



CITY COUNCIL AGENDA

TUESDAY, SEPTEMBER 4, 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 adopting **Resolution No. 2012-3015** authorizing the city manager to enter into a contract with N. Santiam Paving Company for road pavement restoration in the amount of \$355,950.00. (Pgs. 3-4)
2. Consider a motion adopting **Resolution No. 2012-3016** authorizing the city manager to approve the lease-purchase of two vehicles from Hubbard Chevrolet in the amount of \$80,957.80 for the Newberg-Dundee Police Department. (Pgs. 5-6)
3. Consider a motion authorizing a refund of \$17,423.61 in Building Permit Fees and System Development Charges paid by Terrence and EvaKay Mahr for construction of a new home, which did not take place. (Pgs. 7-14)
4. Consider a motion approving the August 6, 2012, City Council meeting minutes. (Pgs. 15-19)

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.

VII. COUNCIL BUSINESS

VIII. 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: September 4, 2012

Order ___	Ordinance ___	Resolution <u>XX</u>	Motion ___	Information ___
No.	No.	No. 2012-3015		

SUBJECT: Authorize the city manager to enter into a contract with N. Santiam Paving Company for construction of SCOPE B of the 2012/13 Pavement Restoration Program in the amount of \$355,950.00.

**Contact Person (Preparer) for this Motion: Paul Chiu, Sr. Engineer/Project Manager
Dept.: Public Works Department - Engineering
File No.:**

RECOMMENDATION: Adopt Resolution No. 2012-3015 authorizing the city manager to enter into a contract with N. Santiam Paving Company for construction of SCOPE B of the 2012/13 Pavement Restoration Program in the amount of \$355,950.00.

EXECUTIVE SUMMARY: City Council has ranked the repair and maintenance of local streets as a high priority. In 2011, a comprehensive evaluation of city streets was conducted and the pavement condition was classified into five categories. A list of city streets was then created that prioritized the needed street repairs.

Staff prepared plans and specifications for the 2012/2013 Pavement Restoration Program with SCOPE A for chip seal (maintenance) and SCOPE B for grind and inlay (new asphalt), which was advertised on July 30, 2012. The engineer's estimate was approximately \$460,000.00 for SCOPE A and B together.

One bid was received for SCOPE A and five bids were received for SCOPE B on August 9, 2012. The bidders included detail for the required cost breakdown of the lump sum prices. The bid results are:

SCOPE A

Bretthauer Road Oil Co, Inc. \$ 229,777.00

SCOPE B

N. Santiam Paving Company	\$355,950.00
Brix Paving Northwest, Inc.	\$391,743.77
S-2 Contractors, Inc.	\$484,000.00
Knife River Corporation NW	\$513,550.00
Baker Rock Resources West LLC	\$519,900.00

Due to budgetary constraints, the City exercises the right to award a contract for only SCOPE B of the program at this time. Eight (8) blocks of Blaine Street, 1-1/2 blocks of Edwards Street, 2-1/2 blocks of Harrison Street, 3 blocks of S. Main Street and 2 blocks of Meridian Street will all receive a new asphalt surface. Construction is scheduled to begin in September and will end by October, 2012. A contract for SCOPE A work will be reconsidered in spring, 2013, funding and weather permitting.

FISCAL IMPACT: Part of the project cost will be funded through the federal fund exchange program and the remainder will be paid from the street fund (gas tax revenue). The approved budget in Fiscal Year 2012/2013 is \$500,000.00 in account number 18-5150-702171. The contract amount for SCOPE B is \$355,950.00.

STRATEGIC ASSESSMENT: City Council Goal #3g is to *identify the funding mechanism for a road maintenance program*. As creative input and support from the local community is needed to reach this goal, staff intends to demonstrate the true value of their money with this first phase of the program in an effort to gain that necessary support. A funding mechanism is needed for the future success of the City-wide Pavement Restoration Program.



