noncommercial event 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

(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: none

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?)

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.

Sharon C. May, office administrator
 Applicant Signature

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 bill Date: 6/2/09

City Manager approved denied Signature _____ Date: _____

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

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 6, 2009

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

SUBJECT: Approve May 18, 2009, and June 1, 2009, City Council Meeting minutes.

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

Dept.: **Administration**

File No.:

(if applicable)

RECOMMENDATION:

Approve the May 18, 2009, and June 1, 2009, City Council minutes for preservation and permanent retention in the City's official records.

EXECUTIVE SUMMARY:

On May 18, 2009, and June 1, 2009, the City of Newberg City Council held a public meeting. At that meeting, minutes were recorded in text.

FISCAL IMPACT: None.

STRATEGIC ASSESSMENT: None.

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**CITY OF NEWBERG CITY COUNCIL MINUTES
MAY 18, 2009
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM
401 EAST THIRD STREET**

Work Session was held prior to the meeting. A presentation on Golf Carts/Slow Moving Vehicles and Mass Gatherings was given. Executive Session was also held. No decisions were made.

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:07 PM.

II. ROLL CALL

Members

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

Staff

Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Barton Brierley, Planning and Building Director	Jennifer Nelson, Recording Secretary
	Howard Hamilton, Public Works Director	Crystal Kelly, Recording Secretary
	Leah Griffith, Library Director	

Others

Present: Joanne Wiitala, Andrew H. Stamp, Roger P. Grahn, John Wyland, Joseph O'Halloran

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. Daniel Danicic, City Manager, reported the Newberg Rotary Club will be hosting a dedication on Thursday, May 21st at 7:00 AM by the playground at Hoover Park. The council members were invited and need to RSVP.

V. PUBLIC COMMENTS

Ms. Joanne Wiitala, Newberg Animal Shelter Friends, reported the current total in the building fund is \$445,400. Another \$10K was received from the Verna Dickensheet trust, totaling \$70K so far; another installment may be received. The Plant and Rummage Sale will be held Memorial Day weekend at Zion Lutheran Church.

VI. CONSENT CALENDAR

1. Consider a motion approving **Resolution No. 2009-2844** authorizing the City Manager to enter into an agreement with HDR Engineering, Inc. Consulting Engineers, to provide design services for the Wastewater Treatment Plant Repair, Renovation and Expansion Project.

2. Consider a motion adopting an Alcohol Use Policy and Application Form for fundraising events at the Newberg Public Library.

This item was moved from the Consent Calendar to the third item under New Business.

3. Consider a motion approving City Council Minutes for April 20, 2009.

MOTION: Larson/Rierson to approve **Resolution No. 2009-2844** and the City Council meeting minutes for April 20, 2009, as amended. (7 Yes/0 No) Motion carried.

VII. PUBLIC HEARING

1. Consider a motion approving **Ordinance No. 2009-2714** establishing a Public Safety Fee (PSF) to finance police and fire services to maintain and ensure public safety.

Time 7:13 PM

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

Mr. Terrence Mahr, City Attorney, presented the staff report (see official meeting packet for full report).

Discussions followed about including mechanisms for rate review as part of the ordinance and reporting from the Budget Committee to keep a close account of how the funds collected will be spent.

Mayor Andrews opened and closed public testimony. No citizens appeared to testify.

Mr. Mahr recommended adopting the ordinance and felt it was in good legal standing. He clarified the approval would establish a process for the Public Safety Fee, not the fee itself.

MOTION: Rierson/Larson to approve **Ordinance No. 2009-2714** establishing a process for establishing a Public Safety Fee to finance police and fire services to maintain and ensure public safety, read by title only.

Councilor Marc Shelton suggested adding language establishing a process. Staff replied this was contained within the title, but it could be made clearer.

Councilor Bart Rierson expressed his support for the ordinance based on the results of the public outreach efforts, which showed more civic groups supporting the fee than opposing it.

Councilor Wade Witherspoon stated he was in favor of the ordinance.

Councilor Stephen McKinney stated he was in favor of the ordinance because it covers a broader spectrum of the community receiving the public safety services than relying on taxation methods.

Councilor Shelton asked about the role of the Citizen Rate Review Committee (CRRC) and if that would be determined within the order rather than this ordinance. Staff replied it would be determined as a part of the order.

Mr. Mahr read the title of the ordinance including the requested changes to state this was “establishing a process to establish a specific fee by establishing a public safety fee to finance police and fire services setting out a process to determine the amount and citizens to pay the fee and setting a criteria that should be addressed during

the process and authorizing collection of the fee through utility billing mechanism of the city in addition to chapter 36 of finance and revenue and taxation to include the provision of the ordinance.”

VOTE: To approve **Ordinance No. 2009-2714** with clarifications to establishing a process. (7 Ye/0 No) Motion Carried.

2. Consider a motion approving **Ordinance No. 2009-2715** permitting the use of golf carts on designated city highways, delegating the authority to the Traffic Safety Commission to specify the areas, as well as establish additional rules and provide for appropriate signage.

TIME – 7:30 PM

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

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

Councilor Witherspoon asked if something should be placed in the ordinance requesting the Traffic Safety Commission (TSC) to give reports to the Council before making any decisions.

Mr. Mahr stated the ordinance can give the TSC the authority within section 5 if that is desired.

Mayor Andrews opened and closed public testimony. No citizens appeared to testify. Staff recommended approval of the ordinance with the addition of requiring the TSC to report to the Council on what roads and conditions will be allowed prior to implementation of the ordinance.

MOTION: Larson/Shelton to approve **Ordinance No. 2009-2715** permitting the use of golf carts on designated city highways, delegating the authority to the Traffic Safety Commission to specify the areas, as well as establish additional rules and provide for appropriate signage with reports back to the Council prior to implementation, read by title only.

Councilor Rierson supported the ordinance stating that other communities have done the same to be more community friendly. His concerns for public safety are addressed by having it go before the TSC first and reported back with their considerations.

Mr. Mahr read the title with the addition of a section 5 under traffic rules that the TSC shall report the draft decision of which city streets prior to the implementation of the decision.

VOTE: To approve **Ordinance No. 2009-2715** including changes to section 5. (7 Yes/0 No) Motion carried.

3. Consider a motion approving **Ordinance No. 2009-2716** allowing additional extensions for expiring developments.

TIME – 7:42 PM

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

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

Mayor Andrews opened the public testimony.

Mr. Andrew H. Stamp, Attorney representing Mr. Roger Grahn, gave some background on the delays for the Ian's Addition Subdivision and stated he was available to answer questions.

Councilor Shelton asked about an issue with the stream corridor.

Mr. Stamp explained they got a nation wide permit and they are now shovel ready.

Mr. Roger Grahn added some further background information and spoke of vested interests.

Mr. John Wyland, JT Smith Companies, thanked staff for the proposal and the additional one year extension but he expressed some concerns for the sunset clause to December 2010 not benefiting Crestview Crossing as well. He suggested consideration of extending that date to be beneficial to other developments during these economic times.

Mayor Andrews closed the public testimony. Staff recommended adopting the ordinance.

Discussions followed about the extension of the sunset date and how council can follow up on this in the future. Staff stated he did not have a strong opinion either way, but recommended not extending the date too far in the future. Specific properties, such as Lavender Hollow and Crestview Crossing, were mentioned for consideration.

Mayor Andrews closed the public hearing.

MOTION: Larson/McKinney to approve **Ordinance No. 2009-2716** allowing additional extensions for expiring developments, read by title only.

MOTION: Rierson/Witherspoon to amend **Ordinance No. 2009-2716** to add language presented in a letter from JT Smith Companies to extend beyond the December 31, 2010, sunset date to December 31, 2011. (6 Yes/1 No [Larson]) Motion carried.

VOTE: To approve **Ordinance No. 2009-2716** as amended. (7 Yes/0 No) Motion carried.

VIII. NEW BUSINESS

1. Consider a motion denying **Resolution No. 2009-2845** granting water hardship request for Joseph O'Halloran on property located at 23355 NE Old Yamhill Road.

TIME – 8: 10 PM

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

Councilor Rierson referred to Exhibit A, which is the map asking if there is a potential for the property owner to install a water tank and pump system. He asked what the cost would be and what it would look like. Staff explained how it would work but did not have cost estimates researched. Councilor Rierson asked about staff reservations to extending water outside of the city when the consumer would be paying at a higher rate. Staff said it was an effort to avoid promoting development outside the city for those that have another water resource; there is also an elevation component to consider which can reduce the water supply to others connected to the spring's system.

Councilor Denise Bacon asked how many more customers the springs can support. Staff replied that is hard to say because it is dependent on the volume of water in the springs; which fluctuates.

Councilor Shelton asked about the water rights attached to the property. Staff spoke of the water rights being divided in the past into a ½ water right; no one knows exactly what a ½ water right is.

Discussions continued about the criterion for a water hardship and why staff felt it was not met; the property cannot be annexed, there is no existing structure, and an alternative water resource may potentially exist, which staff feels needs to be explored. The structure was removed with permission from the County. Councilors were concerned what would happen if the owner was denied hooking up to the water system and other alternatives did not work; staff discussed Yamhill County's disclaimer that water is not guaranteed and stated they would still recommend denial based on the criteria. A riparian water system and the condition of the springs's connection were discussed as well.

Mayor Andrews opened public testimony.

Mr. Joseph O'Halloran gave some background on the purchase of the property and the condition of the County to remove any unsafe structure as part of his approved building permit. He did have concerns about the removal of the dwelling affecting his building permit and he would not have removed it had he known it would be a factor. His desire is to market the property, which has created a hardship for him in his attempt to provide water to the property without burdening the City. He explained the different attempts to drill wells unsuccessfully and the unwillingness of prospective buyers to purchase a home with a three gallon per minute water supply which would come from the suggested holding tank/reservoir alternative that he already attempted. He discussed the uselessness of the ½ water right so far with no connections available and his willingness to place a holding tank on the property to alleviate the burden to the City system.

Mr. Hamilton recommended denial of the water hardship request.

Councilor Rierson stated he was undecided, but he will not be considering the factor that the dwelling no longer exists because this came from the County to remove it.

Councilor Larson argued that other instances of water hardship have been granted because the property was fairly close to the city limit and not other wells or water connections existed. He said he could not agree to grant this hardship with it being so far out with other water available; he supported staff's recommendation to deny.

Councilor Shelton pointed out this would require new findings to support it since the current findings support denial. Staff replied new findings of fact can be requested within the motion as additional conditions in section D to show the reasons why the exception was granted.

MOTION: Shelton/Larson to deny Resolution No. 2009-2845 granting water hardship request for Joseph O'Halloran on property located at 23355 NE Old Yamhill Road.

Councilor Shelton argued this is not just a hardship for this person but the system as well. He is also not concerned with the structure removal, but he is concerned with the proximity to the city and not making annexation an option. He would deny the hardship based on the criteria of being unable to annex.

Councilor McKinney said he was in favor of the request of hardship and spoke of the City bearing the weight of the riparian wells.

Councilor Bacon was also torn because she did not want to create a tax burden on Newberg citizens with the springs, but she did want to be able to grant the hardship.

Councilor Witherspoon said he felt the request met the exceptions due to hardships. The first exception pertained to the existing structure, which he does not feel applies here. The second states that annexation cannot be immediately feasible and this property cannot be annexed. He believes a hardship does exist based on the quantity of water available and that the owner has proven all other alternatives to be investigated. Although the property is not in close proximity to the city and it was told it would not overburden the spring's water line. The water is for domestic use only and the owner will pay for the easement of the burden on the system. Based on the criteria he does not feel he can deny the request for hardship.

Councilor Shelton changed his mind and stated he agreed the findings for hardship were appropriate and felt the recommendation was wrong. He felt the criteria have been met based on testimony received.

VOTE: To deny **Resolution No. 2009-2845**. (1 Yes [Larson]/6 No) Motion denied.

MOTION: Rierson/Shelton to approve **Resolution No. 2009-2845** granting water hardship request for Joseph O'Halloran on property located at 23355 NE Old Yamhill Road and modifying the findings of fact to not accept the non-existing structure referring to the letter from the County.

Councilor Larson said he is against this motion and preferred staff to come back with research on the findings. He did not want to approve it without the details worked on.

Mr. Mahr suggested amending A1 of the findings because the lot is currently vacant but has the right to be built pursuant to a County building permit. Under B2 lenders would not lend on the building due to the reservoir water supply and additional wells drilled were insufficient. These findings make approval appropriate and the resolution will be changed to read that the City Council grants the request.

MOTION: McKinney/Rierson to amend **Resolution No. 2009-2845** to grant the water hardship as stated and read by the City Attorney above. (6 Yes/1 No [Larson]) Motion carried.

