



**CITY COUNCIL AGENDA
AUGUST 20, 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. SPECIAL PRESENTATIONS

1. Special presentation to Mayi Nadora for receiving 2nd Place in the Statewide 2012 “If I Were Mayor, I Would...” Poster Contest.
2. Consider a motion accepting the Governmental Finance Officers Association (GFOA) Certificate of Excellence Award for the Comprehensive Annual Financial Report (CAFR) for the Fiscal Year ending June 30, 2011. (Pgs. 3-4)

V. APPOINTMENTS

Consider a motion appointing Hannah Kinney to the Traffic Safety Commission as the student member with a term expiring June 30, 2013. (Pg. 5)

VI. CITY MANAGER’S REPORT

VII. 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)

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

VIII. CONSENT CALENDAR

1. Consider a motion accepting the Chamber of Commerce's 4th Quarter Report for the Visitor Information Center. (Pgs. 7-10)
2. Consider a motion approving the July 16, 2012, City Council meeting minutes. (Pgs. 11-14)

IX. CONTINUED BUSINESS

Consider a motion adopting **Resolution No. 2012-3012** initiating the vacation of a portion of the Ninth Street right-of-way between Industrial Parkway and Highway 219. (Pgs. 15-24)

X. NEW BUSINESS

Consider a motion adopting **Resolution No. 2012-3014** authorizing the city manager to purchase materials from Crescent Electric Supply Company and enter into a contract with GPEC Electric Contractors for electrical installation for an energy savings lighting retrofit project at the Wastewater Treatment Plant. (Pgs. 25-27)

XI. COUNCIL BUSINESS

XII. 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: August 20, 2012

Order ___	Ordinance ___	Resolution ___	Motion <u>XX</u>	Information ___
No.	No.	No.		

SUBJECT: Accepting the Governmental Finance Officers Association Certificate of Excellence Award for the June 30, 2011, City of Newberg Comprehensive Annual Financial Report.

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

RECOMMENDATION:

Accept the Governmental Finance Officers Association Certificate of Excellence Award for the June 30, 2011, City of Newberg Comprehensive Annual Financial Report.

EXECUTIVE SUMMARY:

The City’s Accounting Policy states “The City will submit documentation annually to obtain the Certificate of Achievement for Excellence in Financial Reporting each year through the Government Finance Officers Association (GFOA).” To comply with this requirement, the City’s Finance Department submitted the 2010-2011 Comprehensive Annual Financial Report (CAFR) to GFOA in December, 2011. On May 2, 2012, the City was notified of receipt of the award. A plaque was received on July 2, 2012, marking the 20th consecutive year the City of Newberg has achieved this honor.

The Certificate of Achievement for Excellence in Financial Reporting (Certificate of Achievement) is an award designed to recognize and encourage excellence in financial reporting by state and local governments. The attainment of a Certificate of Achievement represents a significant accomplishment for a government and its management.

The Certificate of Achievement Program (Certificate Program) was established by GFOA in 1945. The GFOA instituted the program to encourage all government units to prepare and publish an easily readable and understandable CAFR covering all funds and financial transactions of the government during the fiscal year. The GFOA believes governments have a special responsibility to provide the public with a fair presentation of their financial affairs. CAFRs go beyond the requirements of generally accepted accounting principles (GAAP) to provide the many users of government financial statements with a wide variety of information useful in evaluating the financial condition of a government.

To be eligible for a Certificate of Achievement, a report must be the published CAFR of a unit of government, a college, a university, or a public employee retirement system. Eligible CAFRs must include general purpose financial statements presented in conformity with GAAP. These reports are also required to have been audited in accordance with generally accepted auditing standards, with the auditor taking at least "in relation to" responsibility for combining individual fund and account group presentations. To earn a Certificate of Achievement, a CAFR should give a clear and thorough view of the government’s finances. Award-winning reports should enhance the reader's understanding of the information required by GAAP for fair presentation of the financial statements, be efficiently organized, and adhere to certain generally accepted terminology and formatting conventions. The Certificate Program provides participants with extensive technical reference material on governmental accounting and financial reporting theory. This material provides finance officials with the tools they need to

improve their financial reporting techniques.

Benefits of the Certificate of Achievement Review:

More and more governments are recognizing the benefits and significance of a program review. Some of the benefits likely to be realized by a government unit which submits its CAFR to the Certificate Program's review process include:

- *Education:*
Government units participating in the Certificate Program are provided with extensive technical accounting and financial reporting reference materials. Officials submitting CAFRs to the Certificate Program review process also are provided with a confidential list of detailed comments and suggestions for improving their financial reporting techniques.
- *Recognition:*
The Certificate of Achievement is a nationally recognized award and its attainment represents a significant accomplishment by a government unit and its management.
- *Securities Marketing Aid:*
Reports qualifying for a Certificate of Achievement provide a detailed vehicle by which market analysts, investors, potential investors, and others may assess the relative attractiveness of a government unit's securities compared to alternative investment opportunities.
- *Clarity:*
CAFRs satisfying the Certificate Program's requirements are likely to be free of ambiguities and potentially misleading presentations.
- *Comparability:*
Since CAFRs qualifying for a Certificate of Achievement employ standardized terminology and formatting conventions, comparisons from one year to the next and among different government units are facilitated.
- *Completeness:*
The financial statements, supporting schedules, statistical tables and narrative explanations required for a Certificate of Achievement help to assure all fiscal data is presented that is needed by the many persons and groups with a legitimate interest in the financial affairs of a government unit. These groups include governing boards, investors and creditors, grantor resource providers, taxpayers, and others.

FISCAL IMPACT:

None to accept the award; \$435.00 annually to participate in the award program.