RESOLUTION No. 2012-3015

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH N. SANTIAM PAVING COMPANY FOR CONSTRUCTION OF SCOPE B OF THE FISCAL YEAR 2012/2013 PAVEMENT RESTORATION PROGRAM IN THE AMOUNT OF \$355,950.00

RECITALS:

1. The City of Newberg advertised the 2012/2013 Pavement Restoration Program and received one bid for SCOPE A and five qualified bids for SCOPE B on August 9, 2012.
2. The engineer's estimate for SCOPE A and B together was \$460,000.00. The lowest responsive bidder for SCOPE A was Bretthauer Road Oil Company, Inc. with a bid in the amount of \$229,777.00 and for SCOPE B was N. Santiam Paving Company with a bid in the amount of \$355,950.00.
3. The City exercises its right to award a contract for SCOPE B only. SCOPE A will be reconsidered in spring, 2013, funding and weather permitting.
4. Construction of SCOPE B will begin in September and will end in October, 2012.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

The City Council, acting as Contract Review Board for the City, authorizes the city manager to enter into a contract with N. Santiam Paving Company for the construction of the 2012/2013 Pavement Restoration Program, Scope B in the amount of \$355,950.00.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: September 5, 2012.

ADOPTED by the City Council of the City of Newberg, Oregon, this 4th day of September 2012.

Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 6th day of September 2012.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: September 04, 2012

Order ___ No.	Ordinance ___ No.	Resolution <u>XX</u> No. 2012-3016	Motion ___	Information ___
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SUBJECT: Authorize the City Manager to approve the lease-purchase of two (2) replacement vehicles for the Newberg-Dundee Police Department

Contact Person (Preparer) for this Motion: Chris Bolek – Patrol Captain
Dept.: Police
File No.:

RECOMMENDATION: Adopt **Resolution No. 2012-3016** authorizing the City Manager to approve the lease-purchase of one (1) new 2012 Chevrolet Caprice Police Package vehicle and one (1) new 2012 Chevrolet Tahoe Police Package vehicle from Hubbard Chevrolet, Hubbard, Oregon.

EXECUTIVE SUMMARY: The City of Newberg is a member of the Oregon Department of Administrative Services Cooperative (ORCPP). Under ORCPP, the State of Oregon bid for police vehicles is currently awarded to Hubbard Chevrolet, Hubbard; Ron Tonkin Chevrolet, Portland; and Carlson Chevrolet, Sandy. Due to proximity, the Newberg-Dundee Police Department (NDPD) opted to purchase the vehicles from Hubbard Chevrolet. Hubbard Chevrolet has a 2012 Chevrolet Tahoe and a 2012 Chevrolet Caprice in stock and has agreed to hold these vehicles until we obtain financing. Hubbard Chevrolet has agreed to sell these vehicles to the City for the base price of \$26,918.80 and \$27,142.10, respectively.

The NDPD has chosen to purchase a 2012 Chevrolet Tahoe (SUV) Police Package Vehicle (PPV) to use as a supervisor vehicle. It is believed that the SUV type vehicle will provide more utility as a supervisory vehicle due to the extra ancillary equipment that is carried by supervisors in their assigned vehicle.

The NDPD is still in the bid process to “build” these base police package vehicles; adding the specific radios, lighting, seats, markings, etc. that actually makes the vehicle a police patrol vehicle. All estimates obtained up to this point indicate the “build” can be done for each vehicle at a cost of approximately \$10,000-\$12,000 maximum.

FISCAL IMPACT: The City is currently applying for a loan from US Bank Business Equipment Financing at a rate of 2.85% annually for three (3) years. The total price of the vehicles is a maximum of \$80,957.80. Of that total, \$2,397.90 is interest; \$499.00 is the loan fee, with the remainder of \$78,060.90 as principal. The payments will be made in three (3) installments of \$26,819.60, the first payment plus \$499.00 loan fee is due upon acceptance of the vehicles with the balance to be paid in two (2) annual payments of \$26,819.60 with a \$2.00 total (\$1.00 each vehicle), buyout at the end of the three year lease period. The individual prices of the 2012 Chevrolet Tahoe and the 2012 Chevrolet Caprice less interest and document fees, are a maximum \$39,142.10 and \$38,918.80, respectively. Replacement of police vehicles has been budgeted under account number 32-2110-610000.

STRATEGIC ASSESSMENT: These vehicles will be replacement vehicles and not additions to the patrol vehicle fleet. Replacing aging police vehicles, be it detective, patrol, community response team or pool cars with excessive mileage and/or engine hours is imperative to the efficient use of vehicle maintenance funds by reducing maintenance costs.



