



**CITY COUNCIL AGENDA
JUNE 18, 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. 2012-3007** authorizing the city manager to execute an Intergovernmental Agreement with CPRD to allow for inclusion of city streets in the Heritage Trail system for the purpose of signage. (Pgs. 3-9)
2. Consider a motion accepting the Chamber of Commerce's 3rd Quarter Report for the Visitor Information Center. (Pgs. 11-14)

VII. PUBLIC HEARINGS

1. Consider a motion adopting **Ordinance No. 2012-2751** adopting revised findings for the South Industrial UGB amendment and revisions to the Economic Opportunities Analysis. (Please bring material from the 3/19/2012, 4/2/2012, 5/7/2012, and 6/4/2012 meetings) ***(Additional material will be sent at a later date)***
(Legislative Hearing – 5th 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.

2. Consider a motion approving **Ordinance No. 2012-2754** adopting a Stormwater Management Program requiring measures to control construction site runoff, illicit discharges, and post-construction stormwater. (Pgs. 15-40)
(Legislative Hearing – 1st Reading)
3. Consider a motion approving **Resolution No. 2012-3008** adopting the 2012-2013 Budget and including election to participate in the State Revenue Sharing Program. (Pgs. 41-48)
(Administrative Hearing)
4. Consider a motion approving **Resolution No. 2012-2994** adopting new monthly water rates effective January 1, 2013. (Pgs. 49-139)
(Administrative Hearing)
5. Consider a motion approving **Resolution No. 2012-2995** adopting new monthly wastewater rates effective January 1, 2013. (Pgs. 49-139)
(Administrative Hearing)
6. Consider a motion approving **Resolution No. 2012-2996** adopting new monthly stormwater rates effective January 1, 2013. (Pgs. 49-139)
(Administrative Hearing)

VIII. NEW BUSINESS

1. Consider a motion approving **Resolution No. 2012-3010** accepting an interim financing loan from Clean Water State Revolving Fund in the amount of \$14,484,130.00 for the Wastewater Treatment Plant Repair, Renovation and Expansion Project. (Pgs. 141-185)
2. Consider a motion approving **Resolution No. 2012-3011** authorizing the city manager to negotiate Change Order #2 for the construction of Fire Station #20 Remodel Project. (Pgs. 187-189)

IX. COUNCIL BUSINESS

X. 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 4:30 p.m. on the preceding Wednesday. 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: June 18, 2012

Order ___ Ordinance ___ Resolution XX Motion ___ Information ___
No. No. No. 2012-3007

SUBJECT: Authorize the city manager to sign and execute an IGA with Chehalem Park and Recreation District to allow for the inclusion of certain city streets into the district's trail system including trail signage subject to review and approval by the city.

Contact Person (Preparer) for this
Motion: Paul Chiu, Senior Engineer
Dept.: Public Works Department - Engineering
File No.:

RECOMMENDATION:

Adopt Resolution No. 2012-3007 authorizing the city manager to execute an Intergovernmental Agreement (IGA) at the request of Chehalem Park and Recreation District (CPRD) that allows the inclusion of certain City streets into the District's Chehalem Heritage Trail system and requiring all trail signage to be reviewed and approved by the City.

EXECUTIVE SUMMARY:

On February 21, 2012, CPRD and its consultant met with City Planning and Engineering staff to present their request to include certain city streets in their trail system and allow for their proposed trail signage to be installed in the City's right-of-way. After a series of meetings, the proposed signage for the Chehalem Heritage Trail was developed. A final draft of the IGA is attached as Exhibit "A" for Council for review and approval.

FISCAL IMPACT:

This IGA requires CPRD to provide full reimbursement for the cost incurred by the City for the installation, repair, maintenance and replacement, or removal, of all trail signage covered by the IGA.

STRATEGIC ASSESSMENT:

The trail system utilizes existing City pedestrian and bike route facilities and elevates the City's desire for a healthy living community.

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AND EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH CHEHALEM PARK AND RECREATION DISTRICT ALLOWING FOR THE INCLUSION OF CERTAIN CITY STREETS INTO THE DISTRICT'S TRAIL SYSTEM INCLUDING TRAIL SIGNAGE SUBJECT TO CITY REVIEW AND APPROVAL

RECITALS:

1. Chehalem Park and Recreation District (CPRD) master plans include trails in Newberg and surrounding areas that are within CPRD's boundary. CPRD includes certain city streets as a part of its complete trail system. Trail signage within the City's rights-of-way requires the City's approval.
2. By authority granted in ORS 190.110, local government agencies may enter into agreements with other local government or public agencies for the performance of any or all functions and activities that a party to the agreement, its officers, employees or agents have the authority to perform.
3. CPRD and the City of Newberg Planning and Engineering staff first met on February 21, 2012, to discuss the associated tasks and responsibilities for both parties. A series of follow-up meetings resulted in a final draft of the proposed intergovernmental agreement (IGA), which is hereby attached as Exhibit "A" and by this reference incorporated.
4. The City of Newberg Attorney and CPRD's legal advisor have both reviewed and determined that the proposed IGA is an acceptable agreement meeting the needs of the City and the District.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

The City Council does hereby authorize the city manager to sign and execute an IGA with CPRD that allows CPRD to include certain City streets into the district's trail system including trail signage subject to review and approval by the City. The IGA is shown in the attached Exhibit "A", which is hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 19, 2012.

ADOPTED by the City Council of the City of Newberg, Oregon, this 18th day of June 2012.

Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 21st day of June 2012.

Bob Andrews, Mayor

**INTERGOVERNMENTAL AGREEMENT
FOR PLACING OF SIGNS IN PUBLIC RIGHT OF WAY FOR
THE CHEHALEM HERITAGE TRAIL**

THIS AGREEMENT is made and entered this ___ day of _____, 2012, by and between the following governmental units:

Chehalem Park & Recreation District
125 South Elliott Road
Newberg, OR 97132
(503) 537-4165

City of Newberg
P.O. Box 970
Newberg, OR 97132
(503) 538-9421

Chehalem Park & Recreation District is hereinafter referred to as "CPRD."
City of Newberg is hereinafter referred to as "Newberg."

RECITALS:

1. This contract is authorized by ORS 190.110 which authorizes agreements between governmental units.
2. CPRD holds the vision to provide regional trails in Newberg and its surrounding areas that are within CPRD's boundary. CPRD has needs to include certain city streets and utilize them as part of its complete trail system.
3. The purpose of this agreement is to establish both parties' respective duties as to signage for the Chehalem Heritage Trail (TRAIL) on streets or rights-of-way that are under the jurisdiction of Newberg.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, it is mutually agreed as follows:

1. **CPRD Duties:** CPRD shall allocate full and adequate funding as needed and reimburse Newberg the full and actual costs incurred for the installation, repair, maintenance and replacement, or removal, of all TRAIL signage covered by this IGA. "Signage" as used in this agreement shall include all or any portion of the signs, posts, anchors, or hardware as required in the Newberg sign standards.
2. **Newberg Duties:** Newberg shall perform work for the installation, repair, maintenance and replacement, or removal, of all TRAIL signage within its rights-of-way. Newberg agrees to take reasonable steps to protect all TRAIL signage within its rights-of-way from destruction or removal by an intentional act including construction activity by Newberg. Newberg retains authority for all TRAIL signage locations.
3. **Damaged Signs:** CPRD shall notify Newberg of any damaged TRAIL signage for replacement as soon as possible.

EXHIBIT "A" TO
RESOLUTION NO. 2012-3007

4. **Sign Specifications:** CPRD shall be responsible to meet the standards and specifications for signage if CPRD wants to supply any signage to Newberg for installation or replacement.
5. **Disputes:** CPRD and Newberg shall attempt in good faith to resolve any dispute arising out of this IGA. In addition, CPRD and Newberg may utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
6. **Hold Harmless:** The parties hereby covenant and agree to hold and save each other, their officers, agents, and other employees, harmless from all claims whatsoever, including attorney's fees and costs, by reason of any negligent acts or omissions of each party, its officers, agents, or employees.
7. **Notice of Third Party Claims:** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against Newberg or CPRD with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
8. **Termination:** The IGA may be terminated by mutual consent of both parties or by written thirty day notice from any party to the other party. If the IGA is terminated, all existing TRAIL signage shall be removed immediately.

**CHEHALEM PARK AND
RECREATION DISTRICT**

CITY OF NEWBERG

By: _____
Mike Ragsdale, CPRD President

By: _____
Daniel Danicic, City Manager
per Resolution No. 2012-3007

Date: _____

Date: _____

By: _____
Don Clements, CPRD Superintendent

Date: _____

APPROVED AS TO FORM & CONTENT

By: _____
Terrence D. Mahr, City Attorney

Date: _____

CPRD Contact:

Don Clements
Superintendent
Chehalem Park and Recreation District
125 South Elliot Road
Newberg, OR 97132
Phone: 503.537.4165
Fax: 503.537.1277
Email: dclements@cprdnewberg.org

City Contact:

Russ Thomas
Public Works Maintenance Superintendent
City of Newberg
414 East First Street
P.O. Box 970
Newberg, OR 97132
Phone: 503.537.1233
Fax: 503.554.9411
Email: Russ.Thomas@newbergoregon.gov

EXHIBIT A
Map showing Proposed CPRD Trail Signage on Newberg's Rights-of-Way

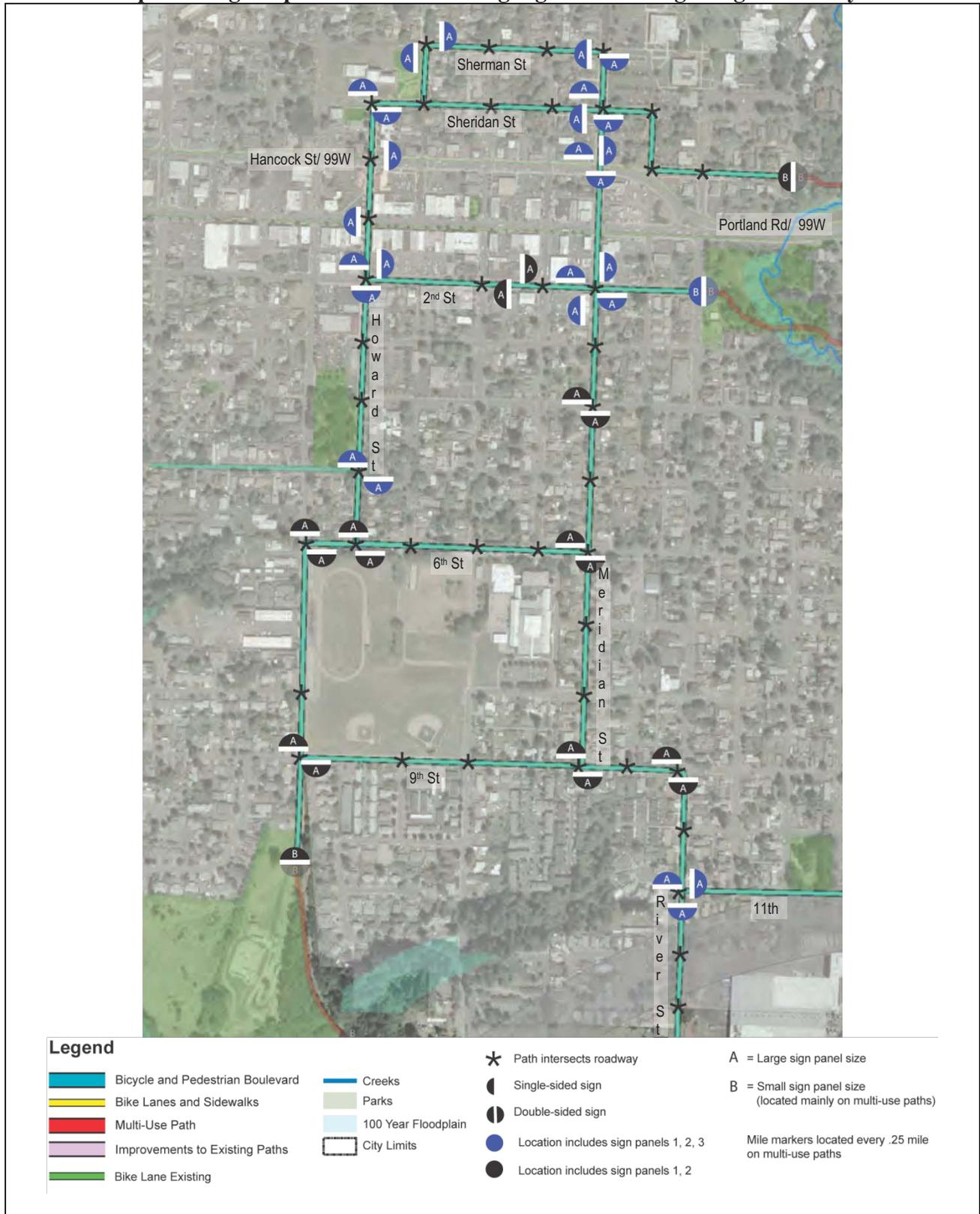


EXHIBIT B
Proposed CPRD Trail Signage (Typical Example)



THIS PAGE INTENTIONALLY LEFT BLANK

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 18, 2012

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

SUBJECT: Accepting the Chamber of Commerce quarterly report for the Chehalem Valley Visitor Information Center.

Contact Person (Preparer) for this Motion: Norma Alley, City Recorder
Dept.: Administration
File No.:

RECOMMENDATION:

Accept the Chamber of Commerce 2011-2012 third quarter report for the Chehalem Valley Visitor Information Center.

EXECUTIVE SUMMARY:

The City of Newberg helps financially support the Chehalem Valley Visitor Information Center. As part of that support, the City Council has requested the Visitor Information Center provide quarterly budget reports.

FISCAL IMPACT:

The City of Newberg is currently funding the Visitor Information Center with a contribution of 25% of the Transient Lodging Tax revenue.

STRATEGIC ASSESSMENT:

The City Council has determined that the operation of a Visitor Information Center is in the best interests of the city's business community and promotes tourism and economic development in the Newberg area.

Chehalem Valley Chamber Visitors Center Report

April 2012

The Gateway to Oregon Wine Country



Chamber Launches New Website

The Chehalem Valley Chamber and Visitor Center has launched a brand new website with update chamber and visitor information. You can check out the new website at www.chehalemvalley.org.

The Visitor Center will publish their new tourism magazine in the next 30 days which will be uploaded to the website for convenient electronic viewing or printing. The newer technology allows the visitor to turn the pages as if they are manipulating a paper document.

Visitor Center Highlights Third Quarter

- 602 Walk-in Visitors, 12,054 Website Visits & 1011 Phone Calls

Excerpts From the Oregon Governors Conference on Tourism

- We are much older as a society (U.S. Purchasing Pop around 47 yrs. old)
 - But there is a massive # of younger Americans coming up.
 - This will help make us the youngest society in the World!
 - We are far more ethnically diverse than ever
 - Fewer of us are married (and later)
 - More multi-generational households
 - Many more single households
- Decorative flourish*
- Fewer of us are middle class (the mainstay of tourism)

Source 2011 U.S. Census

Question: Why did tourism recover faster than the rest of the economy?

Answer: The recession did not hit all economic strata or ethnicity equally. The groups with the highest propensity for travel were least effected.

2012 Visitor Center Services

Oregon Consumer Travel Trends



Gen X Women in Position to Dominate Travel Market

- 6% more Oregon visitors are women than men. Average age 48 years old. Longwoods Research
 - Women control over 60 percent of the wealth in the United States. This is expected to grow to over 75% of the wealth, as women outlive Boomer men. Virginia Tech Study 2010
- 
- The increasingly affluent Gen X Women are ready to see travel in less conventional ways. Learning and personal enrichment compete favorably with sandy beaches or thrill rides.
 - Tourism Research by John Falk, a professor of science Oregon State University
 - Affluent Generation X Women are the fastest growing market for luxury travel on line. The generation's increasing disposable income, have accelerated the growth of the luxury shopping category as a whole. (eMarketer)



Oregon Biking Tourism

- 17.4 Million people visited Oregon in the last two years.
- 4.5 Million Adults rode a bike while on their trip to Oregon during the last two years.
- Of the 4.5 Million, 1/3 actually planned to go biking in Oregon before they left home.
- Among bikers 64% reported that bicycling was the primary reason for being on their trip to Oregon.

Source: MMGY Global/U.S. Travel Association , travelhorizonsTM February 2012

The Allison featured in Shape Magazine

<p>SIP AND SAVOR The Allison Inn & Spa NEWBERG, OR</p> <p>• Set in Oregon's Willamette Valley (a 45-minute drive from Portland), this 85-room inn was designed with couples in mind. Every room features a gas fireplace, a deep soaking tub, and a balcony or terrace with forest or vineyard views.</p> <p>The Willamette region is known for its rieslings and</p>	<p>Spend the day hiking or soaring above it all in a hot-air balloon.</p> <hr/> <p>pinot noirs, so visit one of the dozens of wineries located within a 5-mile radius of the hotel. No need to worry about a designated driver: The Allison will arrange for a car to take</p>	<p>you out and back again. Can't sit still? Hit the indoor pool or fitness studio, or spend the day hiking, horseback riding, or soaring above it all in a hot-air balloon.</p> <p>For dinner, indulge your appetite at a nearby restaurant, like the Painted Lady, where Chef Allen Routh serves up four- or seven-course tasting menus (\$60-\$75 per person) that highlight the area's organic cuisine. (Rooms from \$305; theallison.com)</p>
---	---	---

**Newberg Visitor Information Center
2011 - 2012 Fiscal Year
Third Quarter Report
(January - March 2012)**

	Q3	YTD 11-12	Budget
REVENUE:			
City of Newberg	\$21,000.00	\$63,000.00	\$81,250.00
Newberg Chamber contribution	\$26,793.69	\$49,506.62	\$51,000.00
TOTAL REVENUES:	\$47,793.69	\$112,506.62	\$132,250.00
EXPENSES:			
Personnel	\$11,742.59	\$33,725.02	\$46,000.00
Marketing	\$10,299.45	\$24,676.19	\$27,000.00
Overhead/Utilities, etc.	\$10,251.65	\$38,605.41	\$43,750.00
Capitol Improvements	\$15,500.00	\$15,500.00	\$15,500.00
TOTAL EXPENSES:	\$47,793.69	\$112,506.62	\$132,250.00

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 18, 2012

Order ___ Ordinance XX Resolution ___ Motion ___ Information ___
No. No. 2012-2754 No.

SUBJECT: An Ordinance Requiring Measures to Control Construction Site Runoff, Illicit Discharges into the Stormwater System, and Post-Construction Stormwater

Contact Person (Preparer) for this Motion: Sonja Johnson, Environmental Specialist
Dept.: Public Works Operations
File No.:

HEARING TYPE: LEGISLATIVE QUASI-JUDICIAL NOT APPLICABLE

RECOMMENDATION:

Approving Ordinance No. 2012-2754 adopting municipal code provisions to fulfill the requirements of the City of Newberg's Willamette River Total Maximum Daily Load (TMDL) Implementation Plan.

EXECUTIVE SUMMARY:

The Oregon Department of Environmental Quality (hereafter known as DEQ) sent a letter on October 17, 2006, to the city of Newberg requiring a Willamette River TMDL Implementation Plan (hereafter designated as Plan). The Oregon DEQ approved the city's proposed Plan on October 17, 2008, and the City Council adopted Resolution No. 2008-2820 accepting the Plan as approved by the Oregon DEQ.

The Plan requires the adoption of municipal code to control construction site runoff, illicit discharges, and post-construction stormwater. On May 16, 2011, the City Council adopted Resolution No. 2011-2947 convening the Stormwater Ad-hoc Committee for the purpose of reviewing and refining municipal code developed by staff. The Stormwater Ad-hoc Committee refined the municipal code at bi-weekly public meetings from May 26, 2011, to October 6, 2011. The Planning Commission further refined the municipal code at a public workshop on October 13, 2011, and at a public hearing held on November 10, 2011. On January 12, 2012, the Planning Commission adopted Planning Resolution No. 2012-296 recommending the municipal code provisions to the City Council.

FISCAL IMPACT:

The FY 2012-2013 stormwater funds for implementing the Plan are covered under line item numbers 17-523.010, 17-523.011, and 17-523.012 totaling \$12,700.00. There is no expected increase in these line items as a result of the adoption of the municipal code.

STRATEGIC ASSESSMENT:

The City is currently in the fourth year of the Willamette River TMDL Implementation Plan's 5-year cycle. With adoption of the municipal code and its subsequent implementation over the next year, the City will have taken a large step towards meeting the deadlines of the Willamette River TMDL Implementation Plan and completing 85% of the tasks associated with it.



ORDINANCE No. 2012-2754

AN ORDINANCE REQUIRING MEASURES TO CONTROL CONSTRUCTION SITE RUNOFF, ILLICIT DISCHARGES INTO THE STORMWATER SYSTEM, AND POST-CONSTRUCTION STORMWATER

RECITALS:

1. The Oregon Department of Environmental Quality (DEQ) ordered the City of Newberg on October 17, 2006, to create a Willamette River Total Maximum Daily Load (TMDL) Implementation Plan, which was subsequently approved by the Oregon DEQ on October 17, 2008, and adopted by the City Council on December 1, 2008, through Resolution No. 2008-2820.
2. The Willamette River TMDL Implementation Plan requires the City to enact municipal code, which controls construction site runoff, illicit discharges, and post-construction stormwater.
3. On May 16, 2011, the City Council adopted Resolution No. 2011-2947 convening the Stormwater Ad-hoc Committee. From May 26, 2011, to October 6, 2011, the Stormwater Ad-hoc Committee reviewed and refined municipal code developed by staff.
4. On October 13, 2011, a Planning Commission workshop was held to discuss the requirements of the Willamette River TMDL Implementation Plan and the proposed municipal code. On November 10, 2011, a public hearing was held by the Planning Commission to refine the municipal code. On January 12, 2012, the Planning Commission adopted Planning Resolution No. 2012-296 recommending the proposed code to the City Council.
5. On June 4, 2012, a City Council work session was held to discuss the requirements of the Willamette River TMDL Implementation Plan and the proposed municipal code.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

The Newberg City Council does hereby adopt the new municipal code to fulfill the requirements of the Willamette River TMDL Implementation Plan, as attached in Exhibit “A”, which is hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: August 1, 2012.

ADOPTED by the City Council of the City of Newberg, Oregon, this 2nd day of July, 2012, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 2nd day of July, 2012.

Bob Andrews, Mayor

Chapter 13.25 STORMWATER MANAGEMENT

Sections:

Article I. General Provisions

- 13.25.010 Interpretation
- 13.25.020 Definition of terms.

Article II. Erosion Control

- 13.25.030 Purpose and intent.
- 13.25.040 Scope.
- 13.25.050 Exemptions.
- 13.25.060 Erosion and sediment controls.
- 13.25.070 Erosion and Sediment Control (ESC) Plans.
- 13.25.080 Erosion and Sediment Control Plan Revisions.
- 13.25.090 Inspections.

Article III. Illicit Discharge Detection and Elimination

- 13.25.100 Purpose and intent.
- 13.25.110 Scope.
- 13.25.120 General.
- 13.25.130 Exempt Discharges.
- 13.25.140 Conditionally-exempt discharges.
- 13.25.150 Illicit connections.
- 13.25.160 Illegal dumping.
- 13.25.170 Riparian destabilization.
- 13.25.180 Discharges in violation of NPDES permit.
- 13.25.190 Commercial and industrial discharges.
- 13.25.200 Spill prevention plans.
- 13.25.210 Spill notification.
- 13.25.220 Inspection authority.
- 13.25.230 Suspension of discharge access.
- 13.25.240 Remediation.

Article IV. Stormwater Discharges

- 13.25.250 Purpose and intent.
- 13.25.260 Scope.
- 13.25.270 Stormwater treatment.
- 13.25.280 Facility Design.

- 13.25.290 Facility Responsibility.
- 13.25.300 Maintenance.
- 13.25.310 Inspections.
- 13.25.320 Variances.

Article V. Enforcement and Penalties

- 13.25.330 General.
- 13.25.340 Concealment.
- 13.25.350 Notice of violation.
- 13.25.360 Stop work order.
- 13.25.370 Summary abatement.
- 13.25.380 Appeal procedure.
- 13.35.390 Penalties.

Cross-references: Citizens' rate review committee, see [NMC 2.15.120](#) et seq.; stormwater system, see [NMC 13.20](#); system development charges, see [NMC 13.05](#), Article I.

Article I. General Provisions

13.25.010 Interpretation

- A. The provisions of this code shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- B. Conflict with Public Provisions.
 - 1. Public Provisions. The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of this code imposes restriction different from those imposed by any other provision of this code or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.
 - 2. Private Provision. This code is not intended to abrogate any easement, covenant, or any other private agreement or restriction provided that, where the provisions of this code are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of this code shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive or of a higher standard than this code, and such private provisions are not inconsistent with this code or determinations thereunder, then such private provisions shall be operative and supplemental to this code and determinations made thereunder.

13.25.020 Definition of terms.

"Applicant" means the owner or authorized agent acting on behalf of the owner.

“Channel morphology” means the stream channel type and the physical characteristics of the streambed.

“City” means the city of Newberg, Oregon.

“Common development plan” means all lands included within the boundary of a certified survey map or subdivision plat created for the purpose of development or sale of property where integrated, multiple, separate and distinct land developing activity may take place at different times by future owners.

“Demolition” means any act or process of wrecking or destroying a building or structure.

“DEQ” means the Oregon Department of Environmental Quality.

“Design standards manual” means the current version of the city of Newberg design standards manual and specifications.

“Design storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.

“Development” means residential, commercial, industrial, or institutional construction, alteration, or other improvement which alters the hydrologic characteristics of a property or properties.

“Director” means the city of Newberg’s director of public works or their authorized representative.

“Easement” means areas located outside of dedicated right-of-way and which are granted to the city for special uses. Easements may also be granted to non-city entities such as franchise utility companies for their uses.

“Erosion” means the weathering of a surface as a result of the movement of wind, water, ice, snow, or land disturbance activities.

“Erosion and sediment control” means a structural or non-structural device that is implemented to prevent erosion and sedimentation.

“Erosion and sediment control (ESC) plan” means a plan submitted to the city with scaled drawings, and the methods and types of devices to be implemented during the project to prevent erosion and sedimentation.

“Excavation” means an act by which soil or rock is cut, dug, quarried, uncovered, removed, displaced, or relocated.

“Fill” means a deposit of soil or other earth material placed by artificial means.

“Grading” means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled, or any combination thereof.

“Ground-disturbing project” means a project that includes activities that have the potential to create soil erosion from wind, precipitation, or ice creating sediment deposits in watercourses or land within the city including, but not limited to, demolition, clearing and grubbing, grading, excavating, transporting, and filling of land.

“Hazardous materials” means any material or combination of materials which due to its quantity, concentration, or physical, chemical, or infectious characteristics may cause or contribute to a substantial hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

“Illicit discharge” means any direct or indirect non-stormwater discharge to the stormwater system except discharges regulated under a NPDES permit or exempted by this chapter.

“Illicit connections” means any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the stormwater system.

“Immediate threat” means a situation that the director determines would cause harm to the public, environment, or downstream stormwater facilities before the situation can be alleviated or repaired.

“Impervious” means the hard surface area that either prevents or greatly retards infiltration and causes water to run off the surface in greater quantities or at an increased rate of flow from that present in undeveloped conditions. Surfaces which would ordinarily be considered pervious are considered impervious if they do not allow natural infiltration of stormwater.

“Infiltration” means the passage or movement of water into the soil subsurface.

“Maintenance agreement” means an agreement between the city and a maintenance organization for private stormwater facilities detailing the operation and maintenance requirements of the facilities.

“Maintenance organization” means the person(s), company, or nonprofit organization(s) responsible for long-term operation and maintenance of stormwater facilities recorded in the maintenance agreement.

“National pollutant discharge elimination system (NPDES)” means the general, group, and individual storm water discharge permits which regulate facilities defined in federal NPDES regulations and regulated through the Oregon Department of Environmental Quality.

“Net impervious area” means the increase in impervious area on a property after a project is completed.

“Non-stormwater discharge” means any discharge to the stormwater system that is not composed entirely of stormwater.

“Pollution” means a contamination or other degradation of the physical, chemical, or biological properties of a watercourse; or a discharge into a watercourse that could create a public nuisance or contaminate a watercourse such that its beneficial use, aquatic habitat, public health or public safety is at risk.

“Project” means an activity that creates impervious areas.

“Project start” means the first ground-disturbing activity associated with a project including, but not limited to, preparatory activities such as clearing, grubbing, grading, excavating, and filling.

“Project summary” means a narrative that includes the project description, location, emergency contacts, and other information determined by the public works director such that the project can be located and a determination made regarding methods of stormwater management.

“Responsible party” means a person or entity holding fee title to a property, tenant, lessee, or a person or entity who is acting as an owner’s representative including any person, company, nonprofit organization or other entity performing services that are contracted, subcontracted, or obligated by other agreement to meet the requirements of this code.

“Sediment” means soil or other surface material held in suspension in surface water or stormwater.

“Sedimentation” means the process or action of sediment being deposited as a result of decreased water volume or velocity.

“Sensitive resources” means any area that, due to the natural resources or lack of filtering capacity present, is significantly more susceptible to the negative impacts of sedimentation, erosion and stormwater. Examples include direct hydrologic connections to lakes, streams, wetlands, springs, seeps, or other water resources; conservation areas; highly erodible soils and steep slopes; riparian buffers; high water tables; minimal depth to bedrock; infiltration areas, significant natural areas and environmental corridors; areas of historical importance; or areas inhabited by endangered species.

“Site” means any property or combination of properties where a project is being proposed or completed.

“Slope” means the increase in elevation of a ground surface expressed as a ratio of horizontal distance to vertical distance.

“Soil” means natural deposits overlying bedrock.

“Stabilize” means when vegetation or surfacing material is in place and well-established providing an area with maximum erosion protection.

“Stabilization” means the use of vegetative or structural techniques to prevent soil movement.

“Stockpile” means storage of any soil, sand, gravel, clay, mud, debris, refuse, or any other material, organic or inorganic, in a concentrated area.

“Stop work order” means an order issued by the director which requires all project activity, except those specifically stated in the stop work order, to cease on the site.

“Stormwater” means water that originates as precipitation on a particular site, basin, or watershed and flows over land or impervious surfaces without percolating into the ground .

“Stormwater facility” means a location where stormwater collects to filter, retain, or detain stormwater for the purposes of water quality or quantity management. The facility may be structural or non-structural, has been designed and constructed according to city design standards, and has been required by the city.

“Stormwater facility operations and maintenance plan” means the required steps to be undertaken by an owner or maintenance organization to ensure proper functioning of a stormwater facility.

“Stormwater management” means techniques or structures intentionally used to temporarily or permanently reduce or minimize the adverse effects of stormwater velocities, volumes, and water quality on receiving watercourses. A series of techniques or structures constitute a stormwater system or treatment train.

“Stormwater system” means the combination of both artificial and natural systems of drains, ditches, canals, culverts, detention ponds, retention ponds, dams, and other water control facilities used for collecting and transporting stormwater.

“Street wash water” means water used to wash streets after emergency personnel actions or when the organization or person receives prior city approval to discharge as long as the area is previously cleaned using dry methods such as a sweeper or broom and the discharge to the stormwater system does not exceed federal or state water quality standards

“Structure” means anything constructed or built, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

“TMDL” means Total Maximum Daily Load.

“Visible And measurable erosion” means the deposition of soil, sand, dirt, dust, mud, rock, gravel, refuse, or any other organic or inorganic material exceeding a volume of one-half cubic foot into a public right-of-way or public property, or any component of the city’s stormwater system either by direct deposit, dropping, discharge, or as a result of erosion; a flow of turbid or

sediment-laden water beyond the property of origin or into the city's stormwater system; or earth slides, mud flows, land slumping, slope failure, or other earth movement that leaves, or is likely to leave, the property of origin.

“Watercourse” means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, gully, ravine, swale, or wetlands in which water flows either continuously or intermittently. The width of the watercourse includes any adjacent area that is subject to inundation from overflow or floodwaters from the design storm.

“Wetlands” means transitional lands where the water table is usually at or near the land surface or the land is covered by shallow water. Wetlands:

1. Support, at least periodically, plants that thrive in saturated conditions;
2. Contain predominately undrained hydric soil; or
3. Are saturated or covered with shallow water at some time during the growing season of each year.

Article II. Erosion Control

13.25.030 Purpose and intent.

- A. The purpose of these regulations is to protect, maintain, and enhance public health, public safety, and public welfare by establishing minimum requirements and procedures to control sources of windborne and waterborne erosion and the effects associated with sediment that results from erosion. The application of this code and provisions expressed herein are minimum requirements.
- B. The intent is to:
 1. Minimize soil erosion;
 2. Minimize flooding, sedimentation, and erosion of local watercourses;
 3. Ensure proper maintenance and inspection of erosion and sediment controls;
 4. Ensure proper storage of construction materials and staging and proper storage of debris on-site; and
 5. Minimize effects of projects on downstream stormwater facilities and watercourses.

13.25.040 Scope.

- A. No person shall undertake a ground-disturbing project without having provided erosion and sediment controls that address erosion caused by wind or rain unless exempted by **NMC 13.25.050**. In addition to complying with the requirements of this code, each site shall comply with the Newberg comprehensive plan, the Newberg development code, and any other applicable city of Newberg codes or plans.

B. These requirements apply to:

1. The person undertaking a ground-disturbing project, the implementer of the project, and the person's successors in interest;
2. Projects which require a permit; and
3. Projects or activities not requiring a permit but which have the potential to generate discharges that are in violation of water quality standards.

C. Projects which do not require a permit and which are not exempt from the requirements of these regulations shall:

1. Notify the city when the project starts;
2. Comply with the basic erosion and sediment requirements listed in **NMC 13.25.060**; and be
3. Subject to the enforcement actions and penalties of these regulations.

D. Projects which do not require a permit but which violate basic erosion and sediment control requirements shall be subject to the penalties section of this code.

13.25.050 Exemptions.

- A. Agricultural activities that do not create a discharge of visible and measureable erosion to the stormwater system are exempt from these regulations unless identified by the city as having the potential to cause water-quality violations.
- B. Activities that comply with the requirements of their DEQ 401 Water Quality Certificate are exempted from these regulations unless they are identified by the city as requiring special considerations as defined by the erosion and sediment control manual.
- C. Activities that comply with the requirements of permits issued by the Department of State Lands or the Army Corps of Engineers are exempted from these regulations unless they are identified by the city as requiring special considerations as defined by the erosion and sediment control manual.
- D. Emergency actions to alleviate an immediate threat to public health and safety or to public or private property are exempt from these regulations.
- E. Activities that do not disturb more than 500 square feet of land are exempt from these regulations provided that they:
 1. Are not located in a floodplain or the Newberg stream corridor overlay sub-district; or

2. Do not discharge stormwater offsite that exceeds the water-quality limits imposed by the city of Newberg's Willamette River TMDL Implementation Plan, DEQ, or US Environmental Protection Agency.

13.25.060 Erosion and sediment controls.

- A. Approval of erosion and sediment controls for a project does not, by itself, transfer responsibility from the responsible party to the city.
- B. The city shall be notified when the project starts as defined by this code.
- C. Types of erosion controls that are approved for projects within city limits are described in the erosion and sediment control manual.
- D. Prior to ground disturbance, the responsible party shall ensure that erosion and sediment controls are properly installed and functioning to:
 1. Minimize sediment transport from the site through the use of construction entrances and exits;
 2. Protect stormwater system inlets that are immediately downstream of the site;
 3. Minimize dust and other windborne erosion;
 4. Stabilize soil in disturbed areas; and
 5. Protect onsite and offsite soil stockpiles during rain events or when dust is raised by gusting winds.
- E. The responsible party shall ensure that the following basic procedures are followed:
 1. Use of dry methods, such as a shovel or broom, to remove soil or construction debris left or tracked into the public right-of-way by the end of the working day;
 2. Inspect erosion and sediment controls weekly and after rain events; and
 3. Provide proper storage and disposal of construction materials and waste.
- F. Additional erosion and sediment controls may be required by the city if the site:
 1. Has slopes of 10% or more;
 2. Disturbs property within 100 feet of sensitive resources, watercourses, or the Newberg stream corridor overlay sub-district;
 3. Disturbs 10,000 square feet or more of land at any one time;
 4. Is identified by the city as having easily erodible soil, current severe erosion, or could affect adjacent properties or watercourses due to stormwater quality, flooding,

erosion, or sedimentation;

5. Is identified by the city to potentially generate stormwater that would create a violation of DEQ water quality standards;
6. Is active between October 1 and April 30; or
7. Has any other condition specified in the ESC manual or design standards manual as warranting special consideration;

13.25.070 Erosion and Sediment Control (ESC) Plans.

A. For projects requiring a city, state, or federal permit:

1. The approved ESC plan shall be available onsite during active construction; and
2. Erosion and sediment controls shall be installed in accordance with the approved ESC plan or 1200-C permit prior to ground disturbance.

B. Applicants submitting permit applications or contract submittals shall, at the same time, submit either an ESC plan for review and approval by the city or a copy of the 1200-C documents submitted and approved by DEQ.

1. No permits shall be issued until the ESC plan is approved by the city or the applicant has provided a copy of the documents submitted to the DEQ for its 1200-C permit.
2. The ESC plan shall contain sufficient information to evaluate the proposed project's effect on adjacent and downstream public and private properties and on public health and safety.
3. Projects not subject to **NMC 13.25.070.C** shall provide an ESC plan developed by an erosion control professional that fulfills the requirements of the erosion and sediment control manual and the design standard manual.

C. Projects completed on a single lot, disturbing more than 500 square feet, and located on duplex or single family residential lots shall provide a basic ESC Plan to the city for review and approval that includes:

1. Scaled drawing of site with north arrow, legend, project location, onsite structures, and watercourses or other sensitive resources within 100 feet of the site;
2. Location and types of erosion controls;
3. Location of construction entrances, and exits and concrete washouts, and soil stockpiles;
4. Location of all trees with an 8-inch or larger DBH (diameter measured at breast height) within or adjacent to the site;

5. Grading plan and permit if required by the city;
6. Stormwater points of discharge;
7. Methods for re-vegetating the site after construction;
8. Storage locations and disposal methods for construction debris and toxic or hazardous materials used during the project;
9. Dust control methods;
10. Spill prevention and response procedures;
11. Inspection schedule;
12. Name and 24-hour emergency contact information for the person responsible for maintaining and inspecting erosion and sediment controls; and
13. Any other provisions required by the erosion and sediment control manual for small sites and projects.

13.25.080 Erosion and Sediment Control Plan Revisions.

- A. The city may require a revision to the ESC plan due to a change in the site conditions and the ability of erosion and sediment measures to adequately control:
 1. Stormwater volume and velocity;
 2. Stormwater quality to receiving watercourses; or
 3. Additional loading that compromises the integrity of downstream stormwater facilities.
- B. The following situations, while not exhaustive, can trigger revisions to ESC plans:
 1. Improper functioning of approved erosion and sediment controls;
 2. A change in project schedules such that the project will be active more than 3 months later than originally scheduled;
 3. Changes in the assumptions used for the soil type, topography, hydrologic, or hydraulic conditions based on actual conditions discovered during inspections or construction that will affect the proper functioning of previously-approved erosion and sediment controls;
 4. Changes in location, excavation and fill volumes, or square footage of disturbed land that will affect the proper functioning of erosion and sediment controls onsite; or

5. Changes in construction or maintenance materials or chemicals that affect the proper functioning of erosion and sediment controls.
- C. The person responsible for erosion and sediment controls on the project shall immediately install functioning interim erosion controls and submit a revised ESC plan within three (3) working days of receiving a notice of violation.
 - D. Revisions.
 1. Revised plans shall provide an attached narrative with detailed specifications of any changes or additions to the current or proposed erosion and sediment controls.
 2. The narrative accompanying the revised plan shall discuss the triggering situation, corrective action required, and a proposed solution that conforms to the requirements of the ESC manual.
 - E. The revised plan and erosion and sediment controls shall be immediately implemented upon the city's approval of the plan.
 - F. The applicant shall be responsible for any additional costs resulting from a revision to the original ESC plan.