VOTE: To approve **Resolution No. 2009-2845** as amended. (6 Yes/1 No [Larson]) Motion carried.

2. Report on the South Industrial Plan.

TIME – 9:39 PM

Mr. Brierley presented the staff report and answered a few questions from Council (see official meeting for full report).

3. Consider a motion adopting an Alcohol Use Policy and Application Form for fundraising events at the Newberg Public Library.

TIME – 10:05 PM

Ms. Leah Griffith, Library Director, presented the staff report (see official meeting packet for full report).

Councilor Larson asked for clarification on whether the events would ever be in the library itself and opposed to serving alcohol in a place where kids go and may be present. Staff stated the library building was included, but the events would be held after hours and children would not be present.

Councilor Rierson asked why it was limited to just the library and not any other City buildings. Staff did not foresee holding an event like this anywhere other than the library, but there would be nothing wrong with broadening the scope.

Councilor Bacon asked why it was limited to only wine, especially with the growing interest in locally brewed beers. Staff said so far only local wineries have requested participation in events, but felt comfortable coming back to Council to include this if the need arises

Discussions followed on the amount of people attending the events, the presence of licensed servers, and the facilitation to not have to come before Council for every requested event of this type.

Councilor McKinney suggested requiring proof of insurance with the application. Staff reassured that the one week time period before was sufficient and stated difficulties of obtaining insurance before a venue is secured.

MOTION: Rierson/Bacon to adopt an Alcohol Use Policy and Application Form for fundraising events at the Newberg Public Library. (5 Yes/2 No [Larson, McKinney]) Motion carried.

IX. COUNCIL BUSINESS

TIME – 10:25 PM

Councilor Rierson provided an animal shelter update, specifically on the progress of property acquisition.

Mr. Danicic stated after looking into the Harris Thermal request for a \$4,000.00 credit on permit fees; staff would not recommend granting the request because of several granted deferrals on the half street improvement over some ten years.

Mr. Mahr discussed an appeal from the Land Use Board of Appeals (LUBA) regarding the McClure annexation and will be researching whether or not Council should take any further action and will return with a report.

X. EXECUTIVE SESSION

Executive Session pursuant to ORS 192.660(2)(d) relating to labor negotiations – Police Union.

The Executive Session was held during the Work Session.

XI. ADJOURNMENT

The meeting adjourned at 10:57 PM.

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

Norma I. Alley, City Recorder

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

Bob Andrews, Mayor

**CITY OF NEWBERG CITY COUNCIL MINUTES
JUNE 1, 2009
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM
401 EAST THIRD STREET**

Work Session was held prior to the meeting. Executive Session was held. No decisions were made.

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:01 PM.

II. ROLL CALL

Members

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

Members

Absent: Bart Rierson (excused)

Staff

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

Others

Present: Darlyn Adams

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

Mr. Daniel Danicic, City Manager, spoke of the certificate of appreciation given by the Newberg Early Bird and Noon Club for the new park; updated on the negotiations with Baker Rock property purchase, the ODOT project on Hwy 219 included in the stimulus package, the Hearts of Gold lunch at George Fox University; and gave information for those planning to attend the Land Use Board of Appeals hearing this Friday, June 5, 2009 at 8:30 AM in Salem.

V. PUBLIC COMMENTS

Ms. Darlyn Adams, Newberg Animal Shelter Friends, spoke of her excitement for the proposed site for the new animal shelter and thanked everyone for their support. She reported an estimated \$2,000.00 profit from the Annual Mega Yard and Plant Sale bringing the building fund to \$448,530.00. She spoke of plans for activities during the Old Fashioned Festival this year, a proposed motorcycle event in the works, and a Casino Night in September. The next meeting will be held on June 18th.

VI. CONSENT CALENDAR

1. Consider a motion approving **Resolution No. 2009-2848** authorizing the city manager to enter into a contract with Alpine Construction, Inc. for the construction of the Springs Improvement Project in the amount of \$441,615.00.
2. Consider a motion approving **Resolution No. 2009-2849** authorizing the city manager to prepare the design, obtain permits for and solicit proposals to construct a new animal shelter on the property on Sandoz Road.

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

3. Consider a motion approving City Council Minutes for May 4, 2009.

MOTION: Larson/McKinney to approve **Resolution No. 2009-2848** and the Council Minutes for May 4, 2009 as amended. (6 Yes/0 No/1 Absent [Rierson]) Motion carried.

VII. PUBLIC HEARING

Consider a motion approving **Resolution No. 2009-2847** adopting the 2009/2010 City of Newberg Budget.

TIME – 7:09 PM

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

Ms. Janelle Nordyke, Interim Finance Director, presented the staff report (see official meeting packet for full report).

Mayor Andrews opened and closed the public testimony. No citizens appeared to testify. Staff recommended approval.

MOTION: Larson/Shelton to approve **Resolution No. 2009-2847** adopting the 2009/2010 City of Newberg Budget, read by title only.

Mayor Andrews asked if there needed to be specific language within the resolves to distribute the revenue sharing funds to police and fire. Staff stated the resolves refer to the budget document which includes this designation.

VOTE: To approve Resolution No. 2009-2847. (6 Yes/0 No/1 Absent [Rierson]) Motion carried.

VIII. NEW BUSINESS

1. Consider a motion approving **Resolution No. 2009-2846** ratifying the Collective Bargaining Agreement between the City and IAFF Local 1660.

TIME – 7:21 PM

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

MOTION: Larson/Witherspoon to approve **Resolution No. 2009-2846** ratifying the Collective Bargaining Agreement between the City and IAFF Local 1660 and authorizing the City Manager to make any final grammatical corrections if needed. (6 Yes/0 No/1 Absent [Rierson]) Motion carried.

2. Consider a motion approving **Resolution No. 2009-2849** authorizing the city manager to prepare the design, obtain permits for and solicit proposals to construct a new animal shelter on the property on Sandoz Road.

TIME – 7:27 PM

This item was heard out of agenda order.

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

Mr. Terrence Mahr, City Attorney, offered proposed changes to be put in resolution as recommended by an email from Councilor Bart Rierson. First, to officially designate the proposed site as intended for the new animal shelter and to direct staff to conduct an outreach program to the surrounding neighborhood in advance of the Request for Proposals (RFP). He also spoke of the annual \$27K placed in the budget to go towards the purchase of land for the animal shelter being targeted towards a different site originally and needing to come up with a different use of that money.

Mr. Danicic suggested the money may need to be allocated to the waste water funds since they are using waste water System Development Charges (SDCs) to fund the purchase of the entire parcel of property of which a portion is intended for the animal shelter.

Councilor Stephen McKinney said he would be more comfortable if it were clear what the costs will be for the portion of land being used for the animal shelter since the public is under the assumption that annual \$27 will be attributed to the debt retirement on property the City is no longer interested in. He would like to know the exact cost for the purchase of that portion and the costs for utility access.

Mr. Hamilton replied the full cost for the 19.6 acres is \$1.9 million which is approximately \$100K per acre. The animal shelter parcel is almost one acre.

Mr. Danicic clarified the original intent for the annual \$27K was to raise \$300K for the costs of land purchase, which was not specified to a particular piece of property. He stated staff will have to come back to Council with a full plan for the value, costs, and how to fund the project.

Councilor Marc Shelton asked about needing to obtain permits from Yamhill County before anything can take place on that property. Staff replied this would be the next step after closing is completed and there are plans for annexation.

MOTION: Shelton/Larson to approve **Resolution No. 2009-2849** authorizing the city manager to prepare the design, obtain permits for and solicit proposals to construct a new animal shelter on the property on Sandoz Road. (6 Yes/0 No/1 Absent [Rierson]) Motion carried.

MOTION: McKinney/Larson to amend **Resolution No. 2009-2849** adding a resolves #3 for staff to conduct an outreach to the surrounding neighborhood. (6 Yes/0 No/1 Absent [Rierson]) Motion carried.

IX. COUNCIL BUSINESS

TIME – 7:54 PM

Mayor Andrews asked about attendance for the LUBA appeal and those interested in participating in the Old Fashioned Festival parade.

Mr. Danicic spoke of writing a seven signature letter in support of the bypass construction. City website links to the ODOT site and maps of proposed bypass were discussed.

Councilor Bob Larson spoke of conversations he has had with people since the approval of the alcohol policy allowing wine to be served in the Newberg Public Library for fundraising events. There have been several complaints to him about alcohol being served in a building where children have frequent access.

Mayor Andrews stated that a member of the prevailing side would have to ask to reconsider the vote if that was desired.

Mr. Danicic added the intended fundraising event this was initiated for has decided to hold the function without wine at this time. He clarified that the intent of the policy was never to serve alcohol during regular hours of operation.

Discussions followed concerning the possible reasons for reconsideration such as revising the application form to state alcohol will never be served during operations hours and if language should be changed requiring insurance information should be submitted with the application rather than one week before the proposed event.

Mr. Mahr stated the library director and city manger have been given the authority to approval applications and therefore can be directed to develop conditions of approval as a written policy.

MOTION: Shelton/Bacon to authorize the library director and city manager to develop and implement a procedure for approving alcohol use applications which includes a restriction to any function where alcoholic beverages would be served during the regular hours of operation. (5 Yes/1 No [Larson]/1 Absent [Rierison]) Motion carried.

Mr. Mahr discussed the McClure annexation and the actions the Council could take in regards to sending the annexation to the September 2009 ballot while it is currently under appeal. He will bring more information back to the council at the July meeting as to whether or not actions should be taken to rescind the decision to send it to the county for election.

Mr. Barton Brierley, Planning and Building Director, discussed current issues with shed placement on properties and setbacks required within the current building code not being met. He recommended pushing action to the Planning Commission to review and make recommendations to Council if there was a desire to change the codes.

Discussions followed as to the background on the current problem and the number of reported violations annually. It was discussed that a member of the Planning Commission is involved in a current dispute, which has triggered this request to evaluate the codes for shed placement and setbacks. Several Councilors stated they were not pleased with the need for City Council to respond to a feud between

neighbors or with an individual serving in an official capacity to the City using their position as leverage against a citizen. It was decided to leave the codes as they are for now.

X. ADJOURNMENT

The meeting adjourned at 9:42 PM.

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

Norma I. Alley, City Recorder

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

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 6, 2009

Order ____ Ordinance XX Resolution ____ Motion ____ Information ____
No. No. 2009-2718 No.

SUBJECT: Annexation of approx. 69.21 acres (43 parcels) located at 30295 Highway 99W (McClure property). This ordinance would amend Ordinance 2009-2712 by postponing the annexation election, currently scheduled for 9/15/2009, to a later undetermined date.

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

Dept.: Planning & Building

File No.: ANX-08-006
(if applicable)

RECOMMENDATION:

Adopt **Ordinance No. 2009-2718**, which would amend Ordinance 2009-2712 by deleting the direction to send the annexation ballot measure to the September 15, 2009 election, and adding that the City Council will schedule the annexation election at their discretion by resolution.

EXECUTIVE SUMMARY:

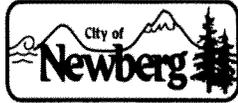
The McClure property annexation approved by Order 2009-0020 & Ordinance 2009-2712 has been appealed to the State Land Use Board of Appeals (LUBA). The annexation ballot measure is currently scheduled to be sent to the September 15, 2009 special election. The deadline to submit a ballot measure to the Yamhill County Clerk is July 15, 2009. The applicant has requested that the election be delayed to a later date to allow resolution of the appeal prior to the election. In order to postpone the election date, Ordinance 2009-2712 needs to be modified by deleting the direction to place the annexation ballot measure on the September 15, 2009 ballot. We do not know at this time when it would be appropriate to reschedule the election, so Ordinance 2009-2712 will also be modified to state that the City Council will reschedule the election at their discretion by a future resolution.

FISCAL IMPACT: No direct impact, as any election costs are born by the applicant.

STRATEGIC ASSESSMENT: Delaying the annexation election until the approval status is settled will give the citizens of Newberg a better opportunity to make an informed decision. It also coincides with the wishes of the applicants.

