



**CITY OF NEWBERG COUNCIL AGENDA**

**TUESDAY, FEBRUARY 21, 2012**

**7:00 P.M. MEETING**

**PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

**Mission Statement**

*The City of Newberg serves its citizens, promotes safety, and maintains a healthy community.*

**Vision Statement**

*Newberg will cultivate a healthy, safe environment where citizens can work, play and grow in a friendly, dynamic and diverse community valuing partnerships and opportunity.*

**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, with an opportunity to speak for no more than 5 minutes per speaker allowed)

**VI. CONSENT CALENDAR**

1. Consider a motion approving **Resolution No. 2012-2987** approving the annual evaluation of Municipal Judge Larry Blake, Jr. (Pgs. 3-5)
2. Consider a motion approving **Resolution No. 2012-2989** reappointing Municipal Judge Larry Blake, Jr., and approving a contract for an indefinite period. (Pgs. 7-12)
3. Consider a motion approving the January 17, 2012, City Council meeting minutes. (Pgs. 13-17)

**VII. PUBLIC HEARINGS**

Consider a motion approving **Ordinance No. 2012-2749** establishing a Newberg Affordable Housing Trust Fund. (Pgs. 19-24)  
**(Legislative Hearing – First Reading)**

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. COUNCIL BUSINESS

## IX. ADJOURNMENT

*ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Recorder'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 services please dial 711.*

**Council accepts comments on agenda items during the meeting. Fill out a form identifying the item you wish to speak on prior to the agenda item beginning and turn it into the City Recorder. The exception is land use hearings, which requires a specific public hearing process. The City Council asks written testimony be submitted to the City Recorder before 5:00 p.m. on the preceding Thursday. Written testimony submitted after that will be brought before the Council on the night of the meeting for consideration and a vote to accept or not accept it into the record.**

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: February 21, 2012

Order \_\_\_      Ordinance \_\_\_      Resolution XX      Motion \_\_\_      Information \_\_\_  
No.              No.              Nos. 2012-2987 & 2989

**SUBJECT: Approving the annual evaluation of the Municipal Judge, reappointment of the judge for an indefinite period, and approval of contract.**

Contact Person (Preparer) for this  
Resolution: Bob Andrews, Mayor  
Dept.:  
File No.:

## RECOMMENDATION:

- Adopt **Resolution No. 2012-2987**, approving the annual evaluation of the Municipal Judge.
- Adopt **Resolution No. 2012-2989**, reappointment of the judge for an indefinite period and approval of the contract for the judge.

## EXECUTIVE SUMMARY:

It is the responsibility of the City Council to appoint and evaluate the Municipal Judge. The Council appointed Judge Larry Blake, Jr. in February of 2010, for an eighteen (18) month term and the Council has reviewed his performance. The Council has conducted the annual performance evaluation and discussed the evaluation with Judge Blake, Jr. in executive session, which is allowed by Oregon's Open Public Meetings Law. No decisions were made in executive session. **Resolution No. 2012-2987** is to adopt the evaluation. The evaluation, after being presented to Judge Blake, Jr. for any comments, will be placed in his City personnel file.

The original appointment of Judge Blake, Jr. in February of 2010 was for an eighteen (18) month term. With **Resolution No. 2012-2989**, the Council is making the reappointment for an indefinite term. Judge Blake, Jr. serves at the pleasure of the Council. The Council is approving a contract for services with Judge Blake, Jr. The City notes that it is good government practice to solicit proposals for judicial services from time to time to ensure that the best possible service is given to the City. The City makes specific note that it may from time to time conduct a Request for Proposal (RFP) process. By conducting the process, the City is not indicating that it is dissatisfied with Judge Blake, Jr. as the municipal judge.

## FISCAL IMPACT:

Cost of judicial service is \$2,700.00 per month. There is no increase in compensation at this time. Compensation will be discussed with annual evaluations.

## STRATEGIC ASSESSMENT:

The evaluation of the Municipal Judge is necessary in order to increase communication between the City Council and the Municipal Judge concerning the performance of the Municipal Judge in accomplishing his assigned duties and responsibilities.