13.25.090 Inspections.

A. City Inspections.

1. The city shall inspect the site for compliance with these regulations.
2. The responsible party shall provide copies of all inspection records for a project within twenty-four (24) hours of a request by the city.
3. During an emergency, the responsible party shall immediately provide the city with copies of all inspection records for a project.
4. The responsible party shall contact the city within 24 hours of placement of erosion and sediment controls.

B. Responsible Party Inspections.

1. The responsible party shall keep a maintenance and inspection log documenting the time and date of the inspection and any repairs, adjustments, maintenance, or replacements completed on the erosion and sediment controls.
2. During construction, inspections of erosion and sediment controls shall be conducted after a rain event or at least weekly during dry weather.
3. If a site will be inactive for more than 14 days, inspections shall be conducted every 2 weeks.

Article III. Illicit Discharge Detection and Elimination

13.25.100 Purpose and intent.

A. The purpose of these regulations is to:

1. Ensure public health and safety;
2. Enhance the water quality of watercourses; and
3. Maintain and protect the stormwater system.

B. The intent of these regulations is to:

1. Reduce pollution in stormwater discharges;
2. Prohibit illicit and illegal discharges into the stormwater system including ditches and culverts;
3. Prohibit illicit connections to the stormwater system; and
4. Establish legal authority to inspect, monitor, and enforce compliance with these regulations.

13.25.110 Scope.

A. These regulations apply to all discharges to the stormwater system or watercourses within the city limits that are not composed entirely of stormwater.

B. These standards are minimum standards and the city neither intends nor implies that compliance by any person with these requirements will ensure no contamination or pollution of watercourses.

13.25.120 General.

A. No person shall throw, drain, or otherwise discharge, cause or allow others under its control to throw, drain, or discharge any material other than stormwater into the city's stormwater system, watercourses, or groundwater.

B. No person shall improperly store, handle, or apply any material that will cause or create, through its exposure to rainfall or stormwater, a discharge in violation of water-quality standards in the receiving watercourse.

13.25.130 Exempt Discharges.

A. The following discharges are allowed under this code unless the director determines that they are, were, or will be a significant source of pollution:

1. Diverted stream flows,
2. Rising groundwater;

3. Uncontaminated groundwater infiltration as defined by 40 CFR 35.2005(20);
4. Uncontaminated pumped groundwater;
5. Foundation or footing drains;
6. Air conditioning condensate;
7. Springs;
8. Water from crawl space pumps;
9. Flows from riparian habitats and wetlands;
10. Discharges from fire-fighting activities;
11. Discharges from irrigation, lawns, and gardens that do not violate water-quality regulations; and
12. Non-foaming discharges from residential vehicle washing by city residents or by non-profit organizations for fund-raising purposes.

13.25.140 Conditionally-exempt discharges.

The following discharges are allowed if they meet their respective restrictions and are not identified by the director as a significant pollution source:

- A. De-chlorinated, pH-adjusted, and controlled discharges from hyper-chlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic testing that do not pose a threat of erosion to the receiving watercourse;
- B. De-chlorinated, pH-adjusted, and controlled discharges from swimming pools, hot tubs, and spas that do not pose a threat of erosion to the receiving watercourse. This exemption does not include filter backwash;
- C. Non-stormwater discharges regulated by a NPDES permit so long as the discharge complies with the permit limits and written approval has been granted by the director; and
- D. Street wash water.

13.25.150 Illicit connections.

- A. The existence of illicit connections to the stormwater system is prohibited and a violation of this code.
- B. Illicit connections shall be disconnected from the stormwater system upon receipt of a written notice of violation.

13.25.160 Illegal dumping.

- A. No person may cause or contribute to pollution of watercourses or the stormwater system.

- B. No person may cause or contribute to stormwater system or watercourse blockages.
- C. Materials deposited in proper waste receptacles for the purposes of collection are exempt from these requirements.

13.25.170 Riparian destabilization.

- A. Any person owning property with either a watercourse running through or bounding the property lines shall keep and maintain that part of the watercourse within the property reasonably free of man-made trash, debris, and other obstacles that would pollute, contaminate, or impede the flow of the watercourse.
- B. Any person with a watercourse bounding or running through their property shall maintain native stream bank vegetation or provide other stabilization measures to protect the watercourse from erosion or degradation while, at the same time, not adversely affecting downstream properties or stormwater facilities.

13.25.180 Discharges in violation of NPDES permit.

Any discharge that would result in or contribute to a violation of a NPDES permit either separately or in combination with other discharges is prohibited from discharge into the stormwater system or watercourses lying within the city limits.

13.25.190 Commercial and industrial discharges.

- A. Commercial or industrial operations or businesses not covered by a NPDES permit shall follow proper disposal and spill prevention practices.
- B. Direct discharges or sheet flow to the stormwater system or watercourses within city limits is expressly prohibited unless listed as exempt or conditionally exempt in these requirements.

13.25.200 Spill prevention plans.

Facilities that handle, store, or use hazardous or toxic substances in quantities that equal or exceed quantities listed in OAR Chapter 340-142-0050 or that are otherwise required by state or federal law to have a spill prevention plan shall provide a copy of the plan to the director.

13.25.210 Spill notification.

- A. In the event of the release or the imminent threat of a release of a hazardous or toxic material, the person owning or having control over the material shall immediately implement the applicable spill plan or other contingency plan document prepared in compliance with these regulations.
- B. If a spill plan or contingency plan is not implemented for any reason, the person owning or having control over the material shall immediately take the following actions:
 - 1. Activate alarms or otherwise warn persons in the immediate area;

2. Undertake every reasonable method to stop the spill and contain the oil or hazardous material;
 3. Call 911 if there is a medical emergency or public safety hazard; and
 4. Arrange for properly trained and equipped personnel or contractor to stop any continuing release and manage the specific material spilled.
 - a. Immediately hire a qualified contractor to respond and manage the spill if the necessary actions are beyond the ability of the responsible person's representatives on-site or the responsible person's own response services will be delayed in arriving at the spill site.
 - b. If the person owning or having control over oil or hazardous material does not, or cannot, immediately arrange a response acceptable to the city, the city may dispatch a contractor and seek recovery of all costs incurred by the city resulting from this action.
- C. Immediately report the spill or release as required by OAR 340-142-0040.

13.25.220 Inspection authority.

- A. Whenever the city has a reason to believe that there exists or potentially exists, in or upon any premises, any condition which constitutes a violation of this chapter, the city shall be permitted access to the property or facility to determine compliance. If the premises are unoccupied, the city may enter the property without permission if immediate abatement is required.
- B. The city reserves the right to set up devices to conduct monitoring and sampling of discharges from the property or facility.

13.25.230 Suspension of discharge access.

- A. The city may suspend the ability to discharge into the stormwater system or watercourses when it is necessary to stop:
 1. An actual or threatened discharge that presents or threatens to present a violation of water quality standards;
 2. Repeated violations by a facility or person; or
 3. A facility or person from continuing illicit discharges after they have been notified to cease and desist.
- B. Resumption of a suspended discharge access without the prior approval of the director constitutes a separate and distinct violation of this code.

13.25.240 Remediation.

If the director determines that an illicit or illegal discharge or accidental spill has resulted in degradation or harm of the stormwater system or watercourses within the city limits, it reserves the right to require remediation of the degraded area, including watercourses, by the owner of the property or facility within a specified timeframe.

Article IV. Stormwater Management

13.25.250 Purpose and intent.

- A. The purpose of these regulations is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the effects associated with increased stormwater from impervious areas in the city limits by requiring affected projects to control the volume and velocity of stormwater discharged from the site.
- B. The intent of these regulations is to:
 - 1. Encourage the preservation and use of the natural topography for receiving and conveying stormwater from a site;
 - 2. Minimize local flooding, sedimentation, and stream channel erosion;
 - 3. Maintain optimum temperatures for native fish and riparian habitat;
 - 4. Protect stormwater facilities already existing downstream; and
 - 5. Ensure that stormwater facilities are properly maintained with accurate records.

13.25.260 Scope.

- A. These requirements apply to:
 - 1. Projects or activities that ordinarily would be exempt but are part of a larger common development plan that meets the criteria. This is true even if the activities appear to be separate and distinct and take place at different times and on different schedules;
 - 2. Projects or activities that are exempt but have the potential to discharge stormwater to watercourses which will degrade their beneficial use or cause a violation of water quality standards set by the city's Willamette River TMDL Implementation Plan; DEQ, or the US Environmental Protection Agency.
 - 3. Projects that create a net impervious area of 500 square feet or more; or
 - 4. Projects or activities that change the pre-project land contours such that 500 square feet or more of new drainage discharges into the stormwater system or watercourses within the city limits.
- B. These requirements do not apply to:

1. Duplex and single family residential projects on single lots that are already serviced by a properly functioning stormwater facility; or
2. Emergency measures taken to alleviate an immediate threat to the public, environment, or downstream stormwater facilities.

13.25.270 Stormwater treatment.

- A. Projects shall use techniques or create stormwater facilities that maintain the water quality and beneficial uses of the receiving watercourse.
- B. The discharge rate and stormwater volume leaving a site shall conform with the requirements of the design standards manual and:
 1. Not create or increase existing erosion or flooding problems of adjacent properties or areas downstream of the site; and
 2. Maintain historic drainage properties of adjacent properties and watercourses.
- C. Stormwater facilities that discharge to the city's wastewater system shall be considered an illegal discharge.

13.25.280 Facility Design.

- A. Prior to an applicant receiving a permit for a project, the director shall determine the stormwater requirements of the project.
 1. All projects which create 500 square feet or more of net impervious area that directly discharge to a watercourse or occur on properties with existing severe erosion problems may be required to provide engineered stormwater facilities that meet the requirements of this code and the design standards manual.
 2. Projects disturbing 1 acre or more of land shall have stormwater facilities that are designed by a professional civil engineer and meet all of the requirements of this code and the design standards manual.
 3. Projects disturbing less than 1 acre of land but creating 2,877 square feet or more of net impervious area shall provide a summary of the project, design flow calculations, and proposed methods for treating stormwater to the director for review and approval in accordance with requirements specified in the design standards manual. The submitted material shall be used by the director to determine whether the proposed stormwater facilities are subject to **NMC 13.25.280.A.2.**
 4. Projects creating 500 square feet or more of net impervious area but less than 2,877 square feet of net impervious area shall provide a project summary and a scaled drawing showing the general stormwater flow direction to the director for review and approval in accordance with the requirements specified in the design standards

manual. The material shall be used by the director to determine whether stormwater facilities are required for the project and subject to **NMC 13.25.280.A.3**.

5. Projects on properties lying partially or completely within the 100-year floodplain or the Newberg stream corridor overlay sub-district are subject to additional requirements as specified in the design standards manual.
- B. All stormwater facilities, structural and non-structural, shall have an emergency overflow or bypass that is designed to passively function and route excess floodwaters to an appropriate location that minimizes the effect of the overflow to adjacent properties.

13.25.290 Facility Responsibility.

- A. The city shall operate and maintain public stormwater facilities.
- B. Privately-owned stormwater facilities shall be operated and maintained by the owner or maintenance organization.
1. The city does not accept responsibility for the design, installation, operation, or maintenance of any stormwater facility unless an agreement specifying such responsibility is executed between the city and the owner or maintenance organization.
 2. Approval of stormwater facilities, a project, or a maintenance agreement does not, by itself, transfer responsibility from the owner or maintenance organization to the city.
 3. Failure to properly operate or maintain private stormwater facilities shall constitute a violation of this code.

13.25.300 Maintenance.

- A. The applicant or maintenance organization shall enter into a maintenance agreement with the city that shall be binding on the applicant or maintenance organization and all subsequent owners of the properties served by the stormwater facilities.
- B. The maintenance agreement shall be recorded in the deed records of Yamhill County, Oregon.
- C. A facility operations and maintenance plan previously approved by the city shall be provided by the applicant to the maintenance organization, if different from the applicant, at project completion.
- D. Privately-owned stormwater facilities shall be inspected and maintained in accordance with the facility operations and maintenance plan.
- E. Annual reports shall be submitted to the city by the maintenance organization attesting to the proper functioning, maintenance, and safety of the stormwater facilities.

- F. Annual reports shall include current 24-hour emergency contact information. When emergency contact information changes midyear, the director shall be notified by letter within fifteen (15) business days.
- G. Stormwater facilities shall remain functionally unaltered unless prior approval has been obtained from the director.
- H. The director may authorize the immediate repair of any stormwater facility that poses an immediate threat to public health and safety; public or private property adjacent to or downstream of the stormwater facility; or the water quality, riparian habitat, or channel morphology of the receiving watercourse.

13.25.310 Inspections.

- A. Authorized city representatives may inspect stormwater facilities to determine compliance with the requirements of this code.
- B. The maintenance organization shall allow authorized city representatives access to the stormwater facility for the purpose of inspection, sampling, records examination, or in the performance of any duty required to ensure compliance with this code.
- C. The maintenance organization shall provide copies of records, reports, or other maintenance or operating documents requested by an authorized city representative during their inspection.
- D. Entry shall be made during normal operating or business hours unless an emergency situation exists as determined by the director.
- E. Authorized city representatives shall present appropriate credentials at the time of entry. If the property or facility is unoccupied, the authorized city representative shall make a reasonable effort to locate the owner or emergency contact on the maintenance agreement.

13.25.320 Variances.

- A. The director may grant a variance from any requirement of this chapter if there are exceptional circumstances such that strict adherence will not fulfill the intent of this code. A written request for a variance shall be provided to the director which states the specific variance sought and reasons for granting the request.
- B. In a variance request, the applicant shall include design flow calculations showing the effects, if any, that the variance will have on the:
 - 1. Adjacent property drainage patterns;
 - 2. Local flooding, sedimentation, and stream channel erosion;
 - 3. Beneficial uses or water quality of the receiving watercourse; and

4. Proper functioning of downstream stormwater facilities, culverts, bridges, dams, and other structures.
- C. A public comment period of 30 days, requested through standard public noticing procedures, shall follow a variance request by an applicant.
 - D. No variance granted by the director shall be construed as providing precedence for future projects or facilities by any applicant.
 - E. When the director grants a variance, the applicant shall satisfy the requirements of this code through one or more of the following options as determined by the city and which are commensurate with the volume and velocity of stormwater expected by the project:
 1. Upgrading improperly functioning stormwater facilities downstream of the project;
 2. Providing new stormwater facilities downstream of the project; and
 3. Providing the city with a conservation easement within the watershed of the receiving watercourse.

Article V. Enforcement and Penalties

13.25.330 General.

- A. The city may, for enforcement purposes, use any one of the following actions, a combination of them, or any other legal action depending on the severity of the violation:
 1. Notice of violation;
 2. Stop work order;
 3. Summary abatement;
 4. Refuse to issue a certificate of occupancy;
 5. Modify, suspend, revoke, or withhold final approval of a city permit; or
 6. Refer the issue to legal action.
- B. Communication to one responsible party shall be regarded as communication to each responsible party for the purposes of this code.
- C. In addition to any other sanctions, civil action or criminal prosecution may be brought against any person, company, or organization in violation of this code.

13.25.340 Concealment.

Causing, permitting, aiding, abetting, or concealing a violation of any provision of these requirements shall constitute a violation of these regulations.

13.25.350 Notice of violation.

- A. The city may issue a notice of violation if a responsible party has violated or failed to meet a requirement of this chapter.
- B. Failure to comply with a notice of violation is a separate violation of this chapter.
- C. Failure to complete the actions required in the notice of violation within the deadline may result in a summary abatement action by the city.

13.25.360 Stop work order.

- A. The city may issue a stop work order to allow proper remedial action or to deflect an immediate threat to public health or safety or the water quality of receiving watercourses.
- B. The stop work order shall list the conditions under which work may resume. The responsible party shall contact the city for an inspection when the conditions for resuming work have been fulfilled.
- C. It is a violation of these regulations for any person to remove, obscure, mutilate or otherwise damage a stop work order or prevent the city from posting one.

13.25.370 Summary abatement.

- A. If the responsible party fails to fulfill the steps required in an enforcement action within the deadline prescribed by the city, the actions will be completed by the city and the owner shall be responsible for reimbursing the city for 150% of the cost of the investigation, repair, and remediation of the situation including labor, material, administrative, and legal expenses.
- B. If the owner does not remit payment within 45 days of notification, the debt shall be declared as a special assessment against the property and shall constitute a lien by the city against the subject property.
- C. Any relief obtained under this section shall not prevent the city from seeking other relief as allowed by law.

13.25.380 Appeal procedure.

- A. Any person aggrieved by a decision or action of the director under this chapter may file a written request with the city manager for reconsideration within ten (10) calendar days of notification of the decision or action. The request for reconsideration shall clearly describe the:
 - 1. Decision or action being appealed including the date of the decision or action;
 - 2. Property location;
 - 3. Facts and arguments supporting the request for reconsideration; and
 - 4. Specific grounds on which the appeal is filed.

- B. The city manager may establish such procedures as may be deemed necessary or proper to conduct the reconsideration process and shall make a determination regarding the appeal within ten (10) business days of the receipt of the request for reconsideration. The filing of a request for reconsideration by the city manager shall be a condition precedent to the right to appeal to the city council. The filing of an appeal shall not stay enforcement of an action by the director in emergency situations as previously defined in this chapter.
- C. Any person aggrieved by the city manager's determination under this chapter may appeal to the city council within ten (10) days of notification of the city manager's decision. Written notification of the appeal shall be filed with the city council and the city manager along with a payment of fifty dollars (\$50.00). The filing of a request for reconsideration by the city council shall set forth in reasonable detail the decision or action being appealed and the facts and arguments supporting the request for reversal or modification.
- D. The city council shall conduct a hearing on the appeal according to established council procedures. The hearing shall be conducted at the earliest possible regularly scheduled city council meeting with final city council action being taken on the appeal within sixty (60) days after its initial filing.

13.35.390 Penalties.

A. General.

- 1. Tampering with or knowingly rendering nonfunctional any sediment or erosion control, monitoring device, or stormwater facility required under these regulations constitutes a separate and distinct violation of this code.
- 2. The following shall constitute a separate and distinct violation of this code:
 - a. Disregarding or interfering with a stop work order;
 - b. Failure to remediate or abate;
 - c. Failure or refusal to reimburse the city for expenses incurred as a result of summary abatement; and
 - d. Each day of continued violation.
- 3. Any relief obtained under this section shall not prevent the city from seeking other relief as allowed by law.

B. Falsifying Information.

- 1. Any person making false statements, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this code shall be in violation of this code.

2. In addition, the responsible party or their agent shall be subject to the provisions of 18 U.S.C. 1001 relating to fraud and false statements; and the provisions of Section 309(c) of the Clean Water Act, as amended, governing false statements, representation, or certification and responsible corporate officers.
- C. Any person, firm, or corporation or any agent or employee of these entities violating the provisions of this code that pertain to federal or state law shall have committed a class 1 civil infraction.
 - D. Any person, firm, or corporation or any agent or employee of these entities violating the provisions of this code that pertain to municipal law and whose violations are not deemed a nuisance shall have committed a class 2 or class 1 civil infraction.
 - E. Any person, firm, or corporation or any agent or employee of these entities violating the provisions of this code that pertain to municipal law and whose violations are deemed a nuisance shall be punishable as a civil infraction ranging from a class 4 to a class 2.
 - F. Any violation of this code shall be processed in accordance with the procedures set forth in **NMC 2.30**.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 18, 2012

Order ___ Ordinance ___ Resolution XX Motion ___ Information ___
No. No. No. 2012-3008

SUBJECT:

1. Hold Legislative Public Hearings on the 2012-2013 City Budget & State Revenue Sharing
2. Adopt Resolution No. 2012-3008, adopting the 2012-2013 City Budget

Contact Person (Preparer) for this Motion: Janelle Nordyke
Dept.: Finance
File No.:

HEARING TYPE: ADMINISTRATIVE

RECOMMENDATION:

Adopt Resolution No. 2012-3008 adopting the 2012-2013 Budget, and appropriating as recommended by the Budget Committee on May 15, 2012, and including the election to participate in the State Revenue Sharing Program.

EXECUTIVE SUMMARY:

The Budget Committee met on April 24th, May 1st, May 8th and May 15th, 2012, to deliberate the proposed 2012-2013 City Budget prepared by staff.

The Budget Committee made the following amendments to the proposed budget, which results in a net increase in appropriations of \$2,000.00:

1. General Fund (Fund 01)
 - Reduction of \$18,000.00 in the estimated Fire Protection Contract revenue in the General Fund.
 - Increase in General Government Community Support expenditures of \$3,000.00 as a contribution to Your Community Mediators' support.
 - Decrease in General Government Community Support expenditures of \$500.00 in City Council discretionary contributions for other outside funding requests.
 - Increase in General Fund Transfer Out-Vehicle/Equipment Replacement expenditure of \$20,000.00 for IT Capital Outlay-Computers in Fund 32.
 - Net reduction in General Fund Contingency of \$40,500.00 for the above changes in General Fund.
2. Vehicles/Equipment Replacement Fund (Fund 32)
 - Increase in Transfer In-General Fund revenue of \$20,000.00 for computer replacement from the General Fund.
 - Increase in IT Capital Outlay-Computers expenditure of \$20,000.00 for computer replacement.

FISCAL IMPACT: The 2012-2013 Budget equals **\$70,435,639.00** with **152.45** FTE. The permanent property tax rate remains at \$4.3827 per \$1,000.00 assessed value. The City estimates it will collect \$6,586,505.00.

The Debt Service property tax levy equals \$425,000.00 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 City Council to meet the needs of this community.



RESOLUTION No. 2012-3008

**A RESOLUTION ADOPTING THE CITY OF NEWBERG, OREGON
BUDGET FOR THE 2012-2013 FISCAL YEAR, MAKING
APPROPRIATIONS, LEVYING A PROPERTY TAX, AND APPROVING THE
CITY OF NEWBERG'S PARTICIPATION IN THE STATE REVENUE
SHARING PROGRAM**

RECITALS:

1. Starting April 24, 2012, and ending May 15, 2012, the City Budget Committee met and reviewed the City Manager's proposed 2012-2013 City Budget.
2. The City of Newberg provides seven of the seven municipal services enumerated in ORS 221.760.
3. The City Budget Committee and City Council held public hearings on the uses of state revenue sharing funds pursuant to ORS 221.770 and on the proposed budget.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. Pursuant to ORS 221.770, the City of Newberg elects to participate in the State Revenue Sharing Program for the fiscal year beginning July 1, 2012, and ending June 30, 2013, by allocating the funds received on a 50/50 percent basis to Police and Fire. The City Finance Director is directed to file a certified copy of this resolution with the State of Oregon, Department of Administrative Services, prior to July 31, 2012.
2. The City Council adopts the City Budget for the City of Newberg for the fiscal year beginning July 1, 2012, and ending June 30, 2013, as approved by the City Budget Committee and as adjusted by the City Council, in the aggregate amount of \$70,435,639.00.
3. That the amounts for the fiscal year beginning July 1, 2012, and for the purposes shown below are hereby appropriated:

General Fund

General Government	331,317.00
Municipal Court	227,740.00
Police	5,330,817.00
Fire	3,053,276.00
Communications	958,994.00
Library	1,108,541.00
Planning	565,930.00
Transfers	84,019.00
Contingency	146,726.00
Total General Fund	<u>11,807,360.00</u>

Street Fund

Public Works	1,096,252.00
Transfers	282,908.00
Contingency	252,331.00
Total Street Fund	<u>1,631,491.00</u>

Civil Forfeiture Fund

Police	5,000.00
Total Civil Forfeiture Fund	<u>5,000.00</u>

Capital Projects Fund

Capital Projects	2,371,500.00
Total Capital Projects Fund	<u>2,371,500.00</u>

Emergency Medical Services Fund

Fire	1,409,988.00
Transfers	20,000.00
Contingency	138,786.00
Total Emergency Medical Services Fund	<u>1,568,774.00</u>

Wastewater Fund

Public Works	4,000,373.00
Debt Service	729,408.00
Transfers	776,514.00
Contingency	5,658,762.00
Total Wastewater Fund	<u>11,165,057.00</u>

<u>Water Fund</u>	
Public Works	2,963,714.00
Debt Service	414,149.00
Transfers	1,480,823.00
Contingency	3,191,250.00
Total Water Fund	<u>8,049,936.00</u>

<u>Building Inspection Fund</u>	
Building Inspection	293,481.00
Contingency	4,284.00
Total Building Inspection Fund	<u>297,765.00</u>

<u>Debt Service Fund</u>	
Debt Service	864,594.00
Total Debt Service Fund	<u>864,594.00</u>

<u>City Hall Fund</u>	
Transfers	107,838.00
Total City Hall Fund	<u>107,838.00</u>

<u>9-1-1 Emergency Fund</u>	
Communications	197,832.00
Contingency	5,227.00
Total 9-1-1 Emergency Fund	<u>203,059.00</u>

<u>Economic Development Fund</u>	
Planning	292,463.00
Transfers	1,861.00
Contingency	135,215.00
Total Economic Development Fund	<u>429,539.00</u>

<u>Public Safety Fee Fund</u>	
Police	348,117.00
Contingency	193,177.00
Total Public Safety Fee Fund	<u>541,294.00</u>

<u>Stormwater Fund</u>	
Public Works	857,879.00
Contingency	738,842.00
Total Stormwater Fund	<u>1,596,721.00</u>

<u>Street Capital Projects Fund</u>	
Capital Projects	1,111,000.00
Contingency	146,200.00
Total Street Capital Projects Fund	<u>1,257,200.00</u>

<u>Library Gift & Memorial Fund</u>	
Library	170,600.00
Contingency	174,806.00
Total Library Gift & Memorial Fund	<u>345,406.00</u>

<u>Cable TV Trust Fund</u>	
General Government	15,000.00
Contingency	26,672.00
Total Cable TV Trust Fund	<u>41,672.00</u>

<u>Animal Shelter Fund</u>	
Capital Projects	201,289.00
Total Animal Shelter Fund	<u>201,289.00</u>

<u>Admin / Support Services Fund</u>	
City Manager's Office	522,807.00
Finance	762,795.00
General Office	184,500.00
Information Technology	442,634.00
Legal	632,758.00
Public Works	523,489.00
Insurance	250,000.00
Contingency	416,974.00
Total Admin / Support Services Fund	<u>3,735,957.00</u>

<u>Vehicles / Equipment Replacement Fund</u>	
Information Technology	60,000.00
Police	85,000.00
Communications	15,000.00
Public Works	590,000.00
Facilities Repair / Maintenance	30,000.00
Contingency	1,423,548.00
Total Vehicle / Equipment Replacement Fund	<u>2,203,548.00</u>

<u>Fire & EMS Equipment Fee Fund</u>	
Capital Outlay	1,051,000.00
Contingency	164,383.00
Total Fire & EMS Equipment Fee Fund	<u>1,215,383.00</u>
<u>Wastewater Financed CIP's Fund</u>	
Capital Projects	7,980,258.00
Total Wastewater Financed CIPs Fund	<u>7,980,258.00</u>
<u>Street System Development Fund</u>	
Transfers	231,000.00
Contingency	2,202,872.00
Total Street System Development Fund	<u>2,433,872.00</u>
<u>Stormwater System Development Fund</u>	
Transfers	250,000.00
Contingency	348,997.00
Total Stormwater System Development Fund	<u>598,997.00</u>
<u>Wastewater System Development Fund</u>	
Debt Service	284,294.00
Transfers	58,600.00
Contingency	1,608,735.00
Total Wastewater System Development Fund	<u>1,951,629.00</u>
<u>Water System Development Fund</u>	
Debt Service	844,720.00
Transfers	350,000.00
Contingency	602,452.00
Total Water System Development Fund	<u>1,797,172.00</u>
	Total Appropriated Budget
	64,402,311.00
Unappropriated Fund Balance - General Fund	1,100,000.00
Unappropriated Fund Balance - Debt Service	183,963.00
Unappropriated Fund Balance - City Hall Fund	554,556.00
Reserves	4,194,809.00
	Total Budget
	70,435,639.00

4. The City Council of the City of Newberg imposes the taxes provided for in the adopted budget at the rate of \$4.3827 per \$1,000.00 of assessed value for general operating purposes and \$425,000.00 for Debt Service, and that these taxes are hereby imposed and categorized for the tax year 2012-2013 upon the assessed value of all taxable property within the City.

	<u>General Government Limitation</u>	<u>Excluded from the Limitation</u>
General Fund	\$4.3827 per \$1,000.00 AV	
Debt Service Fund		\$425,000.00

5. The Finance Director is authorized and directed to certify the levy with the Yamhill County Assessor and Yamhill County Clerk.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is June 19, 2012.

ADOPTED by the City Council of the City of Newberg, Oregon, this 18th day of June, 2012.

Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 21st day of June, 2012.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 18, 2012

Order ___ Ordinance ___ Resolution XX Motion ___ Information ___
No. No. No. 2012-2994, No. 2012-2995 and No. 2012-2996

SUBJECT: New Water, Wastewater and Stormwater Rates Effective January 1, 2013

Contact Person (Preparer) for this Motion: Dan Danicic, City Manager and Janelle Nordyke, Finance Director
File No.:

HEARING TYPE: ADMINISTRATIVE

RECOMMENDATION:

Adopt Resolution No. 2012-2994, No. 2012-2995 and No. 2012-2996 adopting new water, wastewater, and stormwater rates to be effective January 1, 2013.

EXECUTIVE SUMMARY:

This item came before the Council on March 19, 2012, where City Manager Dan Danicic presented the staff report and requested for consideration of the resolutions to be postponed to June 18, 2012. The Council unanimously approved a motion to postpone to this date.

The Citizens' Rate Review Committee (CRRC) was formed by the City Council in 1992 to review and recommend utility rates (water, wastewater, and stormwater) to the City Council for approval and implementation.

The Committee met seven times between September 14, 2011, and January 18, 2012, to review water, wastewater, and stormwater characteristics and requirements, including the Capital Improvement Program and operating and maintenance costs for all three systems.

The CRRC reviewed proposed rates at their meetings. The review included:

- The Capital Improvement Plans for the next four years.
- Revenue and budget requirements.
- Service characteristics.
- Customer class characteristics.
- Peak demands on the systems.

The driving forces for the proposed new rates included:

- System characteristic and load requirements.
- Supporting the Operations and Maintenance budgets.
- Revenue requirements.
- Debt service requirements.

The following attachments are included in this packet:

- Approved minutes of the CRRC from September 14, October 5, October 18, November 9, and November 30, 2011.
- Draft CRRC minutes of January 4, January 18, February 8 Town Hall, and February 15, 2012 Public Hearing. The Town Hall Information Packet is attached.

In addition to the proposed rate increases, the CRRC is recommending the City Council:

1. Increase the fixed percent for water from 9% to 15% the first year and from 15% to 20% the second year, and
2. Move the implementation date for the rate increases from July 1, 2012, to January 1, 2013.

The proposed rates included in each resolution are to cover the time period from January, 2013, through December, 2014.

FISCAL IMPACT:

These recommended changes to the rates are anticipated to raise \$6,361,336.00 in revenues in FY 2012-2013 and \$6,393,172.00 in FY 2013-2014 in the Wastewater Fund; \$4,328,231.00 in revenues in FY 2012-2013 and \$4,321,831.00 in FY 2013-2014 in the Water Fund; and \$828,665.00 in revenues in FY 2012-2013 and \$975,854.00 in FY 2013-2014 in the Stormwater Fund. These amounts are sufficient to cover the cost of current operation and maintenance costs, provide for the necessary capital projects and meet cash flow requirements in their respective funds.

STRATEGIC ASSESSMENT:

It is important and necessary to raise sufficient revenues in order to maintain the City's water, wastewater, and stormwater systems.

CITY OF NEWBERG
CITIZENS' RATE REVIEW COMMITTEE MINUTES
WEDNESDAY, SEPTEMBER 14, 2011
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

I. CALL MEETING TO ORDER

Chair Tony Rourke called the meeting to order at 7:05 P.M.

II. ROLL CALL

Members

Present: Tony Rourke, Chair Ernie Amundson, Jr. Mike Gougler
Beth Keyser

Members

Absent: Charles Zickefoose (excused) David Maben (excused)

Staff

Present: Mayor Bob Andrews, Ex-Officio Janelle Nordyke, Finance Director
Daniel Danicic, City Manager Jennifer Nelson, Minutes Recorder

Others

Present: Deb Galardi, Consultant and Robert Soppe, Citizen

III. COMMITTEE BUSINESS

1. New Agenda Format/Public Comment Procedure

Chair Rourke spoke of the reasons behind the new agenda formats and public comment procedures as part of Council goals to standardize city meetings.

2. Membership Terms/Renewals

Chair Rourke reviewed upcoming terms and the reappointment process. Mr. Ernie Amundson, Jr. and Ms. Beth Keyser have terms expiring in December and a vacant position has been created because of Mr. Demetri Tsohantaris' resignation. If current committee members are interested in continuing to serve, they must submit applications to the Mayor to reapply. The Mayor's Cabinet is currently considering moving calendar year appointments to fiscal year terms to avoid term expiration in mid-process.

Mr. Mike Gougler asked if the vacancies have been advertised yet. Ms. Janelle Nordyke, Finance Director, replied those coming up for expiration will be advertised in October and appointed in December to start in January, 2012.

Mr. Amundson asked if the change in appointments to fiscal year terms will occur beforehand. Staff replied this must be presented and approved by Council first.

Ms. Beth Keyser asked if she has to reapply and if she was invited to. Ms. Nordyke stated not officially, but this would be considered her invitation to reapply.

Chair Rourke asked if the replacement for Mr. Tsohantaris would be a quicker process. Ms. Nordyke replied it would still end with an appointment in November, so it was decided to just advertise for all three at once.

Mr. Amundson stated he is considering not renewing since he seems to be fighting with the others. Ms. Keyser replied they are not fighting and he brings a good balance. She agreed going with the fiscal year term makes more sense.

MOTION #1: Amundson/Gougler adopting fiscal term limits on volunteers for CRRC, rather than calendar year. (4 Yes/0 No/2 Absent [Maben, Zickefoose]) Motion carried.

3. Meeting Schedule

Chair Rourke reviewed the meeting schedule provided in the committee packet.

4. Roberts Rules

Chair Rourke stated along with standardizing meetings we will also become more official by using Robert's Rules.

5. Committee Ethics

Chair Rourke reviewed several key points from City Attorney Terry Mahr's PowerPoint presentation given in March 2011 (see official meeting packet for full report).

Mr. Amundson expressed some concerns for past and present members being consultants for the City or working as contractors for larger companies and the possible conflicts of interest that could result in them maybe not truly representing the citizens. Chair Rourke replied he spoke to the Mayor about this and it was determined declaring potential conflicts is important here. But, more than this potential conflict is whether the member will have financial gain. If there are other interests or potential conflicts they need to be declared once at the beginning of the meeting; but, no work would get done otherwise since all are affected by paying water bills. Mr. Amundson clarified he is not accusing anyone of anything, but it is a gray area.

Ms. Nordyke offered some background information about when the committee was formed and the reasons behind originally choosing members to represent different entities such as industrial, commercial, single-family housing, multi-family, and those outside of the City.

Mr. Gougler spoke about the language on the declaration of conflicts being "potential", not "actual" and pointed out what they are doing is making recommendations, if accepted or rejected, could be a gain or loss; so it should be declared one time, not necessarily at every meeting. Chair Rourke said he will pose that idea to the city attorney and have an answer at the beginning of the next meeting; it just has to do with how the group is formed and how they will clarify it.

Mr. Gougler suggested they could make a declaration or pledge and announce all conflicts at once.

Chair Rourke said the point is to make sure everyone is above board as a committee, as much as possible.

IV. PUBLIC COMMENTS

Mr. Robert Soppe provided verbal comments based on his written notes submitted for the record (see official meeting packet for full report). He also added although he understood efforts to standardize meetings, he did not believe the public comment form provided really applies to this committee.

Mr. Amundson asked if rates varying meant different prices in the summer vs. the winter. Mr. Soppe replied that all users have the same per 100 cubic feet rate, but it should be charged at a higher rate in summer than winter for all and we should expect single-family housing compared to multi-family to pay the same rate in the same month since that is how it costs the City.

Mr. Gougler had questions on the rates based on Mr. Soppe's analysis of the existing program vs. what he proposed and asked him what they are supposed to do if water revenue goes up or down. Mr. Soppe replied whatever they choose to do in rates the overall revenue would be neutral assuming the amount of collection matches our expenses. He is suggesting the table of volume rates for each class be the same for all and even if someone is paying more or less, those fitting the class should not change. The residential user not using in the summer should get a lower bill than the industrial user using the same amount, but the revenue would still be neutral as a goal.

V. CONSENT CALENDAR

1. Consider a motion approving the January 13, 2011, Citizens' Rate Review Committee Minutes.
2. Consider a motion approving the June 21, 2011, Citizens' Rate Review Committee Minutes.

MOTION #2: Gougler/Amundson approving the January 13, 2011, and June 21, 2011, Citizens' Rate Review Committee Minutes as written. (4 Yes/0 No/2 Absent [Maben, Zickefoose]) Motion carried.

VI. CONTINUED BUSINESS

1. Review/Recap Financial Status
 - A. Utility Bill Overview (Pages 31-38)

Mr. Nordyke presented the staff report as provided in the agenda packet and referenced by the page numbers indicated above (see official meeting packet for full report).

Mr. Amundson asked who sets the rates for service charges. Ms. Nordyke stated it is a part of the whole calculation of setting rates for next two years and referred to pages 36-37. She said they set percentage increases or decreases and this is how the percentage of increase is figured out, and based on these charges the net increase is calculated.

Mr. Amundson asked how the service charge goes down even though they raised rates every time.

Ms. Deb Galardi, Consultant, replied the cost of service analysis has different components by class. The service charge only recovers the cost for billing. Customers served cost is based on allocation of customer service costs which do not tend to increase as much as volume and infrastructure investing and are shifted to volume rates. She said they may want to look at cost recovery service charges and have the service charge go up, not down, to stabilize revenues. She added that Inflow and Infiltration (I & I) costs are not related to direct discharge to the

customers, but pipes in the ground that leak years ago and how much costs are recovered through fixing. The service charge vs. the volume charge is all part of the information that has been discussed and there is a lot of detail which can be highlight as it comes up.

B. Fund Balances (Revenues, Expenses, and Reserves) (Pages 39-56)

Ms. Nordyke recapped the last two years of actuals and what was budgeted for this year for capital projects, funds and estimates (see official meeting packet pages for full report).

Mr. Amundson asked about office supply increases for everyone and what is so expensive. He spoke of creative bookkeeping just moving costs from the general fund to the finance department and other areas and asked how there is an increase for this stuff for the office. Ms. Nordyke explained they budget for each year by estimating and the actual may be different; she used attorney costs as an example.