STRATEGIC ASSESSMENT:

Adhering to the highest financial reporting standards provides credibility to the City's financial standing within the local community, with lending agencies, and with other users of the City's financial information.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: August 20, 2012

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

SUBJECT: Appoint Hannah Kinney to the City of Newberg Traffic Safety Commission as the student member with the term expiring June 30, 2013.

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

RECOMMENDATION:

To consent to the appointment, by the Mayor, of Hannah Kinney for the Student Traffic Safety Commissioner position with a term expiring June 30, 2013.

EXECUTIVE SUMMARY:

The Newberg Traffic Safety Commission is a nine member committee and one student commissioner position with a term that expired June 30, 2012. Hannah has served through the summer months and submitted a letter of interest to continue to serve. The Mayor has selected Hannah Kinney to fill the position for another term.

For privacy purposes, the original application is retained in the City Recorder's Office.

FISCAL IMPACT:

None

STRATEGIC ASSESSMENT:

The Newberg Traffic Safety Commission provides a valuable service to the City of Newberg by promoting traffic safety through investigation, study, and analysis of traffic safety programs; conducting educational efforts among the public in the matters of public safety; considering all traffic safety programs, which are referred to them for recommendation by the City Council; and making reports to the City Council on matters of traffic safety and traffic safety programs. The Traffic Safety Commission makes decisions regarding parking, crosswalks, safety zones, traffic lanes, truck routes, and all manner of traffic control devices within the community.

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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: August 20, 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 fourth 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

July 2012

The Gateway to Oregon Wine Country



Chamber Hosts American Camellia Society VIP

The Chehalem Valley Chamber hosted Matt Hunter, President of the American Camellia Society for a three day tour of Newberg. The visit was held in conjunction with the Newberg Camellia Festival on April 14th. Newberg is being considered as a site for the 2016 American Camellia Festival National Conference which would bring 150 conference attendees to town.

Visitor Center Highlights Fourth Quarter

- 1236 Walk-in Visitors, 12,054 Website Visits & 1335 Phone Calls

Newberg Represented at Oregon Destination Marketing Conference

Sheryl Kelsh represented Newberg and Yamhill County at the recent Summer conference of OD-MO members that was held in Coos Bay. In June.

The Oregon Destination Marketing Organization is a state-wide association made up of 32 destination marketing organizations that provide tourism marketing, sales services or information dissemination. Each ODMO member shares a common interest in the vision and vitality of Oregon's tourism and hospitality industry.

A number of "best practices" were shared during the 2 day conference. Kelsh learned about a successful Mystery Shopping program in Coos County that has had measurable impact on the perception of visitors about the area. A committee from the chamber is considering the program.



Chehalem Chamber Meets with International Travel Delegation from BELARUS

In conjunction with the world trade council the Chehalem Valley Chamber participated in a familiarization tour with members of a travel delegation from Belarus. The delegation was largely comprised of Bed & Breakfast owners and restaurant owners who came to learn more about how the United States engages in effective tourism marketing. Sheryl Kelsh led a discussion on "best practices" in destination marketing management.

2012 Visitor Center Services



The Allison Inn & Spa

#1 Hotel Spa in America

#12 Resort in America

#1 Hotel Spa in America by Travel + Leisure

We are proud to announce that [The Allison Inn & Spa](#) has been named the #1 hotel spa in America and #12 overall resort in America by Travel + Leisure.



The hotel category required Travel + Leisure readers to rate their favorite destination based on specific characteristics. Rooms, location, service, food and value were all ranked accordingly. Spas had a slightly different check list. Ambience, treatments, service and value were most prized here. Luckily these are all things that The Allison has in spades!

7/6/12



Visitor Center Seeking Pre & Post Convention Business through Travel Portland

The Chehalem Valley Chamber 's expanded membership with Travel Portland provides our office with calendar and contact information for conventions that are booked in the Portland Metro area for the next 5 years.

The Chamber is pro-actively contacting convention prospects for pre and post convention travel . In addition we are building a database of contacts for smaller conventions that might be a future match for the amenities that Newberg and the surrounding area offers.

According to Dean Runyon the average visitor contributes \$140 per day to the local economy.

**Newberg Visitor Information Center
2011-2012 Fiscal Year
Fourth Quarter Report
(April - June 2012)**

	Q4	YTD 11-12	Budget
REVENUE:			
City of Newberg	\$21,000.00	\$84,000.00	\$81,250.00
Newberg Chamber contribution	\$22,361.87	\$56,368.49	\$51,000.00
TOTAL REVENUES:	\$43,361.87	\$140,368.49	\$132,250.00
EXPENSES:			
Personnel	\$12,393.67	\$46,118.69	\$46,000.00
Marketing	\$5,528.95	\$30,205.14	\$27,000.00
Overhead/Utilities, etc.	\$9,939.25	\$48,544.66	\$43,750.00
Capitol Improvements	\$15,500.00	\$15,500.00	\$15,500.00
TOTAL EXPENSES:	\$43,361.87	\$140,368.49	\$132,250.00

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: August 20, 2012

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

SUBJECT: Approve the July 16, 2012, City Council Meeting minutes.

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

RECOMMENDATION:

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

EXECUTIVE SUMMARY:

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

FISCAL IMPACT:

None.

STRATEGIC ASSESSMENT:

None.

CITY OF NEWBERG COUNCIL MINUTES
JULY 16, 2012
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

A work session was held prior to the meeting. A meet and greet was held with Newberg School District Superintendent Kym LeBlanc-Esparza and Congresswoman Suzanne Bonamici District Representative Erik Horeis. All Councilors and the Mayor were present; no action was taken and no decisions were made.

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:04 PM.