## RESOLUTION No. 2012-2987

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**A RESOLUTION ADOPTING THE ANNUAL PERFORMANCE  
EVALUATION OF THE MUNICIPAL JUDGE**

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### RECITALS:

1. The City Charter, Section 36, which provides that the Municipal Judge is appointed by the City Council. The Council appointed Larry Blake, Jr. as the Municipal Judge for the City in February of 2010.
2. The Open Public Meeting Law allows the evaluation of the job performance of the Municipal Judge to be conducted in executive session by the City Council [ORS 192.660(2)(i)]. Furthermore, the City adopted Resolution No. 2010-2923 on December 6, 2010, which provided for the process, forms, and method of evaluation of the Municipal Judge.
3. The Mayor has submitted the written evaluation, which will be placed in the Municipal Judge's personnel file after being adopted by the Council.

### THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The written evaluation of the Municipal Judge, which is attached as Exhibit "A" and by this reference incorporated, is hereby adopted and in part states:

"In summary, the Council agreed that Judge Blake, Jr. has done an excellent job during the last year of his employment."

2. The Municipal Judge will be given a copy of the evaluation to sign and make any written comments after which the written evaluation will be placed in the Municipal Judge's personnel file.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: February 22, 2012.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 21<sup>st</sup> day of February, 2012.

\_\_\_\_\_  
Norma I. Alley, City Recorder

**ATTEST** by the Mayor this 23<sup>rd</sup> day of February, 2012.

\_\_\_\_\_  
Bob Andrews, Mayor

### LEGISLATIVE HISTORY

By and through City Council at 12/19/2011 meeting. Or, \_\_\_ None.

<p><b>Municipal Court Judge (Larry Blake, Jr.)</b> <b>Annual Evaluation – 2011</b> <b>By Newberg City Council</b></p>
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The Newberg City Council has received a written report from the Municipal Judge concerning his performance during his annual evaluation period. The respective Mayor and Councilors have met with the Municipal Judge in executive session on December 19, 2011, to discuss their evaluation of his performance from date of his last evaluation (December 20, 2011).

The City Council has evaluated the performance of Larry Blake Jr. as the Municipal Judge of the City of Newberg. As part of that evaluation, Council reviewed the report given to them by the Municipal Judge indicating the accomplishment of the Judge and his self-evaluation during the evaluation period.

The Council has discussed all areas of evaluated performance including those recommended for further development. The Judge and the Council discussed areas of court administration that needed attention during the next evaluation period, and the Council concurred with the judge's assessments.

In summary, the Council agreed that Judge Blake, Jr. has done an excellent job during the last year of his employment. There have been many improvements and program expansions in the operation of Newberg's Municipal Court, including improved relations with staff and the public. It is anticipated that a major focus of the court will be on arrearages collections and the presumptive fines implementation during the next evaluation period.

DATED this \_\_\_\_\_ day of February, 2012

\_\_\_\_\_  
Bob Andrews, Mayor

**Comments by Judge Blake, Jr.:**

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Acknowledged this \_\_\_\_ day of February, 2012:

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Larry Blake, Jr., Municipal Judge

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## RESOLUTION No. 2012-2989

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**A RESOLUTION REAPPOINTING JUDGE LARRY BLAKE, JR. AS MUNICIPAL JUDGE FOR THE CITY FOR AN INDEFINITE TERM, AFFIRMING THE CITY'S INTENTION TO PERIODICALLY CONDUCT A REQUEST FOR PROPOSAL ("RFP") PROCESS FOR JUDICIAL SERVICES, AND APPROVING A CONTRACT WITH THE MUNICIPAL JUDGE**

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### RECITALS:

1. The Council appointed Larry Blake, Jr. as the Municipal Judge for the City in February of 2010 for an eighteen (18) month term, which continued until his reappointment.
2. The City has an Agreement with the Municipal Judge to provide judicial services to the City, which sets out certain terms and conditions for that service, as well as adopting a job description for the position, and provides for an annual performance evaluation.
3. The Municipal Judge serves at the pleasure of the Council, and this appointment will continue indefinitely.
4. It is good government practice to occasionally request proposals for judicial service in order to ensure that the City is receiving the best possible services. The City may from time to time conduct a Request for Proposal ("RFP") process. However, by doing this, it does not indicate that the Council is dissatisfied with Judge Blake, Jr.'s judicial services.
5. In accordance with the Newberg City Charter, the judge presides over the Municipal Court and administers general judicial services under direction of the City Council. However, the judge operates independently as to judicial decisions, responsibility, and functions pursuant to the Agreement for Judicial Services.

### THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. Reappointment of Judge Larry Blake, Jr. – The Council, pursuant to the City Charter, Section 36, hereby appoints Larry Blake, Jr. as the Presiding Municipal Judge for the City. The Municipal Judge serves at the pleasure of the Council. This appointment is for an indefinite term.
2. Agreement – The Council approves the agreement for judicial services and authorizes the Mayor to execute the agreement on behalf of the City. The Mayor is further authorized to negotiate or amend the agreement before finalizing it if desired after discussion with Judge Blake, Jr. However, any substantial change to the agreement must be brought back to the Council for approval. The Agreement is attached hereto as Exhibit "A" and by this reference incorporated.

3. Request for Proposal (“RFP”) Process – It is good government practice to occasionally request proposals for judicial services to ensure that the City is receiving the best possible service. The Council may conduct a RFP process. However, this does not indicate dissatisfaction of Judge Blake Jr.’s judicial services. This issue of requesting a RFP should be brought to the Council’s attention for consideration at least every three (3) years.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: February 22, 2012.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 21<sup>st</sup> day of February, 2012.

\_\_\_\_\_  
Norma I. Alley, City Recorder

**ATTEST** by the Mayor this 23<sup>rd</sup> day of February, 2012.

\_\_\_\_\_  
Bob Andrews, Mayor

### LEGISLATIVE HISTORY

By and through City Council at 12/19/2011 meeting. Or,     None.  
(committee name) (date) (check if applicable)

**AGREEMENT FOR JUDICIAL SERVICES  
FOR THE CITY OF NEWBERG**

This agreement is effective as of February 1, 2012, by and between the following parties:

City of Newberg  
*(herein after known as **Newberg**)*  
an Oregon Municipal Corporation  
PO Box 970  
Newberg, Oregon 97132  
<mailto:nlegal@newbergoregon.gov>

Larry J. Blake, Jr., Attorney at Law  
*(herein after known as **Judge Blake**)*  
3718 SW Condor, Suite 110  
Portland, Oregon 97239  
<mailto:law@larryjblakejr.com>

**RECITALS:**

1. **Newberg** has a Municipal Court, which exercises jurisdiction pursuant to State law and the **Newberg** City Charter. The Charter at Section 36 provides that the City Council may appoint and remove a municipal judge.
2. **Judge Blake** is a member in good standing with the Oregon State Bar; has experience as a municipal judge; and desires to furnish judicial service to **Newberg**.
3. **Newberg** published a Request for Proposals (RFP) for municipal judge services, and **Judge Blake** responded to that RFP.
4. **Judge Blake** was appointed as presiding municipal court judge for **Newberg** beginning February 1, 2010, for an eighteen (18) month term pursuant to Resolution No. 2010-2884.
5. **Judge Blake** commenced service as municipal judge by holding court for the first time on February 4, 2010.
6. **Judge Blake** has been evaluated twice by the City Council and received excellent evaluations each time.
7. **Judge Blake** has been appointed municipal judge for an indefinite term by Resolution No. 2012-2989.
8. The purpose of this agreement is to establish the duties, conditions, and understanding by which **Judge Blake** will furnish the judicial services to **Newberg**.

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**I) Services:**

A) Court Sessions – Currently, the **Newberg** Municipal Court is in session one (1) day per week. This day (as of April 1, 2010) is Tuesdays, which was changed at the request of **Judge Blake** upon hire. This selected day may be changed by agreement between the parties based upon legal holidays, judicial meeting days, conflicts, extreme weather conditions, and other causes.

B) Additional Court Sessions – The days that court is in session may be increased as needed to operate the court and meet the goals/objectives of the municipal judge and Municipal Court. This may include holding court on a second day or during the evening. These increased court sessions depend on **Judge Blake's** schedule and the Municipal Court staff's schedules. This scheduling will be at the direction of **Judge Blake**.

C) Job Description and Duties – **Judge Blake** will furnish **Newberg** judicial services, which are generally described in the position/job description, which has been approved by the City Council. The Council may, from time to time, assign appropriate additional judicial duties to **Judge Blake**.

D) Goals and Objectives of the Municipal Court – **Judge Blake** will meet and confer with the appropriate **Newberg** staff and public officials to establish goals and objectives for the Municipal Court.