Mr. Danicic added it is hard to estimate what is going to be spent from a thousand dollar office supply budget and staff attempts to be conservative when coming up with the numbers. Mr. Amundson continued by asking about budget monies approved and not spent. Mr. Danicic stated that figure goes into the beginning fund balance of the next year provided the revenues come in. Ms. Nordyke added this is why they do reviews to follow the changes.

Ms. Nordyke referred to page 50 which used to be the debt service account for utilities; she said it is easier for finance to set aside funds to capture all debts, but all transfers increase the total budget. The Budget Committee and finance officer decided not to do transfers and just record this in the operating fund, so fund 15 will go away in three years. Revenues for each utility stay in that fund and what is not spent in that year is kept in the beginning fund balance for the next year.

Chair Rourke clarified the reserve funds added a percentage to the rates and if these are a result of the 1% specifically. Staff referred to the second column of the actuals in 2010/11 and said projections are based on the 1%.

Ms. Keyser asked if the staff running the departments have an attitude of “use it or lose it” when it comes to monies budgeted. Ms. Nordyke replied in past, yes; but, because they have been told the money stays in the fund and not to spend it if they do not have to. They have tried to instill only to buy if necessary and if a larger price break occurs for buying in larger quantities that is fine. Ms. Keyser wanted to know how we know there is not wasteful spending occurring because this is what the community believes is happening. Ms. Nordyke referred to the hot topic concerning new vehicle purchases as an example and explained getting cheaper bids through the State helps to keep costs low and timely replacement keeps repair costs low. Sometimes the purchases are made in advance because the price is cheaper than they planned in the next year. They do the best they can and try to catch when spending increases.

Mr. Danicic added that all purchase requests over \$5,000.00 must be authorized by him prior to spending. Ms. Nordyke approves everything down to \$2,000.00 and there is a budget printout each month for comparison and review of what percentage has been spent. All travel and training also needs city manager approval to ensure it is appropriate; this all helps to keep the department heads accountable for their spending.

C. Debt Covenants

Ms. Nordyke continued with her report concerning debt covenants (see official meeting packet for full report).

Chair Rourke asked about the theoretical number and what caused this to be under. Ms. Galardi said she will show the numbers in her report, but basically sales are off from the projections; there were assumptions made in the rate setting that did not materialize.

Mr. Gougler spoke of efforts to increase conservation affecting the drop in revenue causing the City to be out of compliance in their debt ratio and said they are finding themselves chasing down revenue by increasing rates because they have been successful in conserving. If they realize a 10% savings and lose consumption by 10%, then they will drop down below the 1.1 ratio. He asked if a bonding agency buys our debt. Ms. Nordyke said Oregon Economic Community Development sells the bonds to individual investors; if it is not too much, as is the case with the Baker Rock property, lending agencies do not sell and just end up carrying the debt.

Chair Rourke asked if the lending agencies could raise the rates or call the payment in full. Ms. Nordyke agreed these were the options.

Mr. Gougler said it is more likely they will not call the debt, but would change the bond coupon and the city would end up paying more for its debt. It may not reflect on us immediately, but it does make the product worth less on the market. Ms. Nordyke added they may be required to set up a reserve as well.

Chair Rourke said if growth happens would the increase in revenue offset this. Mr. Gougler replied it would help but consumption helps more and they can always explore selling water to others who wish to purchase it. Mr. Danicic stated there were no discussions to do this other than with the City of Dundee; but, they are developing water rights with the Willamette River as their source at this time.

Mr. Gougler added he did not find any problem with the office supply budgets, in fact he felt they may be under-budgeted since \$1,000.00 is only \$3.80 a day and he used more than that in purchasing toilet paper alone for his offices.

D. Water Peak Demands

Mr. Danicic referred to two separate handouts displayed on the back table for their review (see official meeting packet for full report).

2. Review/Recap Capital Improvement Projects

A. Adopted CIP (11/12 budget) vs. Approved CIP (by Committee) (Pages 57-58)

Ms. Nordyke discussed discrepancies and said critical items will be addressed when they deal specifically with water and wastewater (see official meeting packet for full report).

B. Twenty-Year Capital Improvement Program (Pages 57-58)

Ms. Nordyke continued with her report on capital improvements (see official meeting packet for full report).

3. WWTP Project Update

A. DEQ Approved Loan (Pages 59-62)

Ms. Nordyke spoke on phase one interim financing up to \$11.4 million. The debt repayment schedule assumes borrowing the total amount. They have been approved for more and outlines of the repairs being done now vs. the next year or next two years were discussed (see official meeting packet for full report).

B. Debt Repayment? (SDCs/Rates Split) (Page 63)

Ms. Nordyke continued with her report on debt repayment by splitting costs between system development charges (SDCs) and rates (see official meeting packet for full report).

Chair Rourke asked if they will get a more accurate percentage regarding Capital Improvement Projects (CIP) when they move forward and will this be kept in mind over the next two years for the next five year plan. Ms. Nordyke replied this will be included.

Mr. Gougler asked if they have to raise an additional 10% from rates because he does not know who is paying any SDCs currently. Ms. Nordyke said this is correct and will be addressed.

Chair Rourke asked if the projections of growth have been taken into consideration as well. Ms. Nordyke said yes.

Ms. Keyser clarified that additional growth is not filling empty homes.

4. Deb's Presentation

Ms. Deb Galardi, Consultant, presented her summary report supplemented with a hardcopy of her PowerPoint slideshow (see official meeting packet for full report).

Chair Rourke asked if there was a master list of potential grants to apply for and how the city hears about them. Mr. Danicic replied there is no master list, but department heads hear about them while networking amongst peers and attending conferences.

Ms. Galardi asked the city manager about staff turnover and positions being held open. Mr. Danicic replied there has been a decline by 10 Full-Time Equivalent (FTE) over all funds and they are managing the vacancies and continuing with staff reductions. Ms. Galardi stated personnel costs drivers are significant and this helps in terms of coverage and the significant under-spending for staffing costs most likely helped the debt service coverage from going under one.

Ms. Keyser asked about there being more connections and not more usage. Ms. Galardi explained they are just beginning their detailed analysis, but since shut-offs have increased there are additional reconnection fees.

Mr. Gougler added it was an indication of the economic problems and utilities being shut-off for non-payment and turned back on again.

VII. NEW BUSINESS

Move Rate Implementation date to January of each year?

Mr. Danicic presented the staff report and discussed the timing of the increase delay. The rate increase being in July coincides with peak usage of water so there is an increase as well as the higher use which may cause "sticker shock". In January the rate increase hits during winter use and gradually increases towards summer when the bills go up as anticipated. He said they are moving towards this as an effort towards customer service.

Chair Rourke added this needs to be decided now because of the six month gap.

Mr. Gougler said this does make sense and asked if there was any advantage to staff in terms of calculating rates and preparing for budget. Ms. Nordyke said they just have to realize expense estimates for a little longer, but the inconvenience will offset the damage to rate payers. Mr. Gougler could think of no reason not to do it.

Mr. Danicic added that when looking at a five year, long term plan, the delay of six months made no difference.

Chair Rourke said they could discuss how to manage the transition year and asked if the software could handle this; staff stated it was not an issue.

Motion #3: Gougler/Amundson to move the rate implementation date to January of each year from July.
(4 Yes/0 No/2 Absent [Maben, Zickefoose]) Motion carried.

Ms. Keyser asked what they were to do with the ideas given by Mr. Soppe. Ms. Galardi said they can have this discussion of rate design and objectives at the next meeting; she said there are other options but there are assumptions being made about water being more expensive to deliver in the summer and that is something they can talk through and share what other communities do.

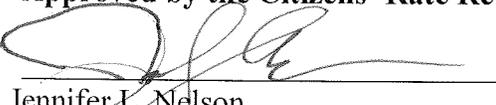
Chair Rourke agreed his comments should be taken into consideration and had some questions up front about the legality of discounting SDCs for some and not others and varying rates based on seasons.

Mr. Gougler added Ms. Galardi did go through the different methods of billing and compared their advantages and disadvantages in discussions several months ago; he suggested going back and looking through those minutes and there were reasons they chose not to do it that way; but, there are advantages to invite Mr. Soppe back to discuss these issues again.

VIII. ADJOURNMENT

The meeting adjourned at 9:03 PM.

Approved by the Citizens' Rate Review Committee on this 5th day of October 2011.


Jennifer L. Nelson
Minutes Recorder


Tony Rourke
Citizens' Rate Review Committee Chair

CITY OF NEWBERG
CITIZENS' RATE REVIEW COMMITTEE MINUTES
WEDNESDAY, OCTOBER 5, 2011
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

I. CALL MEETING TO ORDER

Chair Tony Rourke called the meeting to order at 7:00 P.M. He noted there was a handout distributed which replaces pages 17/18 in the agenda packet and that City Manager Dan Danicic would be replacing the Public Works staff representative on the committee. An updated membership list was distributed to the committee.

II. ROLL CALL

Members

Present:	Tony Rourke, Chair	Ernie Amundson, Jr.	Mike Gougler
	Charles Zickefoose	Mayor Bob Andrews, Ex-Officio	

Members

Absent:	Beth Keyser (unexcused)	David Maben (unexcused)
---------	-------------------------	-------------------------

Staff

Present:	Daniel Danicic, City Manager	Janelle Nordyke, Finance Director
	Jennifer Nelson, Minutes Recorder	

Others

Present:	Deb Galardi, Consultant
----------	-------------------------

III. PUBLIC COMMENTS

None.

IV. CONSENT CALENDAR

Approval of September 14, 2011 minutes (Pages 3-9)

MOTION #1: Gougler/Zickefoose approving the Citizens' Rate Review Committee minutes from September 14, 2011, as written. (4 Yes/0 No/2 Absent [Keyser, Maben]) Motion carried.

V. CONTINUED BUSINESS

1. Conflict of Interest Questions

Chair Rourke read an email from the city attorney regarding conflicts of interest and submitted it into the written record (please see official meeting packet for full report).

Mayor Bob Andrews commented the letter discussed will only be prepared with his signature if needed. Copies of the city attorney's email will be distributed for the members to read and consider. Chair Rourke added nothing needed to be declared this evening as there were no decisions to be made. Discussion will continue at the next meeting.

2. Robert Soppe's Letter from 9/14/11 Meeting (Pages 11-12)

A. SDCs (Question #1)

Ms. Deb Galardi, Consultant, addressed citizen Robert Soppe's questions relating to Oregon State Law regarding the legality of discounts for System Development Charges (SDCs) given to some applicants and not others. She stated this is not legal, nor is it the City's practice. Lost revenue from giving discounts cannot be made up by increasing SDCs to other applicants but if needed must come from another funding source. She added the Council's direction to this committee to take action on SDCs does fall within the City's Charter.

Mr. Danicic clarified Council is not providing direction to staff or this body to take action on SDCs at this time; it was just a question raised by Mr. Soppe and now posed to this body to see if there is a desire to take up an analysis of SDCs and the legality of what the City has done. If the committee wishes to complete a review, then a motion for action would be needed.

Mr. Ernie Amundson asked who makes the decision to grant discounts or not. Mr. Danicic replied that previously a developer asked for relief and criteria was crafted for all other developers who wished to take advantage of a reduced SDC. No one else came forward at that time. Mr. Amundson continued by asking if revenue lowers because of discounts, will all citizens have to pay for the shortage on their water bill. Mr. Danicic replied the SDCs will not affect the water rates and added the base SDC did not change in the discount given to the developer, so no developer is paying more because of that today; but, this will come into play when discussing SDCs.

B. Springs Customer Class (Question #2)

Chair Rourke suggested keeping a separate class and not tampering with this; the Springs Customer Class is part of the Citizens' Rate Review Committee's (CRRC) review of classes. If the CRRC decides to do something different for that class or another that could happen at some point when recommendations are being made.

C. "Snowbirds" (Question #3)

Mrs. Nordyke explained that for those houses that have no water consumption during the winter months, because of "snowbirds" leaving during the time that the winter average is figured for sewer, the City gives them a standard winter average based on the number of people in the household. This standard winter average is a charge for sewer that will be used for the rest of the year. She noted that some "snowbirds" disconnect their water so they have no utility charges while they are gone, and then when they come back north, they pay the connect fee.

Mr. Amundson asked if wastewater rates are ever tied directly to the water usage per month, so if a customer uses ten times more than another customer then they have ten times more water going down the pipes into the wastewater system too. Mr. Danicic said winter rates are averaged system wide to establish a minimum; they would be chasing pennies to identify the group of people Mr. Amundson is referring to.

Mayor Andrews asked how much water is included in the minimum rate. Staff replied 300 cubic feet per person in the household, so for two people the winter average is 600 cubic feet. This same rate is applied in the spring, summer, and fall regardless of the amount of water used.

VI. NEW BUSINESS

1. Rate Structure Options and Considerations (Soppe's letter, Question #4)

Ms. Galardi presented the staff report with use of a PowerPoint and referred to the Environmental & Water Resources Institute (EWRI) article regarding fixed vs. volume charges for cost recovery. She stated there were policy questions needing to be addressed tonight, such as the fairness to classes and the appropriate way to recover costs from all customer classes, or base it on a seasonal rate structure. She said we have to build a water system to meet capacity around the clock, not just for peak demand but also during the potential for fire. Debt service is a big component and costs are pretty fixed. There are not more costs in the summer to meet the peaks but must be paid for year round. There are issues with conservation because anytime a customer uses less water it puts water revenue stability at risk (see official meeting packet for full report).

Mayor Andrews asked if the needs for fire protection were different for residential structures vs. commercial or industrial. Ms. Galardi said there is a difference in the rate of flow and nonresidential zones are greater, so the cost of fire flow capacity is related to the number of customers, hydrants, and type of land use in the area.

Mr. Amundson asked if this was paid for when the property is developed. Ms. Galardi replied this is in reference to the cost to the public system for piping infrastructure and reservoir pressures and some are paid by this but a lot are paid for by rates, particularly with volume charges. She continued with slide six of the PowerPoint presentation reviewing the current rate structure and the water cost allocation process.

Mr. Mike Gougler spoke of other cities ratio of volume charges vs. fixed charges and compared them to Newberg's 91% volume charges to 8% fixed service charge and 1% fixed meter charge. Newberg's rate structure is about 90/10 for percentage ratio of volume to fixed charges vs. other cities at 70/30 or 50/50.

Ms. Galardi replied if the committee wanted to see other options for percentages of volume vs. fixed charges she would need some time to work through those and illustrate the different rate structures. She continued with her report giving explanations of the different types of rate structures (such as Inclining Block Rate, Seasonal Rate, and Seasonal/Excess Use Rate Structures) vs. the Uniform Rate Structure currently used by the City, giving potential benefits and downfalls of each (see official meeting packet for full report).

Mr. Amundson asked for further explanation of the differences between the Seasonal Rate Structure and the Seasonal/Excess Use Rate Structure. Mr. Chuck Zickefoose wondered about the challenges for billing in the Seasonal/Excess Use Structure. Ms. Galardi gave further explanation while Mrs. Nordyke noted the administrative needs for this structure would be feasible; however, programming would be required and higher costs would be involved to restructure for this type.

Mr. Danicic added if changes are being made to the methodology, then they would need to go back to the billing system vendor to get that accomplished. It is not impossible, but there would be expenses to make the change and it would take time to do the programming, run reports and make projections for how much use will fall into the penalty rate. Efforts to explain and defend these changes to the public would also need to be taken into consideration as an added cost.

Discussions continued about the various differences between the four rate structures, the difference between potable water and reuse water, and the effects of either on the wastewater system. Staff clarified no potable water is used to augment the wastewater treatment process.

Mr. Gougler spoke of concerns for moving towards a more individual based volume charge and felt whatever was decided would be a very political decision. He said it makes more sense to move towards using more fixed charges to recover costs to operate the facilities than to depend on volume and usage; but, either way they need to go back to the community to justify the change. He asked what kind of decision the committee is being asked to make tonight. Chair Rourke said they are deciding on how they want the consultant to present their ideas to the committee.

Mr. Amundson stated he liked the Seasonal/Excess Use Rate Structure, even though staff is saying it would be expensive, because the costs are being paid by those who are using more. Mr. Gougler wondered if the implementation and maintenance would be worth moving to this or a stepped rate per class.

Chair Rourke said he was not sure if he viewed this as a political decision since they are only making recommendations on rates to recover money not being made because of conservation or low water use. He felt moving away from the 90/10 ratio of volume charges to fixed charges to reduce the reliance on a variable will help stabilize the revenue and reduce the need to raise rates to mitigate the conversation.

Mr. Gougler spoke of conservation being more cost prohibitive than wasting water, but said we cannot encourage both conservation and usage of water. He also discussed the idea of individual rates based on usage or the number of individuals in the homes, which could cause ten thousand different rate structures to monitor. This would also change as households change; although, he agreed that a structure based on more individual usage may be more acceptable for citizens to feel the big users are the ones paying the costs for that use.

Discussions followed about moving from the 90/10 rate structure to a 70/30 or 50/50 so cost recovery is not affected as much from conservation. Ms. Galardi agreed moving in this direction will help to achieve more stability in revenue, but strongly encouraged to not move from a uniform volume structure to a conservation oriented one without first establishing some sort of reserve.

Mr. Danicic stated any shift will have costs to all customer classes and “winners and losers” will be created. He asked if the committee desired to spend more time looking at alternatives to suggest to Council because changes in the rate methodology would have to be considered by resolution; but, he also suggested proceeding with the current adopted methodology because changing the structure is a much bigger project with public involvement required. Chair Rourke recommended looking at the current way plus one other to show what could be done.

Mr. Gougler said we are not addressing the rate structure questions when determining water rates and suggested they make recommendations to Council based on the 90/10 rates and proceed with how to recover peak related costs. Ms. Galardi clarified the variable is in the cost allocation not in the rate structure and said it is not hard to look at the cost recovery of say a 70/30 structure within the current framework because they would just allocate more to the costs that are fixed. Any change like this would have to be determined by resolution if moving away from the uniform rate structure.

Mr. Amundson asked if the only reason they were reviewing this was because of questions posed by Mr. Soppe and if the current rate structure is sufficient. Staff replied the rate structure has worked, but Mr. Soppe was concerned the current structure was not equitable, which is why they were looking at the different kinds for comparison.

Mr. Gougler continued if we have a pure volume approach we will not be prepared to address or be proactive in respect to the other rate methodologies and will be subject to variables that we have no control over; which is the reason for considering the rate policy structure question. The committee needs to be prepared to make a

couple of recommendations for Council to approve a rate methodology change so a higher portion of water rates go to fixed costs.

Chair Rourke agreed they would need to recommend to Council if we want to entertain rate structure changes, but cost allocation is within their realm today. Mr. Danicic asked if the committee feels there is an inequity in the current methodology and if the City ought to look at reassessing this and get it to Council during a work session.

Mr. Amundson asked how many years this methodology has been used and how many others have questioned this. Staff replied it has been about ten to twelve years and Chair Rourke said they usually get one person a year who questions it. Mr. Gougler added the CRRC questioned this at length last year in deliberations because of the concern for increasing rates and major capital expenses for the wastewater treatment plant expansion.

Chair Rourke expressed concern about switching more than one thing in a rate cycle as being too much and suggested working under the uniform rate structure while shifting from the 90/10 towards the 70/30 or the 50/50. He also said even this switch would take a lot of education. He asked if the consultant could provide this information. Ms. Galardi said it would take some time, but it is not hard to do. Mr. Gougler agreed but foresees problems if the proposed water rates are not sufficient to meet the debt obligations today then they will be worse next year.

Mr. Chuck Zickefoose spoke of the process they did last year and thought they were ahead of themselves now and would want to see what is presented.

MOTION: Gougler/ to proceed with the consideration of water rate structures and request a worksheet on the consequences of those rates being based on either uniform volume or a step rate structure or other methodology to determine rates and present it to City Council. Motion withdrawn by the maker.

Mr. Danicic was concerned about going through the process for all the other methods being a bigger task than a few pages and suggested the committee accept the current rate methodology with shifting the fixed costs and then look at others if desired after seeking a concurring interest from Council to do this.

MOTION: Gougler/Zickefoose to direct staff and consultants to look at methods to increase the allocation of the fixed costs portion of the water bill over what it currently is now. (4 Yes/0 No/2 Absent [Keyser, Maben]) Motion carried.

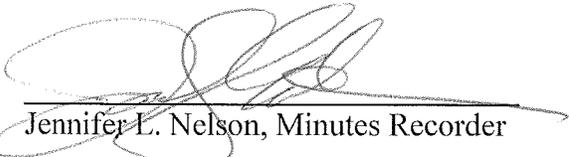
2. Water Rates Presentation (Pages 13-23)

This discussion will continue at the next meeting on October 18, 2011.

VII. ADJOURNMENT

The meeting adjourned at 9:01 PM.

Approved by the Citizens' Rate Review Committee on this 9th day of November 2011.


Jennifer L. Nelson, Minutes Recorder


Tony Rourke, Citizens' Rate Review Committee Chair

CITY OF NEWBERG
CITIZENS' RATE REVIEW COMMITTEE MINUTES
TUESDAY, OCTOBER 18, 2011
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

I. CALL MEETING TO ORDER

Chair Tony Rourke called the meeting to order at 7:00 P.M. He noted David Maben has resigned from the Committee as of October 17, 2011.

II. ROLL CALL

Members

Present:	Tony Rourke, Chair	Mike Gougler
	Charles Zickefoose	Mayor Bob Andrews, Ex-Officio

Members

Absent:	Beth Keyser (excused)	Ernie Amundson (excused)
---------	-----------------------	--------------------------

Staff

Present:	Janelle Nordyke, Finance Director	DawnKaren Bevill, Minutes Recorder
----------	-----------------------------------	------------------------------------

Others

Present:	Deb Galardi, Consultant
----------	-------------------------

III. PUBLIC COMMENTS

None.

IV. CONSENT CALENDAR

Approval of October 5, 2011 minutes (Pages 2-6)

Due to the (perceived) lack of a quorum, no vote was taken. *(It has since been noted that a quorum was in-fact present.)*

V. CONTINUED BUSINESS

1. Conflict of Interest Answers (Pages 7-8)

The memorandum from the City Attorney was reviewed (see official meeting packet for full report). Chair Tony Rourke stated Mr. Mike Gougler would appreciate a brief letter from Mayor Bob Andrews in the front portion of the Committee's binders for reference purposes.

2. Water Rates – Financial Plan

Ms. Deb Galardi presented the staff report with use of a PowerPoint (see official meeting packet for full PowerPoint Presentation). She reviewed the various assumptions and historical trends, the revised Capital Improvement Plan, customer growth, water consumption and what that means for preliminary rate increases

overall, the rate structure regarding the possible change of the fixed and variable costs recovery, and the impact of various scenarios on rates and bills for various users.

The City has implemented a new health plan which has saved \$130,000.00 in the general fund and is the reason why the City is starting with a lower base. The primary increase in the budget does not come from personnel costs which declined slightly, but is from materials, services, and capital outlay categories. Those are difficult to budget and can fluctuate from year to year. Overall, costs have increased approximately 5.2% which is down from prior averages. The budget has been adjusted down based on current allocation of staff and estimated spending in 2011/12. Ms. Galardi stated the spring system is part of the water system and a separate analysis is being done which may cause some changes to the O&M budget.

The Capital Improvement Plan (CIP) has been revised showing the North Valley Road Reservoir delayed a year and the Springbrook projects were reduced to essential phases only. Ms. Galardi stated the City has tried not to assume any new debt over the past few cycles particularly for water, but is already having difficulty meeting the debt covenant which is the reason for the reduction in the CIP.

Deb referred to page 5 of the PowerPoint Presentation and explained, when figuring the amount the City is expected to spend, given the budget numbers, history has been approximately 93% of budget. This year we refigured some budget numbers, but expect to spend 98% of the budget. Looking at page 6 of the presentation, the projected average annual increase is 4.8%, which is lower than what has been experienced historically.

When it comes to looking the Preliminary 5-year CIP, (see page 7 of the presentation) maintaining cash funding is the goal. The SDCs will contribute some although when development is slow they cannot pay their full share. Customer growth still continues but has dropped off significantly. The last 2 years averaged 0.7% per year. The projected growth in the previous financial plan assumed 1% growth while the current plan is 0.5%. Water consumption analysis from 2005/06 through 2010/11 shows there is variability - in part due to weather and part to the economy. The actual/estimated change for 2010/11 is -2%, see page 10 of the presentation. The water consumption comparison shows the difference as 14%, see page 11 of the presentation. The preliminary projection for water consumption shows a continued significant decline, see page 12 of the presentation. Usage was down 6% on the whole. Eroding water sales has a direct impact on revenues. The primary problem is the water utility has not met the debt covenant requirements for the last 2 years and is not projected to meet covenants in the current year. The current interpretation of debt requirements is more conservative than prior because SDC revenue is no longer included, see page 13 of the presentation.

Ms. Galardi stated the City had intended to delay the rate increase to January 2013 but with the debt covenant problem that will be difficult to do. Although the increase would be half-way through the fiscal year, that is approximately 65% of the water sales leaving a rate increase effective for only 35% of the consumption.

Mayor Andrews asked why the increase in personnel service from 2009/10 to 2010/11. Mrs. Janelle Nordyke replied the cost of living was 2.5% in 2010/11 and zero in 2011/12.

Chair Rourke asked if the escalations are used to forecast out the full 5 years and not just next year's budget. Ms. Galardi replied that is correct. First of all, the categories are escalated out and then she takes 98% of that, which is a cut-back of 2%. Chair Rourke asked Mrs. Nordyke to explain central services. She explained it is departments that service the entire City such as the City Manager, Finance, IT, Legal and Human Resource Departments and allocations based on a variety of different parameters.

Mayor Andrews asked if the sixty-day contingency is reasonable. Mrs. Nordyke replied the sixty-day contingency is a minimum of what the City needs to have in the contingency fund. Mayor Andrews asked if that is a critical level. Mrs. Nordyke replied that it is a comfortable level.

Mr. Chuck Zickefoose asked if moving the George Fox University football program to the campus site will make any difference to the capital expenditures. Mrs. Nordyke replied she does not believe so because the utilities in Villa Road and Crestview Drive have already been constructed.

Mayor Andrews asked if capital outlay is previous repair and maintenance versus capital improvement. Ms. Galardi replied yes, they are two different things.

Mr. Zickefoose asked if the adjustments for inflation are an escalation over each year. Ms. Galardi replied yes, the numbers in the table are in today's dollars compounded 3.5%.

Mayor Andrews asked if Ms. Galardi is projecting a 0.5% customer growth and 0.5% water consumption. Ms. Galardi replied yes. The additional 6% reduction in 2010/11, she believes, is weather related.

Ms. Galardi reviewed the preliminary rate increases and discussion followed regarding a July 2012 increase of 10% and a January 2014 increase of 10%.

Mayor Andrews asked if it is recommended to increase rates 10% in July 2012 and if so, for how long? Ms. Galardi replied yes, that is the recommendation and it would last until January 2014; a total of 18 months.

A certain amount of money will be needed in 2013. How and when the money is raised determines how much money the City will receive. 27% is needed to meet debt covenants in 2013. Chair Rourke stated that a rate increase in January of 27% is unreasonable.

Mr. Gougler stated the difficulty is that we are assuming consumption will follow the same path as forecasted. When there is an increase in general economic development, it will take time before the City revenue is reflected by that increase. The City will still not be able to meet the debt covenants for several reasons.

Mr. Gougler reminded the Committee of the discussion that took place at the last meeting regarding the 90/10 ratio which means 10% of the costs are fixed and 90% is based on usage. As long as that percentage stands, the City will have to review the rates each year. Mr. Gougler wondered if we should educate consumers on a fixed rate increase every other year with no relief until there is sufficient revenue. Chair Rourke agreed with the 90/10 split topic. The question is will consumption go down with a 5-6% rate increase?

Ms. Galardi explained the water cost allocation process and reviewed the water consumption graph, page 10 of the presentation.

Chair Rourke asked how the customer bills will be affected and if it would be better to switch rate structures in a high volume month like July. Ms. Galardi replied yes, if they have increased usage.

Chair Rourke asked if there is any correlation to low income and water consumption. Mr. Gougler stated the older the structure, the less likely there will be flow control. The low user is likely to be in a newer unit with a smaller home with no yard to water. The low income neighborhoods have the most water loss due to infrastructure problems. As we put more on the fixed and less on the volume, what is the easiest to sell to the public with respect to rate increases? It is complex enough and difficult to educate the public through the newspaper but there is a likelihood that residents of the City generally would prefer to have some

dependability with respect to water rates rather than worrying about annual increases. The public needs to understand that a change to their base meter rate would reduce the likelihood of many annual increases. Ms. Galardi stated there have been communities that have had success in this type of shift, focusing on education and the need for stability. Increasing a small amount per month is a revenue stability charge, taking the focus off the percentages, and will benefit everyone.

Mr. Gougler stated the goal is to meet debt covenants. The cost of water could go down for some people and establishing a schedule based on the City's obligations may be more acceptable than the desperate search for funds based on volume charges. Chair Rourke likes adding the fixed charges on a scale and the ease of explaining it to the public and getting the City on a projectable percent over time.

Mr. Zickefoose asked if the model could give an estimated sample bill by customer classes for both the 90/10 and 80/20 coverage. Ms. Galardi replied those sample bills are included in the packet and they are based on consumption decreasing 6% in 2011/12 and then staying flat.

Mayor Andrews stated the questions that need to be resolved are in regards to the issue of debt service, the expectancy of rate increases, and the fixed charges versus volume. There should be a way to get feedback from the users as to what they would support. Polling could probably take place by way of the utility bill.

Mr. Gougler summarized by stating the general population would appreciate more certainty in their water rates. They need to understand the concept on the volume versus fixed rate increases and understand that by changing to a more fixed based increase that their overall water rate increases will be more dependable. Then we will need to forecast the fixed rate increases so they will eventually cover the obligations.

Chair Rourke stated he would like to discuss the numbers from other local communities at the next meeting as well as the 1% increase to reserves that was added in during the last cycle with a potential increase to 2%.

Ms. Galardi asked if the Committee would like to see any other scenarios or additional numbers. Chair Rourke asked her to add a column of projected increase to fixed costs and reduced volume charges.

The water rates discussion will continue at the next meeting on November 9, 2011.

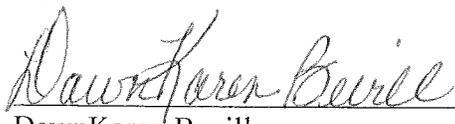
VI. NEW BUSINESS

None.

VII. ADJOURNMENT

The meeting adjourned at 9:05 PM.

Approved by the Citizens' Rate Review Committee on this 9th day of November 2011.



DawnKaren Beville
Minutes Recorder



Tony Rourke
Citizens' Rate Review Committee Chair

CITY OF NEWBERG
CITIZENS' RATE REVIEW COMMITTEE MINUTES
WEDNESDAY, NOVEMBER 9, 2011
7:00 P.M. MEETING

PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

I. CALL MEETING TO ORDER

Chair Tony Rourke called the meeting to order at 7:00 P.M. Chair Rourke stated Norma Alley, City Recorder had researched information regarding committee quorums and it was determined a quorum is the majority of the actual serving members, not to include the vacant positions. If there are five filled positions, three members would make a quorum.

Chair Rourke also reviewed the revised meeting schedule, noting that the January 17 meeting has been rescheduled for January 18 and will be held at City Hall versus the Public Safety Building.

II. ROLL CALL

Members

Present: Tony Rourke, Chair Ernie Amundson, Jr. Beth Keyser
Charles Zickefoose Mayor Bob Andrews, Ex-Officio

Members

Absent: Mike Gougler (excused)

Staff

Present: Dan Danicic, City Manager Janelle Nordyke, Finance Director
DawnKaren Bevill, Minutes Recorder

Others

Present: Deb Galardi, Consultant

III. PUBLIC COMMENTS

Mr. Hank Grum referred to page 2 of the October 5, 2011 minutes of the Citizens' Rate Review Committee (CRRC). He wanted clarification regarding Mr. Ernie Amundson's question, and Mr. Dan Danicic's reply, as to whether wastewater rates are ever tied directly to the water usage per month. Mr. Grum interpreted that response to mean no matter how much he may conserve, if his usage falls below the established average minimum, he will still be charged the minimum, which he objects to. It was explained that every resident's sewer bill is based on their own individual average winter water use. The minutes that Mr. Grum is questioning were only referring to the 'snowbirds' that have no winter water use at all. In those cases the system wide average is used to determine those sewer bills only.

IV. CONSENT CALENDAR

Approval of October 5, 2011 and October 18, 2011 minutes (Pages 2-10)

<p>MOTION #1: Zickefoose/Amundson approved the Citizens' Rate Review Committee minutes from October 5, 2011 and October 18, 2011, as written. Motion carried. (4 Yes/0 No/1 Absent [Gougler]).</p>

V. CONTINUED BUSINESS

Water Rates Discussion (Pages 11-16)

Ms. Deb Galardi presented the staff report with the use of a PowerPoint (see official meeting packet for full report). She reviewed the debt service coverage, water revenue increase options and the preliminary rates and bills scenarios. Ms. Galardi explained how net revenues divided by debt service must equal debt service coverage along with a cushion of 10%, so that in the event of unexpected and unbudgeted expenses, there would still be money available to cover debt service. The projected debt service coverage (existing rates) for 2011/12 is 0.9%. Ms. Galardi stated the City has done an excellent job managing O&M costs and no additional debt service is projected. Additional revenue is still required, however, to meet current debt service coverage. The net revenue must be increased through water sales and/or a decrease in O&M. Additional reductions in water use could further reduce projected coverage. Scenarios (A/B/C) are based on revenue increase options and on billing charges staying about the same; the volume rate changes in the first year reflecting updated class peaking factors and the fixed charge increases to achieve targeted revenue for coverage. Rates have been developed for all three scenarios in order to meet the debt service requirement. Ms. Galardi noted that the regional rate comparison shows a range for a ¾" meter of \$4.50-\$18.04 per month (with most over \$10). Newberg's fixed charges are significantly lower. The issue is not that the City of Newberg citizens are paying less but other communities recover more of their revenue from the fixed charge than from the volume charge. Many other communities are increasing rates due to capital investments or issues to debt service.

Mayor Bob Andrews asked for clarification on how additional revenue is generated. Ms. Galardi replied connection and disconnection fees, interest income, and penalties.

Mr. Amundson asked how revenue is determined for the future. Ms. Galardi replied projections are based on the best information available. The fund balance varies from year to year. No additional grant monies are projected for the future due to unavailability.

Chair Rourke asked why the O&M costs would be going up \$200,000.00 per year. Ms. Galardi explained one factor is health benefits/insurance costs. These continue to rise and generally are in the 3%-6% annual escalation range.

Mayor Andrews asked Ms. Galardi if her analysis indicates the City needs additional revenue of \$568,236.00 in order to meet the 1.1 debt coverage. Ms. Galardi stated that was correct.

Mr. Amundson asked if additional costs could be cut from O&M instead of raising rates. Mr. Danicic replied it is ultimately the Budget Committee and the City Council who sets the budget but the CRRC can make recommendations. In order to cut approximately \$570,000.00 from O&M, staff would need to be reduced 37%; ultimately eliminating one entire division. Services would need to be seriously reduced.

Ms. Beth Keyser asked if the CRRC has the power to reduce the O&M. Mr. Danicic stated the CRRC can look at what needs to be done and make a recommendation to the City Council who would then consider what that would mean in regards to services. Ms. Keyser would like to see the City cut expenses without a rate increase. Chair Rourke stated a formal request can be sent to the Budget Committee recommending they take that under consideration.

Chair Rourke stated if the CRRC chose not to increase rates; the City would need to cut \$400,000.00 from O&M or sell \$400,000.00 more in revenue than projected.

Mr. Zickefoose stated the City has made good management decisions in reductions already. Further reductions will need to be carefully considered in order to keep the City from significant loss to services.

Ms. Keyser asked if the State of Oregon would recognize a reduction in expenses as a plan in meeting the debt coverage. Ms. Galardi replied yes, as long as the target is met, the State does not care if it comes from reductions or revenue.

Mayor Andrews asked if the City does reduce O&M and at the same time reduces revenues, what is there to gain. Ms. Galardi replied projected rates could continue to go down anyway at existing rates and with conservation. If there is no flexibility in the O&M and there are no reserves in place, that is a risk.

Mr. Amundson asked if there is a document explaining that the 1.1 debt coverage is needed. Mrs. Nordyke stated whenever the City borrows money from Oregon Economic Development; debt coverage at 1.1 or greater is needed and is required by the documentation. Mr. Danicic stated all of the documentation is included in the approved budget and can be given to the committee to review. Mr. Amundson was satisfied with the explanation given by staff and does not require viewing the documentation.

Ms. Keyser asked if there is any way to generate revenue on water other than through the City customers. Mr. Danicic stated yes, but the question is can the City sell enough at a high enough price. There have been discussions with the City of Dundee to provide them water but it is too expensive to make the connections. Excess capacity to Oregon Rain regarding springs is a possibility, but selling at 10 cents a gallon would only raise \$50,000.00. The other option would be to entice an industry that would buy the water. Ms. Keyser stated it would be a good thing to pursue.

Chair Rourke stated the economic downturn killed growth in Newberg and it could not be predicted. Mr. Danicic stated projecting the need resulted in the debt. The top ten users were asked to cut back water usage in the year 2000. The decision at the time was a good one to increase the infrastructure.

Mr. Amundson would like to see a 50/50 split. The City of Newberg cannot continue to raise rates. Mr. Danicic stated staff can show the committee what happens to the O&M as reductions are made and demonstrate what happens to the level of service and liability on the system.

Ms. Keyser asked if there is a way to keep current staff while reducing the expense to maintain that staff. Mr. Danicic replied the concept of privatization does not solve the problem. The City will pay less in wages but without additional revenue we will not have enough for projects and service levels will suffer. Chair Rourke stated cuts have already been made to O&M. Ms. Keyser asked if the City has maxed out regarding reductions. Mr. Danicic replied there are other cuts that can be done but there are risks as well. Regarding privatization, staff is needed to manage the contractors; we would need to have at least three-to-four contractors on call, and would pay a premium for night-time or holiday work which can present some logistical questions.

Mr. Danicic stated the question before the committee is whether they want to see a shift regarding fixed rates, regardless as to whether or not it increases the rates. Does the committee want to change the rate structure methodology to recover more with fixed rates? Once that has been decided, we will look at how to change the numbers that feed into the costs to mitigate the rate increase.

Ms. Keyser's understanding is that increasing the rate on consumption would not increase revenue. Chair Rourke stated that is correct; people are conserving and if you increase the volume charge and people decide

to stop using the water, to a certain degree - it mitigates the increase. Ms. Keyser asked if the City would be taking away the citizens' control in terms of using less water and paying less if the fixed rate is increased. Chair Rourke replied no because any scenario only gets the City to 17% fixed, leaving 83% in the citizens' control. In the scenarios presented, any increase goes to the fixed portion and the percentage of volume goes down, giving a better predictability to City staff.

Chair Rourke stated the CRRC needs a conceptual agreement on how to apply any increase or decrease. Personally he believes it should be changed to have the fixed side of the equation increased and drop the volume charge in certain categories as presented. The CRRC has been presented with different scenarios dealing with fixed versus volume costs at the ratios of: 91/9, 80/20, 70/30, and 60/40.

Mr. Danicic asked Ms. Galardi if the committee chooses a balanced budget with a zero increase in rates, can the methodology be adjusted with more going toward the fixed side. Ms. Galardi replied yes. Mr. Danicic stated the first question is should the methodology migrate toward a larger percentage of fixed cost within the overall budget, whether or not the fixed amount will be increased even greater. Ms. Galardi stated it would be helpful to know if there is support to increasing the fixed costs and what that percent should be.