ATTACHMENTS

Attachment "A": Ordinance 2009-2712

**ORDINANCE No. 2009-2712**

AN ORDINANCE DECLARING PROPERTY LOCATED AT 30295 HIGHWAY 99W, YAMHILL COUNTY TAX LOTS 3215-500, 502 AND 504, AND LOTS 3215B-100 THROUGH 4000, BE ANNEXED INTO THE CITY OF NEWBERG AND WITHDRAWN FROM THE NEWBERG RURAL FIRE PROTECTION DISTRICT SUBJECT TO A PUBLIC VOTE, AND AUTHORIZING AND DIRECTING THE CITY ELECTIONS OFFICER TO CERTIFY TO THE YAMHILL COUNTY CLERK A BALLOT TITLE FOR THE MEASURE TO BE SUBMITTED TO THE ELECTORATE OF THE CITY OF NEWBERG FOR THEIR CONSIDERATION OF AN ANNEXATION FOR THIS SAME PROPERTY

RECITALS:

1. Charles J. and Ellen R. McClure, Trustees U/I/D October 25, 1999, submitted an application for annexation and consent to annex on January 22, 2009 for property located at 30295 Highway 99W, Yamhill County tax lots 3215-500, 502 and 504, and Lots 3215B-100 through 4000.
2. After proper notice, on April 6, 2009, the City Council held a public hearing on the item: accurately stated objections to jurisdiction, bias, and ex-parte contact; considered public testimony; examined the record; heard the presentation from staff and the applicant; examined and discussed the appropriate criteria to judge the project (as listed in the staff report); considered all relevant information regarding the item; and deliberated. The Council tentatively approved the request and directed that the findings be revised to address public comments.
3. On April 20, 2009, the City Council adopted Order 2009-0020 which affirmed that the annexation as conditioned met the applicable Newberg Development Code criteria.
4. The City of Newberg Charter requires that territory may be annexed into the City of Newberg only upon approval by a majority vote among the electorate of the City.
5. The next general election will be on May 18, 2010. The applicant has requested that the annexation request be sent to the September 15, 2009 special election, and understands that they will be required to pay the additional costs for the special election.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

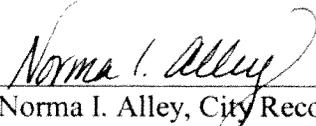
1. The question of annexing the property shown in Exhibit "A" and described in Exhibit "B" shall be submitted to the electorate of the city at the September 15, 2009 special election. Exhibits "A" and "B" are hereby adopted and by this reference incorporated.

2. The City Council directs that all costs associated with placing the item on the ballot be paid for by the applicant/owners. This includes but is not limited to noticing, signage, advertising, and costs assessed by the Yamhill County Clerk to place the item on the ballot.
3. The City Elections Officer is hereby authorized and directed to certify to the Yamhill County Clerk the ballot title for the annexation measure to be placed before the voters. Further, the City Elections Officer is directed to give all necessary notices of the ballot title and do all other necessary acts and deeds which may be required to place the matter before the voters of the City of Newberg at said election.
4. The City Attorney is directed to have prepared and review the explanatory statement which shall be submitted to the Yamhill County Clerk with the ballot title. Such explanatory statement shall be filed with the City Elections Officer and the City Elections Officer is further directed to certify this explanatory statement to the Yamhill County Clerk.
5. The City Elections Officer is authorized to do all other necessary acts and deeds which may be required to conduct the election concerning this measure.
6. Should this annexation request be approved by a majority of the electorate of the City of Newberg at the identified election date, the property shown in Exhibit “A” and described in Exhibit “B”, shall be annexed and withdrawn from the Newberg Rural Fire Protection District, and the following events will occur:
 - A. The City of Newberg land use inventory data and GIS data, including the comprehensive plan map and zoning map, will be updated to reflect the new addition.
 1. If the annexation is approved and the property has not been included within the Newberg Urban Reserve Area then the comprehensive plan and zoning designations will be identical to the current Yamhill County AFLH (EF-20 zoning) and VLDR (VLDR-2.5 zoning).
 2. Upon inclusion of the property in the Urban Reserve Area, the comprehensive plan designations will change to: LDR-1/A with Stream Corridor overlay (47.58 acre subdivision); LDR-0.11/A with Historic Landmark, Stream Corridor, and winery Limited Use overlays (9.56 acre historic farmstead); Public/Quasi-Public (9.09 acre institutional parcel); and Commercial with a winery Limited Use overlay (1.05 acre winery parcel). The zoning designations will change, respectively, to R-1-1/A with Stream Corridor overlay; R-1-0.11/A with Historic Landmark, Stream Corridor and winery Limited Use overlays; Institutional; and R-P with a winery Limited Use overlay.

B. The City Recorder of the City of Newberg is hereby authorized and directed to make and submit to the Secretary of State, the Department of Revenue, the Yamhill County Elections Officer, and the Assessor of Yamhill County, a certified copy of this ordinance.

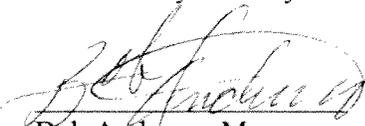
➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: May 20, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon, this 20th day of April, 2009, by the following votes: **AYE: 7** **NAY: 0** **ABSENT: 0** **ABSTAIN: 0**



Norma I. Alley, City Recorder

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



Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through the Planning Commission at 3/12/2009 meeting.
(committee name) (date)

Exhibits:

- Exhibit "A": Annexation Map
- Exhibit "B": Legal Description

**EXHIBIT B: LEGAL DESCRIPTION
ANX-08-006**

PROPERTY DESCRIPTION

A TRACT OF LAND SITUATED IN THE NORTHWEST 1/4 OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 2 WEST, W.M., YAMHILL COUNTY, OREGON AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2 INCH IRON PIPE LOCATED ON THE EASTERLY RIGHT-OF-WAY OF NE BENJAMIN ROAD, SAID PIPE MARKING THE NORTHWEST CORNER OF VINEYARD HILL AT SPRINGBROOK FARM, A DULY RECORDED SUBDIVISION PLAT IN YAMHILL COUNTY PLAT RECORDS;

THENCE WEST, 50.00 FEET TO A POINT ON THE WEST LINE OF SAID NE BENJAMIN ROAD;

THENCE ALONG SAID WEST LINE, SOUTH 00° 24' 04" WEST, 490.94 FEET;

THENCE CONTINUING ALONG SAID WEST LINE OF NE BENJAMIN ROAD, SOUTH 00°24'57" WEST, 805.97 FEET;

THENCE SOUTH 89°49'14" EAST, 10.00 FEET;

THENCE SOUTH 00°24'57" WEST, 424.53 FEET;

THENCE SOUTH 05°18'29"EAST, 74.29 FEET TO A POINT ON THE EXISTING CITY LIMITS LINE;

THENCE ALONG SAID CITY LIMITS LINE, NORTH 89°08'44" EAST, 40.12 FEET TO A POINT ON THE EAST LINE OF SAID NE BENJAMIN ROAD;

THENCE ALONG SAID EAST LINE OF BENJAMIN ROAD AND THE EXISTING CITY LIMITS LINE, SOUTH 05°18'29" EAST, 56.12 FEET;

THENCE CONTINUING ALONG SAID EAST LINE OF BENJAMIN ROAD AND THE EXISTING CITY LIMITS LINE, SOUTH 00°02'00" EAST, 421.85 FEET TO A POINT ON THE NORTHERLY LINE OF U.S.HIGHWAY 99W AND THE SOUTHWEST CORNER OF PARCEL 2 OF PARTITION PLAT 2007-59, RECORDED AS DOCUMENT NUMBER 200721146, YAMHILL COUNTY RECORDS;

THENCE, ALONG SAID NORTHERLY RIGHT-OF-WAY ALONG A 5,496.74 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 02° 14' 15", CHORD BEARS NORTH 78° 09' 26" EAST, 214.65 FEET A DISTANCE OF 214.66 FEET TO A POINT;

THENCE, NORTH 10° 43' 27" WEST, 10.00 FEET TO A POINT;

THENCE, ALONG A 5,506.74 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 01° 34' 30", CHORD BEARS NORTH 80° 03' 48" EAST, 151.37 FEET A DISTANCE OF 151.37 FEET TO A POINT;

THENCE, NORTH 09° 08' 57" WEST, 10.00 FEET TO A POINT;

THENCE, ALONG A 5,516.74 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 02° 37' 21", CHORD BEARS NORTH 82° 09' 44" EAST, 252.50 FEET A DISTANCE OF 252.52 FEET TO A POINT;

THENCE, NORTH 06° 31' 13" WEST, 9.71 FEET;

THENCE, NORTH 79° 29' 00" EAST, 226.57 FEET;

THENCE, NORTH 75° 30' 39" EAST, 183.58 FEET;

THENCE, NORTH 51° 14' 56" EAST, 278.80 FEET TO A POINT ON THE EAST LINE OF PARCEL 3 OF SAID PARTITION PLAT 2007-059;

THENCE LEAVING SAID NORTHERLY RIGHT OF WAY LINE OF SAID U.S. HIGHWAY 99W, NORTH 04° 09' 42" EAST ALONG SAID EAST LINE OF SAID PARCEL 3 OF SAID PARTITION PLAT 2007-059, 90.59 FEET TO A POINT ON THE SOUTH LINE OF THE BENJAMIN HEATER DONATION LAND CLIAM;

THENCE, CONTINUING ALONG SAID EAST LINE OF SAID PARCEL 3 AND THE NORTHERLY EXTENSION THEREOF, NORTH 00° 16' 55" WEST, 293.62 FEET TO THE NORTHEAST CORNER OF TRACT 'C' OF VINEYARD HILL AT SPRINGBROOK FARM, A DULY RECORDED SUBDIVISION IN YAMHILL COUNTY, VOLUME 14, PAGE 34 AND RECORDED AS INSTRUMENT NUMBER 200724087, YAMHILL COUNTY RECORDS;

THENCE, NORTH 89° 48' 19" EAST, 198.47 FEET TO THE MOST EASTERLY, SOUTHEAST CORNER OF SAID VINEYARD HILL AT SPRINGBROOK FARM SUBDIVISION;

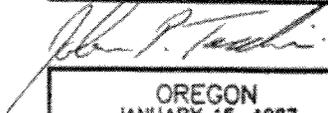
THENCE ALONG THE EAST LINE OF SAID SUBDIVISION, NORTH 01° 16' 43" EAST, 353.24 FEET;

THENCE, CONTINUING ALONG SAID EAST LINE OF SAID SUBDIVISION, NORTH 00° 10' 54" EAST, 1138.97 FEET TO THE NORTHEAST CORNER OF SAID VINEYARD HILL AT SPRINGBROOK FARM SUBDIVISION;

THENCE, NORTH 90° 00' 00" WEST ALONG THE NORTHERLY LINE OF PARTITION PLAT 2007-59 WHICH IS ALSO THE NORTHERLY LINE OF SAID VINEYARD HILL AT SPRINGBROOK FARM SUBDIVISION, A DISTANCE OF 1437.84 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.;

CONTAINING 69.21 ACRES OF LAND, MORE OR LESS.

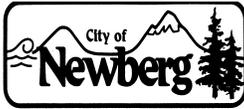
REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JANUARY 15, 1987
JOHN P. TACCHINI
2267

06-30-10

RENEWAL DATE



ORDINANCE No. 2009-2718

AN ORDINANCE AMENDING ORDINANCE 2009-2712 BY DELETING THE DIRECTION TO SEND THE ANNEXATION BALLOT MEASURE FOR PROPERTY LOCATED AT 30295 HIGHWAY 99W, YAMHILL COUNTY TAX LOTS 3215-500, 502 AND 504, AND LOTS 3215B-100 THROUGH 4000, TO THE SEPTEMBER 15, 2009 BALLOT, AND ADDING THAT THE CITY COUNCIL WILL RESCHEDULE THE ANNEXATION BALLOT MEASURE AT THEIR DISCRETION BY FUTURE RESOLUTION.

RECITALS:

1. The annexation approval of the property located at 30295 Highway 99W, Yamhill County tax lots 3215-500, 502 and 504, and lots 3215B-100 through 4000, has been appealed to the State Land Use Board of Appeals.
2. The applicants, Charles J. and Ellen R. McClure, request that the annexation election be delayed to a later date.
3. The Newberg City Council wishes to respect the applicant’s request and to have the status of the approval settled before sending the annexation question to a public vote.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. Recital 5 of Ordinance 2009-2712 shall be amended as follows:
 5. ~~The next general election will be on May 18, 2010. The applicant has requested that the annexation request be sent to the September 15, 2009 special election, and understands that they will be required to pay the additional costs for the special election. The City Council will send the annexation request to a future ballot at their discretion by resolution.~~
2. Ordains 1 of Ordinance 2009-2712 shall be amended as follows:
 1. The question of annexing the property shown in Exhibit “A” and described in Exhibit “B” shall be submitted to the electorate of the city at ~~the September 15, 2009 special election~~ a future election date to be determined by Council resolution. Exhibits “A” and “B” are hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: August 6, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon, this 6th day of July, 2009, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

Norma I. Alley, City Recorder

ATTEST by the Mayor this 9th day of July, 2009.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: July 6, 2009

Order XX Ordinance ___ Resolution ___ Motion ___ Information ___
 No. 2009-0021 No. No.