II. ROLL CALL

Members

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

Staff

Present: Daniel Danicic, City Manager Norma I. Alley, City Recorder
 Leah Griffith, Library Director Nicole Tannler, Minutes Recorder

Others

Present: Robert Soppe, Robert Bohall, Bob McCombs, Erik Horeis, and Kym LeBlanc-Esparza

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. APPOINTMENTS

Consider a motion appointing Robert McCombs to serve on the Newberg Public Library Advisory Board Position #5 for a term expiring June 30, 2015, and Rob Bohall to serve on the Newberg Public Library Advisory Board Position #2 for a term expiring June 30, 2016.

TIME – 7:05 PM

Mayor Andrews introduced and welcomed the two candidates for the Newberg Library Board. Robert McCombs thanked the council for the position and hopes he can do a good job.

Robert Bohall said he is the reference librarian at George Fox University and wants the residence in the community to be well served with keeping the library maintained and elevated.

<p>MOTION: Shelton/Rierson appointing Robert McCombs to serve on the Newberg Public Library Advisory Board Position #5 for a term expiring June 30, 2015, and Rob Bohall to serve on the Newberg Public Library Advisory Board Position #2 for a term expiring June 30, 2016. Motion carried (7 Yes/0 No).</p>
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V. CITY MANAGER’S REPORT

Mr. Daniel Danicic, City Manager, reported the second Special Olympics event was successful with no significant incidents, staff is focusing on the Old Fashion Festival coming up in a couple weeks, City Hall Day is scheduled for September 20, 2012, and the Newberg Downtown Collation is putting together an effort called Downtown Transformation, which is scheduled to be completed in three years.

Councilor Shelton asked if there are any formal agreements with Oregon Department of Transportation (ODOT) regarding what can potentially happen with 99W after the By-pass. Mr. Danicic said no, he has not had a discussion with ODOT regarding 99W as part of the challenge after the By-pass will be dealing with 99W, Hwy. 240 and Hwy. 219. Mayor Andrews stated ODOT may be in a transition in how they handle jurisdictional transfers, so we will want to stay on top of that.

VI. PUBLIC COMMENTS

Mayor Andrews opened public testimony.

Mr. Robert Soppe testified on suggested corrections to the Newberg Development Code. The first is a technical error in Section 15.100 regarding the use of the word “applicant” in reference to the person filing the appeal in a Type I, II, or III process. The code defines “applicant” as the owner or authorized agent acting on behalf of the owner. Type III appeals can be someone opposed to the original applicant. He recommended replacing the word applicant with appellant. Mr. Soppe continued with saying the second issue is the parking requirements for developments. Section 15.440.050(B) allows for the number of spaces required in a development to be reduced because of the joint use of the parking facilities. Mr. Soppe said he presumed this is due to differences in times of usage of the parking lot. When a business changes their hours of operation this could cause a problem. Another issue has to do with Section 15.440.050(C) stating “Commercial establishments within 200 feet of a commercial parking lot may reduce the required number of parking spaces by fifty percent.” An obvious error in this is there is no correlation between the number of spaces in the commercial parking lot and the number of spaces that are being reduced. Though there is a requirement to construct a certain amount of parking spaces for a development, there is nothing to prohibit frequent events, such as tent sales, that render many of those parking spaces as unusable for parking. It seems unreasonable to allow them to be counted as parking spaces when they cannot be used as such. These have been recent issues and could be corrected without an excessive effort (see official meeting packet for full written testimony handed in).

Councilor McKinney asked if the issue needing clarification was in regards to the Cultural Center’s parking lot. Mr. Soppe answered yes, the example of the Cultural Center would be them having fifty-three spaces and if tents were put up for an event, then it does not seem reasonable to count the actual parking spaces being occupied by tents because you could not park a car there. Councilor McKinney asked if there are events in other parking lots that need clarifying as well. Mr. Soppe said in general those are on over constructed parking lots, so it is not an issue.

VII. CONSENT CALENDAR

Consider a motion approving City Council Minutes for May 21 and June 4, 2012.

TIME – 7:21 PM

<p>MOTION: Rierson/Bacon approving the motion approving City Council Minutes for May 21 and June 4, 2012. Motion carried (7 Yes/0 No).</p>
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VIII. COUNCIL BUSINESS

Discussion on League of Oregon Cities (LOC) Legislative Priorities.

TIME – 7:22 PM

Mr. Daniel Danicic, City Manager, presented the staff report and referenced handouts given to Council on July 2, 2012 (see July 2, 2012, official meeting packet for full report).

Discussion commenced on the top priorities and consensus was met to submit items A, C, D, and M as the City of Newberg's top priorities.

MOTION: **Howard/Bacon** directing staff to present options A, C, D and M to the League of Oregon Cities as preferred legislative priorities. Motion carried (7 Yes/0 No).

XII. ADJOURNMENT

The meeting adjourned at 7:33 PM.

ADOPTED by the Newberg City Council this 20th day of August, 2012.

Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 23rd day of August, 2012.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: August 20, 2012

Order ___ Ordinance ___ Resolution XX Motion ___ Information ___
No. No. No. 2012-3012

SUBJECT: A request for the City to initiate the vacation of a portion of the Ninth Street right-of-way between Industrial Parkway and Highway 219 without the consent of all abutting property owners.

Contact Person (Preparer) for this
Motion: Steve Olson, AICP
Dept.: Planning & Building
File No.: VAC-11-002

RECOMMENDATION:

Adopt Resolution No. 2012-3012 initiating the vacation of a portion of the Ninth Street right-of-way without the consent of all abutting property owners, provide notice to abutting and affected property owners, and require a public hearing to take public testimony and consider the right-of-way vacation. This resolution does not make a decision on the vacation but would initiate the process, provide public notice, allow public comment, and require the issue to be considered at a future City Council hearing.