Comments:

Mr. Blair Didway, a potential CRRC member, is a landscape architect who has lived in Newberg for six years. He has listened to the different rate structures presented for generating revenue to cover the debt. He feels like there is another option for the committee to consider. Perhaps something similar to what other utility companies do, which is charge a base fixed rate regardless of use. For example, a base charge would be assessed for a certain amount of water. If the customer uses less, they still pay the same. Mr. Didway explained that there may be other factors to consider with this option that he may be unaware of as this process is all new to him.

Mr. Danicic will analyze reduction in the budget to achieve the needed revenue with no rate increase and will bring that analysis to the November 30, 2011 meeting. The committee will then make a decision on the fixed rate based on that information.

VI. NEW BUSINESS:

On December 5, 2011, the City Council will appoint applicants to fill the two vacant CRRC positions and the two positions with terms scheduled to expire on December 31, 2011.

VII. ADJOURNMENT

The meeting adjourned at 9:10 P.M.

Approved by the Citizens' Rate Review Committee on this 30th day of November 2011.



DawnKaren Bevill
Minutes Recorder



Tony Rourke
Citizens' Rate Review Committee Chair

CITY OF NEWBERG
CITIZENS' RATE REVIEW COMMITTEE MINUTES
WEDNESDAY, NOVEMBER 30, 2011
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

I. CALL MEETING TO ORDER

Chair Tony Rourke called the meeting to order at 7:00 PM.

II. ROLL CALL

Members

Present:	Tony Rourke, Chair	Ernie Amundson, Jr.	Mike Gougler
	Charles Zickefoose	Mayor Bob Andrews, Ex-Officio	Beth Keyser

Staff

Present:	Dan Danicic, City Manager	Janelle Nordyke, Finance Director
	DawnKaren Bevill, Minutes Recorder	

Others

Present: Deb Galardi, Consultant

III. PUBLIC COMMENTS

Mr. Hank Grum distributed an email (see official packet for full report) that he had previously sent to the City Council, dated November 22, 2011. At the November 9, 2011 Citizens' Rate Review Committee meeting there was mention of certain mandates requiring upgrades of the wastewater treatment plant. Mr. Grum has not seen enough questioning of the assumptions that the City of Newberg must adhere to the upgrades that are mandated. He referred to the last page of the handout stating he sees recycled water as an issue needing transparency. Closer inspection of the loan application, which was the point source document that was discussed at the last Budget Committee meeting, and the \$55 million loan application from the State of Oregon concerning the loan application, reveals the "need" to maintain Willamette River temperature at an optimum of 20 degrees centigrade for fish as a motivator to establish an expanded irrigation program. He is not convinced that this issue has been investigated adequately.

Mr. Grum asked the committee to also take a closer look at the pension costs for city employees. He believes that they are being paid much more on the average than employees in other private sector agencies.

IV. CONSENT CALENDAR

Approval of November 9, 2011 minutes (Pages 2-5)

<p>MOTION #1: Zickefoose/Amundson approved the Citizens' Rate Review Committee minutes from November 9, 2011, as written. Motion carried. (5 Yes/0 No/0 Absent).</p>

V. CONTINUED BUSINESS

Conclude Water Rates Discussion

1. O&M Reductions

Mr. Dan Danicic began by addressing the question brought forward by Mr. Ernie Amundson at the last meeting. Mr. Amundson questioned whether 70% of the budget allocated to staff costs is reasonable. Mr. Danicic did some research and found that although there is no one source to show what the labor percentage should be, he did find a report on www.constructionbusinessowner.com that stated, depending on the benefit package involved, employee related costs will typically account for 24%-33% for non-union contractors and 60%-70% for union contractors. Mr. Danicic found another reference, not related to construction but rather on the food and beverage industry, which ranged from 40%-75% of sales. An analysis was done comparing the relative size of labor costs at UPS, Fed-Ex, and the U.S. Postal Service in comparing a government agency to the two other entities. The report showed the percentages of salaries at 82% for UPS, 71% for Fed-Ex and 89% for the U.S. Postal Service.

There was also a report from Pennsylvania which looked at alternatives for toll roads. It looked at the labor content comparison of two different plans. Based on a report citing data from the Construction Estimator Handbook, the labor percentage of the project costs ranged from a low of 25% if looking at sub-grade and paving work to a high of 85% for the removal of infrastructure and improvements. Utilities were at 65%. These show 70% is comparable. The reason for the 70% is because the City does smaller projects overall and although many projects have a small amount of materials; it takes more than one employee to do the job. All staff time is tracked as well as equipment and material usage on a project basis. A recent project was a 300 foot waterline with a total cost of \$48,000.00 of which \$10,000.00 of that was strictly the labor cost which came out to 22% of the total project. When budgeting staff time; you need to account for sick time, holiday time, training time, and meeting time which typically is 20% of an employee's time. Including this time into the labor costs for the waterline project, calculates to 66% of construction costs which shows 70% as reasonable.

Mr. Amundson was referring to the overall budget in labor and what the employees are doing when they are not working on a specific project. That is why he believes using contractors would be helpful. Mr. Danicic said contractors will charge for labor and equipment, which the City does not budget or pay for, as well as for the materials plus profit on top of that. Mr. Danicic questions whether privatization would effectively save money. Mr. Amundson answered that when the contractor has completed a job the City would stop paying for benefits for that contractor. Mr. Danicic stated the public works crew moves from one project to another. They are doing all the same things that contractors do. Mr. Danicic does not believe the 70% labor costs are inappropriate.

Mr. Danicic stated the debt coverage can be achieved by either increasing revenue or by reducing costs. He referred to the O&M handout (see official packet) and reviewed the proposed reductions totaling \$584,164.00. This would allow us to meet the debt covenant with no rate increase. Mr. Danicic does not feel it appropriate for the CRRC to vote on and set a water rate at this meeting due to the need to see the effect to all three funds; water, wastewater and stormwater.

Mr. Chuck Zickefoose asked about the risk factor of these reductions. Mr. Danicic stated the proposed reductions to the various line items will not put the City at risk for meeting the clean water rules and standards. It will, however, limit the money set aside for future capital projects which means the money may need to be borrowed when/if it is available. The reductions shown are a combination of allocating staff salaries more appropriately and reducing certain line item costs for operations.

Ms. Deb Galardi pointed out the fairly significant reduction to the waterline repair and maintenance line item of the distribution system budget. She explained that if major repairs are needed, in excess of the revised budget amount, then those additional funds would need to be pulled from contingencies.

2. Final Presentation (Deb Galardi)

- Percent Increase to Achieve Coverage (based on reduced O&M)

Ms. Galardi presented the staff report with use of a PowerPoint (see official meeting packet for full report). She also referred to the water rate study and the O&M reductions handouts. With assumed cost escalation there is a slight shortfall in fiscal year 2013/14. Issues that need to be taken into consideration are: water consumption which will cause further erosion in coverage; transfers from reserves which are projected for CIP (reserves are less than \$500,000.00 in fiscal year 2015), and O&M cuts increasing the risk (limited to \$500,000.00 contingency). Increases in fixed charges will reduce revenue instability over time but will also be perceived as rate increases to some customers. Regardless of an overall rate increase, the rate structure must be determined. The rate structure can be changed to come from the fixed charges which will still cause rate fluctuation impacts. Stormwater is a 100% fixed charge which does have definite benefits.

Chair Tony Rourke asked for statistics on suggested reserve balances. Ms. Galardi stated it is based on number of days of O&M costs with a range of 30-180 days. We assume a 60-day reserve balance in our contingencies, which is on the lower end but within planning standards.

Mr. Amundson believes the first decision is whether to increase the fixed rate of consumption. Chair Rourke agrees with Mr. Danicic's earlier comment that the decision to increase should be reviewed later after the three systems have been analyzed.

Ms. Beth Keyser believes the committee should wait regarding rates. She has not heard enough about reducing staff and related expenses. Chair Rourke stated of the \$584,162.00 reduction shown, \$250,000.00 are actual cuts. Mr. Danicic clarified that some of the savings are due to shifting costs. Eliminating a significant amount of staff makes him question whether the City would function well. Mr. Danicic explained that staff has been cut every year; building inspectors, planners and engineers all have been cut in the last two years. Ms. Keyser agrees there needs to be a change in the fixed/volume ratio but it will be more palatable to the public if they see the City making sacrifices as well.

Mr. Mike Gougler stated at the last meeting he asked that the CRRC work towards changing the ratio of variable to fixed. He did so with the understanding it will be perceived as a rate increase. He questioned some of the logic in regard to concerns about city expenses. As a builder, he contracts for the services at the time he needs them. On the other hand, he cannot afford to contract out for a bookkeeper that balances the books. Changing the ratio between variable and fixed is a good long-term tactic. Newberg chose to postpone necessary improvements to the water treatment plant and if future capital project money will be reduced, the City will be facing the same problems again ten years down the road. Not raising rates caused the raised rates last year and it will happen again. At this point, the CRRC has to change the ratio from a variable to a fixed rate structure with dependable revenue. Mr. Gougler stated the CRRC needs to be prepared so it is defensible to the people. Mr. Zickefoose emphatically concurred with Mr. Gougler.

- Rate Structure Decision

MOTION #2: Rourke/Zickefoose moved to explore the possibility of an 80/20 variable/fixed ratio with flexibility to any other percentages; moving toward more fixed as a percentage of the total. Motion carried. (5 Yes/0 No/0 Absent).

VI. NEW BUSINESS

1. Present Stormwater Rates (Pages 7-11)

Mr. Danicic reviewed the capital projects portion of the stormwater budget. It is rather straightforward showing \$259,000.00 budgeted in fiscal year 2012/13 for a master plan update. The Crestview Drive and Springbrook Road projects are multi-funded. Vermillion Street is a local drainage problem and will be completed this budget year.

Mr. Gougler stated the decision of the stormwater control and the adoption of the stormwater management plan will have budgetary impacts. Mayor Andrews suggested staff obtain a copy of the Planning Commission Meeting Minutes discussing the stormwater management plan. Mr. Danicic will forward a summary of that information to the CRRC prior to the next meeting.

Ms. Galardi reviewed the stormwater financial plan (see official meeting packet for full report). The stormwater rate is a fixed charge and is based on impervious area which does not change. The only reason for reduction in revenue would be from a loss of customers, an increase in credits provided, or lack of growth. There is a small variance between the estimated and actual revenue in fiscal year 2011/12. Revenues are holding with some deferral of capital and O&M expenses are right in line.

Mr. Zickefoose asked if a closed business is still required to pay the stormwater fees for that property. Mr. Danicic replied only as long as there is a utility account in place. The question was asked if Suntron was still using water, although the building was not in use. *(Mrs. Nordyke has since confirmed that the utility bill shows that water is primarily being used for irrigation.)*

Chair Rourke prefers paying cash instead of paying a bank interest and is a proponent of adding to reserves. The capital improvement projects of \$1.2 million for two years will cost over \$500,000.00 in interest.

2. Move Town Hall Meeting to February 8, 2012

Chair Rourke explained the date was changed from February 1, 2012 to February 8, 2012 due to a scheduling conflict. Further scheduling changes may take place as discussions proceed

Mayor Andrews explained the new CRRC appointments will begin on January 1, 2012. Ms. Keyser has not reapplied to serve on the CRRC. Her last official meeting will be December 14, 2011.

Chair Rourke will not be present at the next scheduled meeting of December 14, 2011 due to a work conflict.

VII. ADJOURNMENT

The meeting adjourned at 8:50 PM.

Approved by the Citizens' Rate Review Committee on this 4th day of January 2012.


DawnKaren Bevill, Minutes Recorder


Tony Rourke, Citizens' Rate Review Committee Chair

CITY OF NEWBERG
CITIZENS' RATE REVIEW COMMITTEE MINUTES
WEDNESDAY, JANUARY 4, 2012
7:00 P.M. MEETING

PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

I. CALL MEETING TO ORDER

Chair Tony Rourke called the meeting to order at 7:11 P.M.

II. ROLL CALL

Members

Present: Tony Rourke, Chair/Secretary Ernie Amundson, Jr. Helen Brown
Mike Gougler Charles Zickefoose Mayor Bob Andrews, Ex-Officio

Members

Absent: Blair Didway (excused)

Staff

Present: Daniel Danicic, City Manager Janelle Nordyke, Finance Director
Jay Harris, City Engineer/Engineering Manager Jennifer L. Nelson, Deputy City Recorder

Others

Present: Deb Galardi, Consultant Larry Anderson, Citizen

III. COMMITTEE BUSINESS

1. Committee and Staff Introductions *(updated membership list distributed at the meeting)*

Chair Rourke noted Mr. Blair Didway was unable to attend this evening. The members and staff introduced themselves and passed around the membership list for corrections and updates.

2. Elect Chair, Vice Chair and Secretary

Chair Rourke explained they have never elected a secretary for the Citizens' Rate Review Committee (CRRC) but the city manager noted this position was in the City's Charter.

Mr. Dan Danicic, city manager, added this secretary usually takes the minutes and/or signs off on the minutes from a previous meeting to confirm they were recorded/amended properly. Since the chair has been fulfilling that role, if the committee desires to not have the secretary position filled, they can do so with the understanding the chair performs this duty. Mr. Danicic will talk with the City Council and Mayor about amending the code. Chair Rourke suggested just adding the duties to the chair position in the code.

MOTION #1: Zickefoose/Gougler to combine the duties of the chair and secretary and name the position as the "chair/secretary". Motion carried (5 Yes/0 No/1 Absent [Didway]/1 Vacant).

MOTION #2: Zickefoose/Gougler to re-elect the same officers to the next term. Motion carried (5 Yes/0 No/1 Absent [Didway]/1 Vacant).

IV. PUBLIC COMMENTS

Mr. Larry Anderson wished to discuss city policies for collection and reimbursement of System Development Charges (SDCs). He spoke of there not being enough money in the SDC fund to pay for improvements to an intersection in town. Those improvements were required of the developer when the property was annexed and homes were built. He wondered where all the money has gone since the City has had ten years of record pace development and SDC fee collection. He used the Orchard Lair Development as an example for his own estimates of SDC collection at around \$480,000.00 and asked why \$135,000.00 could not be put into the signal at Everest Road. He commented that the City seems to have the SDC collection part down, but there are problems with the spending and reimbursement. He felt there is a real safety issue with that intersection not being improved and was bothered that the City had \$1.4 million to spend on the Oxberg Lake Project and not this unsafe intersection. He spoke of the need for a more transparent reimbursement policy and well-defined procedures used so that the City would never use more than the value of the rate collected.

Mr. Mike Gougler spoke of his own experiences with his last SDC reimbursement process, which took two years. He said the documents he needed to provide to the City filled two large three-ring binders with actual expenses. He asked staff if the CRRC is responsible for setting SDC rates. Mr. Danicic replied it is not. Their charge is to set rates for water, wastewater, and stormwater or other fees assigned by Council, but traditionally this has not gone into SDC rates or calculations. Mr. Danicic said the points brought up by Mr. Anderson have to be discussed before Council and the Budget Committee at this point.

Chair Rourke recommended the city manager get together with Mr. Anderson to guide him through the process.

V. CONSENT CALENDAR

Approval of November 30, 2011 minutes (Pages 3-6)

MOTION #3: Gougler/Zickefoose approving the Citizens' Rate Review Committee minutes from November 30, 2011, as written. Motion carried (5 Yes/0 No/1 Absent [Didway]/1 Vacant).
--

VI. CONTINUED BUSINESS

1. Conclude Stormwater Methodology Overview

Mr. Danicic stated this discussion was completed at the last meeting, but he placed it on the agenda in case there were any lingering questions.

Mr. Gougler referred to Planning Commission (PC) minutes and wondered about feasibility and enforcement to comply with the Total Maximum Daily Loads (TMDL) standards presented by Sonja Johnson, Environmental Technician, to adjust lot size and establish rules prohibiting car washing in driveways.

Chair Rourke wondered how this impacts rates and discussed issues with Mr. Gougler what the City is required to pay attention to, like extreme temperatures, mercury, and keeping bacteria from crossing sanitary lines with storm lines or overflowing septic systems in storms. He did not think mercury was an issue Newberg really deals with since there is no fluorescent lamp recycling or mercury from mining; the only one source would be from feminine hygiene products. All non-issues for Newberg since they are not asked to control turbidity by the Department of Environmental Quality (DEQ). He said this process has gone through years of man hours to put together and does not affect our budget; if the City tries to comply it goes from manageable to a major

component of cost for development and construction in Newberg. There was concern if the consequences were fully hashed out for the extra costs and how to control this. Mr. Danicic stated costs are controlled by stormwater management and relies on the best management practices to deal with temperature by encouraging placing more trees along zones; he said there is little in the plan that are hard costs other than staff time to the City and the program is designed that way realizing small towns like Newberg cannot do what cities like Gresham can. He anticipated implementing this with existing staff to the extent that they can.

Mr. Gougler said if he builds a house, assuming it is a project that size or more, then a project summary design for flow calculations and stormwater facilities will be required with whatever other house plans are issued requiring splash block and curbs. He asked what a citizen is to do when this can get more expensive and there is not cash flow coming into the City for building. He wondered how much control builders will have on monies they are obligated to spend. He said this is why infill in Portland stalled. He sees this as a big cost issue that needs to be handled as a community. Mr. Danicic said he understands his concerns and is trying to think of the next step to address this. He suggested the CRRC formulate a motion to alert the Council further investigation needs to be conducted before adoption of increased stormwater rates that may not work in the future.

Chair Rourke said he still failed to see how this affects rates. Mr. Gougler replied the expense is primarily to the City if they happen to violate DEQ code in respect to turbidity and if the City pays, it is the people who pay up front to comply and the problem is if the developer cannot determine some limited exposure to what has to occur they will be reluctant to do certain types of housing.

MOTION #4: Gougler/Zickefoose the CRRC understands Council will be soon considering a revised stormwater management system for TDML and recommends Council understand the impacts to stormwater rates and that they will likely be higher.

Chair Rourke asked if this is what they do every two years, look at the time frame and recommend for that time frame and revisit because things always change.

Mr. Gougler said they also have to mandate when they make rate increase recommendations, this committee catches heat and they do have fiduciary responsibility to worry about the effects of action the City has taken on our rates. We will have to look at this in two years when discussed and understand what should be done now; the same logic applied when they discussed fixed percentages for water fees.

Mayor Andrews asked Mr. Gougler if he brought these pertinent issues to the Planning Commission about impacts. Mr. Gougler said he did so in a letter.

VOTE #4: To recommend Council consider impacts to stormwater rates while considering the revised stormwater management system for TMDL. Motion carried (5 Yes/0 No/1 Absent [Didway]/1 Vacant).

Ms. Helen Brown said this is a good step in the direction of transparency when those in knowledge can make others aware, it is not like a ton of bricks being dropped. She said she never thought about this and it is nice to clear things up by bringing up things the average city member does not know about. She thanked Mr. Gougler.

2. Planning Commission Report on Stormwater Management Plan (*for information only*) (Pages 7-24)

This is in discussion that took place in the previous section above.

VII. NEW BUSINESS

1. Presentation on Wastewater Methodology, Rate Comparisons and CIP (Pages 25-42)

Ms. Deb Galardi presented the staff report including a PowerPoint (please see official meeting packet starting on page 31 for the full report). She discussed rate methodology for the rate of discharge with residential vs. commercial in terms of their concentrated wastes and costs to treat higher volumes and how this was similar to water in terms of the fixed vs. volume basis for establishing rates. Wastewater fixed costs are much higher than water because it is not only based on meters, billing and replacement costs like water, it is also based on a long standing policy and industry practice to include costs with building for capacity, infiltration and inflow (I&I). A secondary issue is that it is not discharged directly, but into a system with cracks and leaks. All utilities have a problem with I&I in this part of the world and we can only do so much to tighten the system. The Environmental Protection Agency (EPA) said distribution can be based on flow discharge of the number of customers or when recovered through taxes based on property value. She continued with her report on page 36 regarding the wastewater cost allocation process.

Mayor Andrews asked for a definition of the term “strength”. Ms. Galardi said it is the concentration of waste or how dirty it is and it fits into the component of treatment costs allocated between processes, like with digesters, with BOD (Biochemical Oxygen Demand) and TSS (Total Suspended Solids). Ms. Galardi continued her report discussing costs recovered through volume rates and fixed charges and them being based on the average of the winter months.

Mayor Andrews asked if fixed costs are not being recognized. Ms. Galardi spoke of looking at what portion of the costs is truly fixed being more like 75% in terms of consistency and industry standards are balancing more discharge or more costs to the City, moving away from flat rates to variable ones. It is true more than 24% is fixed, but there are concerns for small volume users and what other communities are doing to balance.

Chair Rourke asked why the winter average is from December to March rather than being spread out further from November to April. Mr. Danicic stated there is no science behind it, the rates were created the way they are and the City has been comfortable with it. Ms. Janelle Nordyke, Finance Director, added they are the lowest four months of year and there can be increases in April, but we chose just the four months.

Mayor Andrews asked about the average annual growth of 9.3% on frame eight of the PowerPoint. Ms. Galardi replied historically costs charged to the wastewater system from 2008 to 2011 average a growth of 9.3%; part of this may be the allocation of staff additions or part reflects significant increases; they do not have FTE growth in personnel as well. Mayor Andrews asked how much growth there was in staff for wastewater. Mr. Danicic said there were some staff increases for wastewater leading up to 2007 to keep up with Operations and Management (O&M) requirements; they move staff a lot from fund to fund to help with inflation and when there are staff increases with cost of living increases or merit increases, but some have reached the end of the step increase schedule.

Ms. Galardi continued with her presentation on page 10 regarding the preliminary 5-year Capital Improvement Plan (CIP) speaking first of DEQ and the State Revolving Funds (SRF) obtained by the City with good interest rates. The big news two years ago was the SRF increases were recommended based on revenue bonds they did not know would be received and they were; there has been some delay in construction, but the new debt service

does not start being paid until the projects which are part of the funding package are completed and none have been completed. None of the additional debt service is anticipated and funding has materialized, which buys time and flexibility for additional increases.

Mayor Andrews asked what “RRE” was for the Wastewater Treatment Plant (WWTP). Mr. Danicic stated it stood for Repair, Rehabilitation, and Expansion (RRE) projects which cover a whole suite of improvements; they are only at the beginning, addressing the existing needs, but a whole list of projects can be provided. Mayor Andrews asked if expansion is necessary for future growth; Mr. Danicic replied some is for current capacity.

Chair Rourke asked if they are using money for the WWTP improvement plan. Ms. Galardi said the City draws from this as needed and some has been started with estimates made for how it will be drawn; the debt service will not hit until the 2014-2015 fiscal year at interest only for six months before paying on the principal. This allows payments to be put off to build the capacity into the rates to handle it.

Mr. Chuck Zickefoose asked if this was broken into segments. Ms. Galardi replied the first authorization was for \$11.4 million; once that is done, then they can start paying on that some months after, but before the next \$14 million. It was assumed as three separate loans essentially.

Mr. Ernie Amundson, Jr., asked if there was a connection between the rise in Full-time equivalent (FTE) transferred over with surplus because there is more money here than the other funds. Mr. Danicic said yes, there will be an increase in the cost of staffing with wastewater, but staff reallocated appropriately; in the past there was 50/50 split for convenience and with the change the result was higher staff costs. Chair Rourke asked if this was shown in the 2010-11 operations & maintenance (O&M) or in 2011-12. Mr. Danicic replied it would not be until 2012-13 budgets and it is a projection of transfers. Chair Rourke referred to the rate comparison by the city in the packet and stated Newberg is right behind the most expensive.

2. Finance Director Memorandum and City Manager 11/12 Budget Message (Pages 43-47)

TIME – 8:48 PM

Mr. Danicic replied this was more for the committee’s information in response to previous questions about cuts and demonstrates the City has been cutting all along; one element the CRRC may not be aware. Two positions have been eliminated in the public works department since the budget was completed and an additional three cuts occurred in the last fiscal year; so five FTE have disappeared, not accounting for the year before.

Chair Rourke said they will be meeting next week to discuss the total rates with the final numbers and staff recommendations for two years. Mr. Danicic added they will look at bill comparisons too. Mr. Chuck Zickefoose asked if there was a way to compare Newberg to other communities as well. Mr. Danicic said he would call on a few other cities to see what their utility bills look like.

VIII. ADJOURNMENT

The meeting adjourned at 8:53 PM.

Approved by the Citizens’ Rate Review Committee on this ____ day of _____, 2012.

Jennifer L. Nelson, Deputy City Recorder

Tony Rourke, CRRC Chair/Secretary

CITY OF NEWBERG
CITIZENS' RATE REVIEW COMMITTEE MINUTES
WEDNESDAY, JANUARY 18, 2012
7:00 P.M. MEETING

CITY HALL MAIN FLOOR CONFERENCE ROOM (414 EAST THIRD STREET)

I. CALL MEETING TO ORDER

Chair Tony Rourke called the meeting to order at 7:02 P.M.

II. ROLL CALL

Members

Present: Tony Rourke, Chair Ernie Amundson, Jr. Vice-Chair Helen Brown
Mike Gougler Mayor Bob Andrews, Ex-Officio Blair Didway
Chuck Zickefoose (arrived at 7:05 p.m.)

Staff

Present: Dan Danicic, City Manager
Janelle Nordyke, Finance Director
DawnKaren Bevill, Minutes Recorder

Others

Present: Deb Galardi, Consultant Jim Cooper, Sunny Acres Water Company

III. PUBLIC COMMENTS

Jim Cooper, who is in attendance as a representative for the Sunny Acres Water Company, stated he will pose questions to the committee at the Town Hall Meeting, February 8, 2012.

VI. CONSENT CALENDAR

No Items.

V. CONTINUED BUSINESS

No Items.

VII. NEW BUSINESS - Review of Proposed Utility Rates:

Mr. Dan Danicic, City Manager, referred to the proposed utility meeting handout for 2012-13 and 2013-14 and explained the proposal is a 17.5% increase in rates for the next two years for stormwater with an anticipation of the same percentage in Fiscal Year (FY) 2014-15 and 2015-16. There will be no increase in the wastewater fund in FY 2012-13; an increase of 3.0% in FY 2013-14 and a projected increase of 5% FY 2014-15 and 2015-16. There will be no increase in water rates for 2012-13; an increase of 3.0% in FY 2013-14; and an increase of 3.5% FY 2014-15 and 2015-16. The water rates methodology modifies the fixed allocation from 9% to 15% in FY 2012-13 and to 20% in FY 2013-14.

The lower rates were accomplished through FTE (full time employee) reductions; 4 overall in the budget and that also represents the reduction of 8 fewer employees in the space of 4 years. Staff went through the FTE allocations which were heavy in water, and shifted those to the wastewater/stormwater funds and transportation fund which mitigated the rate impacts. Line item inflation factors were reassessed and reduced significantly. Each line item in the rate model has an inflation factor associated with it which ranges from 0% to 10%. Many of the materials and services line items were reduced to 0% inflation factors. Transfer reserves are at 1% which had been as high as 58% in 2009-10.

Some items that are not addressed in the overall rates are the non-potable and the Springs classes. The non-potable class is the reuse water and the only customer at this time is the golf course. Five years ago the Springs were broken out of the City water system as a separate customer class altogether. The City continues to maintain the system which was the original water source for the City of Newberg. The Springs customers experienced a high rate increase when this was done and they asked the City Council to consider implementing it over a period of time which the City Council chose to do. The City Council is now in the process of assessing whether the City should keep the Springs customers and continue maintaining it. Customers outside the City limits who are not on the Springs system are charged 1.5 times more for water use. That is a policy decision not a decision that is made because it costs 50% more to provide water.

Mr. Danicic stated a concern of the CRRC has been in regard to the increase in percent of fixed costs of 15% in 2012-13 and 20% in 2013-14 and how it will affect the lower water volume users more than the high water volume users. Janelle Nordyke provided a chart which showed the customer classes, cubic feet, increases to utility bills; giving the committee an indication of how it will affect the low-volume citizens. Deb Galardi stated there will be decreases as well because it is revenue neutral. In order to increase the percent of fixed costs, the fixed rate goes up and volume goes down. A large volume user could see a reduction in their bill. For many there will be a zero change.

Mr. Danicic stated the cost of water is seven-tenths of a penny per gallon. He then referred to the Monthly Utility Bill Comparison for January, 2012 on page 2 of the meeting packet and explained traditionally towns around Newberg have been included in the comparison, but this time the criteria he used were towns that are approximately the size and population of Newberg and own and operate their own wastewater facilities. These include Lake Oswego, Wilsonville, Klamath Falls, and Grants Pass as comparables. The utility bill was compared in its entirety and shows that Newberg is not the highest in comparison. He asked the committee for their input on this approach to rate comparisons.

Tony Rourke asked why Klamath Falls & Grants Pass are so much cheaper in regard to water. Helen Brown replied Grants Pass has the oldest river rights on the Rogue River and they also use UV lights instead of chlorine to kill bacteria. Mr. Danicic will have staff research that before the Town Hall Meeting so it is made clear to the public why those costs are less on the utility bills.

Mike Gougler asked if Wilsonville, Grants Pass, and Klamath Falls have grants to capitalize and do not budget for necessary capital expenditures. If they are not budgeting to replace their water plant or sewer plant, that information needs to be made clear to the public. Chuck Zickefoose stated Wilsonville will see an increase due to capital expansion in the near future. Deb Galardi stated Lake Oswego will see a large impact on water in the next few years. Tony Rourke stressed the importance of this information being communicated to the public. It should also be clear that 1% is not close to adequate for reserves, but in recognition to the situation the City is in, we need to continue and not raise that percentage. Hopefully the economy will be in a better condition in two years.

Mr. Danicic reviewed the notification plans to include a notice in the Newberg Graphic, on the City website, and a postcard will be sent to all addresses in the City, as well as postings at the Library, City Hall, and Public Safety Building regarding the Town Hall Meeting on February 8, 2012. After the Town Hall Meeting, the CRRC reconvenes on February 15, 2012 to see if any further changes are needed.

Blair Didway asked if staff has a sample of the notice to be sent out to the public. Mr. Danicic will email the notice to the CRRC for them to review before it is sent to the printer. The committee members can then respond and make suggestions. He will also share the outline of the presentation with the CRRC beforehand by e-mail.

Rate Discussion:

Helen Brown stated she is hoping the City Council will understand the time and energy the CRRC and City Staff have put into this. She is in agreement with what has been presented and discussed.

Blair Didway stated with what he has observed, the actual rate increases are evenly spread across the board which will make it more reasonable.

The consensus of the CRRC is in favor of what will be presented to the citizens of Newberg.

MOTION #1: Amundson/Gougler to accept the proposal from staff for the next 2 years to be presented to the citizens at the Town Hall Meeting to be held on February 8, 2012. Motion carried. (7 Yes/0 No/0 Absent)

VIII. ADJOURNMENT

The meeting adjourned at 7:55 P.M.

Approved by the Citizens' Rate Review Committee on this _____ day of _____, 2012.

DawnKaren Bevill, Minutes Recorder

Tony Rourke, Citizens' Rate Review Committee Chair

**CITY OF NEWBERG CITIZENS' RATE REVIEW COMMITTEE
TOWN HALL MINUTES
WEDNESDAY, FEBRUARY 8, 2012
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

I. CALL MEETING TO ORDER

Chair Tony Rourke called the meeting to order at 7:05 p.m.

Committee and Staff Introductions:

Chair Rourke introduced himself as did all committee members; City of Newberg staff and Deb Galardi, Consultant.

Overview of Rate Setting Process:

Dan Danicic, City Manager, stated the Citizens' Rate Review Committee (CRRC) meets every year to year and a half. The committee reviews every utility; in this case water, wastewater, and stormwater and the rate methodology by looking at the current state of the budget and what staff is proposing for future expenses. Through the course of many months the committee meets on a regular basis to review each of the utility funds which brings them to this Town Hall Meeting to present the rates that are being considered. The committee will meet again next week, February 15, 2012 at the Public Safety Building for their final public hearing. At that time they will take the input from the Town Hall Meeting and discuss it along with staff. The CRRC will make a formal motion to adopt, modify or change the rate proposal. At that point it will go to the City Council Hearing which is currently scheduled for March 19, 2012 at the Public Safety Building and at that time they will consider the CRRC's recommendations and make a decision. The City Council has the authority to accept the rates as proposed or may reduce the rates if they so wish. If they desire to increase the rates it will then come back to the CRRC for consideration.

II. PRESENTATION BY CITY MANAGER

Copies of the Town Hall presentation were made available to those in attendance; as well as the line-items located in the Utility Rate Presentation Supplemental Information; utility debt details, and full-time equivalents.

The Citizen's Rate Review Committee was established by Code in 1992. It was created in response to a petition from the citizens to place the question of rate increases before the voters.

Mr. Danicic reviewed the rate methodology beginning with stormwater. The main functions are collection which is culverts and catch basins that are in the system; a small water quality component, and customer billing which is seen throughout the utilities. The City of Newberg is considered a National Pollutant Discharge Elimination System (NPDES) – Phase II. It is the water quality criteria for discharges to the river from the stormwater system. It was originally started in the early 1990's and targeted large cities. Phase II requires the City of Newberg to set Best Management Practices such as street sweeping, cleaning catch basins; encourage planting trees along creeks, and rules and regulations regarding construction practices. The rate structure is assessed by Equivalent Dwelling Units (EDU). One EDU = 2,877 square feet of Impervious Area. Residential properties are defined as one EDU. Impervious areas were identified on every lot by using aerial maps of the City. Impervious areas are sidewalks, parking lots, and buildings which are areas that impede water entering into the ground.

The basic functions of wastewater are collection – the sewer pipes coming from the home to the treatment plant; pumping, treatment, and customer billing. Not every customer has the same impact on the treatment system

which removes solids. What defines the criteria of solids is Biological Oxygen Demand (BOD) and Total Suspended Solids (TSS). Residential customers have a certain load that is associated with those two elements. Industry standards are used in deciding how to separate customer classes. The component that is split in two is the infiltration and inflow. The volume charge is based on Winter Water Usage for the months December – March, and customer class. The volume is averaged over the four months.

Hank Grum was concerned how the wastewater usage is calculated as he believes he has not been charged correctly on his bills. Janelle Nordyke, Finance Director stated the new number is recalculated and applied in April and gets applied to the months following, including November. Mr. Danicic stated if there are questions regarding the utility bills there is a number located on the bill that customers can call or come into the City for assistance. The City typically looks for anomalies in the billings.

Some of the concerns voiced by audience members included the frequency of cleaning open ditches and who is responsible for cleaning them; flooding of a citizen's home on two occasions due to a culvert filled with debris; and flooding on College Street for several years in a row until it was repaired recently. Why are there no visible signs of maintenance when customers are paying fees for them? Pat Haight stated there is a drain on Illinois Street that has been covered up with no way for water to drain. Mr. Danicic stated the City is maintaining the system but will look at the level of service of maintenance.

Mr. Danicic continued on to explain the wastewater customer classes include: Single Family Residential, Multifamily, Commercial-1, Commercial-2, Commercial-3, Industrial, and Outside City Users (customers connected to the distribution system.) Reuse and Springs are separate classes and are not part of this rate review because the City does a separate calculation for those two groups. An audience member asked why the Springs and reuse are not included in the rate review. Mr. Danicic explained three years ago the Springs were disconnected from the City's system. The challenge is the extreme rainfall causes dirty water. When water becomes dirty then a "Boil Water Notice" would need to be sent out to citizens. The reuse system takes the affluent from the Wastewater Treatment Plant, treats it to a higher level which is used for irrigation or non-contact processed water. The golf course is using reuse.

The standard water system functions include supply, treatment, pumping, storage, distribution, customer billing, and meter management. The characteristics are average demand, peak day demand, and peak hour demand; customer billing and meter size. The peak need for different customer classes affect the system differently.

Mr. Danicic reviewed the Utility Budget and explained the Water Fund would need to have a double-digit rate increase due to costs, thus staff did a reallocation of staffing. There is no debt in the Stormwater Fund. There is no money allocated for system replacement reserves through FY (Fiscal Year) 2013/14. The line item for contingency is for anticipated needs such as an environmental catastrophe. There is some replacement reserve put aside for wastewater. Deb Galardi explained the reason the wastewater has a larger contingency is due to delays in the capital projects. That money is programmed to be used in the next five years to fund the improvements of the Wastewater Treatment Plant. Those are reserve funds for capital improvements which the City is going to expend. Mr. Danicic stated it is a risk analysis; savings for an emergency.

The water budget shows a reduction in costs but there is also debt in this fund. The existing water system needs to be improved and capacity increased. Development has come to a standstill and there is not enough to pay the System Development Charges (SDC's) portion for debt.

An audience member asked for clarification regarding contingency and stated it seems high. Deb Galardi explained the City does track funds for the utilities separate in the capital projects but transfers money to the capital fund as needed and that money now sits in the Water Fund. Contingency is a mixture of capital reserves as well as true operating and emergency contingency. Mr. Danicic stated the line item for capital projects is what will actually be spent on capital projects next year.

Mr. Danicic reviewed the 5-year Capital Improvement Projects as follows:

- Stormwater 5-year CIP: Master Plan update in FY 2012/13.
- Wastewater 5-year CIP: The WWTP – Design, construction, and capacity improvement. The Hess Creek pre-design study FY 2011/12; Wynooski pump station property FY 2012/13; and multi-funded projects for South Springbrook Rd. – design and construction.
- Water 5-year CIP: Upcoming projects include Springs improvements, reservoir upgrades, WTP expansion land purchase and South Springbrook design and construction.

Mr. Danicic reviewed the significant budget changes as follows:

- 4 FTE (Full-Time Employee) reductions (total of 8 since 2010 = 15%)
- Adjusted FTE budget allocation between funds
- Reduced line items and corresponding inflation rate
- Changed effective date for rate changes July to January
- Modified fixed allocation within water rate model

The estimated infrastructure value for water is \$120 Million; Wastewater is \$160 Million; and Stormwater is \$23 Million.

Mr. Danicic explained the water consumption current fixed percentage is 9%; 2013 will be 15%; and in 2014 will be 20%.

The proposed rate changes are as follows: January, 2013 has a 0% increase for water and wastewater; stormwater will be 17.5%. In January, 2014 water and wastewater will have an increase of 3% and stormwater will remain at 17.5%.

Mr. Danicic reviewed the utility bill comparison which shows anticipated increases in the next two years with similar agencies: Lake Oswego, Wilsonville, Klamath Falls, and Grants Pass. Grant's Pass has not made rate increases in several years and the water plant was built far above capacity of the need and they are still within capacity today. Their Master Plan is out of date and is up for significant changes in the future.

Audience members stated the need for further cuts in staff and salaries, as well as reducing employee health coverage that is paid by the City. Many cannot afford an increase in rates due to the economy. Perhaps the rates could be based on what the customer is able to pay.

Mr. Danicic stated a budget of \$20,000 is set aside annually to provide utility payment assistance. The Utility Bill Assistance Program includes YCAP Voucher Program, Military Credit, Grants to Non-Profits, and Low Income Credit. Audience members stated there needs to be an increase in low income assistance.

Looking toward the future:

- The WWTP rehab and expansion cost will be debt financed to develop capacity to 2040.
- An expected rate increases of 5% in 2014 and 2015.
- The aging infrastructure – 14% of the wastewater and water systems are over 75 years old (27M). Water and wastewater plant will now have 20 to 25 years of life.