SUBJECT: An Order establishing a Public Safety Fee (PSF) in the amount of three (3) dollars per equivalency dwelling unit (EDU) per month for the purpose of funding three (3) police officer positions.

Contact Person (Preparer) for this Order: For Facts: Chief Brian Casey
 For Document Questions: Terrence D. Mahr

Dept.: Newberg Police Department with cooperation from the City Attorney's Office

File No.:
(if applicable)

RECOMMENDATION:

Adopt **Order No. 2009-0021** establishing a Public Safety Fee.

EXECUTIVE SUMMARY:

The City has recognized for a number of years the need for additional police officers. Chief Casey has gathered the information and conducted an outreach program to inform the community of the need. He has received overwhelming support from the public. The Chief has established the need for seven (7) additional police officers. The city has budgeted for four (4) additional police officers but presently does not have the funding for the additional three (3) police officers without additional revenue.

The Council has adopted a process for establishing a Public Safety Fee (PSF). The process has been followed, the criterion has been addressed, and the requirements have been met.

The number of police officers on the City's force is less than the number of officers on City forces in other Oregon Cities of comparative population. The national average for officers per 1,000 population for the western states is 1.7. The number per 1,000 for the city of Newberg is 1.3. These comparisons help establish that Newberg needs more officers in order to deliver adequate police services.

FISCAL IMPACT: The PSF could be implemented by August 1, 2009. The PSF is recommended at three (3) dollars per EDU per month.

- The estimated revenue from the City's budget documents with the first year (fiscal year 2009/10) being for eleven (11) months or as follows:

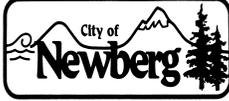
Budget	Monthly	Yearly	3 EDU* (Yearly)
09-10 (August-June)	\$8,401	\$92,411	\$277,233
10-11 (July-June)	\$8,684	\$104,208	\$312,624
11-12 (July-June)	\$8,966	\$107,592	\$322,776
12-13 (July-June)	9,249	\$110,988	\$332,964

* equivalent dwelling unit

- The estimated expenditure for the three (3) police officer positions would be as follows:

<u>Budget</u>	<u>Yearly</u>	<u>3 Officers</u>
09-10(August-June)	\$83,814	\$251,442
10-11 (July-June)	\$105,032	\$315,096
11-12 (July-June)	\$113,189	\$339,567
12-13 (July-June)	\$121,998	\$365,994

STRATEGIC ASSESSMENT: Through this funding, the City would add an additional three (3) police officer positions in addition to the four (4) already budgeted. These additions would bring the police staffing level to a reasonable level to meet the needs of the community. It would also place the police department in a position to meet the needs of the potential growth that the City will be experiencing in the future. Police services are an essential service. The additional police officers allow the City to meet its obligation to provide such service.



ORDER No. 2009-0021

AN ORDER ESTABLISHING A PUBLIC SAFETY FEE (PSF) IN THE AMOUNT OF THREE (3) DOLLARS PER EQUIVALENCY DWELLING UNIT (EDU) PER MONTH FOR THE PURPOSE OF FUNDING THREE (3) POLICE OFFICER POSITIONS

RECITALS:

1. The City has had a long standing need for additional police officers as shown by the City staffing levels when compared to the national average for western states and other cities in Oregon of comparative size.
2. During the City's budget process as early as 2001-2002, the need for additional police officers has been discussed and acknowledged through that process.
3. The Budget Committee and the City Council through the local budget process have authorized additional police officers over the past few years, but the revenue has not been available.
4. Police Chief Casey has conducted an extensive public outreach program informing the community of the need for additional police officers; the increased demand for police services; the impact that the lack of staffing has on the department; the ability to deliver such services with the present staffing level; and the future needs of the department.
5. The City Council adopted Ordinance 2009-2714, which authorized the establishment of a public safety fee to fund police and fire services. The ordinance provided a process for such establishment and adopted code provisions. The ordinance is hereby attached as Exhibit "A" and by this reference incorporated.
6. The City administration has presented an Administrative Report to the City Council recommending that a public safety fee (PSF) be implemented. The PSF would support the funding of three (3) new police officer positions to increase the staffing level of the Newberg-Dundee Police Department. This report is hereby attached as Exhibit "B" and by this reference incorporated.
7. In accordance with the process, the City Council has conducted on July 6, 2009, at their regular scheduled meeting a public hearing to determine if the request for the PSF meets the criteria as provided for in the Newberg Code. The format for that hearing is marked as Exhibit "C," which is hereby attached and by this reference incorporated. The criteria for establishing the PSF is listed in Exhibit "A," Section 5 of the ordinance and listed in Section 36.37 of the Newberg Code, which is also contained in Exhibit "A."
8. The City Council has taken into consideration the facts and information presented to them, as well as the testimony presented during the public hearing.

THE CITY OF NEWBERG ORDERS AS FOLLOWS:

1. Recitals: The Recitals are hereby adopted by the City Council and considered facts in the deliberation.
2. Public Safety Fee (PSF): A PSF is hereby established and authorized to be charged as follows:
 - a. Amount: Three (3) dollars per equivalency dwelling unit (EDU) per month will be charged on all water meters within the City of Newberg.
 - b. Responsible Party: The person(s), firm, corporation, or entity (hereinafter referred to as “person”) responsible for the water utility charge will be responsible for the PSF. If there is no water service to the developed property, the person with the right to occupy the developed property will be responsible for the PSF.
 - c. Implementation: The PSF will be implemented and charged through the August 2009 water utility bill. However, the city manager (CM) has the authority to delay implementation if the CM deems it necessary, but the PSF will be implemented as soon as possible if delayed after the August billing.
 - d. Expenditures: The revenue collected from the PSF will be used to fund three (3) additional police officer positions including all necessary expenses.
 - e. PSF Designation: The PSF will be referred to as Police Officer Public Safety Fee (POPSF).
3. Administrative Report: The administration has presented to the City Council an Administrative Report recommending an amount and the implementation of the PSF. The City Council adopts the administration report, as well as all facts and information in report. The Administrative Report is Exhibit “B.”
4. Hearing Format: Exhibit “C” is the hearing format to be used for this Order.
5. Findings of Fact: The City Council adopts the Findings of Fact as present in Exhibit “D,” which is hereby attached and by this reference incorporated. The Findings of Fact addresses the criteria for establishing the PSF. The Council finds that the criteria for establishing the PSF has been met and satisfied.
6. Administration: Under the authority of the CM, the City administration is hereby delegated the authority to administer the PSF, including charging, collecting, and implementing of the PSF. The city manager is hereby delegated all necessary authority for implementation and administration of the PSF. Furthermore, the CM is delegated the authority to do all necessary acts; enter into all necessary agreements; and execute any other necessary documents for the implementation and collection of the PSF. This authority is in addition to the authority given to the administration under Newberg Code provision § 36.36 entitled, “Administration and Collection.” Furthermore, additional conditions for implementation and collection are presented in Exhibit “E,” which is hereby attached and by this reference incorporated. The authorized conditions are to be implemented by the administration.

7. Appeal: Any dispute, claim, or other disagreement concerning the implementation, charges, and collection of the PSF including but not limited to determination of the number of EDU's; the amount of the PSF to be charged; the responsible party; and settlement of disputed claims will initially be made by the City finance director. Appeal of this decision will be to the city manager. The city manager's decision will be final.

➤ **EFFECTIVE DATE** of this order is the day after the adoption date, which is: July 7, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon, this 6th day of July, 2009.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 9th day of July, 2009.

Bob Andrews, Mayor

QUASI-JUDICIAL HISTORY

By and through City Council at the 05/18/2009 meeting. Or, None.

Exhibit "A"
to Order No. 2009-0021



ORDINANCE No. 2009-2714

AN ORDINANCE ESTABLISHING A PROCESS TO IMPLEMENT A SPECIFIC PUBLIC SAFETY FEE BY AUTHORIZING THE CITY TO ESTABLISH A PUBLIC SAFETY FEE TO FINANCE POLICE AND FIRE SERVICES; SETTING OUT A PROCESS TO DETERMINE THE AMOUNT AND CITIZENS WHO SHOULD PAY THE FEE; SETTING CRITERIA THAT SHOULD BE ADDRESSED DURING THE PROCESS; AUTHORIZING COLLECTION OF THE FEE THROUGH THE UTILITY BILLING MECHANISMS OF THE CITY; AND ESTABLISHING AN ADDITIONAL SECTIONS UNDER CHAPTER 36 (FINANCE AND REVENUE; TAXATION) TO INCLUDE THE PROVISIONS OF THIS ORDINANCE

RECITALS:

1. The City has a Police Department and a Fire Department dedicated to protecting the public.
2. The public safety in this area is dependant upon the City's ability to fund the necessary officers and purchase the necessary equipment to carryout the mission of those departments.
3. The City has the authority to charge fees based upon the services furnished or likely to be furnished to its citizens.
4. The City should seek the input, advice, and information from the citizens concerning the needed resources in the public safety area, and the necessary revenue to provide the resources.
5. The City should establish criteria to determine the need for resources, the amount of any fee, and the method of charging such fees.
6. After a public hearing on May 18, 2009, at which the City Council considered public testimony, staff presentation, and Council deliberation, this ordinance was passed.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

Section 1. **Public Safety Fee (PSF).** The City hereby establishes and authorizes the levying of a public safety fee (PSF) to be used to support the Police and Fire Departments in carrying out their respective missions and duties to protect the public. The City is empowered to enact separate PSFs through the process established below. Furthermore, the City shall establish the amount of the PSF fee.

Section 2. **Specific Purpose of PSF.** When implementing a PSF, the Council should designate the specific purpose or use to be made of the revenue from each PSF, a reporting

process to ensure that each PSF is spent as authorized, provide for a public hearing prior to adopting each PSF, and the criteria to be considered in determining the need for each PSF.

Section 3. Enactment by Order of a PSF. The City Council, after taking into consideration the report from the administration which proposes a PSF, as well as the criteria established, and input from the public, will enact the PSF, by order establishing the amount of the PSF and adopting findings of fact as to the criteria.

Section 4. Administration and Collection. The City Administration will be responsible for billing, collection, and reporting to the Council concerning each PSF. The PSFs maybe billed and collected through the City's utility billing system. The City budget will contain information that clearly indicates the amount of revenue that each PSF is estimated to collect and the proposed expenditures. An annual report will be made to the City Council showing actual revenue collected and expenditures made during the previous fiscal year. This report may be incorporated in the annual budget.

Section 5. Criteria. The PSF will be established based upon the following criteria:

- (A) The need for services.
- (B) Comparison of resources to provide such services by examining the following:
 - i. Comparison with resources available in similar communities.
 - ii. Comparison with resources used to provide services, such as number of police officers or firefighters per capita as shown through nationally recognized service studies.
 - iii. Comparison of statistics showing the calls for service or incidents that require services from year to year to determine if the need for services has increased or decreased.
 - iv. Any other recognized study or authoritative source showing comparison of resources needed with services to be delivered in the public safety area.
 - v. Take into consideration the increase or decrease in population.
 - vi. A reasonable connection between those who need, use, or are likely to need or use the service, and those who are charged the fee.
 - vii. The amount of revenue needed to support the resources to provide the services.
- (C) Any other criteria that should reasonably be considered that would be likely to assist in establishing an equitable PSF, which could be charged on a fair and equitable basis.
- (D) The report proposing the PSF will address the criteria to be considered.
- (E) The testimony at the public hearing should be addressed to the criteria.
- (F) The fee shall be established and levied on a reasonable basis considering all the criteria.

Section 6. Determination of PSF Necessity. The Council, after due deliberation and consideration of any public testimony presented at the public hearing has determined the following:

- (A) There is a need for another source of revenue to support the necessary and

- essential activities of the Police and Fire Departments.
- (B) Establishment of a PSF with authorization to spend the revenue generated by the fee only on necessary public safety activities are a logical and necessary way to support these public safety activities.
 - (C) By establishing the process the City Council can ensure that the public is given an opportunity to give their advice and input concerning the PSF.
 - (D) The open and clear reporting on how these funds are spent once collected will establish the transparency that is necessary to ensure public trust.
 - (E) One of the essential duties of the City government is to provide for the safety of its citizens and this essential duty requires expenditure of a certain amount of revenue in order to ensure that these resources are available. The PSF is a fair and reasonable way to provide for that revenue.

Section 7. Code Provisions. The specific Code sections to fully implement this ordinance are contained in Exhibit "A" and by this reference incorporated. Additional details contained in Exhibit "A" shall be in full force and effect, as if specifically enumerated in this ordinance. The sections are fully incorporated in the Code of Newberg.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: June 18, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon, this 18th day of May, 2009, by the following votes: **AYE: 7** **NAY: 0** **ABSENT: 0** **ABSTAIN: 0**


Daniel Danicic, City Recorder

ATTEST by the Mayor this 21st day of May, 2009.


Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through City Council at 12/01/2008 meeting. Or, None.
(committee name) (date) (check if applicable)

Code Provisions

The following provisions of the City Code of the City of Newberg are added to the City Code and have full force and effect:

TITLE 3: ADMINISTRATION

CHAPTER 36: FINANCE AND REVENUE; TAXATION

PUBLIC SAFETY FEE

§ 36.35. Enactment, Process and Order

(A) *Enactment.* The City hereby establishes and authorizes the levying of a public safety fee (PSF) to be used to support the Police and Fire Departments in carrying out their respective missions and duties to protect the public. The Council is empowered to enact separate PSFs through the process established below.

(B) *Process.* The City will follow the process which provides the following:

(1) Report from the administration that addresses:

- (a) Specific purpose or use to be made of the revenue from each PSF.
- (b) The estimated amount of revenue that the PSF would raise for the City.
- (c) The specific amount of the PSF and the method of determining the amount of the PSF.
- (d) The group of citizens who would be charged the PSF.
- (e) The criteria established for determining the need for a PSF.

(2) Public hearing at which the Council may receive from the public advice; input and Comment concerning the PSF.

(3) Requirement that reporting be done at least annually to report the amount of revenue raised by the PSF, the expenditures from that revenue. This report may be incorporated in the annual budget.

(C) *Order.* The Council shall enact each specific PSF through the process set out above using the council's quasi-judicial authority by enactment of an order.

§ 36.36. Administration and Collection. The City Administration will be responsible for billing, collection, and reporting to the Council concerning each PSF. The PSFs maybe billed and collected through the City's utility billing system. The City budget will contain information that clearly indicates the amount of revenue that each PSF is estimated to collect and the proposed expenditures. An annual report will be made to the City Council showing actual revenue collected and expenditures made during the previous fiscal year. This report may be incorporated in the annual budget.

§ 36.37. Criteria. The PSF will be established based upon the following criteria:

- (A) The need for services.
- (B) Comparison of resources to provide such services by examining the following:
 - (1) Comparison with resources available in similar communities.
 - (2) Comparison with resources used to provide services, such as number of police officers or firefighters per capita as shown through nationally recognized service studies.
 - (3) Comparison of statistics showing the calls for service or incidents that require services from year to year to determine if the need for services has increased or decreased.
 - (4) Any other recognized study or authoritative source showing comparison of resources needed with services to be delivered in the public safety area.
 - (5) Take into consideration the increase or decrease in population.
 - (6) A reasonable connection between those who need, use, or are likely to need or use the service, and those who are charged the fee.
 - (7) The amount of revenue needed to support the resources to provide the services.
- (C) Any other criteria that should reasonably be considered that would be likely to assist in establishing an equitable PSF, which could be charged on a fair and equitable basis.
- (D) The report proposing the PSF will address the criteria to be considered.
- (E) The testimony at the public hearing should be addressed to the criteria.
- (F) The fee shall be established and levied on a reasonable basis considering all the criteria.

Administrative Report

Exhibit “B” to Order No. 2009-0021

Date: June 23, 2009
To: Mayor and City Council

Facts: Police Chief Brian Casey
Report Author: Terrence D. Mahr, City Attorney

Public Safety Fee for Police Services

Recommending a Public Safety Fee for Police Services Pursuant to Code Provisions 36.35-36.37.

RECOMMENDATION: Implement a Public Safety Fee (“PSF”) effective August 1, 2009 in the amount of three (3) dollars per month per equivalency dwelling unit (“EDU”). The PSF is to be paid by the party paying the City’s water utility charges or person(s) having the right to occupy the developed property.

EXECUTIVE SUMMARY

The City of Newberg’s Police Department has had a need for additional police officer positions for some time. The City has grown substantially since the 1990’s and is almost ten (10) years into the new century. Although growth has momentarily slowed, the City is poised for a large amount of new residential and commercial growth which is already through the planning stages and ready for development; i.e., Springbrook Master Plan and McClure development, to name a few.

At the beginning of this century, the staffing level of police officers was well below the national average for western states. The problem has continued to grow. The City, when compared with similar Cities in Oregon, has fewer officers. The City has a law enforcement services contract with the City of Dundee. This has helped financially. However, even with the addition of the former Dundee officers, the City still has fewer officers than the comparator Cities.

Administrative Report

Police officer positions have been authorized by the City Council, which has recognized the need, but sufficient revenue has not been made available. Present revenue sources are not likely to be able to meet the need.

The lack of officers is impacting the ability of the department to function, as well as affecting police officer safety. Public safety, through police services, is not optional. When called upon, it is the City's obligation to its citizens to ensure their safety through law enforcement and other services.

Chief Casey has established the need for seven (7) additional officers. The City has added four (4) officers through the budget process. The PSF is needed to provide the necessary revenue for the additional three (3) positions. The amount of the fee will be three (3) dollars per EDU per month. By using the fee method, those occupants and users of developed properties will pay their fair share for the police services needed.

The City will be able to maintain a professional, responsive, and high quality police force, providing excellent police services to the community. The needed officers will ensure that the excellent level of services continue while providing the necessary number of officers for the adequate safety of those officers. The Council should pass Order No. 2009-0021 providing for the PSF.

I. Facts:

These facts were taken from Chief Casey's presentation concerning the need for additional police officers. A copy of the PowerPoint presentation is attached as Attachment "A" to this report and by this reference incorporated.

Chief Casey has been an officer with the Newberg Police Department, Assistant Chief under Chief Bob Tardiff, and appointed as Police Chief in 2004. He led the department to obtain its certification as a police certified department with the Oregon Accreditation Alliance. The department is one of the few in the state of Oregon of its size to obtain such certification.

Chief Casey has studied the criteria and comparison factors that are used to determine the necessary staffing of police officers to

Administrative Report

deliver police services. He has presented his information, expert opinion, and his recommendations.

Chief Casey has conducted a public outreach program. He has made presentations to service clubs (Rotary clubs, Kiwanis, and others). He presented the information to the Citizens Police Advisory Committee on April 3, 2009. They unanimously supported the need for the police officer positions and the need for a PSF for the funding. They officially endorsed this action. He also conducted a town hall public meeting to discuss the need and the PSF at the Public Safety Building on May 12, 2009. After his presentation, there was public discussion concerning the necessity of a PSF.

Chief Casey has received overwhelming support for the need for additional police officers. Even though funding is always a challenge, he has received overwhelming support for the necessary funding of additional officers.

Here are the facts presented in Chief Casey's presentation:

- 1. Population of city:** The City has a steadily growing population. The growth of the City is considered "high" for the state of Oregon. Yamhill County (being on the edge of the Portland-Metro area) is one of the fastest growing areas in the state.

The City is perched on the threshold of substantially more growth. Austin development has an approved development agreement (Springbrook Master Plan) that would add an additional 1,200 homes to the city with a potential of an additional 3,000 in population. The McClure development is an additional eighty-four (84) homes, and the Orchard's Lair II Subdivision includes one-hundred and twenty-five (125) lots in the development for additional homes. The current downturn in the economy has caused a momentary slowing of growth, but these developments along with others already in construction will certainly allow Newberg to "take off" once again when the economic climate changes.

Administrative Report

Newberg has been growing in population for a long time. Newberg has grown thirty-nine (39) percent since 1990. The population in 1998 was 17,358. With the police services contract in 2005 with the City of Dundee, the police force grew to twenty-five (25) sworn officers with the inclusion of three (3) police officers who were formerly with Dundee, and the service area of the department included Dundee.

Ten (10) years later in 2008, Newberg had grown to 21,675 and with the service area of Dundee, the population to be served was 24,715. With a five and four-tenths (5.4) percent growth rate in 2007, the City was one of the fastest growing in the state. (See presentation slide numbers 2 and 3.)

In 2009, the population of the City is 22,645. Including Dundee, the population is 25,695. That is an increase of four (4) percent since 2008. The rate of growth has decreased since 2007, but the potential for a lot more growth is certainly there.

2. The Need for Police Services: As population grows, the call for services (CFS) increases. The CFS naturally has spikes and low points. There has been a thirteen (13) percent increase from 2005 to 2007. This increase and thus demand for police services has caused a lot of stress upon the police staff.

The police lieutenants have worked 596 hours of uncompensated patrol coverage in order to meet minimum staff requirements. This not only puts a heavy burden upon them, but it takes them away from their supervisory duties. Sergeants have also been having shift duty, which impacts their ability to supervise. Officers are constantly doing overtime. Some officers find that the majority of their shifts are including overtime.

Programs valued by the community that provide the residents with an excellent opportunity to communicate with the police force have had to be curtailed. These programs allowed interaction with residents, which helps reduce criminal activity in the community by building cooperation

Administrative Report

between citizens and the police force. Such programs that have been eliminated are Citizens Police Academy, McGruff Safe Home for Children, Neighborhood Watch, and National Night Out.

The police department finds itself in the position of solely being able to respond to CFS and incidents. They are not able to participate in activities that build stronger relationships with the community. The police department is highly respected by the citizens of Newberg, but to continue to thrive, this relationship needs to be built. The increased need for services impacts the ability of the department to have time for proactive programs.

The contract with the City of Dundee for police services has added to the CFS and the responsibility of the department to respond. When the police service contract was enacted in 2005, the City took in three (3) police officers who comprised the Dundee police force. This helped increase the number of officers, but the population had a similar increase. Dundee's financial contribution to the City assisted with the financing of police services. However, numbers in police staff levels have historically been low in the City of Newberg. Even with the additional officers from Dundee, it is still low.

3. Level of Staffing: The Newberg police force has twenty-nine (29) sworn officers. The number of officers appropriate to meet the needs of the citizens in the city is determined by reviewing a number of factors. Chief Casey has examined the factors and compared the department with similar Cities in Oregon. The need for additional officers was brought out by the previous chief of police and has been a topic of budget discussions for many years.

In 2001, Chief Tardiff pointed out that the level of police officer staffing was eight (8) officers below the western state's average of one and seven-tenths (1.7) per thousand population (per 1,000) for similar sized cities. These statistics are compiled by the United States Department of Justice. The City continued to fall behind in staffing levels. In 2003, Chief Tardiff pointed out again that the department

Administrative Report

was nine (9) officers below the average of one and seven-tenths (1.7) per 1,000. The current level was then one and twenty-two one-hundredths (1.22) officers per 1,000. (See presentation slide numbers 3 and 4.)

The City authorized an additional traffic officer in January of 2003 provided that sufficient revenue was available. The revenue was not available. Chief Casey continued to bring attention to the need for additional officers, including the request for two officers in 2007 which were not funded.

The staffing history of the Newberg-Dundee Police Department shows that the population is clearly outgrowing the ability of the City to add police officers to meet the police service needs. In 1998, the department had twenty-four (24) sworn officers, which amounted to one and four-tenths (1.4) officers per 1,000. In 2008, the department had added one (1) officer and three (3) officers from the Dundee police force for a total of twenty-eight (28) officers.

However, the population had grown and the ratio was one and one-tenths (1.1) officers per 1,000. Today with the four (4) positions added as indicated in the next paragraph, bringing the Newberg-Dundee police force to thirty-two (32) officers, the ratio is one and three-tenths (1.3) officers per 1,000. This is still very much below the average of similar sized cities for western states, which is one and seven-tenths (1.7) per 1,000.

By 2008, the need for additional officers was quite apparent. Chief Casey requested a needed seven (7) officers. Through the budget process, the City authorized four (4) positions to be added. The PSF will provide the funding for the three (3) remaining officers requested by Chief Casey.

In comparing the number of officers per capita, the national statistics for western states is an authoritative indicator. However, when comparing the number of officers the City has with other similar sized Cities in Oregon, the City has the lowest number of officers of the nine (9) other comparative cities. (See presentation slide number 6.) Even

Administrative Report

with the addition of four (4) officer positions, the City still remains in the bottom portion when compared by number of officers per capita.

The low number of officers per population and increasing number of CFS has other impacts. As noted above, lieutenant and sergeants are called away from needed supervisory duties to provide call and patrol services. Inadequate staffing levels also create potentially unsafe situations. As officers are involved in duties, such as processing arrests, transporting to the jail, or handling other calls, there are fewer officers (if any) available to assist other officers.

Response time is affected or only one (1) officer may be able to respond when a situation calls for more officers. At least three (3) officers are required per shift to provide adequate backup for the safety of the public and the officers. This is necessary in order to provide safe and adequate police services to the community.

Chief Casey has presented the information concerning the goal of having three (3) officers per shift. The City needs twenty-one (21) patrol officers in order to meet this goal. (See availability calculations in presentation slide number 11.)