EXECUTIVE SUMMARY:

Request: Airpark Properties, LLC, represented by Jerry Dale, has requested the City initiate the vacation of a portion of the Ninth Street right-of-way between Industrial Parkway and Highway 219 without the consent of all abutting property owners. They also asked the City reserve a 25 foot by 40 foot public access easement, east of Industrial Parkway and centered on E. 9th Street, for the benefit of the public and to provide access to both abutting properties.

Background: In January, 2011, Airpark Properties, LLC, represented by Jerry Dale, and the Norman Family Trust, represented by Gerald and Sandra Norman, submitted an application (file # VAC-11-002) requesting the City vacate the portion of the Ninth Street right-of-way between Industrial Parkway and Highway 219. Their properties are the only properties abutting the proposed vacation area. Both property owners consented to the vacation, as did all of the other nearby property owners in the affected area of the vacation. The City Council held a public hearing on July 5, 2011, and concluded the right-of-way dedicated to the City was no longer necessary as a street and should be vacated, as long as necessary utility easements and access easements had been created. The Council made a motion tentatively approving the application, conditional upon the applicant supplying legal descriptions and exhibits prepared by a surveyor of the area to be vacated and any necessary utility and access easements. Staff was directed to prepare an ordinance complete with the right-of-way and easement exhibits for final approval by Council.

In order to finalize the vacation and prepare the ordinance, the property owners would have to grant each other an access easement to Industrial Parkway over a portion of the vacated right-of-way. The two parties could not come to an agreement on the easement, so on June 20, 2012, the Norman Family Trust withdrew their consent for the vacation application. The application was based on having the consent of all abutting property owners, so the withdrawal of consent effectively voided the application and the tentative approval by the City Council.

Vacation without consent: ORS 271.130 does allow a city to vacate public right-of-way without the consent of abutting property owners under certain conditions. The vacation cannot be completed, however, if:

- There was inadequate notice of the hearing, per ORS 271.110;
- The owners of a majority of the affected area, computed on the basis provided in ORS 271.080, object in writing to the vacation; or
- The vacation will substantially affect the market value of the abutting property, unless the City provides for paying damages. Provisions for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide.

ORS 271.130: Vacation on city governing body's own motion; appeal.

(1) The city governing body may initiate vacation proceedings authorized by ORS 271.080 and make such vacation without a petition or consent of property owners. Notice shall be given as provided by ORS 271.110, but such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages. Provision for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide.

(2) Two or more streets, alleys, avenues and boulevards, or parts thereof, may be joined in one proceeding, provided they intersect or are adjacent and parallel to each other.

(3) No ordinance for the vacation of all or part of a plat shall be passed by the governing body until the city recording officer has filed in the office of the city recording officer or indorsed on the petition for such vacation a certificate showing that all city liens and all taxes have been paid on the lands covered by the plat or portion thereof to be vacated.

(4) Any property owner affected by the order of vacation or the order awarding damages or benefits in such vacation proceedings may appeal to the circuit court of the county where such city is situated in the manner provided by the city charter. If the charter does not provide for such appeal, the appeal shall be taken within the time and in substantially the manner provided for taking an appeal from justice court in civil cases. [Amended by 1995 c.658 §101]

The request by Airpark Properties, LLC, that the City initiate the right-of-way vacation without the consent of the other abutting property owner (Norman Family Trust) is allowed by State law. The City would have to hold a public hearing on the proposed vacation. If the City wished to approve the vacation it could do so through an ordinance. The City would provide notice of the hearing, which would allow property owners in the affected area a chance to comment or object in writing to the vacation. The Council could hear testimony as to whether the vacation would substantially affect the market value of the properties.

FISCAL IMPACT: There is a potential small positive impact if the vacated area is developed. The City would be required to pay damages if the vacation substantially affected the market value of abutting properties. Vacation of the right-of-way will return the property to the abutting owners and allow them to develop the property in the future. The vacation should increase the market value of abutting properties, so the risk the City will need to make provisions for paying damages is probably small.

STRATEGIC ASSESSMENT: The property is no longer needed as a street, as ODOT has extended Industrial Parkway to the north and installed a traffic light to control access to Highway 219. Utility easements can protect the public interest in the existing utility lines and a public access easement will provide access to both properties from Industrial Parkway.



RESOLUTION No. 2012-3012

**A RESOLUTION INITIATING THE VACATION OF THE NINTH STREET
RIGHT-OF-WAY BETWEEN INDUSTRIAL PARKWAY AND HIGHWAY
219, REQUIRING PUBLIC NOTICE, AND DIRECTING STAFF TO PREPARE
FOR A PUBLIC HEARING ON THE POTENTIAL VACATION**

RECITALS:

1. Airpark Properties, LLC, has requested the City initiate the vacation of the Ninth Street right-of-way between Industrial Parkway and Highway 219 without the consent of all abutting landowners. Airpark Properties, LLC, owns the parcel abutting the north side of the proposed vacation.
2. Oregon Revised Statute 271.130 allows a city to vacate public right-of-way without the consent of abutting property owners under certain conditions. The vacation cannot be completed if:
 - a) There was inadequate notice of the hearing, per ORS 271.110;
 - b) The owners of a majority of the affected area, computed on the basis provided in ORS 271.080, object in writing to the vacation; or
 - c) The vacation will substantially affect the market value of the abutting property, unless the City provides for paying damages. Provisions for paying such damages may be made by a local assessment or in such other manner as the City of Newberg Charter may provide.
3. The City Council would like to hold a public hearing to hear public testimony, allow a chance for property owners in the affected area to object in writing, consider the merits of the proposal, and make a decision on the potential vacation of a portion of the Ninth Street right-of-way.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council initiates the vacation of the Ninth Street right-of-way between Industrial Parkway and Highway 219, without the consent of all abutting property owners.
2. By initiating this process the City Council does not commit to take any particular action on the vacation. It only wishes to consider the potential vacation through a public hearing process.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: August 21, 2012.