Mike Gougler stated the committee is very concerned with the well being of the less fortunate. Each point has been addressed with staff. Ernie Amundson constantly raises the issue for people who cannot pay. Mr. Gougler is troubled, however, in firing more staff or cutting hours which causes less service for the community when others who can donate money on their water bill to help the less fortunate, do not. Very little has been donated to date. There have been many CRRC meetings held in the past months with very little in attendance. Also, for

10 years there was a sub-rate; no money was set aside to replace the Wastewater Treatment Plant. The members of the CRRC look at every penny. Mr. Gougler stated Ernie Amundson asks consistently for cutbacks to keep from raising rates.

Audience members stated the need for better notification on when and where the CRRC meetings are held. Chair Rourke stated it was on the website, in the Newberg Graphic, and sent out in mailings, as well.

Is there something else that can be done to cut back? Why the need to pay extra on the utility bill for Police and Fire services if citizen's pay taxes to cover those departments? Ernie Amundson stated cutbacks cannot be done because of the union. Mr. Danicic said the Police and Fire Departments are union, staff is not. Chair Rourke stated the Budget Committee meetings are about to begin and are open for public comment regarding that issue.

Audience member stated he had personally laid out an economic scenario to try to understand the future is not what is in the past. He suggested to City Council to use funding for capital improvements, realizing a Federal Obligation Bond can push the cost out to 20 - 25 years. At the same time, the Federal Government has bonds for opportunities to fund capital improvement. He went to the CRRC and suggested affordability – people who make more pay more, those who make less, pay less. Also, he stated he had brought forth two sound ideas in the past to eliminate rate increases which were not taken into consideration. Another factor – retirement and health – 50% of cost of labor is health. Across the country, municipalities have done something about that. He would hope the committee would understand the people want something different to mitigate costs throughout the future. Mike Gougler stated the committee did listen and consider his ideas. To assume that City staff has not looked into every avenue for funding is a mistake.

Another audience member stated that staffing cuts need to be made as in business. Mike Gougler suggested attending the Budget Committee meetings because they determine those cuts; the CRRC does not.

Ian McDonough thanked the CRRC for serving with no pay. In regard to City staff, he has had much interaction with staff and the City of Newberg exceeds the service standing of any municipality he has dealt with. Unfortunately, owners cannot get lending assistance and every year dues have had to be raised. He found interesting in this presentation, slide #10 compared to page 8 of the supplemental information. He sees the contingencies raised and buried are the capital projects. He may not understand it all, but is there a way to ratchet back contingencies until we see an increase in the housing recovery and an increase in the market? He has 5 elderly neighbors who are on the edge. He also has not attended the CRRC meetings before because this is the first time he had received a postcard in the mail.

III. ADJOURNMENT

The Citizens' Rate Review Town Hall Meeting adjourned at 9:46 p.m.

Approved by the Citizens' Rate Review Committee on this _____ day of _____ 2012.

DawnKaren Bevill, Minutes Recorder

Tony Rourke, Citizens' Rate Review Committee Chair

**CITY OF NEWBERG
CITIZENS' RATE REVIEW COMMITTEE MINUTES
WEDNESDAY, FEBRUARY 15, 2012
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

I. CALL MEETING TO ORDER

Chair Tony Rourke called the meeting to order at 7:03 P.M.

II. ROLL CALL

Members

Present: Tony Rourke, Chair Blair Didway Helen Brown (arrived 7:09 p.m.)
Mike Gougler Chuck Zickefoose Mayor Bob Andrews, Ex-Officio

Members

Absent: Ernie Amundson, Jr., Vice-Chair (excused)

Staff

Present: Dan Danicic, City Manager
Janelle Nordyke, Finance Director
DawnKaren Bevill, Minutes Recorder

Others

Present: Deb Galardi, Consultant

Chair Rourke asked the committee members for any abstentions, conflicts of interests, or objections to jurisdiction. None were brought forward.

III. PUBLIC COMMENTS

Mr. Hank Grum referred to the information that was made available at the Town Hall Meeting on February 8, 2012, on page 17 under the Wastewater Financed CIP's Total Revenues – Interim WWTP CWSRLF (Clean Water State Revolving Loan Fund) totaling \$9,626,844.00 adopted FY2011/12 and stated he would like to know what he is paying for in those amounts, as well as the proposed revenue amounts FY 2012/13 and 2013/14. He has determined over the past that the amount for maintenance, expansion, replacement, and rehabilitation includes old water and sewer pipes that need to be replaced and is unsure what percent or how many of those pipes are still in need of replacement as well as the cost to replace them. Also, a few months ago the Yamhill County Commissioners rejected growth figures, as reported in the Newberg Graphic, and he would like to know what growth figure the budget is being based upon and has it been adjusted due to the decision of the Commissioners. There was an article in the Newberg Graphic today that stated the grade school enrollment has dropped 3% which shows people are moving out of Newberg. It has been mentioned a few times in passing without any great attention that the State and Federal Government issue unfunded mandates but the tax payers end up paying for it. He asked what percentage in the budget is due to what the City has been told they must do. Without that information he cannot exercise his right as a tax payer to take any political action if he does not agree with those mandates. Also, there is a present indebtedness for effluent reuse and he is unsure how much of that is still hanging on from putting in the equipment to water the golf course and how much is being budgeted to expand the effluent reuse system. In the City's loan application to the State for clean water funds, a holding reservoir is listed in that plan in the northeast; a wetland to hold the

effluent reuse because it cannot be used all at once. There is a statement that there is a hope of other effluent reuse customers such as the Friend's Cemetery, the George Fox athletic fields, the Park District fields, and the Airport. Mr. Grum would like to know the status of those plans and if they figure into the proposed budget. He spoke to the City Manager last week and mentioned these same items but has not received an answer thus far.

Mike Gougler asked if Mr. Grum had requested a cost break-down of the government mandates. Mr. Grum replied he had spoken to Dan Danicic last week and a few months ago asked Chair Tony Rourke for an address to email comments and Mr. Grum was told he would need to contact the City Manager directly.

Ian McDonough, Chairman of the Homeowners Association of Spalding Oak Condominiums, thanked the members of the CRRC, understanding the sacrifices they make as well as the due diligence of the Staff of the City of Newberg. He is not speaking against a rate increase per say and would support justifiable reasons for such a rate increase, however subsequent to the meeting of last week as an additional item of information, the Association is being hit with an new master insurance rate increase of 34% which will result in payments of individual homeowners of an additional \$5 per owner, per month. Mr. McDonough stated that in the last three budgets for the Homeowner's Association, they have asked for modest dues increases for the same reasons the CRRC is considering raising rates, which is to capture reserves and plan for future maintenance and reconstruction. However, in each case they have had to carefully balance the need for building reserves and repairs versus the ability of the homeowners to pay. In each case, those dues increases have been at a percentage rate of approximately 2.3% or \$5 per owner, per month. As the CRRC considers the recommendations from staff, he asked for the CRRC to also consider that in this economy many owners are in their 80's, are on a very limited income, and due to other governmental regulations, find they are virtually unable to sell their homes. Any one of these increases or fees could very well be the straw that breaks the camels back of some of the elderly residents and owners.

Mike Gougler appreciates the comments Mr. McDonough brought forth. The CRRC has always held that particular issue at the forefront. He asked Mr. McDonough if he would suggest the City hold the rates and incurs the costs for deferring them. He is unsure how long it can be put off. There is pressure from the Federal Government and he is unsure how problems will be solved without doing an increase now. Mr. McDonough stated he understands and has agonized having to raise dues to build the reserves necessary because if the repairs are not done, the value of the property decreases. He empathizes with the CRRC as the Association has had to make decisions that has been painful for individuals and actually had to force one resident to relocate. He asked for the rate increases to be held at the minimum.

Chair Rourke closed the public testimony at 7:23 p.m. and asked staff if any written testimony had been received. Dan Danicic read the letter that was received from Bonnie Hulitt who could not be present at the meeting.

IV. CONSENT CALENDAR

No items.

V. CONTINUED BUSINESS

1. Staff Recommendation Regarding Rates:

Mr. Danicic stated that through the rate review process the committee and staff has looked at the wastewater and stormwater budgets which have been going up consistently since 2001 to keep up with demand and

maintain the current system. Requests from the public have been heard to maintain and not increase the rates. Mr. Danicic commended staff for bringing the proposed rates down to a 0% increase for next year which has taken a great deal of change within the organization and reducing the staff and the amount of time spent in repair and replacement. To do any less would do a disservice to the community. The Staff proposes and recommends the committee consider the utility rates for Water on January, 2013 at a 0% increase; with a 3% increase in January, 2014. For Wastewater no increase for the January, 2013; with a 3% increase in January, 2014; and for Stormwater a 17.5% increase in January, 2013 and a 17.5% increase in January, 2014. Deb Galardi asked for clarification regarding the change in rate structure on water. Mr. Danicic stated in addition, the rate water methodology in 2013 for the fixed portion will be 15% and in 2014 the fixed portion of the cost will be at 20%. Also included in the proposal is the change in the implementation date from July to January.

Chair Rourke closed the public hearing at 7:29 p.m.

2. CRRC Deliberation (including comments from Town Hall)

Chair Rourke referred to Mr. Grum's comments and asked for clarification on the maintenance costs and growth projections. Mr. Danicic is unclear as to Mr. Grum's concerns regarding the maintenance costs and the details that he is asking. The maintenance numbers involve the existing system. He does not have the percentage of the old system with him at the meeting. Mr. Grum misstated a bit in regard to the population estimates. The Yamhill County Commissioners did not approve Newberg's requests for population estimates which did not include the entire county because Commissioner Leslie Lewis was concerned that the county figures were not high enough. The Commissioners asked for it to be reviewed and are having a formal study done. Thus, no new population estimates have been adopted but are operating off of population growth estimates that are based on the master management plans for all three facilities. The WWTP expansion is necessary today regardless of the population increase or decrease. Mr. Danicic does not have the numbers with him regarding the percentage of costs on regulatory and proposed mandates but he would guess 80% is for some regulatory requirement. Every drop of water is regulated due to mandates. Mr. Danicic has responded in writing to Mr. Grum regarding how the reuse system is not part of any of the debt money the City currently has and he does not anticipate obtaining in the future. There are no capital projects in the next two years specifically tied to reuse. Reuse was instituted for temperature purposes and the temperature criteria required a \$2.5 Million project investment. He apologized in that he did not realize Mr. Grum's recent comments to him were intended to be written and submitted to the CRRC for their consideration.

Blair Didway suggested having it clearly stated on utility bills the opportunity to round up the amount due to the nearest dollar as an attempt to help support the Billing Assistance Program in the future. Even a small contribution can make a positive impact. He would also like to see more advertising regarding the program.

Chair Rourke asked for clarification regarding a suggestion made by a citizen at the Town Hall Meeting and the potential of using General Obligation Bonds to fund capital projects for the City of Newberg. Mr. Danicic explained the bonds mean you are obligating the full faith and credit of the City as repayment of the loan or a bond which means pledging property tax payer's money. The individual at the Town Hall who suggested it seemed to think there is money out there that is less expensive and may be a better route than the State funds used to debt finance some of the projects. Mr. Danicic does not believe that is the case since the interest rate at the State level funding is low and allows the City to use the utility rates as a source of backing the debt payments.

Mike Gougler believes there is no other way to make any more adjustments. A higher fixed percentage of the water fee is a good thing and changing the rate structure in this way will help in the future especially during depressed economic times.

Chuck Zickefoose concurs. After much deliberation the results are far better than he thought they would be.

Blair Didway has only been on the CRRC since January, 2012, but from what he has seen the committee has done a remarkable job. He likes the rate structure a lot; keeping the rate structure on fixed and help citizens budget that into their monthly expenses. He agrees and concurs with the proposal. It is well prepared and executed.

Helen Brown believes many of the citizens at the Town Hall Meeting realized the CRRC is not just raising rates for the fun of it, but this has to be done. Perhaps the CRRC needs to sponsor a quarterly town hall meeting since it is an education process.

Chair Rourke stated the CRRC started out looking at 10 % increases for January. Going from that percentage to a 0% increase is significant and he hopes it does not reflect poorly on the maintenance of the system in the next two years. He believes staff did much work and Ernie Amundson pushed for staff reductions and that has been reflected in the proposal.

Mike Gougler believes it is important on behalf of the committee to express thanks to staff for the incredible amount of preparation and one of the highest levels of presentations he has ever seen. He appreciates Mayor Andrews attending all of the meetings as well as the minute takers who have been present. He also noted that although the Newberg Graphic has been quoted by citizens who have attended, no reporter has attended the CRRC meetings, which is unfortunate.

3. Recommend Proposed Rates to City Council for Consideration (or direct staff to prepare additional analysis)

MOTION #1: Gougler/Zickefoose moved to implement the rate increases from July to January beginning 2013; to modify the fixed portion of the Water rate from its current 9% to 15% in 2013 and to 20% in 2014; to implement the rates that have been proposed – a 0% increase for Water in January, 2013 and a 3% increase in January, 2014; for Wastewater no increase for January, 2013; a 3% increase in January, 2014; and for Stormwater a 17.5% increase in January, 2013 and a 17.5% increase in January, 2014.
Motion carried (5 Yes/0 No/ 1 Absent [Admundson])

VI. ADJOURNMENT

The meeting adjourned at 8:01 P.M.

Approved by the Citizens' Rate Review Committee on this day of _____, _____.

DawnKaren Bevill, Minutes Recorder

Tony Rourke, Citizens' Rate Review Committee Chair

Town Hall Presentation

1

Citizens' Rate Review Committee

February 8, 2012



Agenda

2

- Citizens' Rate Review Committee History
- Rate Methodology
- Utility Budgets
- Capital Projects
- Rate History
- Proposed Rates
- Utility Bill Overview and Comparison
- Future

CRRC History

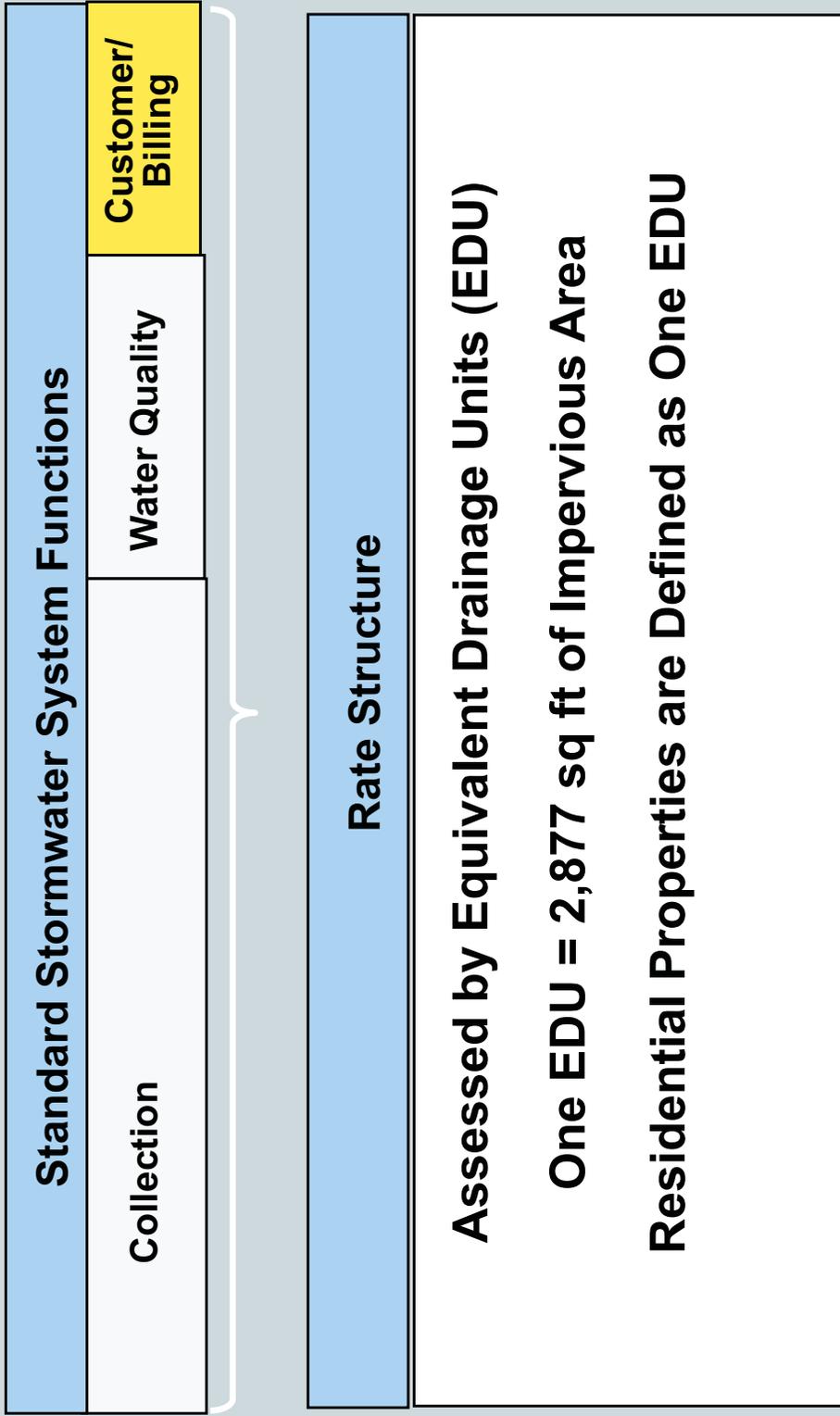
3

The Citizens' Rate Review Committee was established by Code in 1992

It was created in response to a petition from the citizens to place the question of rate increases before the voters

Stormwater Cost Allocation Process

4



Wastewater Cost Allocation Process

5

Standard Sewer System Functions			
Collection	Pumping	Treatment	Customer/ Billing

Standard Sewer System Service Characteristics				
Base Flow	Infiltration & Inflow (20%)	BOD	TSS	Infiltration & Inflow (80%)
				Customer/ Billing

Rate Structure	
Volume Charge Based on Winter Water Use and Customer Class	Billing Charge

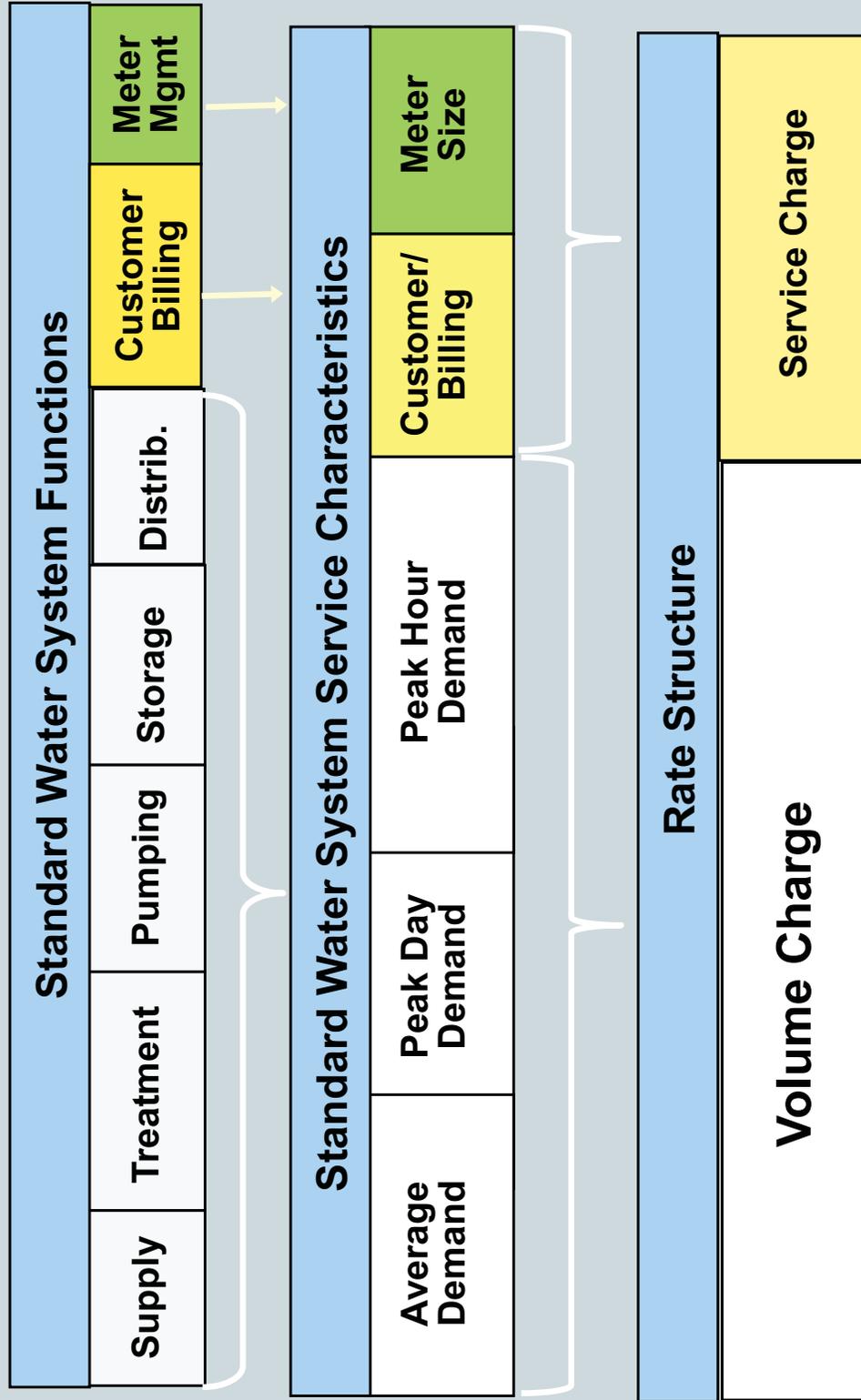
Wastewater Customer Classes

6

- Single Family Residential
- Multifamily
- Commercial – 1
- Commercial – 2
- Commercial – 3
- Industrial
- Outside City

Water Cost Allocations

7



Water Customer Classes

8

- Single Family Residential
- Multifamily
- Commercial
- Industrial
- Irrigation
- Outside City
- Public Agency

Reuse and Springs are separate classes not a part of this rate review.

Utility Budgets

9

Stormwater	11/12	12/13	13/14
Revenue	\$665,000	\$828,665	\$975,854
Personal Services	\$376,000	\$569,000	\$597,000
Materials & Services	\$328,000	\$290,000	\$300,000
Debt	\$0	\$0	\$0
Capital Projects	\$168,500	\$0	\$0
Replacement Reserve	\$0	\$0	\$0
Contingency	\$542,000	\$516,000	\$594,000

Utility Budgets

10

Wastewater	11/12	12/13	13/14
Revenue	\$5,750,000	\$6,360,000	\$6,400,000
Personal Services	\$1,400,000	\$1,500,000	\$1,570,000
Materials & Services	\$2,570,000	\$2,460,000	\$2,560,000
Debt	\$740,000	\$729,408	\$724,259
Capital Projects	\$88,000	\$520,000	\$975,000
Replacement Reserve	\$58,000	\$64,000	\$64,000
Contingency	\$3,680,000	\$4,920,000	\$5,540,000

Utility Budgets

11

Water	11/12	12/13	13/14
Revenue	\$4,300,000	\$4,330,000	\$4,320,000
Personal Services	\$1,550,000	\$1,200,000	\$1,300,000
Materials & Services	\$2,100,000	\$1,740,000	\$1,800,000
Debt	\$410,000	\$414,000	\$413,000
Xfr to SDC for Debt	\$0	\$505,000	\$1,630,000
Capital Projects	\$1,062,000	\$746,000	\$927,000
Replacement Reserve	\$43,000	\$43,000	\$42,000
Contingency	\$2,250,000	\$2,000,000	\$356,000

Stormwater 5-year CIP

12

Project	11/12	12/13	13/14
Master Plan Update		\$250,000	
Vermillion – Drain to Creek	\$152,000		
Multi Funded Projects			
Crestview Drive Improvements	\$110,000		
TOTAL	\$262,000	\$250,000	\$0



Wastewater 5-year CIP

13

Project	11/12	12/13	13/14
WWTP RRE – Design	\$1,276,229	\$1,012,845	\$1,557,008
WWTP RRE – Construction	\$1,910,479	\$7,210,092	\$2,910,849
Hess Creek Predesign Study	\$35,000		
Wynooski PS Property		\$146,500	
Multi Funded Projects			
South Springbrook – Design		\$600,000	
South Springbrook – Const.			\$1,300,000
TOTAL	\$3,221,708	\$8,969,437	\$5,767,857

Water 5-year CIP

14

Project	11/12	12/13	13/14
Spring Improvements	\$400,000	\$400,000	
Reservoir Upgrades	\$75,000	\$175,000	\$685,000
WTP Expansion Land Purchase		\$350,000	
WTP Expansion Geotech Study	\$25,000		
Well Field Improvements	\$70,000		
WTP Backwash Pond Liner	\$70,000		
Multi Funded Projects			
Crestview Drive Improvements	\$80,000		
South Springbrook – Design		\$125,000	
South Springbrook – Const.			\$1,000,000
TOTAL	\$720,000	\$1,050,000	\$1,685,000

Utility Reserves

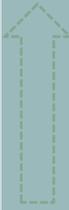
15

Fund (Estimated Infrastructure Value)	11/12	12/13	13/14
Water (\$120M)	\$2,855,305	\$2,915,524	\$2,974,111
Wastewater (\$160M)	\$1,110,136	\$1,179,731	\$1,249,993
Stormwater (\$23M)	\$250,000	\$250,000	\$250,000

Significant Budget Changes

16

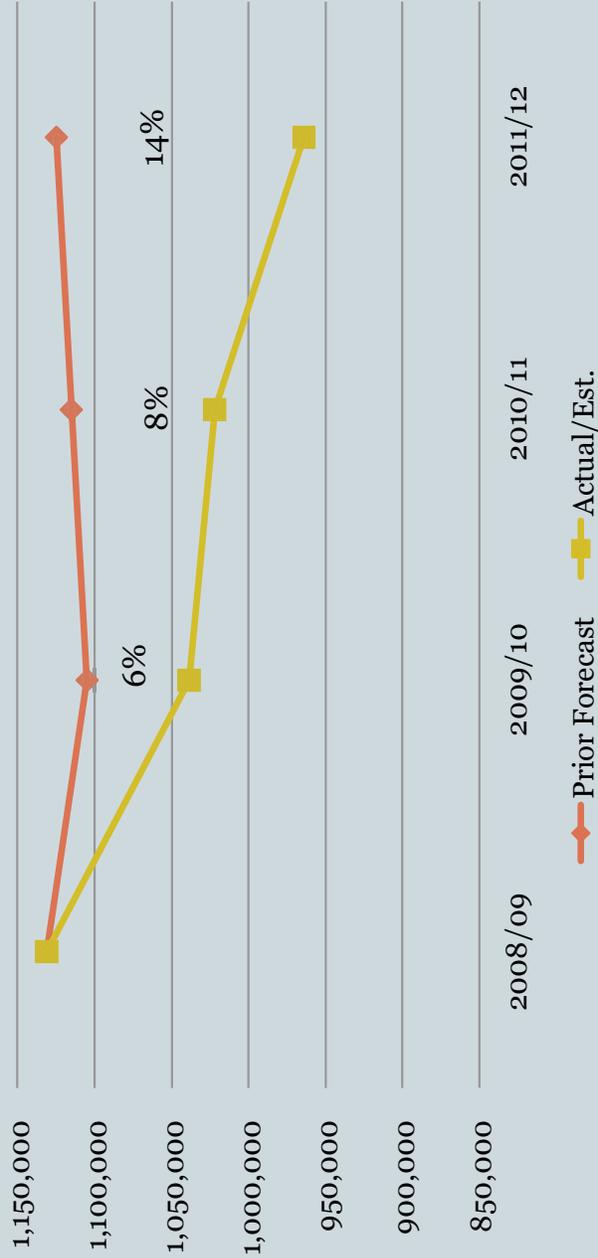
- 4 FTE reduction (total of 8 since 2010 = 15%)
- Adjusted FTE budget allocations between funds
- Reduced line items and inflation rate
- Changed effective date for rate changes July to January
- Modified fixed allocation within water rate model



Water Consumption Comparison

17

Water Consumption Comp. (100 cf)



Year	% Fixed
Current	9%
2013	15%
2014	20%

Proposed Rates

18

Fund	January 2013	January 2014
Water	0%	3%
Wastewater	0%	3%
Stormwater	17.5%	17.5%



Utility Bill Comparison

19

	Newberg (Current)	Newberg (Proposed) 12/13	Newberg (Proposed) 13/14	Lake Oswego	Wilsonville	Klamath Falls	Grants Pass
Water	\$32.51	\$32.51	\$33.49	\$34.80 ²	\$30.98	\$15.65	\$15.16
Wastewater	\$67.80	\$67.80	\$69.83	\$59.01 ³	\$64.09 ⁴	\$67.06 ⁴	\$26.04
Stormwater	\$5.29	\$6.22	\$7.30	\$10.27 ³	\$4.84	-	-
Public Safety	\$3.00	\$3.00	\$3.00	-	-	-	-
Fire	\$1.50	\$1.50	\$1.50	-	-	-	-
Street Maintenance	-	-	-	\$7.81 ³	\$4.03	-	-
Street Light	-	-	-	-	\$2.89	-	-
Monthly Utility Bill	\$110.10	\$111.03	\$115.12	\$111.89	\$106.83	\$82.71	\$41.20

¹Comparison cities selection criteria: Similar sized population, responsible for water and wastewater treatment plants and systems (city not part of a district). Rates are based on SF residential, 3/4" water meter using 700 cf of water/mo. Average winter water consumption is also 700 cf.

All rates are in effect as of February 2012 unless otherwise noted.

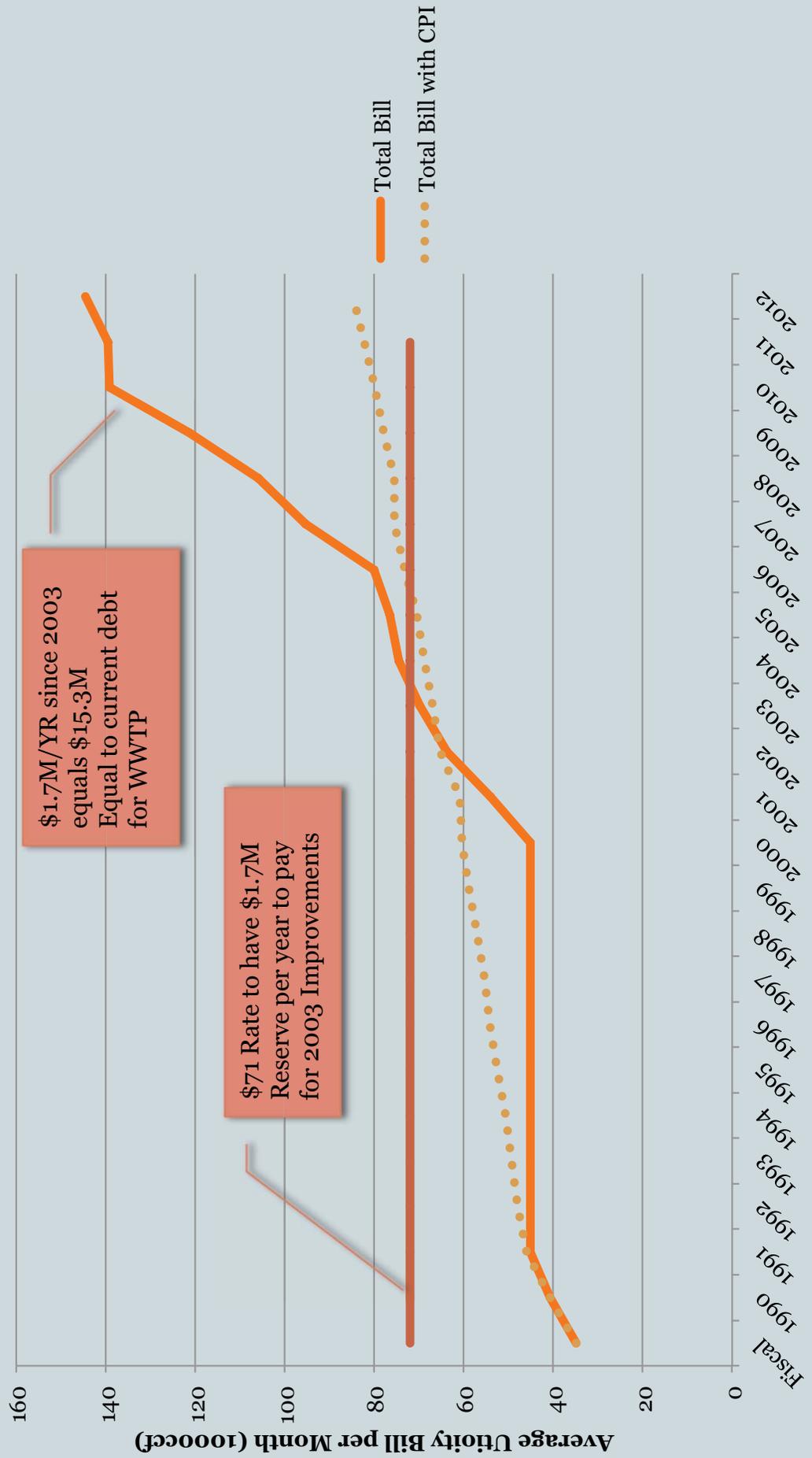
²Rate Effective March 2012

³Rate Effective July 2012

⁴Rate Effective Jan 2014

Rate History

20



Utility Bill Assistance Program

21

A budget of \$20,000 is set aside annually to provide utility payment assistance.

YCAP Voucher Program: For many years Newberg has partnered with YCAP to provide utility bill assistance to Newberg customers.

Military Credit: Active military duty customers may receive a maximum monthly \$10 utility bill credit.

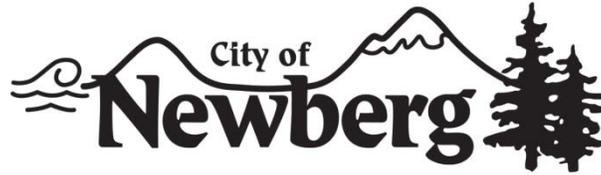
Grants to Non-Profits: Non-profit organizations may apply for a grant to provide assistance. Current organizations: LOVE, Inc, Newberg Christian Church, 2nd Street Community Church, 7th Day Adventist Church, Newberg Friends Church, and North Valley Friends Church.

Low Income Credit: Customers that meet low income status (based on a list of criteria) can receive a maximum \$10 credit per month. Customers who accept the credits are enrolled in a Water and Energy Audit Program.