II. Responsible Party for Fee and Fee Amount:

The City needs additional revenue to raise the police staffing level to provide adequate police services to the community. Through the research and presentations by Chief Casey, the need for the additional three (3) police officer positions has been well established. The City has legal authority to establish an appropriate fee and designate a class of persons to be responsible for paying such fee.

The administration recommends that the City determine that the responsible group be persons who occupy developed property or have a right to occupy developed property within the city.

Administrative Report

Property developed and occupied would be likely to need police services and benefits from the protection provided by police services. Persons occupying developed property benefit from police department patrol activity.

The recommended method to determine the responsible party and to assess the fee is through the City utility services. The person or persons, including businesses, corporations, and/or any other entity paying the City for utility charges, will pay the PSF. If the property is developed, but there is no utility service to the property, or if water services are discontinued, the PSF will be paid by the person(s) authorized to occupy the developed property.

The amount of the PSF is three (3) dollars per EDU per month. This accounts for the fact that larger utility meters generally mean more occupants. The assessment and collection of the PSF will be by the administration through the utility billing system in accordance with the order (Order No. 2009-0021) of the Council.

III. Revenue & Budget:

The need for additional police officers and the funding of those positions have been discussed with the Budget Committee for a number of years. The committee has recognized the need and authorized the funding for these positions if revenue was available. However, the revenue was not available. The Budget Committee with the City Council giving final approval did approve the funding of four (4) police positions requested by Chief Casey during the 2008-2009 budget process. This committee also considered the PSF proposal and agreed with the proposal if it could be implemented.

The Budget Committee, when considering the 2008-2009 budget as presented by the administration, amended the budget to add the Public Safety Fund and fee as proposed in this report. When the Council passed the 2008-2009 budget, the amendment was noted in the Request for Council Action (RCA) and Resolution No. 2008-2792 adopting the budget. The RCA is attached as Attachment

Administrative Report

“B” and by this reference incorporated. The approved budget included the three (3) new police officer positions and the PSF. The page from the budget showing this is attached as Attachment “C” and by this reference incorporated.

The Council had expressed their desire to first discuss the issue with the community through a public outreach program. There was not enough time for the program; therefore, the positions and the PSF were never implemented.

The proposed budget for 2009-2010 already included the Public Safety Fund as presented in Attachment “D” and by this reference incorporated. The Budget Committee approved the budget on May 7, 2009. Final Council approval was given on June 2, 2009, with the passage of Resolution No. 2009-2847. The Public Safety Fund was again adopted. Upon implementation of the PSF, the funds received and the expenditures for the police officer positions will be recognized by adopting a supplemental budget.

This fund would receive revenue from the PSF of three (3) dollars per EDU per month through implementation of a PSF. The PSF would be billed through the utility billing process. The revenue provided would support the three (3) additional police officer positions. The committee voted to approve the new fund. The Council approved the final budget with this proposal in the budget.

The approved proposal for the PSF is attached to this report as Attachment “E” and by this reference incorporated. The proposal is from the 2008-2009 budget but shows revenue projections for this budget year (2009-2010) and three (3) years further. The revenue projections are based upon one (1) dollar per EDU per month, which funds one (1) police officer position. The revenue projections taken from the attachment are as follows:

Budget	Monthly	Yearly	3 EDU* (Yearly)
09-10 (August-June)	\$8,401	\$92,411	\$277,233

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10-11 (July-June)	\$8,684	\$104,208	\$312,624
11-12 (July-June)	\$8,966	\$107,592	\$322,776
12-13 (July-June)	9,249	\$110,988	\$332,964

* equivalent dwelling unit

The PSF will be implemented and assessed through the first monthly water utility billing immediately following the order authorizing the PSF, which should be the August billing of 2009. The city manager is delegated the authority to delay the implementation of the PSF for administrative necessities.

IV. Expenditures:

The revenue derived from the PSF will be expended to pay for the cost of financing the three (3) police officer positions requested in this report. The estimated cost for each position is taken from the PSF proposal, which is shown in Attachment "E." The cost is for one (1) police officer position. The estimated expenditures are as follows:

<u>Budget</u>	<u>Yearly</u>	<u>3 Officers</u>
09-10(August-June)	\$83,814	\$251,442
10-11 (July-June)	\$105,032	\$315,096
11-12 (July-June)	\$113,189	\$339,567
12-13 (July-June)	\$121,998	\$365,994

The PSF will also be expended on any and all expenditures necessary or desirable in connection with those positions. Any expenditure and furtherance of the goal to have the three (3) additional officers is permitted.

V. Reporting:

The City administration will account for all revenue received pursuant to the PSF. City administration will keep track of all expenditures made with funds collected from the PSF. A report showing revenue and expenditures from the PSF will be submitted to the Council with the annual budget. The report will be reviewed and approved by the Council.

VI. Criteria:

Administrative Report

The criteria for establishing a PSF has been adopted by Ordinance 2009-2714 and set out in the Newberg Code in Sections 36.37. (See Exhibit “A” to the Order.) This report presents the facts that are addressed to these criteria. The criteria and facts that address them are as follows:

(A) The Need for Services:

- With the city’s increasing population over the last decade the City has had increased calls for services (CFS).
- The city has been one of the fastest growing areas in the state and with this fast growing population comes the increased CFS.
- The city is situated with new developments “online” to have additional growth in the future.
- The traffic that goes through the city adds to the CFS’s.

(B) Comparison of Resources to Provide Services:

- Number of police officers – The comparison of 9 (nine) other similar Oregon Cities in population show that Newberg has the least number of officers. (See presentation slide number 6.)
- Number of police officers – The City is well below the average number of officers per capita for the western states. The average is one and seven-tenths (1.7) per 1,000 population as shown by the United States Department of Justice. Newberg has one and three-tenths (1.3) per 1,000 population in 2009. (See presentation slide numbers 2 and 4.)
- Group to be Charged PSF – PSF would be charged to those who occupy the developed property within the city as determined by those responsible to pay for the utility services. Utility services provide a reasonably accurate method of determining which property was developed and which property is occupied.

Administrative Report

- Amount of PSF – The size of the water meter in EDU is a reasonable method to determine the amount of occupants or the number of people who will be occupying a developed property on a day to day basis. Therefore, it is a fair way of assessing the PSF and taking into account the high number of likely occupants in property developed for business purposes.
 - Method of Assessment – The use of the water utility billing system is an efficient means of assessing and collecting the PSF on a monthly basis that will reach the persons in the class determined to be subject to the PSF.
 - Amount of Revenue Needed – The recommended PSF would support three (3) police officer positions. The amount of estimated revenue raised from the PSF is just below the estimated expenditures to fund the positions. The proposal would not raise “excess” revenue beyond what is needed to fund the positions. The recommended PSF is the lowest amount to meet the needs. (See revenue and expenditure charts on page 8 of report.)
- (C) Any other Criteria:
- Legal Authority – The City has adopted an ordinance allowing the PSF and creating a process to ensure public input. This is within the legal authority of the City.
 - Court Ruling – The legality of a PSF and the process for determining the group that is to be assessed the PSF has been reviewed by the Oregon courts in another similar situation. In that case, the City had enacted a “public safety surcharge” to be billed through the City water utility billing process. The City has used this situation as a model. The Supreme Court of Oregon ruled that the public safety surcharge was legal; the public safety surcharge is not a property tax; the City has the right to determine a class to charge; and that the class subject to the public safety surcharge was legally established by the City. [See Knapp v. City of Jacksonville, 342 Or. 268 (2007).]

Administrative Report

CONCLUSION

The City of Newberg's Police Department is in need of additional police officers in order to maintain a safe and reliable level of staffing to deliver police services. The city's population has grown over the last decade or more, and the request for police services has grown. The signing of a contract for services with the City of Dundee has allowed the City to have additional resources and police officers, but the City of Newberg still lacks adequate police staffing.

Chief Casey conducted an extensive public education program presenting the facts, as well as the need and comparative data justifying the request for additional police officers. The chief has requested seven (7) additional police officers, which still leaves the City of Newberg below the national average for western states, but would certainly improve the current situation. In the past, each time the City considered adding police officers, the revenue was not available to do so. The four (4) additional officers approved by the City has utilized all available revenue for this purpose.

It is the recommendation of the police chief and City administration that the City levy the Public Safety Fee (PSF) in the amount of three (3) dollars per EDU per month to raise the revenue to fund three (3) additional police officer positions. The City Budget Committee and the City Council have approved this request contingent on the revenue being available. The only method of obtaining the available revenue is through the PSF. The City, after a public hearing, has adopted Code provisions that allow for a PSF to be imposed. The Council should impose the PSF to continue to provide quality police services to the community.

Attachment "A"
to Administrative Report
(for Order No. 2009-0021)

***Newberg-Dundee Police
Department***

Town Hall Meeting

May 12, 2009

Brian Casey
Chief of Police

1

Staffing History

1998	<u>24</u> sworn	Population 17,358
	1.4 officers per 1000	
2008	<u>25</u> sworn	Population 21,675
	28 with Dundee	Population 24,715
	1.1 Officers per 1000	
	5.4% growth in 2007	
2009	<u>29</u> sworn	Population 22,645
	1.3 Officers per 1000	
	32 with Dundee	Population 25,695

2

Chief Tardiff's Budget 2001

The Numbers speak for themselves:

- **Our officer staffing level is 8 officers below the western states average of 1.7 per 1000 for cities our size.**

Source: US Department of Justice

- **Newberg has grown by 39% since 1990**

3

Chief Tardiff 2003

Staffing. NPD staffing is currently at 1.22 officers per 1,000 population, approximately 9 officers below the average of 1.7 officers per 1,000 for cities our size in the Western United States.

Source: US Department of Justice

Last year the Budget Committee and City Council authorized the hiring of an **additional traffic officer in January 2003, provided sufficient revenue was available.**

Unfortunately, the revenue picture has not improved and we did not fill that position.

4

Chief Casey 2007

- Submitted a budget request for two officers request was not funded.
- 2008 submitted a budget request for (7) seven officers, 4 positions were added.

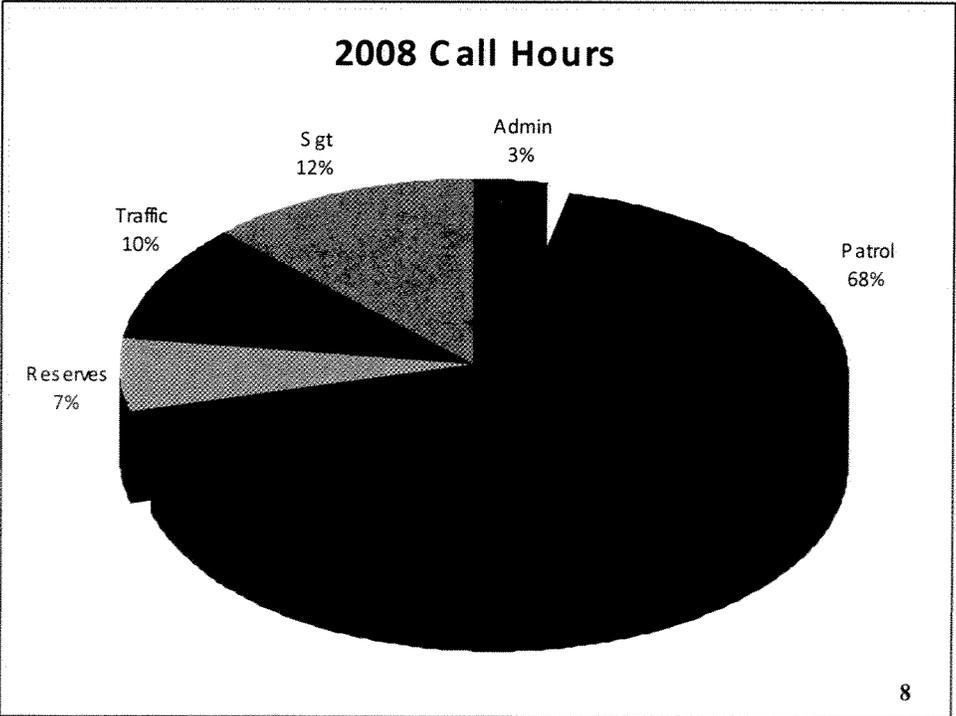
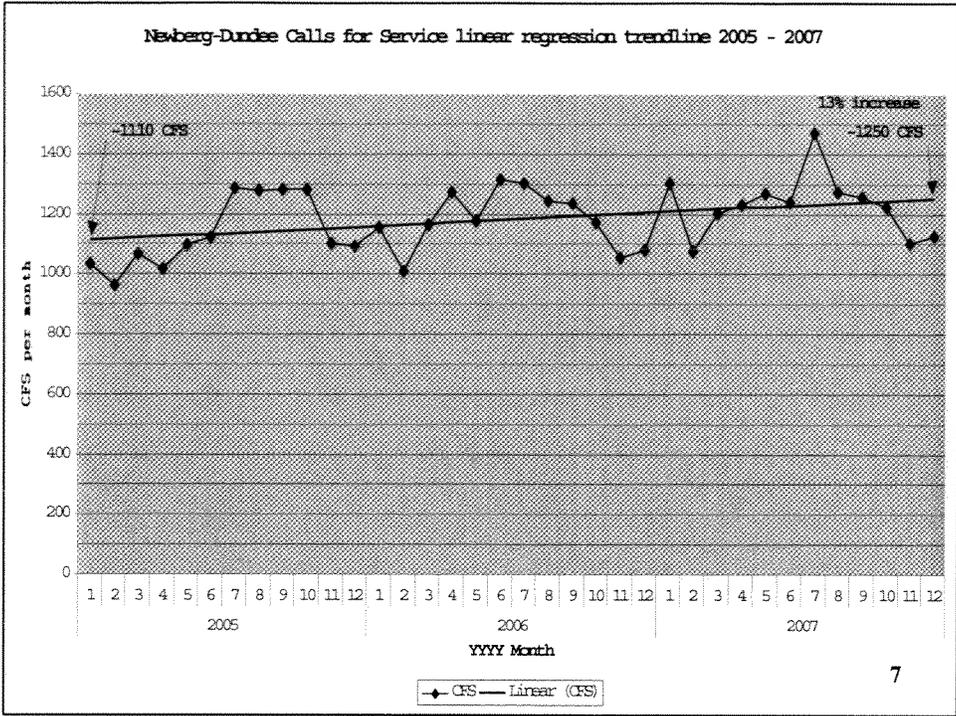
5