ADOPTED by the City Council of the City of Newberg, Oregon, this 20th day of August, 2012.

Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 23rd day of August, 2012.

Bob Andrews, Mayor

**EXHIBIT "A": LETTER REQUESTING THE CITY INITIATE A RIGHT-OF-WAY
VACATION**

Airpark Properties LLC
P O Box 248
Newberg, OR 97132

RECEIVED

JUL 10 2012

Initial: BB

July 9, 2012

Barton Brierley
Planning Director
City of Newberg, OR

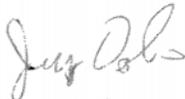
RE: 9th Street Vacation

Dear Barton:

In July of 2011 the City Council approved, with conditions, the vacation of East 9th Street that lies between Industrial Parkway and Highway 219. In trying to meet those conditions the Norman Family Trust (co-petitioner and owner of the south abutting property) has made what we believe are unreasonable demands of Airpark Properties LLC (co-petitioner and owner of the north abutting property) for completing the vacation. As a consequence of our refusal to meet their demands they have withdrawn their consent.

We believe the vacation of this portion of East 9th Street is in the best interest of the City and serves the public good. We therefore ask that the City initiate the vacation of that portion of East 9th Street that lies between Industrial Parkway and Highway 219 under the provisions of ORS 272.130. We further ask that the City reserve a 25 ft by 40 ft Public Access, east of Industrial Parkway and centered on East 9th Street, for the benefit of the public and to provide access to both abutting properties.

Yours Truly,
AIRPARK PROPERTIES, LLC



Jerry Dale
Member

EXHIBIT "B": WITHDRAWAL OF CONSENT BY NORMAN FAMILY TRUST

**BROWN, TARLOW, BRIDGES
PALMER & STONE PC**
Attorneys at Law

ALLYN E. BROWN
JOHN T. BRIDGES
STEPHEN C. PALMER
TRUMAN A. STONE
RICHARD P. BROWN

DONALD O. TARLOW
Retired



RECEIVED

JUN 22 2012

Initial: _____

515 E. FIRST STREET
NEWBERG, OREGON 97132
TELEPHONE: (503) 538-3138
FACSIMILE: (503) 538-9812
www.newberglaw.com

June 20, 2012

City of Newberg
414 East First Street
P.O. Box 970
Newberg, OR 97132

**Re: Vacation of Ninth Street Right-of-Way
Motion #2011-2742**

To Whom it May Concern:

My client, Gerald Norman, as Trustee of the Norman Family Trust, was one of the applicants as well as persons consenting to the vacation of Ninth Street between Industrial Parkway and Highway 219. My client now withdraws his application and consent regarding the proposed street vacation.

If you have any questions, please do not hesitate to contact me.

Yours truly,

BROWN, TARLOW, BRIDGES, PALMER & STONE, P.C.