Future

22

- WWTP Rehab and Expansion Cost will be debt financed to develop capacity to 2040.
- Expect 5% rate increases in 2014 and 2015
- Aging Infrastructure
 - 14% of wastewater and water system is over 75-years old (\$27M)
 - Water and Wastewater Plant will now have 20 to 25 years of life



FEBRUARY 8, 2012

TOWN HALL

**UTILITY RATE PRESENTATION
SUPPLEMENTAL INFORMATION**

**THIS PAGE
INTENTIONALLY
LEFT BLANK**

CITY OF NEWBERG
MONTHLY **WATER** SERVICE CHARGES

Customer Class	Current 2011/12	Proposed 2012/13	Proposed 2013/14
Service Charge (\$/Month)	\$1.13	\$1.18	\$1.18
Meter Charge (\$/Month)			
3/4"	\$3.24	\$5.52	\$8.13
1"	\$5.51	\$9.38	\$13.82
1-1/2"	\$10.69	\$18.22	\$26.83
2"	\$17.17	\$29.26	\$43.09
3"	\$32.40	\$55.20	\$81.30
4"	\$54.11	\$92.18	\$135.77
6"	\$107.89	\$183.82	\$270.73
8"	\$172.69	\$294.22	\$433.33
10"	\$269.89	\$459.82	\$677.23
Volume Charge (\$/ccf)			
Single Family Residential	\$4.02	\$3.72	\$3.59
Multifamily	\$3.26	\$3.02	\$2.91
Commercial	\$3.65	\$3.59	\$3.47
Industrial	\$3.85	\$3.89	\$3.75
Irrigation	\$6.84	\$6.66	\$6.40
Outside City	\$6.03	\$5.57	\$5.39
Public Agency	\$3.76	\$3.70	\$3.57

CITY OF NEWBERG
MONTHLY **WASTEWATER** SERVICE CHARGES

Customer Class	Current 2011/12	Proposed 2012/13	Proposed 2013/14
Service Charge (\$/Month)	\$17.54	\$17.54	\$18.07
Multifamily	\$16.20	\$16.20	\$16.69
Volume Charge (\$/ccf)			
Single Family Residential	\$7.18	\$7.18	\$7.40
Multifamily	\$7.18	\$7.18	\$7.40
Commercial - 1	\$7.18	\$7.18	\$7.40
Commercial - 2	\$8.92	\$8.92	\$9.19
Commercial - 3	\$14.94	\$14.94	\$15.39
Industrial	\$8.92	\$8.92	\$9.19
Outside City	\$7.18	\$7.18	\$7.40



CITY OF NEWBERG
MONTHLY **STORMWATER** SERVICE CHARGES

Customer Class	Current 2011/12	Proposed 2012/13	Proposed 2013/14
Service Charge (\$/EDU/Month)	\$5.29	\$6.22	\$7.30

2011-12 City of Newberg Adopted Budget and 2012-13 and 2013-14 Proposed CRRC Budgets

ACCOUNT #	DESCRIPTION	ADOPTED 2011-12	PROPOSED 2012-13	PROPOSED 2013-14
FUND 04	PROPRIETARY CAPITAL PROJECTS			
REVENUES				
04-0000-300000	Beg F/B-Net Working Capital	-		
04-0000-390006	Transfer In-Wastewater Fund	87,900	523,250	975,000
04-0000-390007	Transfer In-Water Fund	1,062,000	746,250	926,750
04-0000-390017	Transfer In-Stormwater Fund	168,500	-	-
04-0000-390043	Transfer In-Storm SDC	93,500	250,000	-
04-0000-390046	Transfer In-Wastewater SDC	58,600	223,250	325,000
04-0000-390047	Transfer In-Water SDC	93,000	303,750	758,250
	TOTAL REVENUES	1,563,500	2,046,500	2,985,000
5150	CAPITAL PROJECTS			
04-5150-706395	WWTP Wynooski IPS Property Purchase	146,500	146,500	-
	Springbrook Mainline Design	-	600,000	-
	Springbrook Mainline Construction	-	-	1,300,000
	Wastewater Projects	146,500	746,500	1,300,000
04-5150-707555	Spring Improvements	700,000	400,000	-
04-5150-707577	WTP Exp Land Purchase	-	350,000	-
04-5150-707587	North Valley Rd Reservoir Upgrades	210,000	175,000	685,000
04-5150-707593	Wellfield Improvements	70,000	-	-
	Springbrook 24" Mainline Upsizing Design	-	125,000	-
	Springbrook 24" Mainline Upsizing Constructor	-	-	1,000,000
	Water Projects	1,155,000	1,050,000	1,685,000
04-5150-717710	Vermillion Drain to Creek	152,000	-	-
04-5150-717727	Crestview Drive (Oxberg Lake)	110,000	-	-
	Stormwater Master Plan	-	250,000	-
	Stormwater Projects	262,000	250,000	-
5150	TOTAL CAPITAL PROJECTS	1,563,500	2,046,500	2,985,000
9180	RESERVES			
04-9180-810000	Reserve for Restricted Interest	-	-	-
9180	TOTAL RESERVES	-	-	-
FUND 04	TOTAL PROP CAPITAL PROJECTS	1,563,500	2,046,500	2,985,000
	ENDING FUND BALANCE	-	-	-

2011-12 City of Newberg Adopted Budget and 2012-13 and 2013-14 Proposed CRRC Budgets

ACCOUNT #	DESCRIPTION	ADOPTED 2011-12	PROPOSED 2012-13	PROPOSED 2013-14
FUND 06	WASTEWATER FUND		4,359,562	5,713,347
REVENUES				
06-0000-300000	Beg F/B-Net Working Capital	2,661,576	3,683,790	4,917,552
06-0000-342004	Dev Review and Inspection Fee	1,500	1,000	1,000
06-0000-342005	Compost Sales/Sawdust Sales	45,000	31,200	31,200
06-0000-343000	Illinois Street Rental Revenue	13,800	13,800	13,800
06-0000-348000	User Fees	5,750,000	6,361,366	6,393,172
06-0000-349001	Connection Charges	5,000	5,000	5,000
06-0000-350000	Utility Billing Penalties	35,000	35,000	35,000
06-0000-355000	Other Fees: Dumping	35,000	35,000	35,000
06-0000-360000	Miscellaneous Revenues	1,000	1,500	1,500
06-0000-361000	Interest Earned	7,000	11,000	3,541
06-0000-361004	Interest-Other Investments	-	-	-
06-0000-390001	Transfer In-General Fund	19,639	-	-
06-0000-390026	Transfer In-WW Replacement & Reserves	-	-	-
	TOTAL REVENUES	8,574,515	10,178,656	11,436,765
			10,868,547	12,258,209
	PUBLIC WORKS 51XX			
5110	WASTEWATER ADMINISTRATION			
06-5110-410000	Administrative Salaries	38,244	24,494	25,719
06-5110-441000	FICA/Medicare	2,926	1,928	2,082
06-5110-442000	Workers Compensation	805	530	573
06-5110-443000	Unemployment	115	76	82
06-5110-444000	Retirement-PERS	5,106	3,363	3,632
06-5110-444002	Retirement-Pension Bond	1,281	843	911
06-5110-445000	Health/Life/LTD	7,075	4,659	5,032
	Total Personal Services	55,552	35,893	38,031
06-5110-510000	Office Supplies	500	-	-
06-5110-511000	Postage	50	50	50
06-5110-515000	Printing & Advertising	150	-	-
06-5110-520000	Dues & Meetings	1,000	1,000	1,000
06-5110-520003	Recruitment Expense	50	-	54
06-5110-523000	Supplies	500	250	250
06-5110-525000	Travel & Training	3,000	1,000	1,000
06-5110-526000	Employee Testing	-	-	-
06-5110-533000	Contractual Services	40,000	-	-
06-5110-551000	Books & Publications	100	100	100
06-5110-590000	Internal Chrg-Admin Support Services	567,362	601,404	637,488
06-5110-590002	Internal Chrg-Computers	-	-	-
06-5110-590004	Internal Chrg-Facilities (COP)	56,359	56,359	56,359
06-5110-590015	Internal Chrg-Franchise Fee	287,500	318,068	319,659
	Total Materials and Services	956,571	978,283	1,015,960
5110	TOTAL WASTEWATER ADMIN	1,012,123	1,014,176	1,053,991

**2011-12 City of Newberg Adopted Budget
and 2012-13 and 2013-14 Proposed CRRC Budgets**

ACCOUNT #	DESCRIPTION	ADOPTED 2011-12	PROPOSED 2012-13	PROPOSED 2013-14
5113	CAP PROJ ENGINEERING			
06-5113-432000	Engineer Salaries	158,215	103,915	109,111
06-5113-420000	Clerical Salaries	11,347	-	-
06-5113-438000	Longevity	938	567	595
06-5113-441000	FICA/Medicare	13,043	8,222	8,880
06-5113-442000	Workers Compensation	3,111	1,999	2,159
06-5113-443000	Unemployment	511	322	348
06-5113-444000	Retirement-PERS	7,866	8,811	9,515
06-5113-444001	Retirement-Principal	16,503	11,701	12,637
06-5113-444002	Retirement-Pension Bond	1,262	1,418	1,531
06-5113-445000	Health/Life/LTD	23,384	24,796	26,779
	Total Personal Services	236,180	161,751	171,555
06-5113-510000	Office Supplies	1,000	200	200
06-5113-515000	Printing & Advertising	300	150	150
06-5113-520000	Dues & Meetings	2,500	1,000	1,000
06-5113-523000	Supplies	1,500	1,500	1,500
06-5113-525000	Travel & Training	10,750	5,000	5,000
06-5113-532000	Bank Fees	500	520	541
06-5113-533000	Contractual Services	30,000	15,000	15,000
06-5113-533045	Maintenance Agreements	10,200	10,608	11,032
06-5113-551000	Books & Publications	500	500	500
06-5113-562000	Fuel	1,000	1,100	1,210
06-5113-563000	Vehicle Maintenance	500	500	500
06-5113-566000	Equip Repair & Maintenance	150	150	150
06-5113-576000	Recording Fees	200	200	200
	Total Materials and Services	59,100	36,428	36,983
06-5113-610000	Capital Outlay	920	957	995
	Total Capital Outlay	920	957	995
5113	TOTAL CAP PROJ ENGINEERING	296,200	199,136	209,533

2011-12 City of Newberg Adopted Budget and 2012-13 and 2013-14 Proposed CRRC Budgets

ACCOUNT #	DESCRIPTION	ADOPTED 2011-12	PROPOSED 2012-13	PROPOSED 2013-14
5131	WASTEWATER PLANT OPERATIONS			
06-5131-410000	Administrative Salaries	37,836	39,728	41,714
06-5131-420000	Clerical Salaries	15,948	16,745	17,583
06-5131-431000	Salaries & Wages	343,932	437,548	459,425
06-5131-433000	Summer Help	12,000	12,600	13,230
06-5131-436000	Beeper Pay	2,272	2,653	2,786
06-5131-436100	Uniform Allowance	700	-	-
06-5131-438000	Longevity	2,340	2,203	2,379
06-5131-441000	FICA/Medicare	31,749	40,241	43,460
06-5131-442000	Workers Compensation	15,748	19,653	21,225
06-5131-443000	Unemployment	1,247	1,580	1,706
06-5131-444001	Retirement-Principal	71,965	91,728	99,066
06-5131-445000	Health/Life/LTD	91,552	115,640	124,891
	Total Personal Services	627,289	780,319	827,465
06-5131-510000	Office Supplies	1,500	1,500	1,500
06-5131-511000	Postage	700	700	700
06-5131-512000	Uniforms	1,800	1,800	1,800
06-5131-520000	Dues & Meetings	2,450	2,450	2,450
06-5131-523000	Supplies & Small Tools	11,000	10,000	10,000
06-5131-525000	Travel & Training	13,000	13,000	13,000
06-5131-526000	Employee Testing	500	520	541
06-5131-533000	Contractual Services	46,492	46,492	46,492
06-5131-533045	Maintenance Agreements	1,840	1,914	1,990
06-5131-537000	Operating Supplies	218,400	227,136	236,221
06-5131-540000	Utilities	378,000	370,000	399,600
06-5131-545000	Lab Supplies & Oper	20,000	15,000	15,600
06-5131-546000	Permits & Fees	16,500	19,300	20,072
06-5131-547000	Analytical Lab Testing	20,000	15,000	15,600
06-5131-548000	Industrial Pretreatment	6,000	6,000	6,000
06-5131-551000	Books & Publications	400	400	400
06-5131-562000	Fuel	17,875	19,663	21,629
06-5131-563000	Vehicle Maintenance	8,000	8,000	8,000
06-5131-566000	Equip Repair & Maintenance	230,000	230,000	230,000
06-5131-568000	Pump Station Maintenance	25,000	25,000	25,000
06-5131-571000	Building & Grounds Maintenance	10,000	10,000	10,000
	Total Materials and Services	1,029,457	1,023,875	1,066,595
06-5131-610000	Capital Outlay	35,000	35,000	35,000
06-5131-610400	Capital Outlay-Ops Vehicle Replac	27,000	-	-
	Total Capital Outlay	62,000	35,000	35,000
5131	TOTAL WASTEWATER PLANT OP	1,718,746	1,839,194	1,929,060

**2011-12 City of Newberg Adopted Budget
and 2012-13 and 2013-14 Proposed CRRC Budgets**

ACCOUNT #	DESCRIPTION	ADOPTED 2011-12	PROPOSED 2012-13	PROPOSED 2013-14
5132	WASTEWATER MAINTENANCE			
06-5132-410000	Administrative Salaries	31,020	19,870	20,864
06-5132-420000	Clerical Salaries	13,707	10,902	11,447
06-5132-431000	Salaries & Wages	265,896	265,520	278,796
06-5132-433000	Summer Help	15,360	16,128	16,934
06-5132-436000	Beeper Pay	1,835	1,658	1,741
06-5132-436100	Uniform Allowance	566	-	-
06-5132-438000	Longevity	2,452	2,246	2,426
06-5132-441000	FICA/Medicare	25,308	24,885	26,876
06-5132-442000	Workers Compensation	19,329	19,912	21,505
06-5132-443000	Unemployment	994	977	1,056
06-5132-444001	Retirement-Principal	58,675	56,812	61,357
06-5132-445000	Health/Life/LTD	84,162	84,324	91,070
	Total Personal Services	519,304	503,234	534,072
06-5132-512000	Uniforms	1,400	1,400	1,400
06-5132-520000	Dues & Meetings	2,750	2,750	2,750
06-5132-520003	Recruitment Expense	500	300	312
06-5132-523000	Supplies & Small Tools	11,000	12,000	12,000
06-5132-524000	Safety Program	1,000	500	500
06-5132-525000	Travel & Training	6,500	6,500	6,500
06-5132-526000	Employee Testing	1,000	1,000	1,040
06-5132-533000	Contractual Services	20,000	20,000	20,000
06-5132-533045	Maintenance Agreements	4,000	2,000	2,080
06-5132-538301	Inflow/Infiltration Correction	35,000	30,000	31,200
06-5132-538306	Wastewater Rehabilitation	150,000	100,000	104,000
06-5132-538307	Wastewater System Replacement	50,000	35,000	36,400
06-5132-538323	Manhole Rehabilitation	35,000	35,000	36,400
06-5132-538325	Lateral Replacement	35,000	30,000	31,200
06-5132-540000	Utilities	6,000	6,000	6,240
06-5132-543000	Illinois Street Rental Expense	10,000	10,000	10,000
06-5132-562000	Fuel	12,000	12,000	13,200
06-5132-563000	Vehicle Maintenance	9,500	11,000	11,000
06-5132-566000	Equip Repair & Maintenance	3,500	4,000	4,000
06-5132-567000	Pipe & Materials	25,000	25,000	26,000
06-5132-590001	Internal Chrg-Veh/Equip	42,925	44,642	46,428
	Total Materials and Services	462,075	389,092	402,650
5132	TOTAL WASTEWATER COLLECTION	981,379	892,326	936,722
	TOTAL PUBLIC WORKS (WW)	4,008,448	3,944,832	4,129,306

**2011-12 City of Newberg Adopted Budget
and 2012-13 and 2013-14 Proposed CRRC Budgets**

ACCOUNT #	DESCRIPTION	ADOPTED 2011-12	PROPOSED 2012-13	PROPOSED 2013-14
NONDEPARTMENTAL 91XX				
9150	DEBT SERVICE - PRINCIPAL			
06-9150-603001	Loan: Composter/Headworks	181,253	187,363	198,536
06-9150-608000	Loan: Effluent Reuse	107,992	112,193	114,696
06-9150-609000	Loan: WW Property Expansion	193,000	193,000	193,000
9150	TOTAL PRINCIPAL	482,245	492,556	506,232
9160	DEBT SERVICE - INTEREST			
06-9160-603001	Loan: Composter/Headworks	66,522	60,088	53,296
06-9160-608000	Loan: Effluent Reuse	123,262	120,022	116,095
06-9160-609000	Loan: WW Property Expansion	64,848	56,742	48,636
9160	TOTAL INTEREST	254,632	236,852	218,027
9150/9160	TOTAL DEBT SERVICE	736,877	729,408	724,259
9170	TRANSFERS			
06-9170-904000	Transfer Out-Capital Projects	87,900	523,250	975,000
06-9170-926000	Transfer Out-Wastewater Repl Reserve	57,500	63,614	63,932
9170	TOTAL TRANSFERS	145,400	586,864	1,038,932
9180	RESERVES			
06-9180-800000	Contingency	3,544,221	4,917,552	5,544,268
06-9180-810000	Contingency-Ops Veh Replace	139,569	-	-
9180	TOTAL RESERVES	3,683,790	4,917,552	5,544,268
	TOTAL NONDEPARTMENTAL	4,566,067	6,233,824	7,307,459
FUND 06	TOTAL WASTEWATER FUND	8,574,515	10,178,656	11,436,765
	ENDING FUND BALANCE	-	-	-

2011-12 City of Newberg Adopted Budget and 2012-13 and 2013-14 Proposed CRRC Budgets

ACCOUNT #	DESCRIPTION	ADOPTED 2011-12	PROPOSED 2012-13	PROPOSED 2013-14
FUND 07	WATER FUND			
REVENUES				
07-0000-300000	Beg F/B-Net Working Capital	2,999,352	2,255,137	2,024,291
07-0000-342004	Dev Review and Inspection Fee	1,500	1,000	1,000
07-0000-348000	User Fees	4,300,000	4,328,231	4,321,898
07-0000-349001	Connection Charges	30,000	30,000	40,000
07-0000-350000	Utility Billing Penalties	30,000	30,000	30,000
07-0000-355000	Other Fees: Hydrant Permits	5,000	5,000	5,000
07-0000-360000	Miscellaneous Revenues	10,000	10,000	10,000
07-0000-361000	Interest Earned	12,000	10,821	8,643
	TOTAL REVENUES	7,387,852	6,670,189	6,440,832
	PUBLIC WORKS 51XX			
5110	WATER ADMINISTRATION			
07-5110-410000	Administrative Salaries	36,384	24,494	25,719
07-5110-441000	FICA/Medicare	2,783	1,928	2,082
07-5110-442000	Workers Compensation	765	530	573
07-5110-443000	Unemployment	109	76	82
07-5110-444000	Retirement-PERS	4,857	3,363	3,632
07-5110-444002	Retirement-Pension Bond	1,219	843	911
07-5110-445000	Health/Life/LTD	6,730	4,659	5,032
	Total Personal Services	52,847	35,893	38,031
07-5110-510000	Office Supplies	500	500	500
07-5110-511000	Postage	50	50	50
07-5110-515000	Printing & Advertising	200	200	200
07-5110-520000	Dues & Meetings	4,200	4,200	4,200
07-5110-520003	Recruitment Expense	50	52	54
07-5110-523000	Supplies	500	500	500
07-5110-523010	Conservation Public Outreach Program	10,000	5,000	5,000
07-5110-525000	Travel & Training	2,500	2,500	2,500
07-5110-533000	Contractual Services	40,000	-	-
07-5110-551000	Books & Publications	100	100	100
07-5110-590000	Internal Chrg-Admin Support Services	516,274	547,250	580,085
07-5110-590004	Internal Chrg-Facilities (COP)	56,359	56,359	56,359
07-5110-590015	Internal Chrg-Franchise Fee	215,000	216,095	218,344
	Total Materials and Services	845,733	832,806	867,892
5110	TOTAL WATER ADMINISTRATION	898,580	868,699	905,923

**2011-12 City of Newberg Adopted Budget
and 2012-13 and 2013-14 Proposed CRRC Budgets**

ACCOUNT #	DESCRIPTION	ADOPTED 2011-12	PROPOSED 2012-13	PROPOSED 2013-14
5113	CAP PROJ ENGINEERING			
07-5113-432000	Engineer Salaries	233,483	103,915	109,111
07-5113-420000	Clerical Salaries	10,911	-	-
07-5113-438000	Longevity	1,418	567	595
07-5113-441000	FICA/Medicare	18,805	8,222	8,880
07-5113-442000	Workers Compensation	4,303	1,999	2,159
07-5113-443000	Unemployment	739	322	348
07-5113-444000	Retirement-PERS	7,866	8,811	9,515
07-5113-444001	Retirement-Principal	30,183	11,701	12,637
07-5113-444002	Retirement-Pension Bond	1,262	1,418	1,531
07-5113-445000	Health/Life/LTD	41,322	24,796	26,779
	Total Personal Services	350,292	161,751	171,555
07-5113-510000	Office Supplies	1,000	500	500
07-5113-515000	Printing & Advertising	300	300	300
07-5113-520000	Dues & Meetings	5,500	1,600	1,600
07-5113-523000	Supplies	1,000	1,000	1,000
07-5113-525000	Travel & Training	13,500	4,000	4,000
07-5113-526000	Employee Testing	100	104	108
07-5113-532000	Bank Fees	500	520	541
07-5113-533000	Contractual Services	25,000	10,000	10,000
07-5113-533045	Maintenance Agreements	10,200	10,608	11,032
07-5113-551000	Books & Publications	2,500	300	300
07-5113-562000	Fuel	1,000	1,100	1,210
07-5113-563000	Vehicle Maintenance	300	300	300
07-5113-566000	Equip Repair & Maintenance	150	150	150
07-5113-576000	Recording Fees	150	150	150
	Total Materials and Services	61,200	30,632	31,191
07-5113-610000	Capital Outlay	920	957	995
	Total Capital Outlay	920	957	995
5113	TOTAL CAP PROJ ENGINEERING	412,412	193,340	203,741

**2011-12 City of Newberg Adopted Budget
and 2012-13 and 2013-14 Proposed CRRC Budgets**

ACCOUNT #	DESCRIPTION	ADOPTED 2011-12	PROPOSED 2012-13	PROPOSED 2013-14
5141	WATER PLANT OP			
07-5141-410000	Administrative Salaries	37,836	39,728	41,714
07-5141-420000	Clerical Salaries	16,380	17,199	18,059
07-5141-431000	Salaries & Wages	305,040	269,665	283,148
07-5141-433000	Summer Help	12,000	12,600	13,230
07-5141-436000	Beeper Pay	1,922	1,848	1,940
07-5141-436100	Uniform Allowance	600	540	583
07-5141-438000	Longevity	2,340	2,851	3,079
07-5141-441000	FICA/Medicare	28,772	27,096	29,264
07-5141-442000	Workers Compensation	14,318	13,394	14,466
07-5141-443000	Unemployment	1,130	1,065	1,150
07-5141-444001	Retirement-Principal	64,883	60,709	65,566
07-5141-445000	Health/Life/LTD	85,288	84,514	91,275
	Total Personal Services	570,509	531,209	563,474
07-5141-510000	Office Supplies	1,000	800	800
07-5141-511000	Postage	4,200	4,000	4,000
07-5141-512000	Uniforms	1,200	1,000	1,000
07-5141-515000	Printing & Advertising	10,000	10,400	10,816
07-5141-520000	Dues & Meetings	3,500	3,000	3,000
07-5141-523000	Supplies & Small Tools	10,000	10,400	10,816
07-5141-525000	Travel & Training	8,250	7,000	7,000
07-5141-526000	Employee Testing	500	520	541
07-5141-533000	Contractual Services	35,000	30,000	30,000
07-5141-533045	Maintenance Agreements	2,500	2,600	2,704
07-5141-537000	Operating Supplies	100,000	75,000	75,000
07-5141-540000	Utilities	275,000	245,000	264,600
07-5141-545000	Lab Supplies	2,000	2,080	2,163
07-5141-546000	Permits & Fees	4,000	4,160	4,326
07-5141-547000	Analytical Lab Testing	25,000	18,200	18,928
07-5141-551000	Books & Publications	400	416	433
07-5141-560000	Property Taxes	1,545	1,607	1,671
07-5141-562000	Fuel	5,000	4,000	4,000
07-5141-563000	Vehicle Maintenance	4,500	2,500	2,500
07-5141-566000	Equip Repair & Maintenance	85,000	70,000	70,000
07-5141-568000	Springs Riparian System Maintenance	15,000	15,600	16,224
07-5141-569000	Well Maintenance	35,000	31,200	32,448
07-5141-571000	Building & Grounds Maintenance	4,000	3,500	3,500
	Total Materials and Services	632,595	542,983	566,470
07-5141-610000	Capital Outlay	75,000	75,000	75,000
	Total Capital Outlay	75,000	75,000	75,000
5141	TOTAL WATER PLANT OP	1,278,104	1,149,192	1,204,944

**2011-12 City of Newberg Adopted Budget
and 2012-13 and 2013-14 Proposed CRRC Budgets**

ACCOUNT #	DESCRIPTION	ADOPTED 2011-12	PROPOSED 2012-13	PROPOSED 2013-14
5142	WATER DISTRIB SYSTEM			
07-5142-410000	Administrative Salaries	29,508	18,924	19,870
07-5142-420000	Clerical Salaries	14,124	10,380	10,899
07-5142-431000	Salaries & Wages	307,608	255,696	268,481
07-5142-433000	Summer Help	17,640	17,640	18,522
07-5142-436000	Beeper Pay	2,184	2,161	2,269
07-5142-438000	Longevity	2,428	2,080	2,246
07-5142-441000	FICA/Medicare	28,571	23,476	25,354
07-5142-442000	Workers Compensation	14,423	13,452	14,528
07-5142-443000	Unemployment	1,121	921	995
07-5142-444001	Retirement-Principal	65,851	53,216	57,473
07-5142-445000	Health/Life/LTD	90,317	72,067	77,832
	Total Personal Services	573,775	470,013	498,469
07-5142-512000	Uniforms	1,750	1,750	1,750
07-5142-520000	Dues & Meetings	2,750	2,750	2,750
07-5142-523000	Supplies & Small Tools	8,500	8,500	8,500
07-5142-523009	Water Meters	100,000	20,000	20,000
07-5142-523011	Water Meter Installations	25,000	20,000	20,000
07-5142-525000	Travel & Training	7,000	7,000	7,000
07-5142-526000	Employee Testing	850	884	919
			29,431	29,431
07-5142-533045	Maintenance Agreements	2,000	2,080	2,163
07-5142-538507	Water Appurtenances Replacements	50,000	-	-
07-5142-538519	Water Line Replacement	60,000	50,000	50,000
07-5142-538585	Water Master Plan-Water Line Looping	40,000	-	-
07-5142-540000	Utilities	5,000	5,400	5,832
07-5142-562000	Fuel	9,000	9,900	10,890
07-5142-563000	Vehicle Maintenance	6,000	6,000	6,000
07-5142-566000	Equip Repair & Maintenance	5,000	5,000	5,000
07-5142-567000	Pipe & Materials	35,000	36,400	37,856
07-5142-568000	Springs Riparian System Maintenance	10,000	10,400	10,816
07-5142-569000	Wellfield Maintenance	5,000	5,200	5,408
07-5142-590001	Internal Chrg-Veh/Equip	33,525	34,866	36,261
	Total Materials and Services	454,875	255,561	260,576
5142	TOTAL WATER DISTRIB SYSTEM	1,028,650	725,574	759,045
	TOTAL PUBLIC WORKS (WATER)	3,617,746	2,936,805	3,073,653

2011-12 City of Newberg Adopted Budget and 2012-13 and 2013-14 Proposed CRRC Budgets

ACCOUNT #	DESCRIPTION	ADOPTED 2011-12	PROPOSED 2012-13	PROPOSED 2013-14
	NONDEPARTMENTAL 91XX			
9150	DEBT SERVICE - PRINCIPAL			
07-9150-602001	Loan: Water Reservoir	211,301	222,608	229,018
07-9150-607000	Loan: Parallel River Line	30,824	32,537	34,259
9150	TOTAL PRINCIPAL	242,125	255,145	263,277
	DEBT SERVICE - INTEREST			
9160	DEBT SERVICE - INTEREST			
07-9160-602001	Loan: Water Reservoir	139,221	131,614	123,267
07-9160-607000	Loan: Parallel River Line	28,623	27,390	26,088
9160	TOTAL INTEREST	167,844	159,004	149,355
9150/9160	TOTAL DEBT SERVICE	409,969	414,149	412,632
	TRANSFERS			
9170	TRANSFERS			
07-9170-904000	Transfer Out-Capital Projects	1,062,000	746,250	926,750
07-9170-927000	Transfer Out-Water Repl Reserve	43,000	43,219	43,669
07-9170-947000	Transfer Out-Water SDC	-	505,475	1,627,460
9170	TOTAL TRANSFERS	1,105,000	1,294,944	2,597,879
	RESERVES			
9180	RESERVES			
07-9180-800000	Contingency	2,205,173	2,024,291	356,668
07-9180-810000	Contingency-Ops Veh Replace	49,964	-	-
9180	TOTAL RESERVES	2,255,137	2,024,291	356,668
	TOTAL NONDEPARTMENTAL	3,770,106	3,733,384	3,367,179
FUND 07	TOTAL WATER FUND	7,387,852	6,670,189	6,440,832
	ENDING FUND BALANCE	-	-	-

**2011-12 City of Newberg Adopted Budget
and 2012-13 and 2013-14 Proposed CRRC Budgets**

ACCOUNT #	DESCRIPTION	ADOPTED 2011-12	PROPOSED 2012-13	PROPOSED 2013-14
FUND 17	STORMWATER FUND			
REVENUES				
17-0000-300000	Beg F/B-Net Working Capital	744,580	541,599	515,554
17-0000-342004	Dev Review and Inspection Fee	1,500	1,500	1,500
17-0000-348000	User Fees	665,000	828,665	975,854
17-0000-361000	Interest Earned	3,000	2,214	1,435
	TOTAL REVENUES	1,414,080	1,373,978	1,494,343
	PUBLIC WORKS 51XX			
5113	CAP PROJ ENGINEERING			
17-5113-410000	Administrative Salaries	6,528	24,494	25,719
17-5113-420000	Clerical Salaries	3,492	-	-
17-5113-432000	Engineering Salaries	40,705	129,771	136,259
17-5113-438000	Longevity	93	567	595
17-5113-441000	FICA/Medicare	3,887	11,846	12,438
17-5113-442000	Workers Comp	1,027	3,019	3,170
17-5113-443000	Unemployment	152	464	487
17-5113-444000	Retirement-PERS	871	11,836	12,427
17-5113-444001	Retirement-Principal	6,893	16,029	16,831
17-5113-444002	Retirement-Pension Bond	219	2,199	2,309
17-5113-445000	Health/Life/LTD	11,748	37,546	39,423
	Total Personal Services	75,615	237,771	249,658
17-5113-510000	Office Supplies	1,000	100	100
17-5113-515000	Printing & Advertising	100	100	100
17-5113-520000	Due & Meetings	2,000	1,000	1,000
17-5113-523000	Supplies	1,000	500	500
17-5113-523010	Quality Public Outreach Program	4,000	2,000	2,000
17-5113-523011	Quality Incentive Program	6,500	2,000	2,000
17-5113-525000	Travel & Training	5,700	3,000	3,000
17-5113-532000	Bank Fees	100	104	108
17-5113-533000	Contractual Services	30,000	-	-
17-5113-533045	Maintenance Agreements	10,200	10,608	11,032
17-5113-551000	Book & Publications	300	300	300
17-5113-562000	Fuel	100	110	121
17-5113-563000	V		150	150
17-5113-566000	Equip Repair & Maintenance	150	150	150
17-5113-576000	Recording Fees	100	100	100
17-5113-590004	Internal Chrg-Facilities	7,780	8,169	8,577
	Total Materials and Services	69,180	28,391	29,238
17-5113-610000	Capital Outlay	920	957	995
	Total Capital Outlay	920	957	995
5113	TOTAL CAP PROJ ENGINEERING	145,715	267,119	279,891

2011-12 City of Newberg Adopted Budget and 2012-13 and 2013-14 Proposed CRRC Budgets

ACCOUNT #	DESCRIPTION	ADOPTED 2011-12	PROPOSED 2012-13	PROPOSED 2013-14
5170	STORMWATER MAINTENANCE			
17-5170-410000	Administrative Salaries	5,292	19,870	20,864
17-5170-420000	Clerical Salaries	3,324	10,899	11,444
17-5170-431000	Maintenance Salaries	167,604	167,114	175,469
17-5170-433000	Summer Help	12,000	12,600	13,230
17-5170-436000	Beeper Pay	1,095	1,150	1,207
17-5170-438000	Longevity	444	882	926
17-5170-441000	FICA/Medicare	14,516	16,258	17,071
17-5170-442000	Workers Comp	11,723	11,459	12,032
17-5170-443000	Unemployment	569	638	670
17-5170-444001	Retirement-Principal	32,318	37,195	39,055
17-5170-445000	Health/Life/LTD	51,300	52,794	55,434
	Total Personal Services	300,185	330,859	347,402
17-5170-510000	Office Supplies	1,500	1,500	1,500
17-5170-512000	Uniforms	1,500	1,500	1,500
17-5170-520000	Dues & Meetings	1,000	1,000	1,000
17-5170-523000	Supplies & Small Tools	5,000	6,000	6,000
17-5170-524000	Safety Program	500	500	500
17-5170-525000	Travel & Training	3,000	3,000	3,000
17-5170-526000	Employee Testing	500	500	520
17-5170-533000	Contractual Services	5,000	6,000	6,000
17-5170-533045	Maintenance Agreements	2,000	2,000	2,080
17-5170-538702	Stormwater Repair	46,500	35,000	
17-5170-540000	Utilities	2,500	3,000	3,240
17-5170-562000	Fuel	12,000	13,000	14,300
17-5170-563000	Vehicle Maintenance	10,000	15,000	15,000
17-5170-566000	Equip Repair & Maintenance	3,000	3,000	3,000
17-5170-567000	Pipe & Materials	18,000	15,000	15,600
17-5170-590000	Internal Chrg-Admin Support Services	126,081	133,646	141,665
17-5170-590001	Internal Chrg-Veh/Equip	20,000	20,800	21,632
	Total Materials and Services	258,081	260,446	272,937
5170	TOTAL STORMWATER MAINT	558,266	591,305	620,339
	TOTAL PUBLIC WORKS (STORM)	703,981	858,424	900,230

**2011-12 City of Newberg Adopted Budget
and 2012-13 and 2013-14 Proposed CRRC Budgets**

ACCOUNT #	DESCRIPTION	ADOPTED 2011-12	PROPOSED 2012-13	PROPOSED 2013-14
NONDEPARTMENTAL 91XX				
9170	TRANSFERS			
17-9170-904000	Transfer Out-Capital Projects	168,500	-	-
9170	TOTAL TRANSFERS	168,500	-	-
9180	RESERVES			
17-9180-800000	Contingency	541,599	515,554	594,113
9180	TOTAL RESERVES	541,599	515,554	594,113
	TOTAL NONDEPARTMENTAL	710,099	515,554	594,113
FUND 17	TOTAL STORMWATER FUND	1,414,080	1,373,978	1,494,343
	ENDING FUND BALANCE	-	-	-
FUND 26	WASTEWATER REPLACEMENT AND RESERVE FUND			
REVENUES				
26-0000-300000	Beg F/B-Net Working Capital	1,048,636	1,110,136	1,179,731
26-0000-361000	Interest Earned	4,000	5,981	6,330
26-0000-390006	Transfer In-Wastewater Fund	57,500	63,614	63,932
	TOTAL REVENUES	1,110,136	1,179,731	1,249,993
9170	TRANSFERS			
26-9170-904000	Transfer Out-Capital Projects	-	-	-
26-9170-906000	Transfer Out-Wastewater Fund	-	-	-
9170	TOTAL TRANSFERS	-	-	-
9180	RESERVES			
26-9180-850000	Reserve For Wastewater Improvement	1,110,136	1,179,731	1,249,993
9180	TOTAL RESERVES	1,110,136	1,179,731	1,249,993
FUND 26	TOTAL WASTEWATER REPLACE FUND	1,110,136	1,179,731	1,249,993
	ENDING FUND BALANCE	-	-	-

2011-12 City of Newberg Adopted Budget and 2012-13 and 2013-14 Proposed CRRC Budgets

ACCOUNT #	DESCRIPTION	ADOPTED 2011-12	PROPOSED 2012-13	PROPOSED 2013-14
FUND 27	WATER REPLACEMENT AND RESERVE FUND			
REVENUES				
27-0000-300000	Beg F/B-Net Working Capital	2,801,305	2,855,305	2,915,524
27-0000-361000	Interest Earned	11,000	13,500	14,918
27-0000-361004	Interest-Other Investments	-	3,500	-
27-0000-390007	Transfer In-Water Fund	43,000	43,219	43,669
TOTAL REVENUES		2,855,305	2,915,524	2,974,111
9170 TRANSFERS				
27-9170-904000	Transfer Out-Capital Projects	-	-	-
27-9170-907000	Transfer Out-Water Fund	-	-	-
27-9170-932000	Transfer Out-Veh/Equip Repl-Maint	-	-	-
9170	TOTAL TRANSFERS	-	-	-
9180 RESERVES				
27-9180-850000	Reserve For Water Improv	2,855,305	2,915,524	2,974,111
9180	TOTAL RESERVES	2,855,305	2,915,524	2,974,111
FUND 27	TOTAL WATER REPLACE FUND	2,855,305	2,915,524	2,974,111
	ENDING FUND BALANCE	-	-	-
FUND 36	WASTEWATER FINANCED CIP'S			
REVENUES				
36-0000-300000	Beg F/B-Net Working Capital	-	-	-
36-0000-393003	Interim Fin-WWTP CWSRLF	9,626,844	8,222,937	4,467,857
TOTAL REVENUES		9,626,844	8,222,937	4,467,857
5150 WASTEWATER CAPITAL PROJECTS				
36-5150-706400	WWTP RRE Ph 1 & 2 Design	3,371,844	1,012,845	1,557,008
36-5150-706401	WWTP RRE Construction	6,255,000	7,210,092	2,910,849
5150	TOTAL CAPITAL PROJECTS	9,626,844	8,222,937	4,467,857
FUND 36	TOTAL WASTEWATER FINANCED CIP'S	9,626,844	8,222,937	4,467,857
	ENDING FUND BALANCE	-	-	-

**City of Newberg
Utility Debt**

	Principal & Interest Payments					6/30/2012 DEBT BALANCE
	6/30/2011 DEBT BALANCE	2011-2012				
	Water Rates	Water SDC	WW Rates	WW SDC		
Long-term Debt						
Water Loans						
Reservoir/Transmission	3,217,044	350,522				3,005,743
WTP Exp	5,772,011		505,363			5,507,228
Parallel River	2,289,184	59,447	138,710			2,186,436
Effluent Reuse	2,098,297		174,555			2,016,783
Fernwood Rd PS	160,485		27,041			141,345
TOTAL WATER	13,537,021	409,969	845,669	-	-	12,857,535
Wastewater						
Composter	1,675,850			247,775		1,494,597
Effluent Reuse 50%/50%	5,561,882			231,254	231,254	5,345,898
WWTP Property (BR)	1,544,000			257,848		1,351,000
Fernwood Rd Pump St.	298,052				50,219	262,506
WWTP RRE 85%/15%						
TOTAL WASTEWATER	9,079,784	-	-	736,877	281,473	8,454,001

	New Debt Principal and Interest Payments							
	2012-13		2013-14		2014-15		2015-16	
	WW Rates	WW SDC	WW Rates	WW SDC	WW Rates	WW SDC	WW Rates	WW SDC
Long-term Wastewater Debt								
WWTP RRE 85%/15%	-	-	368,957	65,110	701,973	123,878	1,212,486	213,968

FTE History

<u>FTE By Fund</u>	<u>Adopted 2010-11</u>	<u>Adopted 2011-12</u>	<u>Proposed 2012-13</u>
Wastewater Fund			
Administration	0.41	0.41	0.25
Engineering	3.42	2.67	1.50
Operations	6.88	7.37	8.87
Maintenance	<u>6.24</u>	<u>5.99</u>	<u>5.50</u>
TOTAL	<u>16.95</u>	<u>16.44</u>	<u>16.12</u>
Water Fund			
Administration	0.39	0.39	0.25
Engineering	4.74	3.97	1.50
Operations	6.88	6.38	5.38
Maintenance	<u>6.98</u>	<u>6.98</u>	<u>5.50</u>
TOTAL	<u>18.99</u>	<u>17.72</u>	<u>12.63</u>
Stormwater			
Engineering	0.91	0.89	2.25
Maintenance	<u>4.40</u>	<u>3.65</u>	<u>3.75</u>
TOTAL	<u>5.31</u>	<u>4.54</u>	<u>6.00</u>
Administrative Support Services			
Public Works - Fleet & Facilities	<u>2.50</u>	<u>2.25</u>	<u>2.25</u>
PUBLIC WORKS TOTALS	<u>43.75</u>	<u>40.95</u>	<u>37.00</u> *

15% decrease in
FTE since
2010-11

**A RESOLUTION ADOPTING NEW MONTHLY WATER RATES FOR THE
CITY OF NEWBERG EFFECTIVE JANUARY 1, 2013**

RECITALS:

1. Newberg Municipal Code Chapter 13.15 governs the city of Newberg water system and the adoption of city water rates, fees and charges.
2. The Citizens' Rate Review Committee (CRRC) met September 14, 2011, October 5, 2011, October 18, 2011, November 9, 2011, and November 30, 2011, to review water system characteristics and requirements, including the Capital Improvement Program and operating/maintenance costs.
3. The review also included the modification of the water rate structure by increasing the fixed cost charge portion for the service charges. That fixed portion allocation will change from the current 9% to 15% in January, 2013, and 20% in January, 2014.
4. The CRRC held a Town Hall Meeting on the proposed monthly charges on February 8, 2012, and a Public Hearing on February 15, 2012, to adopt their final rate change recommendations.
5. The CRRC recommends changes to the monthly water charges based on their analysis of current and future anticipated water funds needs.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. Effective January 1, 2013, the monthly water service rates shall consist of charges as shown on the attached Exhibit "A", which is hereby attached and by this reference incorporated.
2. Rates for any other water use, not explicitly provided for in this resolution, (i.e. connection and collection charges) shall be established by the finance director so as to conform as close as practical to the charges established herein. Such charges shall be reviewed by the City Council.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 19, 2012.

ADOPTED by the city council of the city of Newberg, Oregon, this ___ day of June, 2012.

Norma I. Alley, MMC, City Recorder

ATTEST by the mayor this ____ day of June, 2012.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through the Citizens' Rate Review Committee at their meetings on 9/14/11, 10/5/11, 10/18/11, 11/9/11, 11/30/11, 1/4/12, 1/18/12, 2/8/12 and 2/15/12.