E) Report to the Council – **Judge Blake** will make periodic reports to the Council concerning Court operations, goals, objectives, accomplishments, and challenges, as agreed to by the parties. In addition to the periodic reports, **Judge Blake** will give a report to the Council in conjunction with **Judge Blake's** evaluation.

**II) Compensation:** Compensation will be paid as follows:

A) Monthly Amount – **Newberg** will pay **Judge Blake** the amount of Twenty-seven Hundred Dollars (\$2,700) per month. It is recognized that in some months, more judicial services may be required than other months. It is also recognized that during some months, court session will not be held weekly due to legal holidays, **Judge Blake's** schedule, staff requirements, or judicial meetings. However, the compensation will remain at said amount of Twenty-seven Hundred Dollars (\$2,700) per month.

B) Additional Compensation – Any additional compensation beyond the monthly amount must be agreed to in writing prior to services being delivered. Any compensation for additional services without written authorization is specifically waived.

C) Annual Review of Compensation – During the annual performance review, **Judge Blake** and the Council will discuss compensation.

**III) Term:** This agreement will commence February 1, 2012, and continue indefinitely.

**IV) Termination:** This agreement may be terminated by either party with or without cause by giving

written notice. Upon termination of this agreement, the parties will cooperate in the orderly transition of judicial business. **Judge Blake** serves at the pleasure of the Council; therefore, his appointment as municipal judge may be terminated at any time. Such termination of appointment is also a termination of this agreement.

V) **Personnel:** The parties have agreed that **Judge Blake** will personally furnish the judicial services pursuant to this contract. Any change in judge pro tem personnel will be agreed upon by the parties.

VI) **Practice Limitations:** **Judge Blake**, will not represent any clients in matters of criminal defense where the primary police agency is the Newberg-Dundee Police Department or the primary arresting officer is a Newberg-Dundee Police Officer. **Newberg**, through the Mayor, agrees to meet and discuss with **Judge Blake** clarification or waiver of such limitation on a case by case basis.

VII) **Evaluation:** **Newberg** through the Mayor and Council agrees to make its best effort to evaluate the performance of **Judge Blake** on an annual basis. That evaluation will be communicated to **Judge Blake** in executive session.

VIII) **Classification:** Judge Blake will be classified and paid as an employee of Newberg pursuant to US Internal Revenue Service regulations. This classification does not indicate or authorize **Newberg** or **Newberg's** public officers or employees to exercise any supervisory or other authority concerning **Judge Blake's** judicial decisions or judicial authority.

IX) **Judge Pro Tem Services:**

A) **Appointment of Judge Pro Tem** – The Council through Section 36 of the City Charter is authorized to appoint and remove municipal judge pro tems. The Council, by Resolution No. 2010-2891 appointed three (3) judge pro tems to serve on an as-needed basis pursuant to the process set out in the resolution.

B) **Compensation** – It may be necessary, from time to time, to use a municipal judge pro tem when **Judge Blake** is unavailable. It is the expectation of the parties that this would rarely happen because **Judge Blake** has represented that he rarely uses judge pro tems. However, when this becomes necessary, **Newberg** agrees to pay for the judge pro tem services and not reduce **Judge Blake's** compensation.

X) **Indemnification:** **Newberg** will defend and indemnify **Judge Blake** against any demands, claims, or actions arising out of the judicial services furnished by **Judge Blake** pursuant to this agreement.



# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: February 21, 2012

Order \_\_\_ Ordinance \_\_\_ Resolution \_\_\_ Motion XX Information \_\_\_  
No. No. No.

SUBJECT: Approve the January 17, 2012, City Council Meeting minutes.

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

## RECOMMENDATION:

Approve City Council minutes for preservation and permanent retention in the City's historical records.

## EXECUTIVE SUMMARY:

The City of Newberg City Council held a public meeting and minutes were recorded in text. In accordance to Oregon State Records Management law, the City of Newberg must preserve these minutes in hard copy form for permanent retention.

## FISCAL IMPACT:

None.

## STRATEGIC ASSESSMENT:

None.

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**CITY OF NEWBERG COUNCIL MINUTES  
JANUARY 17, 2012  
7:00 P.M. MEETING  
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

A work session was held prior to the meeting. An Executive Session pursuant to ORS 192.660(2)(i) relating to performance review of the municipal judge was held. All Councilors and the Mayor were present; no action was taken and no decisions were made.