Comparator Cities

Source: Portland State University Population Research Center

City	Number of Sworn Officers (FTE)	2007 Population Estimates
Klamath Falls	40	20,110
Redmond	37	24,805
Roseburg	37	21,255
Tualatin	36	26,025
Milwaukie	33	20,920
Woodburn	32	22,875
Ashland	30	21,630
West Linn	30	24,180
Forest-Grove	29	20,395
Newberg-Dundee	28	24,715
Newberg	25	21,675

6



Patrol Staffing

- **Goal provide 3 officers per shift per day.**
 - Not unreasonable request for a service population of 25,000, 40,000 vehicles and 5,000 students.
- **Times of the day and days of the week we only have (2) two officers on duty. NOT SAFE for the public or police. One officer available for:**
 - Jail Transport take 74 minutes
 - Robbery-Shooting-Assaults
 - Domestic
 - Fights

9

Shift Report May 9, 2009 Sgt. Mark Cooke.

She started fighting with Mike and Kirby and Mike tased her. It was ineffective. They wrestled in the small hallway of the apartment and into closet. She then grabbed Kirby's gun. Kirby was able to retain it in the holster and yelled to Fair and Fleming that she had a hold of it. We got her cuffed and out to the car. We had to take the male half into custody at taser point since he was non compliant with orders. The female tried kicking out the window on the police car when she saw the male in custody. We got them both back to the PD in a hurry and into the cells. It was a fight pretty much the whole way.

10

Patrol Officer Availability

	<u>2007 Hrs Only</u>	<u>Available Hrs</u>	<u>2005-2007 Hrs</u>	<u>Minimum Staff</u>	3							
						Su	Mo	Tu	We	Th	Fi	Sa
Beginning Hours	52 weeks x 40 hrs	2080			Day	3	3	3	3	3	3	7
Vacation	85	1995	75		Swing	3	3	3	3	3	3	7
Comp	133	1862	111		Grave	3	3	3	3	3	3	7
Sick, Injury, FMLA	96	1766	47									
Holiday	29	1737	26	Officers Needed:	7 per shift to have 3 available							
Training	74	1663	78	Total	21 Patrol Officers							
Court ??												
14 Patrol Officers are available		<u>1663 Hours</u>										
			or 80% of the beginning hours which is equivalent to only 11.2 Officers									

11

Patrol Staffing

- **4 New Police Officers**
- **3 Additional Needed**
- **Officers Out of Service**
 - **Tim Weaver** **12-18-07 to 04-06-08**
 - **Huntley Miller** **05-05-08 to 09-03-08**
 - **Tom Perritt** **07-03-08 to 01-15-09**
 - **Steve Schoening** **09-10-08 to pending**
 - **Heather Fultz** **12-15-08 to pending**

12

Overtime to Cover Shifts

- **585 OT hours= 3.65 months of work year to date, Jan 1, 2008- Oct 31, 2008.**
- **Lieutenants have worked 596 hours of uncompensated patrol coverage so we meet minimum staffing requirements.**

13

Changes to Adapt

- **Mail Out Police Reports**
- **Eliminated Community Policing Programs**
 - **Citizen's Police Academy**
 - **McGruff Safe Home for Children**
 - **Neighborhood Watch**
 - **National Night Out**
- **Traffic Officers are Filling Patrol Shifts**
- **Sergeants are Covering Shifts**
- **Lieutenants are Covering shifts**
- **Mandatory Overtime- Officer Howell, 24 of his 36 shifts were 12 hours long.**

14

Are we Ready for the Future?

- **Austin Development**
 - 1200 Homes @ 2.5 persons per household will increase population by 3000 (size of Dundee) @ 1.5 officers per 1000 = we will need an additional 4.5 officers just for this development. Likewise what will the Fire Department need?
- **Wine Industry and Tourism**
- **No Resolution to the Bypass (continued traffic)**
- **Newberg is a Desirable Place to Live and Work**
 - Hospital
 - Golf Course
 - Schools
 - Location

15

Public Safety is Non-Discretionary

- **Newberg is growing (1000 pop increase 2008)**
- **Public Safety Police-Fire will have to grow**
- **Public Safety will have to be funded**

16

Attachment "B"
to Administrative Report
 (for Order No. 2009-0021)

REQUEST FOR COUNCIL ACTION				
DATE ACTION REQUESTED: 2008, June 16				
Order ____	Ordinance ____	Resolution <u>XX</u>	Motion ____	Information ____
No.	No.	No. 2008-2792		
SUBJECT:			Contact Person (Preparer) for this Resolution: Elizabeth Comfort	
1. Hold Legislative Public Hearings on the 2008-09 City Budget & State Revenue Sharing			Dept.: Finance	
2. Adopt Resolution No. 2008-2792, adopting the 2008-09 City Budget			File No.:	
LEGISLATIVE HEARING			<i>(if applicable)</i>	

RECOMMENDATION:

Adopt **Resolution No. 2008-2792**, adopting the 2008-09 Budget, and appropriating as recommended by the Budget Committee on May 16, 2008, and including election to participate in the State Revenue Sharing Program.

BACKGROUND:

1. The Budget Committee met May 1st and May 16th to deliberate the proposed budget by staff.
2. The Committee made two amendments to the proposed budget. One was to increase the Yamhill County Mediator's contribution by \$500, for a total of \$5,500. These funds come from Traffic Fine revenues. The second amendment was to add the Public Safety Fee Fund. This account would maintain a fee of \$3 per EDU, billed through the Utility Billings, for revenue to support three additional police officers. The Committee moved to approve the new fund. The recommendation of the Committee was to move the fee to City Council for adoption, with implementation contingent upon a positive response from the citizens of Newberg.

FISCAL IMPACT: The 2008-09 Budget equals **\$76,959,674** with **173.90** FTE. The permanent property tax rate remains at \$4.3827 per \$1,000 assessed value. The City estimates it will collect \$4,988,591.

The Debt Service property tax levy equals \$400,000 for payments on the Public Safety Building and Fire Stations.

STRATEGIC ASSESSMENT: This is a balanced budget and reflects the direction and priorities of the Council to meet the growing needs of this community.

Attachment "C"

to Administrative Report

(for Order No. 2009-0021)

2008-09 CITY OF NEWBERG BUDGET

ADOPTED 2007-08	ESTIMATED ACTUAL	FTE	ACCOUNT #	DESCRIPTION	FTE	ADOPTED 2008-09
			FUND 16	PUBLIC SAFETY FUND		
			REVENUES			
-	-	-	16-0000-347000	Public Safety Fee	-	163,800
-	-	-		TOTAL REVENUES	-	163,800
			2120	PATROL		
-	-		16-2120-431000	Officer Salaries	3.00	65,376
-	-		16-2120-435001	Holiday Pay	-	5,000
-	-		16-2120-441000	FICA/Medicare	-	5,384
-	-		16-2120-442000	Workers Compensation	-	1,927
-	-		16-2120-443000	Unemployment	-	175
-	-		16-2120-444000	Retirement-PERS	-	11,148
-	-		16-2120-444002	Retirement-Pension Bond	-	2,464
-	-		16-2120-445000	Health/Life/LTD	-	26,826
-	-			Total Personal Services	3.00	118,300
-	-		16-2120-512000	Uniforms	-	1,500
-	-		16-2120-523000	Supplies	-	1,200
-	-		16-2120-525000	Travel & Training	-	2,100
-	-		16-2120-562000	Fuel	-	3,000
-	-		16-2120-590000	Internal Chrg-Admin Support Serv	-	12,711
-	-			Total Materials and Services	-	20,511
-	-	-	2120	TOTAL PATROL	3.00	138,811
			9180	RESERVES		
-	-	-	16-9180-800000	Contingency	-	24,989
-	-	-	9180	TOTAL RESERVES	-	24,989
-	-	-	FUND 16	TOTAL PUBLIC SAFETY FUND	3.00	163,800
-	-			ENDING FUND BALANCE		-

Attachment "D"

to Administrative Report

(for Order No. 2009-0021)

2009-10 CITY OF NEWBERG BUDGET

ADOPTED 2008-09	ESTIMATED ACTUAL	FTE	ACCOUNT #	DESCRIPTION	FTE	ADOPTED 2009-10
FUND 16 PUBLIC SAFETY FUND						
REVENUES						
-	-	-	16-0000-300000	Beg F/B-Net Working Capital	-	-
163,800	-	-	16-0000-347000	Public Safety Fee	-	-
163,800	-	-	TOTAL REVENUES		-	-
2120 PATROL						
65,376	-	3.00	16-2120-431000	Officer Salaries	-	-
5,000	-	-	16-2120-435001	Holiday Pay	-	-
5,384	-	-	16-2120-441000	FICA/Medicare	-	-
1,927	-	-	16-2120-442000	Workers Compensation	-	-
175	-	-	16-2120-443000	Unemployment	-	-
11,148	-	-	16-2120-444000	Retirement-PERS	-	-
2,464	-	-	16-2120-444002	Retirement-Pension Bond	-	-
26,826	-	-	16-2120-445000	Health/Life/LTD	-	-
118,300	-	3.00	Total Personal Services		-	-
1,500	-	-	16-2120-512000	Uniforms	-	-
1,200	-	-	16-2120-523000	Supplies	-	-
2,100	-	-	16-2120-525000	Travel & Training	-	-
3,000	-	-	16-2120-562000	Fuel	-	-
12,711	-	-	16-2120-590000	Internal Chrg-Admin Support Serv	-	-
20,511	-	-	Total Materials and Services		-	-
138,811	-	3.00	2120	TOTAL PATROL	-	-
9180 RESERVES						
24,989	-	-	16-9180-800000	Contingency	-	-
24,989	-	-	9180	TOTAL RESERVES	-	-
163,800	-	3.00	FUND 16	TOTAL PUBLIC SAFETY FUND	-	-
-	-	-	ENDING FUND BALANCE		-	-

Attachment "E"

to Administrative Report

(for Order No. 2009-0021)

City of Newberg

2008-2009 Budget Public Safety Fee Proposal

Monthly \$3.00 Fee per EDU Supports 3 New Officers

	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013
\$1.00/EDU per Officer Budget	Year 1	Year 2	Year 3	Year 4	Year 5
	Nov-June	July-June	July-June	July-June	July-June
City's EDU's #	Monthly	Monthly	Monthly	Monthly	Monthly
8118	\$ 8,118				
8401		\$ 8,401			
8684			\$ 8,684		
8966				\$ 8,966	
9249					\$ 9,249
Annual Revenue	\$ 64,944	\$ 100,812	\$ 104,208	\$ 107,592	\$ 110,988
Expenditures					
Officer Salaries	\$ 21,792	\$ 45,327	51,220	55,318	59,743
Overtime	\$ 1,667	\$ 3,467	3,917	4,231	4,569
FICA	\$ 1,795	\$ 3,733	4,218	4,556	4,920
W/Comp	\$ 642	\$ 1,336	1,510	1,631	1,761
Unemploy	\$ 58	\$ 121	137	148	160
PERS	\$ 3,716	\$ 7,729	8,734	9,433	10,187
PERS-Bond	\$ 821	\$ 1,708	1,930	2,085	2,252
Health Benefits	\$ 8,942	\$ 18,599	21,017	22,699	24,515
Personal Subtotal	\$ 39,433	\$ 82,021	\$ 92,684	\$ 100,099	\$ 108,107
Uniform	\$ 500	\$ 500	\$ 500	\$ 500	\$ 500
Supplies	\$ 400	\$ 100	\$ 100	\$ 100	\$ 100
Training	\$ 700	\$ 500	\$ 500	\$ 500	\$ 500
Fuel	\$ -	\$ -	\$ 1,700	\$ 1,700	\$ 1,700
Admin Support Svc*	\$ 4,103	\$ 8,312	\$ 9,548	\$ 10,290	\$ 11,091
Material & Services	\$ 5,703	\$ 9,412	\$ 12,348	\$ 13,090	\$ 13,891
Total Expenditures	\$ 45,136	\$ 91,433	\$ 105,032	\$ 113,189	\$ 121,998
Fund Contingency	\$ 19,808	\$ 29,186	\$ 28,362	\$ 22,765	\$ 11,756

*Administrative Support Services are 10% of Expenditures.