**EXHIBIT "A" TO
RESOLUTION NO. 2012-2994**

CITY OF NEWBERG
MONTHLY **WATER** SERVICE CHARGES

Customer Class	Current 2011/12	Proposed 2012/13	Proposed 2013/14
Service Charge (\$/Month)	\$1.13	\$1.18	\$1.18
Meter Charge (\$/Month)			
3/4"	\$3.24	\$5.52	\$8.13
1"	\$5.51	\$9.38	\$13.82
1-1/2"	\$10.69	\$18.22	\$26.83
2"	\$17.17	\$29.26	\$43.09
3"	\$32.40	\$55.20	\$81.30
4"	\$54.11	\$92.18	\$135.77
6"	\$107.89	\$183.82	\$270.73
8"	\$172.69	\$294.22	\$433.33
10"	\$269.89	\$459.82	\$677.23
Volume Charge (\$/ccf)			
Single Family Residential	\$4.02	\$3.72	\$3.59
Multifamily	\$3.26	\$3.02	\$2.91
Commercial	\$3.65	\$3.59	\$3.47
Industrial	\$3.85	\$3.89	\$3.75
Irrigation	\$6.84	\$6.66	\$6.40
Outside City	\$6.03	\$5.57	\$5.39
Public Agency	\$3.76	\$3.70	\$3.57



RESOLUTION No. 2012-2995

**A RESOLUTION ADOPTING NEW MONTHLY WASTEWATER RATES FOR
THE CITY OF NEWBERG EFFECTIVE JANUARY 1, 2013**

RECITALS:

1. Newberg Municipal Code Chapter 13.10 governs the city of Newberg wastewater system and the adoption of the wastewater rates, fees and charges.
2. The Citizens' Rate Review Committee (CRRC) met January 4, 2012, and January 18, 2012, to review wastewater system characteristics and requirements, including the Capital Improvement Program and operating/maintenance costs.
3. The CRRC held a Town Hall Meeting on the proposed monthly charges on February 8, 2012, and a Public Hearing on February 15, 2012, to adopt their final rate change recommendations.
4. The CRRC recommends changes to the monthly wastewater charges based on their analysis of current and future anticipated wastewater funds needs.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. Effective January 1, 2013, the monthly wastewater service charges shall be as follows:

CITY OF NEWBERG
MONTHLY **WASTEWATER** SERVICE CHARGES

Customer Class	Current 2011/12	Proposed 2012/13	Proposed 2013/14
Service Charge (\$/month)			
Multifamily	\$17.54	\$17.54	\$18.07
	\$16.20	\$16.20	\$16.69
Volume Charge (\$/ccf)			
Single Family Residential	\$7.18	\$7.18	\$7.40
Multifamily	\$7.18	\$7.18	\$7.40
Commercial - 1	\$7.18	\$7.18	\$7.40
Commercial - 2	\$8.92	\$8.92	\$9.19
Commercial - 3	\$14.94	\$14.94	\$15.39
Industrial	\$8.92	\$8.92	\$9.19
Outside City	\$7.18	\$7.18	\$7.40

2. Rates for any other wastewater use, not explicitly provided for in this resolution, shall be established by the finance director so as to conform as close as practical to the charges established herein. Such charges shall be reviewed by the city council.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 19, 2012.

ADOPTED by the city council of the city of Newberg, Oregon, this 18th day of June, 2012.

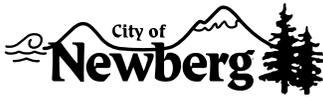
Norma I. Alley, MMC, City Recorder

ATTEST by the mayor this ____ day of June, 2012.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through the Citizens' Rate Review Committee at their meetings on 9/14/11, 10/5/11, 10/18/11, 11/9/11, 11/30/11, 1/4/12, 1/18/12, 2/8/12 and 2/15/12.



RESOLUTION No. 2012-2996

**A RESOLUTION ADOPTING NEW MONTHLY STORMWATER RATES FOR
THE CITY OF NEWBERG EFFECTIVE JANUARY 1, 2013**

RECITALS:

1. Newberg Municipal Code Chapter 13.20 governs the stormwater system and the adoption of the stormwater rates, fees and charges.
2. The Citizens' Rate Review Committee (CRRC) met November 30, 2011, and January 18, 2012, to review stormwater system characteristics and requirements, including the Capital Improvement Program and operating/maintenance costs.
3. The CRRC held a Town Hall Meeting on the proposed monthly charges on February 8, 2012, and a Public Hearing on February 15, 2012, to adopt their final rate change recommendations.
4. The CRRC recommends changes to the monthly stormwater charges based on their analysis of current and future anticipated stormwater funds needs.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. Effective January 1, 2013, the monthly stormwater service rates shall be as follows:

CITY OF NEWBERG
MONTHLY **STORMWATER** SERVICE CHARGES

Customer Class	Current 2011/12	Proposed 2012/13	Proposed 2013/14
Service Charge (\$/EDU/month)	\$5.29	\$6.22	\$7.30

An EDU (Equivalent Dwelling Unit), as defined by Newberg Municipal Code Section 13.20.020, means a configuration of development, or impervious surfaces on a parcel, deemed to contribute an amount of runoff to the city's stormwater system equal to that runoff created and contributed to the system by the average single-family residential parcel.

2. Adjustments or reductions of the fee can be made upon application of the owner of developed property to the city engineer and upon certification by the city engineer that the owner or the property meets one or more of the criteria established in the Newberg Municipal Code Section 13.20.080.

3. Rates for any other stormwater use, not explicitly provided for in this resolution, shall be established by the finance director so as to conform as close as practical to the charges established herein. Such charges shall be reviewed by the city council.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 19, 2012.

ADOPTED by the city council of the city of Newberg, Oregon, this 18th day of June, 2012.

Norma I. Alley, MMC, City Recorder

ATTEST by the mayor this ____ day of June, 2012.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through the Citizens' Rate Review Committee at their meetings on 9/14/11, 10/5/11, 10/18/11, 11/9/11, 11/30/11, 1/4/12, 1/18/12, 2/8/12 and 2/15/12.

THIS PAGE INTENTIONALLY LEFT BLANK

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 18, 2012

Order _____ Ordinance _____ Resolution XX Motion _____ Information _____
No. No. No. 2012-3010

SUBJECT: Accept an Interim Financing Loan from the Clean Water State Revolving Fund by entering into an agreement with the State of Oregon acting by and through the Department of Environmental Quality, in the amount of \$14,484,130.00 with an interest rate of 2.45% to 2.95%

Contact Person (Preparer) for this
Resolution: Jay Harris, City Engineer
Janelle Nordyke, Finance

Depts.: Public Works – Engineering and Finance

File No.:
(if applicable)

RECOMMENDATION:

Adopt Resolution No. 2012-3010 accepting an interim financing loan from the Clean Water State Revolving Fund by entering into an agreement with the State of Oregon acting by and through the Department of Environmental Quality (DEQ), in the amount of \$14,484,130.00 with an interest rate of 2.45% to 2.95%.

EXECUTIVE SUMMARY:

The City of Newberg’s 2007 Wastewater Treatment Plant (WWTP) Facilities Plan Update (FPU), completed by Brown and Caldwell Consulting Engineers, evaluated the condition of the processes and equipment at the WWTP. The report also identified existing deficiencies and expansion elements to meet future demands. The estimated cost for construction is \$47,600,000.00 with an additional \$9,200,000.00 for Engineering Design and Project Administration. City staff developed the WWTP Repair, Renovation, and Expansion (RRE) Project as a plan to address these deficiencies.

In order to fund this project, the City applied for a \$58 million loan through the Clean Water State Revolving Fund (CWSRF). The intent is that CWSRF would release that sum of money in several smaller loan amounts on an “as needed” and “as available” basis. Our first loan application was approved and CWSRF agreed to loan us \$11,409,645.00 to fund the first portion of the project at the interest rate of 2.88% to 3.38%. Council authorized staff, by Resolution No. 2011-2926 to accept the loan to be used on the individual projects specified in Exhibit “A” of that Resolution. Those project amounts included design costs of nearly all of the needed improvements and allocated very little dollars to construction. The project has progressed and funds to date have been drawn from this first loan.

The City is now being offered a second loan from DEQ in the amount of \$14,484,130.00 at an interest rate of 2.45% to 2.95% to complete scheduled improvements over the next several years. The adoption of this resolution will lock in the interest rate as well as the loan amount. The City anticipates that funds will be drawn upon after Council approves each project identified in Exhibit “A”. The repayment schedules for both loans have been incorporated in the rate study for the 2013-2014 utility rates. The City will need to continue to accept additional loans in the future to complete the project. Staff anticipates the overall project to take about seven years to complete from the date that the first loan was accepted.

As the project has progressed and the scope and project cost estimates have been more clearly defined, the design and construction elements have been re-prioritized. The plan now is to complete the design

and construction of the 4th Clarifier under Loan #1. Design for the Dewatering and Headworks/Influent Pump Station will be performed under Loan #1 and then construction will be completed under Loan #2. The revised list of the projects proposed to be completed with the first two loans is attached as Exhibit “A”.

The proposed second Loan Agreement for this resolution is attached as Exhibit “B”. The loan is a “Revenue Secured Loan” made by the Department of Environmental Quality (DEQ) pursuant to OAR Section 340-054-0065(2) for the purpose of financing the project.

We request City Council to authorize the City Manager to sign the agreement with the State of Oregon in the amount of \$14,484,130.00.

FISCAL IMPACT: The estimated annual debt payment is approximately \$1,100,000.00, which will be paid by rate payers (15%) and systems development charges (85%) over the next 20 years. This anticipated debt obligation was included in the 2013-2014 utility rate study. During those reviews, the Citizens’ Rate Review Committee assumed a 3.0% interest rate on the debt.

STRATEGIC ASSESSMENT: This project will ensure that Newberg is prepared to meet Department of Environmental Quality (DEQ) regulatory requirements for the WWTP through the 2030 population projection. The debt obligation will be paid over the next 20 years.



RESOLUTION No. 2012-3010

A RESOLUTION ACCEPTING AN INTERIM FINANCING LOAN FROM THE CLEAN WATER STATE REVOLVING FUND BY ENTERING INTO AN AGREEMENT WITH THE STATE OF OREGON ACTING BY AND THROUGH THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR THE WASTEWATER TREATMENT PLAN REPAIR, RENOVATION AND EXPANSION PROJECT

RECITALS:

1. The City of Newberg is a ‘municipality’ (“City”) within the meaning of Oregon Revised Statutes 285B.410(4).
2. The City filed an application with the State of Oregon through the Department of Environmental Quality to obtain financial assistance from the Clean Water State Revolving Fund (CWSRF) to complete portions of the Wastewater Treatment Plant Repair, Renovation and Expansion (WWTP RRE) Project as defined by the 2007 Newberg Wastewater Treatment Facilities Plan Update for Phase 1.
3. The City is being offered an additional loan with the State of Oregon through the Department of Environmental Quality with the financial assistance from the Clean Water State Revolving Fund (CWSRF) in the amount of \$14,484,130.00 to cover the majority of Phase 2 expenses of the WWTP RRE Project.
4. The Citizens’ Rate Review Committee recommended to City Council the utility rate changes, which included the payback schedule of Loan 1 and Loan 2 at their February 15, 2011, meeting.
5. A detailed list of the individual projects funded with Loan 1 and Loan 2 is attached as Exhibit “A”, which is hereby attached and by this reference incorporated.
6. The City is required to sign the Loan Agreement as shown in Exhibit “B”, which is hereby attached and by this reference incorporated.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. Interim Financing Loan Authorized. The City Council, as governing body, authorizes the City Manager to execute the Interim Financing Loan Agreement required to obtain CWSRF financial assistance. The loan shall not be in excess of \$14,484,130.00 at the interest rate of 2.45% to 2.95%. The proceeds of the CWSRF loan shall be applied solely to the costs of the WWTP RRE Project as defined in the Loan Agreement #R68821 attached as Exhibit “B”, which is hereby attached and by this reference adopted.
2. Security. Amounts payable by the City shall be payable from the sources described in Article 1 (J) of the Loan Agreement which states “The Borrower represents and warrants that the pledge

of Net Operating Revenues hereby made by the Borrower complies with, and shall be valid and binding from the date of this Agreement pursuant to, ORS 287A.310.”

3. Additional Documents. The City Manager is hereby authorized to enter into any agreements and to execute any documents or certificates, which may be required to obtain financial assistance from CWSRF for the WWTP RRE Project pursuant to the Loan Agreement #R68821.
4. Tax-Exempt Status. The City covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the City pursuant to the Interim Financing Loan Agreement not to qualify for the exclusion from gross income provided by Section 103(a) of the Internal Revenue Code of 1986, as amended. The City Manager of the City may enter into covenants on behalf of the City to protect the tax-exempt status of the interest paid by the City pursuant to the Interim Financing Loan Agreement and may execute any Tax Certificate, Internal Revenue Service forms or other documents as shall be required by the Department or their bond counsel to protect the tax-exempt status of such interest.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 19, 2012.

ADOPTED by the City Council of the City of Newberg, Oregon, this 18th day of June 2012.

Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 21st day of June 2012.

Bob Andrews, Mayor

Proposed WWTP Projects (May 2012)

Project	Value	July Q3 - 2012	October Q4 - 2012	January Q1 - 2013	April Q2 - 2013	July Q3 - 2013	October Q4 - 2013	January Q1 - 2014	April Q2 - 2014	July Q3 - 2014	
4th Clarifier	\$ 4,425,521										
Construction	Mort \$ 4,325,521	\$ 1,081,380	\$ 1,081,380	\$ 1,081,380	\$ 1,081,380	\$ 1,081,380					
City Cost	New \$ 100,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000					
Dewatering	\$ 3,948,263										
Design	HDR \$ 200,000	\$ 66,667	\$ 66,667	\$ 66,667							
CM/GC Design Services	Mort \$ 65,975	\$ 21,992	\$ 21,992	\$ 21,992							
Construction	Mort \$ 3,441,824				\$ 688,365	\$ 688,365	\$ 688,365	\$ 688,365	\$ 688,365	\$ 688,365	
City Contingency	New \$ 120,000				\$ 24,000	\$ 24,000	\$ 24,000	\$ 24,000	\$ 24,000	\$ 24,000	
City Cost	New \$ 120,464			\$ 60,232	\$ 60,232	\$ 60,232					
Headworks & Influent Pump Station	\$ 16,459,402										
Design	HDR \$ 1,716,000	\$ 343,200	\$ 343,200	\$ 343,200	\$ 343,200	\$ 343,200					
CM/GC Design Services	Mort \$ 263,067	\$ 52,613	\$ 52,613	\$ 52,613	\$ 52,613	\$ 52,613					
Construction	Mort \$ 13,200,000				\$ 2,640,000	\$ 2,640,000	\$ 2,640,000	\$ 2,640,000	\$ 2,640,000	\$ 2,640,000	
City Contingency	New \$ 800,000				\$ 160,000	\$ 160,000	\$ 160,000	\$ 160,000	\$ 160,000	\$ 160,000	
City Cost	New \$ 480,335			\$ 240,168	\$ 240,168	\$ 240,168					
TOTAL OF ABOVE PROJECTS	\$ 24,833,186	\$ 1,590,852	\$ 1,590,852	\$ 1,651,084	\$ 2,514,958	\$ 4,148,346	\$ 3,512,365	\$ 3,512,365	\$ 3,512,365	\$ 2,800,000	
ENCUMBERED TO DATE	\$ 912,303										
Running Total:		\$ 2,503,155	\$ 4,094,007	\$ 5,745,091	\$ 8,260,049	\$ 12,408,395	\$ 15,920,759	\$ 19,433,124	\$ 22,945,489	\$ 25,745,489	
		LOAN 1 (11.4M)		LOAN 1 (11.4M)		LOAN 2 (14.5M)		LOAN 2 (14.5M)		LOAN 2 (14.5M)	

	Loan Value	Running Total	Need by
1	\$ 11,410,000	\$ 11,410,000	Currently
2	\$ 14,484,000	\$ 25,894,000	July '13

**CLEAN WATER STATE REVOLVING FUND
LOAN AGREEMENT
No. R68821**

BETWEEN

**THE STATE OF OREGON
ACTING BY AND THROUGH ITS
DEPARTMENT OF ENVIRONMENTAL QUALITY**

AND

CITY OF NEWBERG

TABLE OF CONTENTS

ARTICLE 1: THE LOAN - SPECIFIC TERMS3

ARTICLE 2: GENERAL LOAN PROVISIONS.....4

ARTICLE 3: GENERAL REPRESENTATIONS, WARRANTIES AND COVENANTS.....7

ARTICLE 4: CONDITIONS TO LOAN.....8

ARTICLE 5: COVENANTS OF BORROWER.....10

**ARTICLE 6: REPRESENTATIONS, WARRANTIES, COVENANTS AND CONDITIONS RELATING TO
CONSTRUCTION PROJECTS ONLY14**

ARTICLE 7: DISCLAIMERS BY DEQ; LIMITATIONS ON DEQ'S LIABILITY17

ARTICLE 8: DEFAULT AND REMEDIES.....18

ARTICLE 9: DEFINITIONS19

ARTICLE 10: MISCELLANEOUS21

APPENDIX A: REPAYMENT SCHEDULE25

APPENDIX B: ESTIMATED CWSRF LOAN DISBURSEMENT SCHEDULE26

APPENDIX C: DBE GOOD FAITH EFFORTS27

APPENDIX D: APPLICABLE FEDERAL AUTHORITIES AND LAWS ("CROSS-CUTTERS")28

APPENDIX E: DAVIS-BACON PROVISION29

APPENDIX F: EQUAL EMPLOYMENT OPPORTUNITY38

APPENDIX G: CERTIFICATION REGARDING LOBBYING.....40

THIS LOAN AGREEMENT is made and entered into as of the date it is fully executed by both parties (and in the case of the State, approved by the Attorney General's Office, if required) and is by and between the **State of Oregon, acting by and through its Department of Environmental Quality** ("DEQ"), and the **Borrower** (as defined below). Unless the context requires otherwise, capitalized terms not defined below shall have the meanings assigned to them by ARTICLE 9 of this Loan Agreement. The reference number for the Loan made pursuant to this Loan Agreement is Loan No. R68821.

DEQ agrees to make, and Borrower agrees to accept, the Loan on the terms and subject to the conditions set forth below.

ARTICLE 1: THE LOAN - SPECIFIC TERMS

DEQ agrees to make the Loan on the following terms and conditions:

(A) **BORROWER:** City of Newberg.

(B) **BORROWER'S ADDRESS:** City of Newberg
414 E. First Street
Newberg, Oregon 97132
Fax 503-537-1277

(C) **LOAN AMOUNT:** \$14,484,130.

(D) **TYPE AND PURPOSE OF LOAN.** The Loan is a "Revenue Secured Loan" made by DEQ pursuant to OAR Section 340-054-0065(2) for the purpose of financing the Project. The Borrower has requested an increase to its existing CWSRF loan #R68820 and DEQ has chosen, under authority of OAR 340-054-0025(6)(c)(F), to offer the Borrower a new loan with the loan terms set forth in this Agreement.

(E) **PROJECT TITLE:** Wastewater Treatment Upgrades.

(F) **DESCRIPTION OF THE PROJECT:** Design and construction of improvements to the Borrower's wastewater treatment facility, including a secondary clarifier, disinfection, dechlorination, headworks and influent pump station.

(G) **INTEREST RATE:** Two and 45/100 percent (2.45%) per annum. Calculation of interest is also discussed in ARTICLE 2(E) and in ARTICLE 2(F)(4) of this Agreement.

(H) **REPAYMENT PERIOD:** Ending no later than (a) twenty (20) years after the Completion Date or (b) twenty (20) years after the estimated Completion Date set forth in ARTICLE 3(A)(10), whichever date is earlier.

(I) **TERMS OF REPAYMENT:** An interest-only payment within six months after the estimated Project Completion Date set forth in ARTICLE 3(A)(10) and thereafter semi-annual payments of principal and interest in accordance with APPENDIX A and ARTICLE 2(F) of this Agreement.

(J) PLEDGE: The Borrower hereby grants to DEQ a security interest in and irrevocably pledges its Net Operating Revenues to secure payment of and to pay the amounts due under this Loan Agreement. The Net Operating Revenues so pledged and hereafter received by the Borrower shall immediately be subject to the lien of such pledge without physical delivery or further act, and the lien of the pledge shall be superior to all other claims and liens whatsoever, to the fullest extent permitted by ORS 287A.310. The Borrower represents and warrants that the pledge of Net Operating Revenues hereby made by the Borrower complies with, and shall be valid and binding from the date of this Agreement pursuant to, ORS 287A.310. The Borrower covenants with DEQ and any assignee of this Agreement that except as otherwise expressly provided herein, the Borrower shall not issue any other obligations which have a pledge or lien on the Net Operating Revenues superior to or on a parity with the pledge herein granted without the written permission of DEQ. This Loan is a parity obligation with all other CWSRF loans between DEQ and the Borrower and with the loans number G04002 and B07007, with 10/01/2010 balances of \$1,851,105 and \$7,951,148, respectively, from the Oregon Business Development Department; provided, however, that this provision shall not affect the priority that prior CWSRF loans are entitled to in relation to any loans between Borrower and any third parties.

(K) ANNUAL FEE: An annual fee of 0.5% of the Outstanding Loan Amount (as determined prior to the posting of the payment due on that date) is due during the Repayment Period commencing with the second payment date hereunder and annually thereafter.

ARTICLE 2: GENERAL LOAN PROVISIONS

(A) AGREEMENT OF DEQ TO LOAN. DEQ agrees to loan the Borrower an amount not to exceed the Loan Amount, subject to the terms and conditions of this Loan Agreement, but solely from funds available to DEQ in the Water Pollution Control Revolving Fund for its Clean Water State Revolving Fund program. This Loan Agreement is given as evidence of a Loan to the Borrower made by DEQ pursuant to ORS Chapters 190, 286A, 287A, and 468, and OAR Chapter 340, all as amended from time to time, consistent with the express provisions hereof.

(B) AVAILABILITY OF FUNDS. DEQ's obligation to make the Loan described in this Agreement is subject to the availability of funds in the Water Pollution Control Revolving Fund for its CWSRF program, and DEQ shall have no liability to the Borrower or any other party if such funds are not available or are not available in amounts sufficient to fund the entire Loan described herein, as determined by DEQ in the reasonable exercise of its administrative discretion. Funds may not be available ahead of the estimated schedule of disbursements submitted by the Borrower, which is attached as APPENDIX B. This schedule may be revised from time to time by the parties without the necessity of an amendment by replacing the then current APPENDIX B with an updated APPENDIX B which is dated and signed by both parties.

(C) DISBURSEMENT OF LOAN PROCEEDS.

(1) Project Account(s). Loan proceeds (as and when disbursed by DEQ to the Borrower) shall be deposited in a Project account(s). The Borrower shall maintain Project account(s) as segregated account(s). Funds in the Project account(s) shall only be

used to pay for Project costs, and all earnings on the Project account(s) shall be credited to the account(s).

(2) Documentation of Expenditures. The Borrower shall provide DEQ with written evidence of materials and labor furnished to and performed upon the Project and such receipts for the payment of the same, releases, satisfactions and other signed statements and forms as DEQ may reasonably require. DEQ will disburse funds to pay Project costs only after the Borrower has provided documentation satisfactory to DEQ that such Project costs have been incurred and qualify for reimbursement hereunder.

(3) Adjustments and Corrections. DEQ may at any time review and audit requests for disbursement and make adjustments for, among other things, ineligible expenditures, mathematical errors, items not built or bought, unacceptable work and other discrepancies. Nothing in this Agreement requires DEQ to pay any amount for labor or materials unless DEQ is satisfied that the claim therefor is reasonable and that the Borrower actually expended and used such labor or materials in the Project. In addition, DEQ shall not be required to make any disbursement which would cause the total of all disbursements made hereunder (including the requested disbursement) to be greater than the total estimated cost of the work completed at the time of the disbursement, as determined by DEQ.

(4) Contract Retainage Disbursement. DEQ will not disburse Loan proceeds to cover contractor retainage unless the Borrower is disbursing retainage to an escrow account and provides proof of the deposit, or until the Borrower provides proof that it paid retained funds to the contractor.

(D) AGREEMENT OF BORROWER TO REPAY. The Borrower agrees to repay all amounts owed on this Loan as described in ARTICLE 1(I) and ARTICLE 2(F) in U.S. Dollars in immediately available funds at the place listed for DEQ in ARTICLE 10(A). In any case, the Borrower agrees to repay all amounts owed on this Loan within the Repayment Period.

(E) INTEREST. Interest will accrue at the rate specified in ARTICLE 1(G) from the date that a disbursement hereunder is mailed or delivered to the Borrower or deposited into an account of the Borrower. Interest will accrue using a 365/366 day year and actual days elapsed until the Final Loan Amount is determined and the final repayment schedule is prepared and thereafter on a 360-day year basis and actual days elapsed.

(F) LOAN REPAYMENT.

(1) Preliminary Repayment Schedule; Interim Payments. The attached APPENDIX A is a preliminary repayment schedule based on the estimated date of the first disbursement hereunder and Loan Amount. Until the final repayment schedule is effective, the Borrower shall make the payments set forth in the preliminary repayment schedule.

(2) Final Repayment Schedule. After the Borrower has submitted its final request for Loan proceeds and DEQ has made all required disbursements hereunder, DEQ will determine the Final Loan Amount and prepare a final payment schedule that provides for level semi-annual installment payments of principal and interest (commencing on the next semi-annual payment date), each in an amount sufficient to pay accrued interest to the

date of payment and to pay so much of the principal balance as to fully amortize the then Outstanding Loan Amount over the remaining Repayment Period. This final repayment schedule, when signed and dated by the parties, will replace the preliminary payment schedule as APPENDIX A without the necessity of an amendment to this Agreement; provided however that if the final repayment schedule is for a Loan Amount that is less than the Loan Amount set forth in ARTICLE 1(C), the parties must execute a formal amendment to this Agreement.

(3) Crediting of Scheduled Payments. A scheduled payment received before the scheduled repayment date will be applied to interest and principal on the scheduled repayment date, rather than on the day such payment is received. Scheduled payments will be applied first to fees due, if any, and then to interest, according to the applicable repayment schedule, and then to principal.

(4) Crediting of Unscheduled Payments. All unscheduled payments, including any prepayments and partial payments, will be applied first to fees due, if any, and then to accrued unpaid interest (which will be computed as otherwise provided in this Agreement, except that interest from the last payment date will be calculated using a 365/366 day year and actual days elapsed), and then to principal. In the case of a Loan prepayment that does not prepay all of the principal of the Loan, DEQ will determine, in its sole discretion, how it will apply such Loan prepayment to the Outstanding Loan Amount. After a partial payment, DEQ may, in its sole and absolute discretion, reamortize the Outstanding Loan Amount at the same interest rate for the same number of payments to decrease the Loan payment amount; provided, however, that nothing in this Agreement requires DEQ to accept any partial payment or to reamortize the Outstanding Loan Amount if it accepts a partial payment.

(5) Final Payment. The Outstanding Loan Amount, all accrued and unpaid interest, and all unpaid fees and charges due hereunder are due and payable no later than twenty (20) years after the Completion Date.

(G) PREPAYMENT.

(1) Optional Prepayment. The Borrower may prepay any amount owed on this Loan without penalty on any business day upon 24 hours prior written notice. Any prepayment made hereunder will be applied in accordance with ARTICLE 2(F)(4).

(2) Refinancing of Loan by the Borrower. If the Borrower refinances the portion of the Project financed by this Loan or obtains an additional grant or loan that is intended to finance the portion of the Project financed by this Loan, it will prepay the portion of the Loan being refinanced by the additional grant or loan.

(3) Ineligible Uses of the Project. If the Borrower uses the Project for uses that are other than those described in ARTICLE 1(F) ("ineligible uses"), the Borrower shall, upon demand by DEQ, prepay an amount equal to the Outstanding Loan Amount multiplied by the percentage (as determined by DEQ) of ineligible use of the Project. Such prepayment shall be applied against the most remotely maturing principal installments and shall not postpone the due date of any payment(s) hereunder

(H) LATE PAYMENT FEE. The Borrower agrees to pay immediately upon DEQ's demand a late fee equal to five percent (5%) of any payment (including any loan fee) that is not received by DEQ on or before the tenth (10th) calendar day after such payment is due hereunder.

(I) TERMINATION OF LOAN AGREEMENT. Upon performance by the Borrower of all of its obligations under this Loan Agreement, including payment in full of the Final Loan Amount, all accrued interest and all fees, charges and other amounts due hereunder, this Loan Agreement will terminate, and DEQ will release its interest in any collateral given as security under this Loan Agreement.

ARTICLE 3: GENERAL REPRESENTATIONS, WARRANTIES AND COVENANTS

(A) REPRESENTATIONS AND WARRANTIES OF THE BORROWER. The Borrower represents and warrants to DEQ that:

(1) It is a duly formed and existing public agency (as defined in ORS 468.423(2)) and has full power and authority to enter into this Loan Agreement

(2) This Agreement has been duly authorized and executed and delivered by an authorized officer of the Borrower and constitutes the legal, valid and binding obligation of the Borrower enforceable in accordance with its terms.

(3) All acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Agreement have existed, have happened, and have been performed in due time, form and manner as required by law.

(4) Neither the execution of this Loan Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with any of the terms and conditions of this Loan Agreement will violate any provision of law, or any order of any court or other agency of government, or any agreement or other instrument to which the Borrower is now a party or by which the Borrower or any of its properties or assets is bound. Nor will this Loan Agreement be in conflict with, result in a breach of, or constitute a default under, any such agreement or other instrument, or, except as provided hereunder, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower.

(5) This Loan Agreement does not create any unconstitutional indebtedness. The Loan Amount together with all of the Borrower's other obligations does not, and will not, exceed any limits prescribed by the Constitution, any of the statutes of the State of Oregon, the Borrower's charter, or any other authority.

(6) The Project is a project which the Borrower may undertake pursuant to Oregon law and for which the Borrower is authorized by law to borrow money.

(7) The Borrower has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain the Facility and the Project, other than licenses and permits relating to the Facility or the Project which

the Borrower expects to and shall receive in the ordinary course of business, to carry on its activities relating thereto, to execute and deliver this Agreement, to undertake and complete the Project, and to carry out and consummate all transactions contemplated by this Agreement.

(8) The information contained herein which was provided by the Borrower is true and accurate in all respects, and there is no material adverse information relating to the Project or the Loan, known to the Borrower, that has not been disclosed in writing to DEQ.

(9) No litigation exists or has been threatened that would cast doubt on the enforceability of the Borrower's obligations under this Loan Agreement.

(10) The estimated Completion Date of the Project is October 1, 2014. The Borrower agrees to complete the Project by the estimated Completion Date.

(11) The estimated total Costs of the Project are \$25,984,130.

(12) The Borrower is in compliance with all laws, ordinances, and governmental rules and regulations to which it is subject, the failure to comply with which would materially adversely affect the ability of the Borrower to conduct its activities or undertake or complete the Project or the condition (financial or otherwise) of the Borrower or the Project.

(B) CONTINUING REPRESENTATIONS OF THE BORROWER. The representations of the Borrower contained herein shall be true on the closing date for the Loan and at all times during the term of this Agreement.

(C) REPRESENTATIONS AND WARRANTIES OF DEQ. DEQ represents and warrants that the Director has power under ORS Chapter 468 and OAR Chapter 340, Division 54, to enter into the transactions contemplated by this Loan Agreement and to carry out DEQ's obligations thereunder and that the Director is authorized to execute and deliver this Loan Agreement and to make the Loan as contemplated hereby.

ARTICLE 4: CONDITIONS TO LOAN

(A) CONDITIONS TO CLOSING. DEQ's obligations hereunder are subject to the condition that on or prior to June 28, 2012 the Borrower will duly execute and deliver to DEQ the following items, each in form and substance satisfactory to DEQ and its counsel:

(1) this Agreement duly executed and delivered by an authorized officer of the Borrower;

(2) a copy of the ordinance, order or resolution of the governing body of the Borrower authorizing the execution and delivery of this Agreement, certified by an authorized officer of the Borrower;

(3) Certification Regarding Lobbying, substantially in the form of APPENDIX G, duly executed and delivered by an authorized officer of the Borrower;

(4) an opinion of the legal counsel to the Borrower to the effect that:

(a) The Borrower has the power and authority to execute and deliver and perform its obligations under this Loan Agreement;

(b) This Loan Agreement has been duly executed and acknowledged where necessary by the Borrower's authorized representative(s), all required approvals have been obtained, and all other necessary actions have been taken, so that this Loan Agreement is valid, binding, and enforceable against the Borrower in accordance with its terms, except as such enforcement is affected by bankruptcy, insolvency, moratorium, or other laws affecting creditors rights generally;

(c) To such counsel's knowledge, this Loan Agreement does not violate any other agreement, statute, court order, or law to which the Borrower is a party or by which it or any of its property or assets is bound; and

(d) The Gross Revenues from which the Net Operating Revenues are derived and that are used as security for the Loan will **not** constitute taxes that are limited by Section 11b, Article XI of the Oregon Constitution; and

(5) such other documents, certificates, opinions and information as DEQ or its counsel may reasonably require.

(B) CONDITIONS TO DISBURSEMENTS. Notwithstanding anything in this Agreement to the contrary, DEQ shall have no obligation to make any disbursement to the Borrower under this Agreement unless:

(1) No Event of Default and no event, omission or failure of a condition which would constitute an Event of Default after notice or lapse of time or both has occurred and is continuing;

(2) All of the Borrower's representations and warranties in this Agreement are true and correct on the date of disbursement with the same effect as if made on such date; and

(3) The Borrower submits a disbursement request to DEQ that complies with the requirements of ARTICLE 2(C);

provided, however, DEQ shall be under no obligation to make any disbursement if:

(x) DEQ determines, in the reasonable exercise of its administrative discretion, there is insufficient money available in the SRF and CWSRF Program for the Project; or

(y) there has been a change in any applicable state or federal law, statute, rule or regulation so that the Project is no longer eligible for the Loan.

ARTICLE 5: COVENANTS OF BORROWER

(A) GENERAL COVENANTS OF THE BORROWER. Until the Loan is paid in full, the Borrower covenants with DEQ that:

(1) The Borrower shall use the Loan funds only for payment or reimbursement of the Costs of the Project in accordance with this Loan Agreement. The Borrower acknowledges and agrees that the Costs of the Project do NOT include any Lobbying costs or expenses incurred by Borrower or any person on behalf of Borrower and that Borrower will not request payment or reimbursement for Lobbying costs and expenses.

(2) If the Loan proceeds are insufficient to pay for the Costs of the Project in full, the Borrower shall pay from its own funds and without any right of reimbursement from DEQ all such Costs of the Project in excess of the Loan proceeds.

(3) The Borrower is and will be the owner of the Facility and the Project and shall defend them against the claims and demands of all other persons at any time claiming the same or any interest therein.

(4) The Borrower shall not sell, lease, transfer, or encumber or enter into any management agreement or special use agreement with respect to the Facility or any financial or fixed asset of the utility system that produces the Net Operating Revenues without DEQ's prior written approval, which approval may be withheld for any reason. Upon sale, transfer or encumbrance of the Facility or the Project, in whole or in part, to a private person or entity, this Loan shall be immediately due and payable in full.

(5) Concurrent with the execution and delivery of this Loan Agreement, or as soon thereafter as practicable, the Borrower shall take all steps necessary to cause the Project to be completed in a timely manner in accordance with all applicable DEQ requirements.

(6) The Borrower shall take no action that would adversely affect the eligibility of the Project as a CWSRF project or cause a violation of any Loan covenant in this Agreement.

(7) The Borrower shall undertake the Project, request disbursements under this Loan Agreement, and use the Loan proceeds in full compliance with all applicable laws and regulations of the State of Oregon, including but not limited to ORS Chapter 468 and Oregon Administrative Rules Sections 340-054-0005 to 340-054-0065, as they may be amended from time to time, and all applicable federal authorities and laws and regulations of the United States, including but not limited to Title VI of the Clean Water Act as amended by the Water Quality Act of 1987, Public Law 100-4, the federal cross-cutters listed at APPENDIX D, the equal employment opportunity provisions in APPENDIX F, and the regulations of the U.S. Environmental Protection Agency, all as they may be amended from time to time.

(8) The Borrower shall keep the Facility in good repair and working order at all times and operate the Facility in an efficient and economical manner. The Borrower shall provide the necessary resources for adequate operation, maintenance and replacement of the Project and retain sufficient personnel to operate the Facility.

(9) Interest paid on this Loan Agreement is *not* excludable from gross income under Section 103(a) of the Internal Revenue Code of 1986, as amended (the "Code"). However, DEQ may have funded this Loan with the proceeds of State bonds that bear interest that is excludable from gross income under Section 103(a) of the Code. Section 141 of the Code requires that the State not allow the proceeds of the State bonds to be used by private entities (including the federal government) in such a way that the State bonds would become "private activity bonds" as defined in Section 141 of the Code. To protect the State bonds the Borrower agrees that it shall not use the Loan proceeds or lease, transfer or otherwise permit the use of the Project by any private person or entity in any way that that would cause this Loan Agreement or the State bonds to be treated as "private activity bonds" under Section 141 of the Code and the regulations promulgated under that Section of the Code.

(B) DEBT SERVICE COVERAGE REQUIREMENT; WASTEWATER RATE COVENANT; REPORTING.

(1) Debt Service Coverage Requirement. The Borrower shall maintain wastewater rates and charge fees in connection with the operation of the Facility that are adequate to generate Net Operating Revenues in each fiscal year sufficient to pay (i) all debt service (excluding debt service on the Loan), (ii) all other financial obligations imposed in connection with prior lien obligations of the Borrower, and (iii) an amount equal to the debt service coverage factor of 105% multiplied by the debt service payments due under this Loan Agreement in that fiscal year; provided, however, the amount required under (i) shall include any amounts required by DEQ to provide coverage satisfactory to DEQ on prior lien obligations or new lien obligations the Borrower may incur that DEQ determines are inadequately secured or otherwise may adversely affect the ability of the Borrower to repay the Loan.

(2) Wastewater Rate Adjustments. The Borrower shall review its wastewater rates and fees at least annually. If, in any fiscal year, the Borrower fails to collect fees sufficient to meet the debt service coverage requirement described in ARTICLE 5(B)(1), the Borrower shall promptly adjust its wastewater rates and fees to assure future compliance with such coverage requirement. The Borrower's adjustment of the wastewater rates and fees does **not** constitute a cure of any default by the Borrower of the debt service coverage requirement set forth in ARTICLE 5(B)(1). The Borrower's failure to adjust rates shall not, at the discretion of DEQ, constitute a default if the Borrower transfers to the fund that holds the Net Operating Revenues unencumbered resources in an amount equal to the revenue deficiency to the Facility that produces the Net Operating Revenues.

(3) Reporting Requirement. By December 31 of each year the Borrower shall provide DEQ with a report that demonstrates the Borrower's compliance with the requirements of this ARTICLE 5(B). If the audit report described in ARTICLE 5(F) identifies the Net Operating Revenues and contains a calculation demonstrating the Borrower's satisfaction of the requirements of this ARTICLE 5(B), that audit will satisfy the requirements of this ARTICLE 5(B)(3).

(C) LOAN RESERVE REQUIREMENT; LOAN RESERVE ACCOUNT.

(1) Loan Reserve Requirement. The Loan reserve requirement equals 100% times one-half of the average annual debt service based on the final repayment schedule. Until the Final Loan Amount is calculated, the Loan reserve requirement is \$463,109. The Borrower shall deposit the Loan reserve requirement amount into the Loan Reserve Account no later than the date the first payment is due hereunder.

(2) Loan Reserve Account. The Borrower shall create a segregated Loan Reserve Account that shall be held in trust for the benefit of DEQ. The Borrower hereby grants to DEQ a security interest in and irrevocably pledges the Loan Reserve Account to pay the amounts due under this Loan Agreement. The funds in Loan Reserve Account so pledged and hereafter received by the Borrower shall immediately be subject to the lien of such pledge without physical delivery or further act, and the lien of the pledge shall be superior to all other claims and liens whatsoever, to the fullest extent permitted by ORS 287A.310. The Borrower represents and warrants that the pledge of the Loan Reserve Account hereby made by the Borrower complies with, and shall be valid and binding from the date of this Agreement pursuant to, ORS 287A.310. The Borrower shall use the funds in the Loan Reserve Account solely to pay amounts due hereunder until the principal, interest, fees, and any other amounts due hereunder have been fully paid.