**I. CALL MEETING TO ORDER**

Mayor Bob Andrews called the meeting to order at 7:02 PM.

**II. ROLL CALL**

Members

Present:	Mayor Bob Andrews	Denise Bacon	Ryan Howard	Stephen McKinney
	Bart Rierson	Marc Shelton		

Members

Absent: Wade Witherspoon (excused)

Staff

Present:	Daniel Danicic, City Manager	Norma I. Alley, City Recorder
	Dain Eichel, Interim Public Works Director	Jennifer Nelson, Minutes Recorder

Others

Present: Steve Jacquith

**III. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was performed.

**IV. CITY MANAGER'S REPORT**

Mr. Daniel Danicic, City Manager, reported the City of Newberg now officially owns the School Street property; the Citizens' Rate Review Committee (CRRC) will be meeting at City Hall tomorrow night to receive final recommendations from staff for utility rate increases; there will also be a Cultural District Plaza meeting at the library at 6:30 PM tomorrow; the Chehalem Valley Chamber of Commerce is organizing a congressional candidates session on January 26, 2012, at 8:30 AM; and staff is following the weather as it has been a busy day for police and fire with snow, now high winds, and heavy rain advisories.

**V. PUBLIC COMMENTS**

Mr. Steve Jacquith said he was representing Rock Point Church, interested neighbors and customers of the Oliver Springs water system. They have not heard any updates in last year or so and they would like to hear what is being done in regard to plans for ongoing maintenance and further development for the springs and water provision for the northern area. He said the water quality, particularly the silt condition, has not improved in the last twenty-five years and has actually seemed to regress in the last couple of years. When they fill the baptismal tank they can see silt and residue leftover and the water pressure is over one hundred pounds per square inch at their elevation, which tends to blow the valves in the urinals and such. He understands in recent years the City has welcomed input and consideration for turning the springs systems over to private companies; he proposed that be pursued farther. He felt north Newberg would be served better through a private company.

Councilor Ryan Howard said since he is newer to the Council and just learning more about the situation he is meeting with the city attorney tomorrow to discuss details.

Councilor Stephen McKinney asked what the City's responsibility is towards Oliver Springs. Mr. Danicic said the City owns, operates, and supplies properties to the east of College Street on the springs line. In regards to water quality changes, the only thing they do is provide chlorine, so the sediment is part of the system and they do not treat this like City water. Council discussed the question of ownership more than a year ago and an analysis report was given; however, with staff turnovers, they have not been able to fully proceed with coming back with final proposals. There are options to abandon the water rights and turn the system over to a private company, but there are significant ramifications and new regulations from the Department of Environmental Quality (DEQ) regarding lead and copper for water quality and concerns for how to best address that. The liability for turning the springs over is unknown.

Councilor McKinney asked how close the neighborhood is in proximity to the City water line. Mr. Danicic explained the location and said they looked into how many could be served and approximately two-thirds could be with a few that are higher in elevation the City could not serve; there is a question of costs to do this economically in the long run. Councilor McKinney asked if North Valley Friends Church is across the street on the City line or the springs; staff replied they are on Oliver Springs. Mr. Jacquith added they were on a well in the past, but it was difficult. Mr. Danicic added he seemed to recall  $\frac{3}{4}$  inch service there. Councilor McKinney asked if they are being charged one and a half times the rate. Mr. Danicic replied a higher percentage is actually paid; when it was first brought to CRRC a three to four times rate increase was elected by Council to be phased in over time.

Councilor McKinney asked if the Church was inside or outside of the City as well as the new subdivision to south. Staff replied the church is outside and the subdivision is on the east side of College Street to the south of the church and it is on City water.

Councilor Marc Shelton asked if this information would be covered in the new budget cycle. Staff stated there has been a line item in the capital project line for a potential project; there is already some maintenance for distribution and the springs' box; staff visits daily to treat and monitor using chlorine tablets. Mr. Dain Eichel, Interim Public Works Director, added 0.75 Full-time equivalent (FTE) is provided for someone to be up there all the time.