Revenues increase 3%

Expenses increase 8%

**Exhibit “C”
to Order No. 2009-0021**

**Newberg City Council
Quasi-Judicial (non-land use) Hearing Format
Public Safety Fee**

- I. **Mayor Announces Hearing:**
 - a) Purpose
 - b) Criteria Used in Making Decision
 - c) Decision will be Made Based upon Record Presented
- II. **Mayor Calls for Any Conflict of Interest, Bias, Abstention or Ex-Parte Contacts to be Disclosed for Consideration ***
- III. **Staff Report**
- IV. **Public Testimony**
- V. **Close Public Testimony**
- VI. **Final Staff Report**
- VII. **Close Public Hearing**
- VIII. **Commission Deliberation**
- IX. **Announcement of Decision**
- X. **Announcement of Appeal Rights**

*** NOTE:** *Ex-parte contact is not prohibited and does not have to be disclosed. However, if commission members want to consider information received through ex-parte contact, they must disclose it at the hearing so all parties and public may comment on the information. Failure to disclose ex-parte contact does not invalidate or affect the validity of the decision.*

Exhibit “D” to Order No. 2009-0021

Findings of Fact

The Council adopts the following Findings of Fact after deliberations based upon the record submitted and testimony presented in the public hearing. These facts address criteria established by Ordinance No. 2009-2714 and found in the Newberg Code, Section 36.37. They are as follows:

§ 36.37. Criteria. The PSF will be established based upon the following criteria:

(A) The need for services.

Findings of Fact:

- The Newberg-Dundee Police Department is below the recognized national average for staffing-level of police officers per 1,000 population. The ratio of police officers per 1,000 population has not improved significantly with the addition of the three (3) former Dundee police officers pursuant to the contract to provide law enforcement services for the City of Dundee. (See staffing history presentation slide number 2).
- The volume of calls for service (CFS) has steadily increased along with the population. (See presentation slide number 7.)
- Chief Casey has shown the necessary staffing needs in order to meet safety standards for police officers and provide service to the community. (See presentation slide numbers 9, 10, and 11.) The need is for three (3) additional police officers.

Conclusion: Based upon the entire record, the need for three (3) additional police officer positions has been established.

(B) Comparison of resources to provide such service by examining the following:

(1) Comparison with resources available in similar communities.

Findings of Fact:

- The comparison with nine (9) other similar sized communities shows that Newberg has fewer officers than those communities. One (1) community (Klamath Falls), although less in population, has twelve (12) more sworn officers, which is 42% more. This is taking into consideration the additional officers added with the Dundee contract. (See presentation slide number 6.)

Conclusion: When comparing with similar sized cities in Oregon, the Newberg-Dundee Police Department is below average staffing levels and does in fact have the fewest number of sworn officers.

- (2) Comparison with resources used to provide services, such as number of police officers...as shown per capita through nationally recognized service studies.

Findings of Fact:

- The US Department of Justice has statistics showing the average number officers per 1,000 population for cities similar sized for the western states. This shows an average of 1.7 officers per 1,000. (See presentation slide number 3.)
- Newberg has consistently been below average. (See presentation slide number 2.)

Conclusion: Based upon the entire record, the Newberg-Dundee Police Department is below average staffing levels as shown in the nationally recognized statistics.

- (3) Comparison of statistics showing the calls for service or incidents that require services from year to year to determine if the need for services has increased or decreased.

Findings of Fact:

- Calls for services (CFS) has constantly risen over the last year. ((See presentation slide number 7.) The call volume will certainly increase as the population increases.
- The traffic through the city also increases the CFS. (See presentation slide numbers 3, 7, and 9.)

Conclusion: Based upon the entire record, the population has increased significantly, and the CFS has likewise increased. With potential growth, the population will continue to increase as with the CFS. Therefore, more officers are needed to meet the demands for service.

- (4) Other recognized studies or authoritative sources.
- Not applicable.

- (5) Take into consideration the increase or decrease in population.

Findings of Fact:

- The population in Newberg has grown 39% since 1990. The population continues to grow.
- The economic slowdown has a lessened growth rate this past year, but there is a likelihood that there will be increased growth as soon as the economy recovers. With the developments that are already approved for development, the potential for Newberg continuing to be a fast-growing community is great. (See presentation slide numbers 2, 3, and 15.)

Conclusion: Based upon the entire record and the history of Newberg, Newberg has been a fast-growing community and will continue to be fast-growing community. As the population increases, the CFS increases and the number of officers needed to respond increases.

- (6) A reasonable connection between those who need, use, or are likely to need or use the service, and those who are charged the fee.

Findings of Fact:

- The population of Newberg is a factor, which can reasonably be used to predict the number of CFS's.
- The developed properties within the city allow for occupancy of those properties. A reasonable method of determining whether or not a property is developed is if it has a water connection for utility service to the property.
- Usually the person occupying the property is the one responsible for payment of such water services.
- It is reasonable to equate the size and number of the water meters as to the piece of property that takes the services to determine the amount of occupants. In addition, developed property has a need for police services to protect the development.
- Therefore, it is reasonable to assess the fee based upon the water service and equivalency dwelling unit (EDU).

Conclusion: Based upon the entire record, the City has the authority to levy a fee to be paid by a particular class of persons when a reasonable connection is shown between them and the use of services. It is a logical connection between the use of police services and developed property. It is reasonable to show that property is developed because it uses City water services. Therefore, having the person responsible for the water service responsible for the Public Safety Fee (PSF) is reasonable.

- (7) The amount of revenue needed to support the resources to provide the services.

Findings of Fact:

- The estimated amount of revenue to support a police officer position is estimated to be one (1) dollar per equivalent dwelling unit (EDU) per month. This is shown in Attachment “B” to the Administrative Report. The purpose of the PSF is to support three (3) police officer positions. Therefore, the PSF needs to be three (3) dollars per EDU per month.
- In the 2008-2009 budget process and proposed budget, it was estimated that the one (1) dollar per EDU would raise no more than what was needed for the funding of the positions. As a matter of fact, it shows that the small contingency developed would begin to decrease after year three (3) of the proposed budget.

Conclusion: Based upon the entire record, the amount of the PSF at three (3) dollars per EDU will fund the three (3) police officer positions. The amount is the lowest amount possible to reasonably fund the three positions. Therefore, the implementation of the PSF at three (3) dollars per EDU does not produce excess revenue and is reasonable for the purposes for which it is intended.

- (C) Any other criteria.

Legal authority.

Findings of Fact:

- The PSF method of raising revenue to fund necessary public safety activities has been used in other communities.
- The method has been challenged through court review. The Supreme Court of Oregon has upheld the method. (See Knapp v. Jacksonville, page 10 of Administrative Report.)
- The Council has approved a process for establishing a fee. That process has been followed.

Conclusion: Based upon the entire record, the Council has authority to establish the PSF through the process that the Council approved. The PSF process has been followed and the criteria have been met. Additionally, the revenue method has been found to be legally-correct by the Oregon Supreme Court.

Exhibit “E” to Order No. 2009-0021

List of Additional Conditions for Administration of the Public Safety Fee

The City Council adopts the following additional conditions and delegates the necessary authority to the city manager to implement the necessary procedures to administer the Public Safety Fee (PSF). In addition to all other authority and conditions, the Council adopts the following:

1. Moneys to be Paid into Public Safety Fund.

- (A) All Public Safety Fees (PSF) collected by the City will be paid into the Public Safety Fund. Such revenues shall be used for funding three (3) additional police officer positions, the associated equipment, and all necessary equipment. It will not be necessary that the operations and maintenance expenditures from the Public Safety Fund specifically be related to any particular property from which the PSF for said purposes were collected.
- (B) To the extent that the PSF’s collected are insufficient, other City funds may be used as determined by the city manager, but the city manager may order the reimbursement to such other funds if additional PSF’s are thereafter collected. All amounts on hand in the Public Safety Fund will be invested by the City in investments proper for City funds.
- (C) The PSF’s paid and collected by virtue of this Order will not be used for general or other governmental or proprietary purposes of the City, except to pay for the equitable share of the cost of accounting, management, and government, which is attributable to the Public Safety Fund.
- (D) Other than as described above, the PSF’s and charges will be used solely to pay for the three (3) additional police officer positions, necessary expenses thereof, and costs incidental thereto.

2. Collection.

- (A) The PSF will be included as an additional item on the City monthly utility billing wherever feasible, unless otherwise specified.
- (B) Unless another person responsible has agreed in writing to pay the PSF, and a copy of that writing is filed with the City and accepted by the City, the person normally responsible for paying the City’s water and sewer utility charges is

responsible for paying the PSF, if the property is located within the city limits. However, the owner of record of the developed property will, at all times, be primarily responsible for payment. For instance, the developed property owner will be responsible for payment if a tenant on the developed property does not pay the PSF.

- (C) In the event a developed property is not served by a domestic water meter or sewer hook-up, or if water and sewer service is disconnected, the developed property owner of record is the responsible party.
- (D) A request for water or sewer service, a building permit, or the occupancy of an unserviced building will automatically initiate appropriate billing for PSF services.
- (E) There will be no charge for an undeveloped property until such time as building permits are issued for that property.
- (F) Late charges in the amount reasonably calculated to recuperate the cost of duplicate billing, collection, and other administrative costs will be established by the City through the city manager's authority.

3. Enforcement.

- (A) In the event funds received from City utility billings are inadequate to satisfy in full all of the water, sewer, and PSF charges, credit will be given first to the PSF, second to the sewer services charges, third to the charges for water service.
- (B) In addition to other lawful enforcement procedures, the City may enforce the collection of charges required by this chapter by withholding delivery of water to any premises where PSF's are delinquent or unpaid.
- (C) Notwithstanding any provision herein to the contrary, the City may institute any necessary legal proceedings to enforce the provisions of this chapter, including but not limited to injunctive relief and collection of charges owing. The City's enforcement rights shall be cumulative.

NEWBERG CITY COUNCIL MEETING INFORMATION

DATE of Meeting: July 6, 2009

Prepared by: Norma Alley

Councilors	Roll Call	MOTION Topic: Consent Calendar – Res. 2858, Festival Proclamation, Friends Church Sound Permit, 5/18/09 & 6/1/09 Minutes	ORDER NO. 2009-0021 Topic: Public Safety Fee	ORDINANCE NO. 2009-2718 MOTION #1 Topic: McClure Annexation AS AMENDED	ORDINANCE NO. 2009-2718 MOTION #2 Topic: McClure Annexation AMENDMENT	Res/Ord/Order # _____ Topic:	Res/Ord/Order # _____ Topic:	Res/Ord/Order # _____ Topic:
ANDREWS, Bob, Mayor	X	YES	YES	YES	YES			
BACON, Denise	X	YES	YES	YES	YES			
LARSON, Bob	X	YES	YES	YES	YES			
McKINNEY, Stephen	X	YES	YES	YES	YES			
RIERSON, Bart	X	YES	YES	YES	YES			
SHELTON, Marc	X	YES	YES	YES	YES			
WITHERSPOON, Wade	X	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: NO: Absent: Abstain:	YES: NO: Absent: Abstain:	YES: NO: Absent: Abstain:
Department:								
CHANGES: (Yes/No)								
MOTION (1st/2nd):		Larson/ Shelton	Shelton/ Rierson	Larson/ Shelton	Rierson/ Andrews			