RESOLUTION No. 2012-3016

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE
THE PURCHASE OF A CHEVROLET TAHOE AND CHEVROLET CAPRICE
AS REPLACEMENT PATROL VEHICLES FOR THE NEWBERG-DUNDEE
POLICE DEPARTMENT**

RECITALS:

1. The Newberg-Dundee Police Department is finding it necessary to replace a Supervisor's vehicle and a Patrol Vehicle. Repair and maintenance costs of older, high mileage vehicles will continue to rise due to the age and wear on the vehicles.
2. The vehicles will be obtained under the Oregon Department of Administrative Services Cooperative (ORCPP) from Hubbard Chevrolet, Hubbard, OR. The bid to build the vehicles into marked police patrol vehicles is still in the bidding process and has not yet been awarded and will comply with ORS Chapter 279 and the City of Newberg Purchasing Manual.
3. The final costs to purchase, build, and complete both vehicles as marked police patrol vehicles, is \$80,957.80, which includes principal, interest, and the loan fee. Funding for the lease payments to purchase these vehicles is budgeted under the Vehicle Replacement Account of the police department; 32-2110-610000.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

The City Council, acting as the Contract Review Board for the City, does hereby authorize the city manager to approve the purchase of one (1) 2012 Chevrolet Tahoe Police Package Vehicle and one (1) Chevrolet Caprice Police Package vehicle, built (equipment and labor) as an authorized marked police vehicle, for a total purchase price of \$78,060.90 plus interest in the amount of \$2,397.90 and loan fee of \$499.00.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: September 5, 2012.

ADOPTED by the City Council of the City of Newberg, Oregon, this 4th day of September, 2012.

Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 6th day of September, 2012.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: September 4, 2012

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

SUBJECT: Refund of permit fees for Mahr development at 1728 Crestview Circle

Contact Person (Preparer) for this Motion: Barton Brierley, AICP
Dept.: Planning and Building
File No.: BC07-0957

RECOMMENDATION: Move to authorize refund of \$17,423.61 in building permit and system development charges paid for construction of a new home, where construction of that home did not take place.

EXECUTIVE SUMMARY:

Terrence and Eva Kay Mahr obtained a building permit for construction of a new single family residence at 1728 Crestview Circle in March 2008. The Mahrs did not proceed to build the residence, and are now requesting a refund of the building permit and system development charge fees paid.

Newberg Municipal Code 14.05.280 establishes procedures for refunding of permit fees when no work has begun. That code authorizes the building official to issue a refund if the application is made within 180 days after fee payment. All other requests must be forwarded to the City Council. Since this request is well after 180 days, the City Council must review the request.

Building, plumbing, and mechanical plan check fees are not refundable, as the plan check was completed. In addition, Newberg Code 14.05.280(F) requires a \$20.00 processing fee for refunds.

The refundable balance is \$17,423.61.

The Council should recognize that Mr. Mahr has been the city attorney since 1986. The Council should find that he has a conflict of interest, and he has acknowledged that conflict of interest on this matter, and that he has exerted no influence nor asked for special consideration from the Council on this matter.

FISCAL IMPACT: The motion would refund \$17,423.61 in fees previously paid. The city would retain fees paid for the building plan review portions of the work done. Since the permit was paid through a credit card transaction, the city would not be recovering the credit card transaction fees (an estimated 2.5% or \$436). The funds that were deposited with the city during this period of time before the refund where invested with the LGIP per policy and the interest earned will be retained by the city.

ATTACHMENTS

1. Application
2. Refund worksheet
3. Newberg Code 14.05.280

Terrence D. and Eva Kay Mahr
1720 Crestview Circle, Newberg, OR 97132
(503) 538-9004
terrymahr@comcast.net



May 12, 2012

Mayor Andrews and Newberg City Council
City of Newberg
PO Box 970
Newberg, OR 97132

RE: System Development Charges (SDCs) & Building Inspection Charges – Refund Request

Dear Mayor Andrews and Councilors:

This is a request for return of the money my wife (Eva Kay) and I deposited for building inspections and system development charges (SDC’s) when we intended to build a house on our lot, which is adjacent to our present residence here in the city of Newberg.

Conflict of Interest:

As you know, I am the city attorney for the City of Newberg and have been for some time. As such, I have an actual conflict of interest because this matter would result in a personal, financial gain when dealing with the City. I have spoken with Dan Danicic, the city manager. He has asked that I make this request to the Mayor and City Council.