Councilor McKinney asked if the neighborhood would be better served by being on the City water system for water quality issues and if they might compromise with the neighborhood about what would be better for these people in the short and long run. Mr. Danicic replied this is subjective as some people like the taste of the spring water and do not like City water, but they also are having to boil the water with events like our current weather up to three to four times a winter; so this is up to the individual, but it would be better to be on our City system for maintaining quality. Councilor McKinney asked if they choose to keep and maintain the system does it cost citizens more money than just speeding up the process to get them on a City line; he asked what was best financially, regardless of the taste. Mr. Danicic replied this is part of discussions he will have with Council regarding the budget.

## VI. CONSENT CALENDAR

Consider a motion approving the December 19, 2011, City Council meetings.

**MOTION:** **Rierson/Shelton** approving the City Council minutes from December 19, 2011, as amended. Motion carried (6 Yes/0 No/1 Absent [Witherspoon]).

## VII. CONTINUED BUSINESS

Consider a motion denying **Ordinance No. 2011-2737** amending the Newberg Municipal Code pertaining to technical specifications and signature requirements for partition and subdivision plats.

TIME – 7:18 PM

Mr. Danicic provided a staff report and stated the intent of this motion is to close out 2011 action items only and is not the intent for Council to approve a motion denying this ordinance due to any merit of the ordinance. Staff will continue to research the questions that came up during the July 5, 2011, deliberations and will return with a new ordinance addressing those questions and concerns at a later date.

**MOTION:** Shelton/Bacon denying **Ordinance No. 2011-2737**. Motion carried (6 Yes/0 No/1 Absent [Witherspoon]).

## VIII. NEW BUSINESS

Discussion on City of Newberg Budget for Fiscal Year 2012-2013.

TIME – 7:20 PM

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

Councilor Shelton asked if we will see an increase in the Transient Lodging Tax (TLT) over what was forecasted. Mr. Danicic replied as figures come in they are guessing it may be slightly above, especially with positive feedback coming from The Allison about significant events coming up. Councilor Shelton asked if there are other services discussed with department heads that can be contracted, other than dispatch. Mr. Danicic said he spoke with Mr. Barton Brierley, Planning and Building Director, about this and the billing department, but there is not much more that can be contracted out of the General Fund. He said they have to think of the essential or core functions of local government, like municipal court, police, fire, dispatch, library, and planning and break it down to what level of service you wish to provide there.

Councilor Bart Rierson suggested exploring the TLT for additional revenue.

Councilor McKinney suggested additional public safety fees to mitigate the three million dollar gap between property taxes gathered and actual expenses. He felt the last two elections have shown police, fire, and the library to be core functions. He also spoke of raising the 9% fixed water rate to something more realistic since there are things that will cost money for the system no matter what usage is and as they have done away with so many capital improvement projects when they will catch up to the things the federal and state governments say we cannot put off any farther. The 911 dispatch center has provided great infrastructure and the center works well; he thought a discussion should be held to see if contracting may be more expensive in the long run. He noted the department heads have done a phenomenal job with the extra responsibilities and spoke of preparing for when things do turn around and get better.

Councilor Howard gave deference to the city manager on the side of reducing costs and asked him to continue with the options and feedback. He suggested looking at changing the public safety fee and exploring alternative temporary local options. He spoke of the Oregon Department of Transportation (ODOT) spending drops on Capital Improvement Projects (CIP) as stimulus spending begins to decline saying the City must look at ways to support itself in terms of transportation and maintenance. He discussed finding a way to fund the transportation system per household or on a property tax basis to be assessed and incorporated into the budget on a continued basis, especially since the revenue from the gas tax decreases with conservation and more efficient cars.

Councilor Shelton spoke about the difference between core functions and core values, because they value a lot of what is being done, but have to concentrate on core functions when times are lean. He said they need to be prepared with the Budget Committee in the area of employee benefits; there is value in taking care of employees, but if citizens are not seeing this in the private sector it needs to be evaluated. He compared core functions to what is needed to keep the wheels on the bus and added they are beyond the days of budgeting a wish list because this is the bottom and they need to look at the minimum maintenance efforts.