(3) Additional Deposits. If the balance in the Loan Reserve Account falls below the Loan reserve requirement, the Borrower shall promptly deposit from the first Net Operating Revenues available after payment of the amounts due hereunder (unless the Borrower has previously made such deposit from other money of the Borrower) an amount sufficient to restore the balance up to the Loan reserve requirement.

(D) INSURANCE. At its own expense, the Borrower shall, during the term of this Agreement, procure and maintain insurance coverage (including, but not limited to, hazard, flood and general liability insurance) adequate to protect DEQ's interest and in such amounts and against such risks as are usually insurable in connection with similar projects and as is usually carried by entities operating similar facilities. The insurance shall be with an entity which is acceptable to DEQ. The Borrower shall provide evidence of such insurance to DEQ. Self insurance maintained pursuant to a recognized municipal program of self-insurance will satisfy this requirement.

(E) INDEMNIFICATION. *The Borrower shall, to the extent permitted by law and the Oregon Constitution, indemnify, save and hold the State, its officers, agents and employees harmless from and (subject to ORS Chapter 180) defend each of them against any and all claims, suits, actions, losses, damages, liabilities, cost and expenses of any nature whatsoever resulting from, arising out of or relating to the acts or omissions of the Borrower or its officers, employees, subcontractors or agents in regard to this Agreement or the Project.*

(F) THE BORROWER'S FINANCIAL RECORDS; FINANCIAL REPORTING REQUIREMENTS.

(1) Financial Records. The Borrower shall keep proper and complete books of record and account and maintain all fiscal records related to this Agreement, the

Project, and the Facility in accordance with generally accepted accounting principles, generally accepted government accounting standards, the requirements of the Governmental Accounting Standards Board, and state minimum standards for audits of municipal corporations. The Borrower must maintain separate Project accounts in accordance with generally accepted government accounting standards promulgated by the Governmental Accounting Standards Board. The Borrower will permit DEQ and the Oregon Secretary of State and their representatives to inspect its properties, and all work done, labor performed and materials furnished in and about the Project, and DEQ, the Oregon Secretary of State and the federal government and their duly authorized representatives shall have access to the Borrower's fiscal records and other books, documents, papers, plans and writings that are pertinent to this Agreement to perform examinations and audits and make excerpts and transcripts and take copies.

(2) Record Retention Period. The Borrower shall retain and keep accessible files and records relating to the Project for at least six (6) years (or such longer period as may be required by applicable law) after Project completion as determined by DEQ and financial files and records until all amounts due under this Loan Agreement are fully repaid, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Agreement, whichever date is later.

(3) Audit. Federal enabling legislation and applicable regulations require an audit of each CWSRF Loan. The Borrower agrees to provide to DEQ the following which DEQ agrees to accept as adequate to meet this federal audit requirement.

(a) As soon as possible, but in no event later than six (6) months following the Project Completion Date, a full and complete accounting of the Costs of the Project, including but not limited to documentation to support each cost element and a summary of the Costs of the Project and the sources of funding; and

(b) As soon as possible, but in no event later than nine (9) months after the end of each fiscal year, a copy of the Borrower's annual audit report, if requested by DEQ.

(4) Single Audit Act Requirements. The CWSRF Program receives capitalization grants through the Catalog of Federal Domestic Assistance ("CFDA") No. 66.458: Capitalization Grants for State Revolving Funds and is subject to the regulations of the U.S. Environmental Protection Agency ("EPA"). The CWSRF Program is subject to the U.S. Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" ("Circular A-133") implementing the Single Audit Act of 1984, 31 U.S.C. §§7501-7507 (1994) as amended by Pub. L. 104-156, §§1-3, 110 Stat.1397 (1996) ("Circular A-133"). As a sub-recipient of a federal grant, the Borrower is subject to Circular A-133 to the extent that Loan proceeds include federal capitalization grant funds. DEQ will notify the Borrower of the sources of the Loan funds at the end of each fiscal year, and to the extent required, the Borrower is responsible for compliance with the requirements of Circular A-133.

(G) DBE GOOD FAITH EFFORT. Pursuant to the good faith efforts described in APPENDIX C, the Borrower shall make a good faith effort to promote fair share awards to Minority Business Enterprises ("MBE"), Women's Business Enterprises ("WBE"), and Small

Businesses in Rural Areas ("SBRA") on all contracts and subcontracts awarded as part of the Project. The Borrower agrees to the following language and agrees to include, in its contract(s) with its prime contractor(s), the following language, which must not be altered in any way:

"The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies."

The Borrower also agrees to include, in its contract(s) with its prime contractor(s), language to the following effect (the exact language may vary):

- (1) A prime contractor is required to pay its subcontractor(s) no more than 30 days from the prime contractor's receipt of payment from the Borrower.
- (2) The Borrower must be notified in writing by its prime contractor prior to any termination of a DBE subcontractor for convenience by the prime contractor.
- (3) If a DBE subcontractor fails to complete work under the subcontract for any reason, the prime contractor must use the Six Good Faith Efforts as described in 40 C.F.R. 35.3145(d) in selecting a replacement subcontractor.
- (4) A prime contractor must employ the Six Good Faith Efforts even if the prime contractor has achieved its Fair Share Objectives under Subpart D of 40 C.F.R. Part 33.

(H) CONTRACT LANGUAGE. The Borrower shall include in all contracts (unless exempt) with its prime contractor(s) the language set forth in APPENDIX F. Further, the Borrower agrees to fully comply with Subpart C of 2 C.F.R. 180 and Subpart C of 2 C.F.R. 1532 regarding debarment and suspension and agrees to include or cause to be included in any contract at any tier the requirement that a contractor comply with Subpart C of 2 C.F.R. 180 and Subpart C of 2 C.F.R. 1532 if the contract is expected to equal or exceed \$25,000.

(I) PROJECT ASSURANCES. Nothing in this Loan Agreement prohibits the Borrower from requiring more assurances, guarantees, indemnity or other contractual requirements from any party performing Project work.

ARTICLE 6: REPRESENTATIONS, WARRANTIES, COVENANTS AND CONDITIONS RELATING TO CONSTRUCTION PROJECTS ONLY

(A) THE BORROWER'S REPRESENTATION AND WARRANTY REGARDING COSTS ALREADY INCURRED.

(1) The Borrower represents and warrants to DEQ that, as of the date of this Loan Agreement, the Costs of the Project actually incurred by the Borrower for construction, do not exceed \$-0-.

(2) The Borrower acknowledges that DEQ is relying upon the Borrower's representation regarding the amount of Costs of the Project incurred by the Borrower for construction prior to the date of this Loan Agreement as set forth in ARTICLE 6(A)(1) above to determine what portion of the Loan qualifies as a "refinancing" under the EPA's Clean Water State Revolving Fund regulations, 40 C.F.R. Part 35, that may be disbursed on a reimbursement basis.

(B) CONDITION TO DISBURSEMENTS. DEQ's obligation to make disbursements hereunder is further conditioned on the following:

(1) The Borrower's plans, specifications and related documents for the Project shall be reviewed and approved by DEQ, as required by OAR Chapter 340, Division 054.

(2) The Borrower has submitted documentation satisfactory to DEQ that the disbursement is for work that complies with plans, specifications, change orders and addenda approved by DEQ, in accordance with OAR Chapter 340, Division 054.

(3) The Borrower has submitted a copy of the awarded contract and bid documents (including a tabulation of all bids received) to DEQ for the portion of the Project costs that will be funded with the disbursement.

(C) GENERAL PROVISIONS. The Borrower covenants with DEQ that:

(1) Construction Manual. Unless stated otherwise in this Agreement, the Borrower shall comply with the requirements set forth in the Manual as in effect from time to time. DEQ will provide the Borrower with a copy of the Manual upon request.

(2) Plans and Specifications. The Borrower shall obtain DEQ's review and approval of the Borrower's plans, specifications, and related documents for the Project, as required by OAR Chapter 340, Division 054, prior to any disbursement of Loan proceeds hereunder.

(3) Change Orders. The Borrower shall submit all change orders to DEQ. The Borrower shall not use any Loan proceeds to pay for costs of any change order that DEQ has not approved in writing. This ARTICLE 6(C)(3) shall not prevent the Borrower from using funds other than Loan proceeds to pay for a change order before DEQ approves it, but the Borrower bears the risk that DEQ will not approve the change order.

(4) Inspections; Reports. The Borrower shall provide inspection reports during the construction of the Project as required by DEQ to ensure that the Project complies with approved plans and specifications. Qualified inspectors shall conduct these inspections under the direction of a registered civil, mechanical or electrical engineer, whichever is appropriate. DEQ or its representative(s) may enter property owned or controlled by the Borrower to conduct interim inspections and require progress reports sufficient to determine compliance with approved plans and specifications and with the Loan Agreement, as appropriate.

(5) Asbestos and Other Hazardous Materials. The Borrower shall ensure that only persons trained and qualified for removal of asbestos or other Hazardous Materials will

remove any asbestos or Hazardous Materials, respectively, which may be part of this Project.

(6) Operation and Maintenance Manual. The Borrower shall submit to DEQ a draft Facility operation and maintenance manual before the Project is fifty percent (50%) complete. The Borrower shall submit to DEQ a final Facility operation and maintenance manual that meets DEQ's approval before the Project is ninety percent (90%) complete.

(7) Project Performance Certification. The Borrower shall submit to DEQ draft performance standards before the Project is fifty percent (50%) complete. The Borrower shall submit to DEQ final performance standards that meet DEQ's approval before the Project is ninety percent (90%) complete. The Borrower shall submit to DEQ the following done in accordance with the Manual: (i) no later than 10.5 months after the Initiation of Operation (as that term is defined in OAR 340-054-0010(26)), a performance evaluation report based on the approved performance standards; (ii) within one year after the Project's Initiation of Operation, Project performance certification statement; and (iii) within two (2) months of submission of such Project performance certification statement, a corrective action plan for any Project deficiencies noted in said statement.

(8) Alterations After Completion. The Borrower shall not materially alter the design or structural character of the Project after completing the Project without DEQ's written approval.

(9) Project Initiation of Operations.

(a) The Borrower shall notify DEQ of the Initiation of Operation no more than thirty (30) days after the actual Project Completion Date.

(b) If the Project is completed, or is completed except for minor items, and the Project is operable, but DEQ has not received a notice of Initiation of Operation from the Borrower, DEQ may assign an Initiation of Operation date.

(D) PROVISION APPLICABLE TO CONTRACTS AND SUBCONTRACTS AWARDED FOR THE PROJECT

(1) Davis-Bacon Requirements. All contracts and subcontracts awarded as part of the Project shall comply with (1) the wage rate requirements of the Davis-Bacon Act, as amended, 40 U.S.C. §§3141 to 3144, 3146 and 3147 (2002), and (2) the requirements of the *Prevailing Wage Rates for Public Works Projects in Oregon* established under ORS 279C.800 through 279C.870 and OAR 839-025-0000 through 839-025-0540. The Borrower agrees that it will insert into any contract in excess of \$2,000 for construction, and will cause its subcontractors to insert in any sub-contract in excess of \$2,000 for construction, the Davis-Bacon language set forth in Part 1 of APPENDIX E, and Part 2 of APPENDIX E as applicable.

(2) Retainage. The Borrower shall require a five percent (5%) retainage in all of its contracts related to the Project for an amount greater than One Hundred Thousand Dollars (\$100,000).

ARTICLE 7: DISCLAIMERS BY DEQ; LIMITATION OF DEQ'S LIABILITY

(A) DISCLAIMER OF ANY WARRANTY. DEQ EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDING THE PROJECT, THE QUALITY OF MATERIALS SUPPLIED TO AND THAT BECOME A PART OF THE PROJECT, THE QUALITY OF THE WORKMANSHIP PERFORMED UPON THE PROJECT, OR THE EXTENT AND STAGE OF COMPLETION OF THE PROJECT. No such warranty or guarantee shall be implied by virtue of any inspection or disbursement made by DEQ. Any inspection done by DEQ shall be for its sole benefit.

(B) DISCLAIMER OF LIABILITY OF DEQ. DEQ EXPRESSLY DISCLAIMS LIABILITY OF ANY KIND OR CHARACTER WHATSOEVER FOR PAYMENT OF LABOR OR MATERIALS OR OTHERWISE IN CONNECTION WITH THE COMPLETION OF THE PROJECT OR CONTRACTS ENTERED INTO BY THE BORROWER WITH THIRD PARTIES FOR THE COMPLETION OF THE PROJECT. All Project costs of labor, materials and construction, including any indirect costs, shall be the responsibility of and shall be paid by the Borrower.

(C) NONLIABILITY OF STATE.

(1) The State and its officers, agents and employees shall not be liable to the Borrower or to any other party for any death, injury, damage, or loss that may result to any person or property by or from any cause whatsoever, arising out of any defects in the plans, design drawings and specifications for the Project, any agreements or documents between the Borrower and third parties related to the Project or any activities related to the Project. DEQ shall not be responsible for verifying cost-effectiveness of the Project, doing cost comparisons or reviewing or monitoring compliance by the Borrower or any other party with state procurement laws and regulations.

(2) The Borrower hereby expressly releases and discharges DEQ, its officers, agents and employees from all liabilities, obligations and claims arising out of the Project work or under the Loan, subject only to exceptions previously agreed upon in writing by the parties.

(3) Any findings by DEQ concerning the Project and any inspections or analyses of the Project by DEQ are for determining eligibility for the Loan and disbursement of Loan proceeds only. Such findings do not constitute an endorsement of the feasibility of the Project or its components or an assurance of any kind for any other purpose.

(4) Review and approval of Facilities plans, design drawings and specifications or other documents by or for DEQ does not relieve the Borrower of its responsibility to properly plan, design, build and effectively operate and maintain the Facility as required by law, regulations, permits and good management practices.

ARTICLE 8: DEFAULT AND REMEDIES

(A) EVENTS OF DEFAULT. The occurrence of one or more of the following events constitutes an Event of Default, whether occurring voluntarily or involuntarily, by operation of law or pursuant to any order of any court or governmental agency:

(1) The Borrower fails to make any Loan payment within thirty (30) days after the payment is scheduled to be made according to the repayment schedule;

(2) Any representation or warranty made by the Borrower hereunder was untrue in any material respect as of the date it was made;

(3) The Borrower becomes insolvent or admits in writing an inability to pay its debts as they mature or applies for, consents to, or acquiesces in the appointment of a trustee or receiver for the Borrower or a substantial part of its property; or in the absence of such application, consent, or acquiescence, a trustee or receiver is appointed for the Borrower or a substantial part of its property and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement or moratorium or any dissolution or liquidation proceeding is instituted by or against the Borrower and, if instituted against the Borrower, is consented to or acquiesced in by the Borrower or is not dismissed within twenty (20) days;

(4) As a result of any changes in the United States Constitution or the Oregon Constitution or as a result of any legislative, judicial, or administrative action, any part of this Loan Agreement becomes void, unenforceable or impossible to perform in accordance with the intent and purposes of the parties hereto or is declared unlawful;

(5) The Borrower defaults in the performance or observance of any covenants or agreements contained in any loan documents between itself and any lender or lenders, and the default remains uncured upon the expiration of any cure period provided by said loan documents; or

(6) The Borrower fails to cure non-compliance in any material respect with any other covenant, condition, or agreement of the Borrower hereunder, other than as set forth in (1) through (5) above within a period of thirty (30) days after DEQ provides notice of the noncompliance.

(B) REMEDIES. If DEQ determines that an Event of Default has occurred, DEQ may, without further notice:

(1) Declare the Outstanding Loan Amount plus any unpaid accrued interest, fees and any other amounts due hereunder immediately due and payable;

(2) Cease making disbursement of Loan proceeds or make some disbursements of Loan proceeds and withhold or refuse to make other disbursements;

- (3) Appoint a receiver, at the Borrower's expense, to operate the Facility that produces the pledged revenues and collect the Gross Revenues;
- (4) Set and collect utility rates and charges;
- (5) Pay, compromise or settle any liens on the Facility or the Project or pay other sums required to be paid by the Borrower in connection with the Project, at DEQ's discretion, using the Loan proceeds and such additional money as may be required. If DEQ pays any encumbrance, lien, claim, or demand, it shall be subrogated, to the extent of the amount of such payment, to all the rights, powers, privileges, and remedies of the holder of the encumbrance, lien, claim, or demand, as the case may be. Any such subrogation rights shall be additional cumulative security for the amounts due under this Loan Agreement;
- (6) Direct the State Treasurer to withhold any amounts otherwise due to the Borrower from the State of Oregon and, to the extent permitted by law, direct that such funds be applied to the amounts due DEQ under this Loan Agreement and be deposited into the SRF; and
- (7) Pursue any other legal or equitable remedy it may have.

ARTICLE 9: DEFINITIONS

(A) **"BORROWER"** means the public agency (as defined in ORS 468.423(2)) shown as the "Borrower" in Article 1(A) of this Agreement.

(B) **"COMPLETION DATE"** means the date on which the Project is completed. If the Project is a planning project, the Completion Date is the date on which DEQ accepts the planning project. If the Project is a design project, the Completion Date is the date on which the design project is ready for the contractor bid process. If the Project is a construction project, the Completion Date is the date on which the construction project is substantially complete and ready for Initiation of Operation.

(C) **"COSTS OF THE PROJECT"** means expenditures approved by DEQ that are necessary to construct the Project in compliance with DEQ's requirements and may include but are not limited to the following items:

- (1) Cost of labor and materials and all costs the Borrower is required to pay under the terms of any contract for the design, acquisition, construction or installation of the Project;
- (2) Engineering fees for the design and construction of the Project.
- (3) The costs of surety bonds and insurance of all kinds that may be required or necessary during the course of completion of the Project;

(4) The legal, financing and administrative costs of obtaining the Loan and completing the Project; and

(5) Any other costs approved in writing by DEQ.

(D) **“CWSRF PROGRAM” or “CWSRF”** means the Clean Water State Revolving Fund Loan Program, a loan program administered by DEQ under ORS 468.423 to 468.440.

(E) **“DEQ”** means the Oregon Department of Environmental Quality.

(F) **“DIRECTOR”** means the Director of DEQ or the Director's authorized representative.

(G) **“FACILITY”** means all property owned or used by the Borrower to provide wastewater collection, treatment and disposal services, of which the Project is a part.

(H) **“FINAL LOAN AMOUNT”** means the total of all Loan proceeds disbursed to the Borrower under the Loan Agreement, determined on the date on which the Borrower indicates that no further Loan funds will be requested, all eligible expenditures have been reimbursed from the Loan proceeds, or all Loan proceeds have been disbursed hereunder, whichever occurs first.

(I) **“GROSS REVENUES”** means all fees and charges resulting from operation of the Facility and any interest earnings thereon; provided however, Gross Revenues does not include: the proceeds of any grants; the proceeds of any borrowings for capital improvements; the proceeds of any liability insurance; or the proceeds of any casualty insurance which the Borrower intends to and does utilize for repair or replacement of the Facility or a part thereof.

(J) **“HAZARDOUS MATERIALS”** means and includes flammable explosives, radioactive materials, asbestos and substances defined as hazardous materials, hazardous substances or hazardous wastes in the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act (42 U.S.C. Section 9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.) and the Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.), and regulations promulgated thereunder.

(K) **“LOAN”** means the loan made pursuant to this Loan Agreement.

(L) **“LOAN AGREEMENT” or “AGREEMENT”** means this loan agreement and its exhibits, appendices, schedules and attachments (which are by this reference incorporated herein), and any amendments thereto.

(M) **“LOAN AMOUNT”** means the maximum amount DEQ agrees to loan the Borrower hereunder.

(N) **“LOAN RESERVE ACCOUNT”** means the account described in ARTICLE 5(c)(2).

(O) **“LOBBYING”** means influencing or attempting to influence a member, officer or employee of a governmental agency or legislature in connection with the awarding of a government contract, the making of a government grant or loan or the entering into of a

cooperative agreement with such governmental entity or the extension, continuation, renewal, amendment or modification of any of the above.

(P) “**MANUAL**” means the CWSRF Manual for Construction Projects.

(Q) “**NET OPERATING REVENUES**” means the Gross Revenues less the Operating Expenses for the Facility.

(R) “**OPERATING EXPENSES**” means all direct and indirect expenses incurred for operation, maintenance and repair of the Facility, including but is not limited to administrative expenses, legal, financial and accounting expenses, insurance premiums, claims (to the extent that monies are not available from insurance proceeds), taxes, engineering expenses relating to operation and maintenance, payments and reserves for pension, retirement, health, hospitalization, and sick leave benefits, and any other similar expenses to be paid to the extent properly and directly attributable to operations of the Facility. Operating expenses include an appropriate amount for reserves for repair and replacement of the Facility based on the expected life of the collection, treatment and disposal facilities.

(S) “**OUTSTANDING LOAN AMOUNT**” means, as of any date, the sum of all disbursements to the Borrower hereunder less the sum of all Loan principal payments received by DEQ.

(T) “**PROJECT**” means the facilities, activities or documents described in ARTICLE 1(E) and (F).

(U) “**REPAYMENT PERIOD**” means the repayment period ending on the date specified in ARTICLE 1(H) which date shall not in any event be later than twenty (20) years after the Completion Date.

(V) “**SRF**” means the Water Pollution Control Revolving Fund established under ORS 468.427, also known as the State Revolving Fund.

(W) “**STATE**” means the State of Oregon.

ARTICLE 10: MISCELLANEOUS

(A) **NOTICES.** All notices, payments, statements, demands, requests or other communications under this Loan Agreement by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered by personal delivery, by certified mail, return receipt requested, or by facsimile transmission, and, if to the Borrower, delivered, addressed or transmitted to the location or number listed in ARTICLE 1(B), and if to DEQ, delivered, addressed or transmitted to:

Clean Water State Revolving Fund Loan Program
Water Quality Division
Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204-1390
Fax (503) 229-6037

or to such other addresses or numbers as the parties may from time to time designate. Any notice or other communication so addressed and mailed shall be deemed to be given five (5) days after mailing. Any notice or other communication delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against DEQ, such facsimile transmission must be confirmed by telephone notice to DEQ's CWSRF Program Coordinator. Any notice or other communication by personal delivery shall be deemed to be given when actually delivered.

(B) WAIVERS AND RESERVATION OF RIGHTS.

(1) DEQ's waiver of any breach by the Borrower of any term, covenant or condition of this Loan Agreement shall not operate as a waiver of any subsequent breach of the same or breach of any other term, covenant, or condition of this Loan Agreement. DEQ may pursue any of its remedies hereunder concurrently or consecutively without being deemed to have waived its right to pursue any other remedy.

(2) Nothing in this Loan Agreement affects DEQ's right to take remedial action, including, but not limited to, administrative enforcement action and action for breach of contract against the Borrower, if the Borrower fails to carry out its obligations under this Loan Agreement.

(C) TIME IS OF THE ESSENCE. The Borrower agrees that time is of the essence under this Loan Agreement.

(D) RELATIONSHIP OF PARTIES. The parties agree and acknowledge that their relationship is that of independent contracting parties, and neither party hereto shall be deemed an agent, partner, joint venturer or related entity of the other by reason of this Loan Agreement.

(E) No Third Party Beneficiaries. DEQ and the Borrower are the only parties to this Loan Agreement and are the only parties entitled to enforce the terms of this Loan Agreement. Nothing in this Loan Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Loan Agreement. Any inspections, audits, reports or other assurances done or obtained, or approvals or consents given, by DEQ are for its benefit only for the purposes of administering this Loan and the CWSRF Program.

(F) ASSIGNMENT. DEQ shall have the right to transfer the Loan or any part thereof, or assign any or all of its rights under this Loan Agreement, at any time after execution of this Loan Agreement upon written notice to the Borrower. Provisions of this Loan Agreement shall inure to the benefit of DEQ's successors and assigns. This Loan Agreement or any interest therein may be assigned or transferred by the Borrower only with DEQ's prior written approval (which consent may be withheld for any reason), and any assignment or transfer by the Borrower in contravention of this ARTICLE 10(F) shall be null and void.

(G) DEQ NOT REQUIRED TO ACT. Nothing contained in this Loan Agreement requires DEQ to incur any expense or to take any action hereunder in regards to the Project.

(H) FURTHER ASSURANCES. The Borrower and DEQ agree to execute and deliver any written instruments necessary to carry out any agreement, term, condition or assurance in this Loan Agreement whenever a party makes a reasonable request to the other party for such instruments.

(I) VALIDITY AND SEVERABILITY; SURVIVAL. If any part, term, or provision of this Loan Agreement or of any other Loan document shall be held by a court of competent jurisdiction to be void, voidable, or unenforceable by either party, the validity of the remaining portions, terms and provisions shall not be affected, and all such remaining portions, terms and provisions shall remain in full force and effect. Any provision of this Agreement which by its nature or terms is intended to survive termination, including but not limited to ARTICLE 5(E), shall survive termination of this Agreement.

(J) NO CONSTRUCTION AGAINST DRAFTER. Both parties acknowledge that they are each represented by and have sought the advice of counsel in connection with this Loan Agreement and the transactions contemplated hereby and have read and understand the terms of this Loan Agreement. The terms of this Loan Agreement shall not be construed against either party as the drafter hereof.

(K) HEADINGS. All headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Loan Agreement.

(L) ATTORNEYS' FEES AND EXPENSES. In any action or suit to enforce any right or remedy under this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs, to the extent permitted by law.

(M) CHOICE OF LAW; DESIGNATION OF FORUM; FEDERAL FORUM.

(1) The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

(2) Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

(3) Notwithstanding ARTICLE 10(M)(2), if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This ARTICLE 10(M)(3) applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This ARTICLE 10(M)(3) is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

(N) COUNTERPARTS. This Loan Agreement may be executed in any number of counterparts, each of which is deemed to be an original, but all together constitute but one and the same instrument.

(O) ENTIRE AGREEMENT; AMENDMENTS. This Loan Agreement, including all appendices and attachments that are by this reference incorporated herein, constitutes the entire agreement between the Borrower and DEQ on the subject matter hereof, and it shall be binding on the parties thereto when executed by all the parties and when all approvals required to be obtained by DEQ have been obtained. This Loan Agreement, including all related Loan documents and instruments, may not be amended, changed, modified, or altered without the written consent of the parties.

CITY OF NEWBERG

By: _____
Authorized Officer Date

Typed Name: _____

Title: _____

**STATE OF OREGON ACTING BY AND THROUGH ITS
DEPARTMENT OF ENVIRONMENTAL QUALITY**

By: _____
Gregory K. Aldrich, Water Quality Administrator Date

Approved as to Legal Sufficiency by
The Attorney General's Office _____
Lynn T. Nagasako, Senior AAG Date

APPENDIX A: REPAYMENT SCHEDULE

Due Date	Pmt#	PAYMENT			Principal Balance
		Principal	Interest	Fees	
					14,484,130
4/1/2015	1	0	219,000	0	14,484,130
10/1/2015	2	291,937	177,431	72,421	14,192,193
4/1/2016	3	295,514	173,854	0	13,896,679
10/1/2016	4	299,134	170,234	69,483	13,597,545
4/1/2017	5	302,798	166,570	0	13,294,747
10/1/2017	6	306,507	162,861	66,474	12,988,240
4/1/2018	7	310,262	159,106	0	12,677,978
10/1/2018	8	314,063	155,305	63,390	12,363,915
4/1/2019	9	317,910	151,458	0	12,046,005
10/1/2019	10	321,804	147,564	60,230	11,724,201
4/1/2020	11	325,747	143,621	0	11,398,454
10/1/2020	12	329,737	139,631	56,992	11,068,717
4/1/2021	13	333,776	135,592	0	10,734,941
10/1/2021	14	337,865	131,503	53,675	10,397,076
4/1/2022	15	342,004	127,364	0	10,055,072
10/1/2022	16	346,193	123,175	50,275	9,708,879
4/1/2023	17	350,434	118,934	0	9,358,445
10/1/2023	18	354,727	114,641	46,792	9,003,718
4/1/2024	19	359,072	110,296	0	8,644,646
10/1/2024	20	363,471	105,897	43,223	8,281,175
4/1/2025	21	367,924	101,444	0	7,913,251
10/1/2025	22	372,431	96,937	39,566	7,540,820
4/1/2026	23	376,993	92,375	0	7,163,827
10/1/2026	24	381,611	87,757	35,819	6,782,216
4/1/2027	25	386,286	83,082	0	6,395,930
10/1/2027	26	391,018	78,350	31,980	6,004,912
4/1/2028	27	395,808	73,560	0	5,609,104
10/1/2028	28	400,656	68,712	28,046	5,208,448
4/1/2029	29	405,565	63,803	0	4,802,883
10/1/2029	30	410,533	58,835	24,014	4,392,350
4/1/2030	31	415,562	53,806	0	3,976,788
10/1/2030	32	420,652	48,716	19,884	3,556,136
4/1/2031	33	425,805	43,563	0	3,130,331
10/1/2031	34	431,021	38,347	15,652	2,699,310
4/1/2032	35	436,301	33,067	0	2,263,009
10/1/2032	36	441,646	27,722	11,315	1,821,363
4/1/2033	37	447,056	22,312	0	1,374,307
10/1/2033	38	452,533	16,835	6,872	921,774
4/1/2034	39	458,076	11,292	0	463,698
10/1/2034	40	463,698	5,680	2,318	0
TOTALS		14,484,130	4,040,232	798,421	19,322,783
REQUIRED LOAN RESERVE:			\$ 463,109		

APPENDIX B: ESTIMATED CWSRF LOAN DISBURSEMENT SCHEDULE

Loan funds are expected to be available based on the following Project schedule:

4/13 – 6/13: \$ 3,621,032

7/13 – 9/13: \$ 3,621,032

10/13 – 12/13: \$ 3,621,032

1/14 – 3/14: \$ 3,621,034

APPENDIX C: DBE GOOD FAITH EFFORTS

At a minimum the Borrower or its prime contractor must take six affirmative steps (which apply to any procurement of construction, supplies, equipment or services) to demonstrate good faith effort to utilize minority (MBE), women-owned (WBE) and small (SBE) businesses. The six steps are:

- 1) To include qualified small, minority and women's businesses on solicitation lists;
- 2) To assure that small, minority, women's businesses are solicited whenever they are potential sources;
- 3) To divide total requirements, whenever economically feasible, into smaller tasks or quantities to permit maximum participation by small, minority or women's businesses;
- 4) To establish delivery schedules whenever the requirements of the work permit, which will encourage participation by small, minority and women's businesses;
- 5) To use the services and assistance of the Small Business Administration (<http://pro-net.sba.gov>) and the Office of Minority Business Enterprise of the U.S. Department of Commerce (<http://www.mbda.gov>) to identify appropriate small, minority and women businesses; and
- 6) To require subcontractors to take all of the affirmative action steps described above and set forth in 40 CFR 35.3145(d) in any contract awards or procurements.

The Borrower shall, and shall cause its contractors to, document compliance with the above requirements on forms found at Tab 6 of the Manual for Construction Projects.

Additional resources available to recipients and contractors include the following:

EPA Office of Small and Disadvantaged Business Utilization:

Phone: 206 – 553 – 2931

Web Site: www.epa.gov/osdbu

Oregon Office of Minority, Women and Emerging Small Business

350 Winter Street N.E., Room 300

Salem, OR 97301-3878

Phone: 503 – 947 – 7922

Web Site: www.cbs.state.or.us/omwesb

Appendix D: APPLICABLE FEDERAL AUTHORITIES AND LAWS (“CROSS-CUTTERS”)

ENVIRONMENTAL LEGISLATION:

Archaeological and Historic Preservation Act of 1974, PL 93-291.
Clean Air Act, 42 U.S.C. 7506(c).
Coastal Barrier Resources Act, 16 U.S.C. 3501, et seq.
Coastal Zone Management Act of 1972, PL 92-583, as amended.
Endangered Species Act 16 U.S.C. 1531, et seq.
Executive Order 11593, Protection and Enhancement of the Cultural Environment.
Executive Order 11988, Floodplain Management.
Executive Order 11990, Protection of Wetlands.
Farmland Protection Policy Act, 7 U.S.C. 4201, et seq.
Fish and Wildlife Coordination Act, PL 85-624, as amended.
National Historic Preservation Act of 1966, PL 89-665, as amended.
Safe Drinking Water Act, Section 1424(e), PL 92-523, as amended.
Wild and Scenic Rivers Act, PL 90-542, as amended.
Federal Water Pollution Control Act Amendments of 1972, PL 92-500.

ECONOMIC LEGISLATION:

Demonstration Cities and Metropolitan Development Act of 1966, PL 89-754, as amended.
Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including
Executive Order 11738, Administration of the Clean Air Act and the Federal Water
Pollution Control Act with Respect to Federal Contracts, Grants or Loans.

SOCIAL LEGISLATION:

The Age Discrimination Act of 1975, Pub. L. No. 94-135, 89 Stat. 713, 42 U.S.C. §6102 (1994).
Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 252, 42 U.S.C. §2000d (1988).
Section 13 of PL 92-500; Prohibition against Sex Discrimination under the Federal Water Pollution
Control Act.
Rehabilitation Act of 1973, Pub. L. No. 93-1123, 87 Stat. 355, 29 U.S.C. §794 (1988), including
Executive Orders 11914 and 11250).
Executive Order 12898, Environmental Justice in Minority Populations
Exec. Order No. 11,246, 30 F.R. 12319 (1965), *as amended by* Exec. Order No. 11,375, 32 F.R.
14303 (1967), *reprinted in* 42 U.S.C. §2000e (1994), and its regulations at 41 C.F.R.
§§60-1.1 to 60-999.1.

MISCELLANEOUS AUTHORITY:

Uniform Relocation and Real Property Acquisition Policies Act of 1970, PL 92-646.
Executive Order 12549 and 40 CFR Part 32, Debarment and Suspension.
Disclosure of Lobbying Activities, Section 1352, Title 31, U.S. Code.

APPENDIX E: DAVIS-BACON PROVISION

Part 1

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The subrecipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required

by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm>¹ or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

¹ The correct website address is as follows: <http://webapps.dol.gov/library/forms/FormsByNum.asp>

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be

greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Subrecipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

Part 2

Contract Provision for Contracts in Excess of \$100,000.

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The subrecipient shall upon the request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and

mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Oregon Department of Environmental Quality and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the subrecipient should conduct interviews with a representative group of covered employees within two weeks of each contractor or subcontractor's submission of its initial weekly payroll data and two weeks prior to the estimated completion date for the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. Subrecipients shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/esa/contacts/whd/america2.htm>.²

² The correct website address is as follows: <http://www.dol.gov/whd/america2.htm#oregon>

APPENDIX F
EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- (7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**APPENDIX G: CERTIFICATION REGARDING LOBBYING
(Contracts in Excess of \$100,000.00)**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Borrower, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The Borrower shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

The above certification is a material representation of fact upon which reliance is placed when this transaction is made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signed _____

Title _____

Date _____

Recipient _____

THIS PAGE INTENTIONALLY LEFT BLANK

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: June 18, 2012

Order ___ Ordinance ___ Resolution XX Motion ___ Information ___
No. No. No. 2012-3011

SUBJECT: Authorize the city manager to negotiate contract change orders with First Cascade Corporation for the Fire Station 20 Remodel Project not to exceed a total contract amount of \$740,366.00.

Contact Person (Preparer) for this Motion: Jay Harris, City Engineer
Dept.: Public Works Department
File No.:

RECOMMENDATION: Adopt Resolution No. 2012-3011 authorizing the city manager to negotiate contract change orders with First Cascade Corporation for the construction of the Fire Station 20 Remodel Project not to exceed a total contract amount of \$740,366.00.

EXECUTIVE SUMMARY: An American Recovery and Reinvestment Act (ARRA) Assistance to Firefighters Fire Station Construction Grant was awarded to the Newberg Fire Department in the amount of \$809,225.00. The Volunteer's Firefighters Association committed to funding the construction of the designed bell tower (\$17,570.00) increasing the total project budget to \$826,795.00.

Other elements of the project include design, permit fees, special inspections, relocation of a natural gas line, purchase of various appliances, and built-in bunk room casework. While some of these costs are considered owner costs, all of them are fully funded through the grant and are in addition to the contract with First Cascade Corporation.

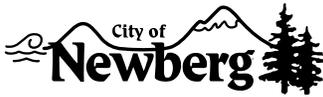
On September 6, 2011, the City Council adopted Resolution No. 2011-2968, authorizing the city manager to enter into a contract for \$592,028.00 with First Cascade Corporation for construction of the Fire Station 20 Remodel Project. Several change orders were required in order to complete this original scope of work. Additionally, significant value has been added to the project by approved change orders which added scope.

On March 5, 2012, the City Council adopted Resolution No. 2012-2992, revising the contract amount with First Cascade Corporation to \$705,366.00.

During the course of construction, a significant number of necessary clarifications to the construction plans have resulted in numerous contractor change order requests. City Staff are in the process of negotiating these change orders and anticipate that the increased contract amount may range \$30,000-\$35,000 above what was previously approved by City Council. This resolution will authorize the city manager to negotiate contract change orders not to exceed a total contract amount of \$740,366.00.

FISCAL IMPACT: The total project costs will exceed the approved grant funding by approximately \$35,000.00. The additional funding will be transferred into the Fire Station Remodel Project budget (account number 01.2220.610534) from the General Fund Contingency (account number 01.9180.800000).

STRATEGIC ASSESSMENT: This project addresses firefighter health and safety as well as allows additional space for increased staffing, which will improve the firefighter's ability to serve the citizens.



RESOLUTION No. 2012-3011

A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE CONTRACT CHANGE ORDERS WITH FIRST CASCADE CORPORATION FOR TO THE FIRE STATION 20 REMODEL PROJECT NOT TO EXCEED A TOTAL CONTRACT AMOUNT OF \$740,366.00

RECITALS:

1. The City has received a grant of \$809,225.00 from the American Recovery and Reinvestment Act (ARRA) Assistance to Firefighters Fire Station Construction. The Volunteer's Firefighter's Association has agreed to contribute \$17,570.00 to the project increasing the total project budget to \$826,795.00.
2. On September 6, 2011, City Council adopted Resolution No. 2011-2968 authorizing the city manager to enter into a contract for \$592,028.00 with First Cascade Corporation for the construction of the Fire Station 20 Remodel Project.
3. On March 5, 2012, City Council adopted Resolution No. 2012-2992 authorizing the city manager to negotiate contract change orders with First Cascade Corporation up to a total contract amount of \$705,366.00.
4. As the project has progressed, several clarifications to the construction plans were needed, which have resulted in additional change order requests.
5. The City will negotiate with the contractor to agree upon a fair price for the additional requested change orders.
6. This original project budget is included in the FY 2011-2012 budget with reimbursement for all expenses coming from the ARRA grant and the Volunteer's Firefighter's Association, with the exception of this additional \$35,000.00, which will be transferred into the Fire Station Remodel Project budget from the General Fund Contingencies.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council, acting as Contract Review Board for the City, does hereby authorize the city manager to negotiate contract change orders with First Cascade Corporation to the Fire Station 20 Remodel Project not to exceed a total contract amount of \$740,366.00.

2. The City Council approves the transfer of \$35,000.00 into the Fire Station Remodel Project budget (account number 01.2220.610534) from the general fund contingencies (account number 01.91803800000).

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 19, 2012.

ADOPTED by the City Council of the City of Newberg, Oregon, this 18th day of June 2012.

Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 21st day of June 2012.

Bob Andrews, Mayor

THIS PAGE INTENTIONALLY LEFT BLANK