John T. Bridges

JTB:ao

cc: Gary Norman
Jerry Dale of Airpark Properties, LLC

EXHIBIT "C": PROPOSED VACATION AREA

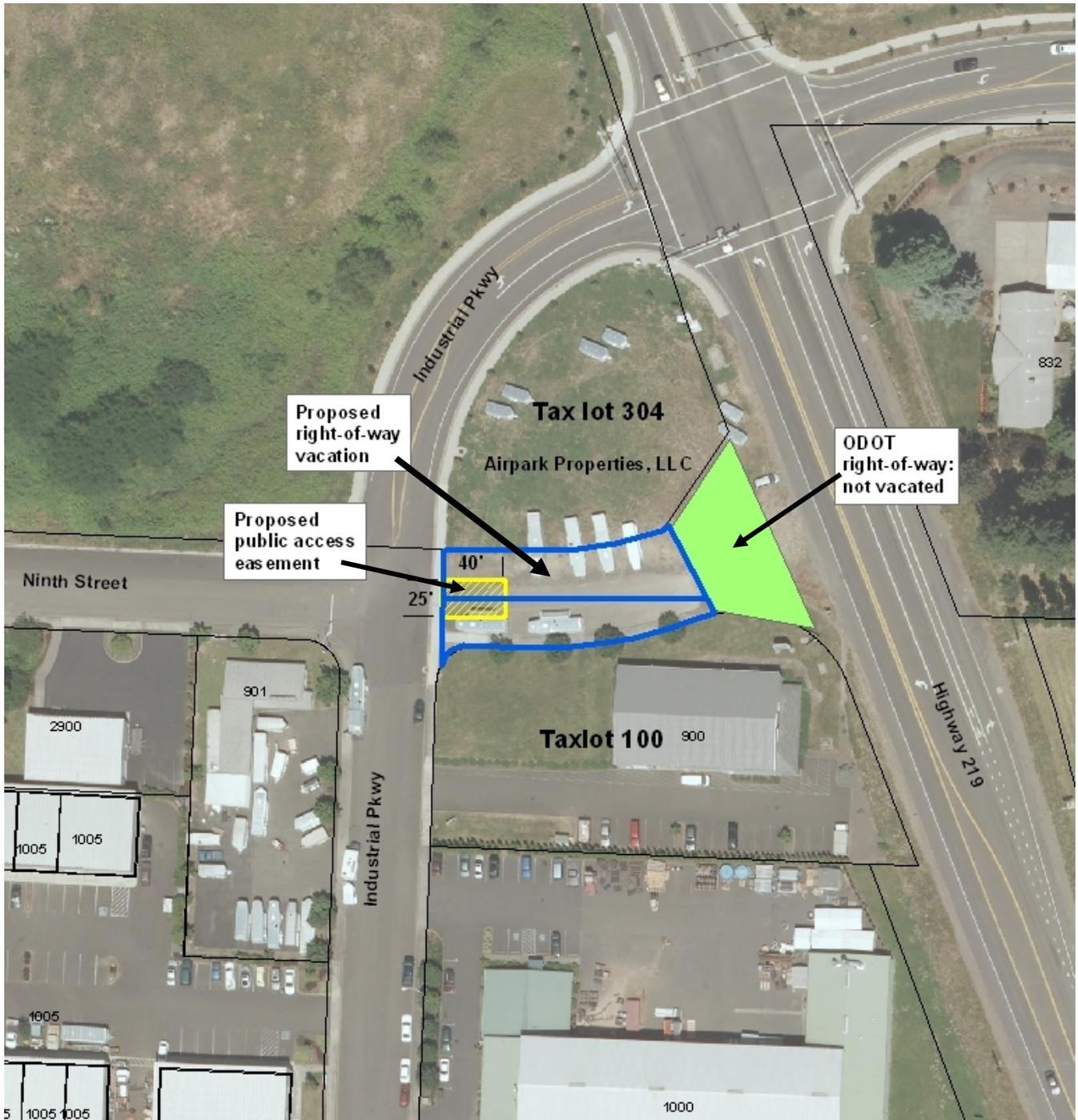


EXHIBIT "D": FULL TEXT OF OREGON REVISED STATUTES 271.080 - 271.230

VACATION

271.080 Vacation in incorporated cities; petition; consent of property owners. (1) Whenever any person interested in any real property in an incorporated city in this state desires to vacate all or part of any street, avenue, boulevard, alley, plat, public square or other public place, such person may file a petition therefor setting forth a description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation.

(2) There shall be appended to such petition, as a part thereof and as a basis for granting the same, the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated. Where a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. In the vacation of any plat or part thereof the consent of the owner or owners of two-thirds in area of the property embraced within such plat or part thereof proposed to be vacated shall be sufficient, except where such vacation embraces street area, when, as to such street area the above requirements shall also apply. The consent of the owners of the required amount of property shall be in writing. [Amended by 1999 c.866 §2]

271.090 Filing of petition; notice. The petition shall be presented to the city recorder or other recording officer of the city. If found by the recorder to be sufficient, the recorder shall file it and inform at least one of the petitioners when the petition will come before the city governing body. A failure to give such information shall not be in any respect a lack of jurisdiction for the governing body to proceed on the petition.

271.100 Action by city governing body. The city governing body may deny the petition after notice to the petitioners of such proposed action, but if there appears to be no reason why the petition should not be allowed in whole or in part, the governing body shall fix a time for a formal hearing upon the petition.

271.110 Notice of hearing. (1) The city recorder or other recording officer of the city shall give notice of the petition and hearing by publishing a notice in the city official newspaper once each week for two consecutive weeks prior to the hearing. If no newspaper is published in such city, written notice of the petition and hearing shall be posted in three of the most public places in the city. The notices shall describe the ground covered by the petition, give the date it was filed, the name of at least one of the petitioners and the date when the petition, and any objection or remonstrance, which may be made in writing and filed with the recording officer of the city prior to the time of hearing, will be heard and considered.

(2) Within five days after the first day of publication of the notice, the city recording officer shall cause to be posted at or near each end of the proposed vacation a copy of the notice, which shall be headed, "Notice of Street Vacation," "Notice of Plat Vacation" or "Notice of Plat and Street Vacation," as the case may be. The notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be at least 14 days before the hearing.

(3) The city recording officer shall, before publishing such notice, obtain from the petitioners a sum

sufficient to cover the cost of publication, posting and other anticipated expenses. The city recording officer shall hold the sum so obtained until the actual cost has been ascertained, when the amount of the cost shall be paid into the city treasury and any surplus refunded to the depositor. [Amended by 1991 c.629 §1; 2005 c.22 §196]

271.120 Hearing; determination. At the time fixed by the governing body for hearing the petition and any objections filed thereto or at any postponement or continuance of such matter, the governing body shall hear the petition and objections and shall determine whether the consent of the owners of the requisite area has been obtained, whether notice has been duly given and whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof. If such matters are determined in favor of the petition the governing body shall by ordinance make such determination a matter of record and vacate such plat or street; otherwise it shall deny the petition. The governing body may, upon hearing, grant the petition in part and deny it in part, and make such reservations, or either, as appear to be for the public interest.

271.130 Vacation on city governing body's own motion; appeal. (1) The city governing body may initiate vacation proceedings authorized by ORS 271.080 and make such vacation without a petition or consent of property owners. Notice shall be given as provided by ORS 271.110, but such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages. Provision for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide.

(2) Two or more streets, alleys, avenues and boulevards, or parts thereof, may be joined in one proceeding, provided they intersect or are adjacent and parallel to each other.

(3) No ordinance for the vacation of all or part of a plat shall be passed by the governing body until the city recording officer has filed in the office of the city recording officer or indorsed on the petition for such vacation a certificate showing that all city liens and all taxes have been paid on the lands covered by the plat or portion thereof to be vacated.