Mayor Andrews said the core functions need to be defined as well as what the service levels will be. He spoke about riverfront planning relating to the build-out of phase 1 of the bypass and not having an active program for sustainable building practices for existing operations and facilities. He asked about the civic engagement program and staff replied there is not much other than what is being done already; it is not fully defined other than the desire to do something. Mayor spoke about uncoupling the business licenses from the TLT and asked about collection and distribution; staff had not prepared to report, but will address it later. Mayor asked what they would face at the end of three years if they look at a levy or connecting to the Washington County Consolidated Communications Agency (WCCCA) for dispatch; staff replied they would be looking at the same questions of how to fund the program. Mayor asked about the number of properties exempt from taxes and how to collect for public safety expenses from those not otherwise paying; staff replied approximately 20% of the properties are tax exempt, but there are legal matters with segregating a class of customers in that manner.

Councilor Shelton wondered if they could discuss economic development as a possible core function of the Chamber of Commerce rather than the City.

Councilor Denise Bacon asked if they ever solved the issue of those business license renewals that were not being paid. Ms. Janelle Nordyke, Finance Director, replied the bulk of the licenses are renewed in December, so they sent out a notice for renewal in December and they are collecting revenue as we speak. There was a big push for licenses when they were first installed with an annual renewal to occur in December. There are a few that may have received their licenses at other times in the year and they would renew each year in the month they received the initial license. Councilor Howard asked about setting a single date for renewals and just set the others pro rata. Staff replied the automated changes to do this would off set the profits realized.

Council reviewed the core function list already prepared by the city manager on page 22 of his presentation and noted it would be a good starting point for the discussions on service levels.

## **IX. COUNCIL BUSINESS**

Councilor Rierson discussed the fire at the McKern House with Fire Chief Less Hallman.

## **X. ADJOURNMENT**

The meeting adjourned at 8:11 PM.

**ADOPTED** by the Newberg City Council this 20<sup>th</sup> day of February, 2012.

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Norma I. Alley, City Recorder

**ATTEST** by the Mayor this 23<sup>rd</sup> day of February, 2012.

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Bob Andrews, Mayor

# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: February 21, 2012

Order \_\_\_ Ordinance XX Resolution \_\_\_ Motion \_\_\_ Information \_\_\_  
No. No. 2012-2749 No.

SUBJECT: Establishment of Newberg Affordable Housing Trust Fund

Contact Person (Preparer) for this Motion:  
David Beam, AICP  
Dept.: Planning and Building  
File No.: Gen File 09-015

HEARING TYPE:  LEGISLATIVE  QUASI-JUDICIAL  NOT APPLICABLE

## RECOMMENDATION:

Adopt **Ordinance No. 2011-2749**, which establishes the Newberg Affordable Housing Trust Fund to assist with the development and maintenance of affordable housing stock for citizens of the community.

## EXECUTIVE SUMMARY:

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

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

On July 20, 2009, the city council formed the Affordable Housing Action Committee through Resolution No. 2009-2857. The task of the Committee was to assist with the development and refinement of some of the affordable housing tools set out in the *Newberg Affordable Housing Action Plan*. On April 4, 2011, the Committee held a workshop with the city council and provided a summary of their completed work as well as a list of recommended future actions. One of the recommendations made by the Committee was the establishment of a Newberg Affordable Housing Trust Fund. The purpose of the Fund would be to partner with organizations with an interest in increasing the available number of affordable housing units in the community as well as maintaining the existing stock of affordable housing. Uses of the Fund would be determined by a future resolution. Potential uses could include assistance with the development costs of an affordable housing project (e.g. Habitat for Humanity) or mitigating some of the costs in upgrading the energy efficiency of an existing rental unit complex.

In addition to the establishment of the use of funds, a resolution outlining the policies and procedures for such a fund will be brought forth to the Council. The section headings in the anticipated polices and procedures are outlined in Attachment "A".

**FISCAL IMPACT:**

Funding will be determined when policies and procedures are adopted in the future.

**STRATEGIC ASSESSMENT:**

Affordable housing continues to be an important issue for Newberg. The Affordable Housing Action Committee has spent many hours analyzing mechanisms is which we the city mitigate may be able this problem of some degree and their recommendation to the Council to establish a Newberg Affordable Housing Trust Fund deserves serious consideration.