(4) Any property owner affected by the order of vacation or the order awarding damages or benefits in such vacation proceedings may appeal to the circuit court of the county where such city is situated in the manner provided by the city charter. If the charter does not provide for such appeal, the appeal shall be taken within the time and in substantially the manner provided for taking an appeal from justice court in civil cases. [Amended by 1995 c.658 §101]

271.140 Title to vacated areas. The title to the street or other public area vacated shall attach to the lands bordering on such area in equal portions; except that where the area has been originally dedicated by different persons and the fee title to such area has not been otherwise disposed of, original boundary lines shall be adhered to and the street area which lies on each side of such boundary line shall attach to the abutting property on such side. If a public square is vacated the title thereto shall vest in the city. [Amended by 1981 c.153 §58]

271.150 Vacation records to be filed; costs. A certified copy of the ordinance vacating any street or plat area and any map, plat or other record in regard thereto which may be required or provided for by law, shall be filed for record with the county clerk. The petitioner for such vacation shall bear the recording cost and the cost of preparing and filing the certified copy of the ordinance and map. A certified copy of any such ordinance shall be filed with the county assessor and county surveyor.

271.160 Vacations for purposes of rededication. No street shall be vacated upon the petition of any person when it is proposed to replat or rededicate all or part of any street in lieu of the original unless such petition is accompanied by a plat showing the proposed manner of replatting or rededicating. If the proposed manner of replatting or rededicating or any modification thereof which may subsequently be made meets with the approval of the city governing body, it shall require a suitable guarantee to be given for the carrying out of such replatting or rededication or may make any vacation conditional or to take effect only upon the consummation of such replatting or rededication.

271.170 Nature and operation of statutes. The provisions of ORS 271.080 to 271.160 are alternative to the provisions of the charter of any incorporated city and nothing contained in those statutes shall in anywise affect or impair the charter or other provisions of such cities for the preservation of public access to and from transportation terminals and navigable waters.

271.180 Vacations in municipalities included in port districts; petition; power of common council; vacating street along railroad easement. To the end that adequate facilities for terminal trackage, structures and the instrumentalities of commerce and transportation may be provided in cities and towns located within or forming a part of any port district organized as a municipal corporation in this state, the governing body of such cities and towns, upon the petition of any such port, or corporation empowered to own or operate a railroad, steamship or other transportation terminal, or railroad company entering or operating within such city or town, or owner of property abutting any such terminal, may:

(1) Authorize any port commission, dock commission, common carrier, railroad company or terminal company to occupy, by any structure, trackage or machinery facilitating or necessary to travel, transportation or distribution, any street or public property, or parts thereof, within such city or town, upon such reasonable terms and conditions as the city or town may impose.

(2) Vacate the whole or any part of any street, alley, common or public place, with such restrictions and upon such conditions as the city governing body may deem reasonable and for the public good.

(3) If any railroad company owns or has an exclusive easement upon a definite strip within or along any public street, alley, common or public place, and if the city governing body determines such action to be to the advantage of the public, vacate the street area between the strip so occupied by the railroad company and one property line opposite thereto, condition that the railroad company dedicates for street purposes such portion of such exclusive strip occupied by it as the city governing body may determine upon, and moves its tracks and facilities therefrom onto the street area so vacated. The right and title of the railroad company in the vacated area shall be of the same character as previously owned by it in the exclusive strip which it is required by the city governing body to surrender and dedicate to street purposes.

271.190 Consent of owners of adjoining property; other required approval. No vacation of all or part of a street, alley, common or public place shall take place under ORS 271.180 unless the consent of the persons owning the property immediately adjoining that part of the street or alley to be vacated is obtained thereto in writing and filed with the auditor or clerk of the city or town. No vacation shall be made of any street, alley, public place or part thereof, if within 5,000 feet of the harbor or pierhead line of the port, unless the port commission, or other bodies having jurisdiction over docks and wharves in the port district involved, approves the proposed vacation in writing.

271.200 Petition; notice. (1) Before any street, alley, common or public place or any part thereof is vacated, or other right granted by any city governing body under ORS 271.180 to 271.210 the applicant must petition the governing body of the city or town involved, setting forth the particular circumstances of the case, giving a definite description of the property sought to be vacated, or of the right, use or occupancy sought to be obtained, and the names of the persons to be particularly affected thereby. The

petition shall be filed with the auditor or clerk of the city or town involved 30 days previous to the taking of any action thereon by the city governing body.

(2) Notice of the pendency of the petition, containing a description of the area sought to be vacated or right, use or occupancy sought to be obtained, shall be published at least once each week for three successive weeks prior to expiration of such 30-day period in a newspaper of general circulation in the county wherein the city or town is located.

271.210 Hearing; grant of petition. Hearing upon the petition shall be had by the city governing body at its next regular meeting following the expiration of 30 days from the filing of the petition. At that time objections to the granting of the whole or any part of the petition shall be duly heard and considered by the governing body, which shall thereupon, or at any later time to which the hearing is postponed or adjourned, pass by a majority vote an ordinance setting forth the property to be vacated, or other rights, occupancy or use to be thereby granted. Upon the expiration of 30 days from the passage of the ordinance and the approval thereof by the mayor of the city or town, the ordinance shall be in full force and effect.

271.220 Filing of objections; waiver. All objections to the petition shall be filed with the clerk or auditor of the city or town within 30 days from the filing of the petition, and if not so filed shall be conclusively presumed to have been waived. The regularity, validity and correctness of the proceedings of the city governing body pursuant to ORS 271.180 to 271.210, shall be conclusive in all things on all parties, and cannot in any manner be contested in any proceeding whatsoever by any person not filing written objections within the time provided in this section.

271.230 Records of vacations; fees. (1) If any town or plat of any city or town is vacated by a county court or municipal authority of any city or town, the vacation order or ordinance shall be recorded in the deed records of the county. Whenever a vacation order or ordinance is so recorded, the county surveyor of such county shall, upon a copy of the plat that is certified by the county clerk, trace or shade with permanent ink in such manner as to denote that portion so vacated, and shall make the notation "Vacated" upon such copy of the plat, giving the book and page of the deed record in which the order or ordinance is recorded. Corrections or changes shall not be allowed on the original plat once it is recorded with the county clerk.