- Section 1. Purpose
- Section 2. Eligible Applicants
- Section 3. Eligible Uses and Activities
- Section 4. Program Goals
- Section 5. Fund Administration
- Section 6. Match Requirements
- Section 7. Allocation of Funds
- Section 8. NAHTF Grant or Loan Award Threshold and Selection Criteria



## ORDINANCE NO. 2012-2749

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**AN ORDINANCE AMENDING THE MUNICIPAL CODE, ADDING A NEW SECTION ESTABLISHING A NEWBERG AFFORDABLE HOUSING TRUST FUND**

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### RECITALS:

1. Chapter II. Section 5 of the Newberg City Charter provides:

Powers. The City has all powers that the constitutions, statutes, and common law of the United States and Oregon expressly or impliedly grant or allow the city, as fully as though this charter specifically enumerated each of those powers.

2. The above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v International Association of Firefighters, Local 1660, Beaverton Shop 20 OR. App. 293,531 P2d 730, 734 (1975).
3. The city council of the City of Newberg has determined that in order to protect the health, safety and welfare of existing and future residents of Newberg who are adversely impacted by the lack of housing available to all income types, specifically very low, low, and moderate income households, it is necessary to establish a fund to support the development, preservation, and rehabilitation, of needed housing types within the City.
4. The Newberg city council recognizes that for a healthy community the provision of a range of affordable housing opportunities and funding mechanisms for affordable development is a priority for the City of Newberg; and
5. The Newberg city council has determined that neither the private market, nor the public sector has yet provided the levels of housing affordability necessary to maintain a balanced community, local government must take an active lead to ensure an adequate supply of housing for residents and working people of all income levels.

### THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

**SECTION 1.** A new section under Title 3 Administration is hereby added to the Newberg Municipal Code to read as follows:

#### **Chapter 3.35.010 NEWBERG AFFORDABLE HOUSING TRUST FUND**

##### **3.35.020 PURPOSE**

- A. The purpose of the Newberg Affordable Housing Trust Fund (NAHTF) is to support the development, preservation, and rehabilitation of housing that is affordable to the citizens of Newberg with incomes that do not exceed 100% of the area median income. The NAHTF will have a

dedicated source of revenue to provide ongoing funding for housing projects or programs that address the housing needs of these Newberg residents. The primary purpose of the NAHTF is to encourage the development, preservation, and rehabilitation of housing for homeownership or rent, at the cost that will enable very low, low and moderate-income families to afford quality housing while paying no more than thirty per cent of gross household income on housing.

- B. NAHTF funds will support activities that create, preserve or acquire affordable housing within the Newberg city limits. NAHTF funds also may be used for permanent or transitional housing for homeless families and individuals, and for the modernization, rehabilitation and repair of public housing.
- C. The NAHTF is not intended to be the sole source of funding for affordable housing, and any activity or project eligible for support from the NAHTF is expected to develop additional sources of funds.
- D. To achieve the purposes of the NAHTF, it is the goal of the city to operate a fund that is strong and effective.

### **3.35.030 DEFINITIONS**

The following words and phrases whenever used in this chapter shall be construed as defined in this section unless from the context a different meaning is intended.

- A. “Newberg Affordable Housing Trust Fund” (NAHTF) means a separate account created by the city finance department established by this ordinance and used exclusively for NAHTF purposes as set forth in this ordinance and implementing resolutions of the Council.
- B. “Administrative procedures” mean the procedures for administration of the NAHTF established by Resolution of the city council, including but not limited to procedures which outline application, evaluation, and all other associated procedures for administration of the NAHTF.
- C. “Affordable housing” means residential housing primarily for households or persons earning less than 100% the area median income where housing costs or rent do not constitute more than 30% the household income, and as more fully defined per City resolution.
- D. “Eligible uses and activities” mean those uses for the NAHTF which are set forth in an implementing resolution of the city council, such uses including but not limited to uses and activities which facilitate the production and preservation of affordable housing within Newberg’s city limits.
- E. “Affordable housing priorities” mean priorities established from time to time by the city council by Motion, Order or Resolution, to guide the allocation of funds from the NAHTF.

### **3.35.040 ESTABLISHMENT OF NEWBERG AFFORDABLE HOUSING TRUST FUND/USE OF FUNDS**

- A. There is hereby established and created a Newberg Affordable Housing Trust Fund (NAHTF). The Fund is a separate account established by the City of Newberg finance department for purposes consistent with this ordinance. The fund will provide a discrete account for earmarked affordable housing funds and dedicated affordable housing funds.