(2) For recording in the county deed records, the county clerk shall collect the same fee as for recording a deed. For the services of the county surveyor for marking the record upon the copy of the plat, the county clerk shall collect a fee as set by ordinance of the county governing body to be paid by the county clerk to the county surveyor. [Amended by 1971 c.621 §31; 1975 c.607 §31; 1977 c.488 §2; 1979 c.833 §30; 1999 c.710 §12; 2001 c.173 §5]

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: August 20, 2012

Order ___ Ordinance ___ Resolution XX Motion ___ Information ___
No. No. No. 2012-3014

SUBJECT: Authorize the city manager to purchase materials from Crescent Electric Supply Company in the amount of \$72,659.58 and enter into a contract with GPEC Electrical Contractors in the amount of \$22,724.50 to facilitate an energy savings lighting retrofit project at the WWTP.

Contact Person (Preparer) for this
Motion: Troy Sanders
Dept.: Public Works Operations
File No.:

RECOMMENDATION:

Adopt Resolution No. 2012-3014 authorizing the city manager to purchase materials from Crescent Electric Supply Company in the amount of \$72,659.58 and enter into a contract with GPEC Electrical Contractors in the amount of \$22,724.50 to facilitate an energy savings lighting retrofit project at the WWTP.

EXECUTIVE SUMMARY:

Energy Trust of Oregon (ETO) performs audits of treatment plants to identify energy conservation projects. The ETO also provides grants and reimbursement incentives to organizations making qualified improvements to their facilities. The City and ETO have worked together in the past to improve the overall energy efficiency of the water and wastewater treatment plants (WWTP). An audit of the WWTP lighting system was completed recently and a number of changes were mentioned as potential energy saving options.

In working with the ETO, staff has developed a lighting retrofit project that will provide an overall electrical savings of approximately \$11,636.00 per year. This equates to 148,807 kWh annual energy savings at the WWTP.

The City solicited quotes from suppliers of the materials needed for this retrofit project. Only one company, Crescent Electric Supply Company, could meet the October, 2012, deadline to qualify the City for the additional 'kick start' bonus of \$5,612.00. That company responded with a quote of \$72,659.58 for all materials necessary to complete the job.

GPEC Electrical Contractors is the company currently working on the WWTP reconstruction project and is the City of Newberg Master Electrician on file with Yamhill County. For those reasons we asked them to provide a quote for installation. Their quote of \$22,724.50 is reasonable and GPEC's knowledge of the facility will make working with Crescent Electric Supply Company much more efficient than hiring a new contractor.

This energy saving retrofit project will qualify the City of Newberg for a total of \$33,669.00 in reimbursement from ETO, thereby reducing the overall investment to approximately \$61,715.00.

FISCAL IMPACT:

The City will pay the initial cost of \$95,384.08 from the Public Works Operations Division budget, account number 06-5131.566000. Once the \$33,669.00 incentive reimbursement from ETO is applied, the net expenditure will be \$61,715.00. The net cost will be recovered in 5 years based upon annual energy savings of \$11,636.00. The City of Newberg’s return on investment will be 20% annually over 5 years. The City share of the overall investment is 63% and the ETO share is 37%.

STRATEGIC ASSESSMENT:

Just as the Onix System upgrade to the compost facility in 2010 made the WWTP one of the industry leaders in energy efficient technology application, this lighting retrofit project will also be an investment in current technology that integrates conservation and fiscal responsibility at the WWTP. In addition, the lighting retrofit will provide better quality of task and security lighting protecting the employees from injury and the plant equipment and facilities from theft or damage.

This project is also in keeping with the following Council goals:

- 4b. *City facilities are built in compliance with “Green” construction standards.*
- 4c. *Sustainable practices are used to operate City facilities.*



RESOLUTION No. 2012-3014

A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE MATERIALS FROM CRESCENT ELECTRIC SUPPLY COMPANY AND ENTER INTO A CONTRACT WITH GPEC ELECTRICAL CONTRACTORS TO FACILITATE AN ENERGY SAVINGS LIGHTING RETROFIT PROJECT AT THE WASTEWATER TREATMENT PLANT

RECITALS:

1. Energy Trust of Oregon, Inc. (ETO) is a non-profit organization dedicated to energy efficiency and renewable energy production.
2. ETO performs audits of treatment plants to identify energy conservation projects. The ETO awards reimbursement funds to organizations making qualified energy improvements. The City and ETO have worked together in the past to improve the overall energy efficiency of the water and wastewater plants.
3. An audit of the Wastewater Treatment Plant (WWTP) lighting was completed and a number of changes were recommended as energy saving options.
4. Crescent Electric Supply Company provided a bid for \$72,659.58 for materials to complete the retrofit and GPEC Electrical Contractor provided a bid of \$22,724.50 for installation.
5. With the contribution of \$33,669.00 from ETO, the net out-of-pocket estimate is \$61,715.08. The City of Newberg return on investment will be 20% annually over 5 years.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council authorizes the city manager to purchase materials from Crescent Electric Supply Company in the amount of \$72,659.58 to complete the lighting retrofit project at the WWTP.
2. The City Council authorizes the city manager to enter into a contract with GPEC Electrical Contractors in the amount of \$22,724.50 to provide electrical installation services to complete the lighting retrofit project at the WWTP.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: August 21, 2012.

ADOPTED by the City Council of the City of Newberg, Oregon, this 20th day of August, 2012.

Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 23rd day of August, 2012.

Bob Andrews, Mayor

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