Background:

In the latter part of 2007, my wife and I wanted to build a one (1) story house for our residence on the lot adjacent to our present residence. In order to do that, we needed to sell our present house and use that money along with additional monies to build the new house. We submitted an application with some standard house plans for a building permit in November of 2007. At that time, we also paid for the plans check. In March of 2008, we were issued a building permit and deposited the additional fees of \$17,595.67, which included prepayment for all inspections and SDC’s.

My wife and I have long been interested in building a second house as our personal residence. Our present house is two stories. Our thinking was that our next house would be more geared for our retirement by being a single-story, smaller in square-footage, and include a few other amenities.

As you’ll recall, the economy seemed to be slowing down at that time. The conversation was centered around what the future would hold. Few predicted the collapse of the housing market. The recession was unprecedented.

Reason House was Not Constructed:

Well, as we all know, the economy in residential building collapsed. This resulted in us being unable to sell our present residence. Therefore, we could not afford to move forward with having our new residence built. At the same time, we were also experiencing health issues. I had to have my hips replaced. This left us in a situation where it was difficult to even attempt to market our present house. My wife had some other health issues.



Terrence D. and Eva Kay Mahr
1720 Crestview Circle, Newberg, OR 97132
(503) 538-9004
terrymahr@comcast.net



As a result, we never moved forward with the project of building the new house. No excavation or work of any kind was done.

Requests via City Managers and Planning & Building Director (“director”):

Sometime later, I inquired with the City as to the return of my deposit in fees since no work had been done. I offered to let the SDC’s remain in place and count the lot as having pre-paid SDC’s. The director said that he would think that over, but I received no definite answer. I also inquired with the city manager (who was Jim Bennett at that time) as to how I should proceed concerning the refunding of that deposit. He indicated that whenever I was ready to receive them, I should merely request them. I did not think much more about it since I figured the money was in a safe place and could be returned at any time.

With the change in city managers, Mr. Danicic feels uncomfortable refunding the money because of the conflict situation. I do not know what the director’s position is on returning the deposited money.

Request for Return of Fees:

I am requesting that the \$17,595.67 be returned. This amount includes SDC’s that were collected of the Newberg School District and Chehalem Park and Recreation District. In conversation with the finance director, she indicated that these fees (if refunded) could be accounted for by subtracting that amount from future SDC’s collected for these districts. This would be the ordinary way to handle the matter. The \$744.19 that I paid for a plan check should not be returned because the plans were checked even though they were simple, residential plans.

Planning Department Policy on the Return of Fees:

When I requested (in writing) and paid for a copy of my file, which included the receipts for the fees and SDC’s paid, I learned through Planning & Building Department’s office manager that the Planning Department does return money on projects that don’t move forward. The usual practice (there seems to be no written policy) according to the office manager (Michele Faber) is to return all SDC’s and 80% of the other fees. However, this particular project required no design review, no meeting with the Planning Department, and no inspection of any kind on the property. Therefore, I think it would be fair to return the full amount of monies deposited.

The Newberg Municipal Code (**14.05.280 Fee refunds and waivers.**) provides that there can be an administrative action by the building official to return the money. Beyond that, any waiver, which would certainly include returning deposited fees, is a decision of the Council. In the past, the Council has waived fees for certain organizations. This is not a request of waiving fees where the City has performed the services, but a return of the deposit for services, which were anticipated but not rendered. There’s nothing in the Newberg Municipal Code about forfeiture of fees.

I know it is unusual for a citizen to deposit such money and then wait so long to request the return. Since I’ve worked for the City and have been its legal counsel for a number of years, it never crossed my mind that I wouldn’t be able to readily get the money returned upon a simple request. Thanks very much for your consideration.



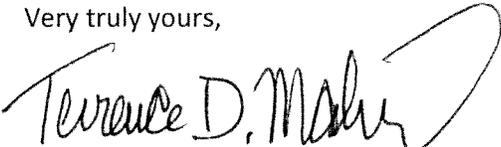
Terrence D. and Eva Kay Mahr
1720 Crestview Circle, Newberg, OR 97132
(503) 538-9004
terrymahr@comcast.net



Additionally, I have attached the necessary documents in order for the Council to make a public decision, which are as follows:

- A receipt for the plans check: \$744.96 (services rendered)
- A receipt for the deposited monies: \$17,595.67 (requesting refund)

Very truly yours,



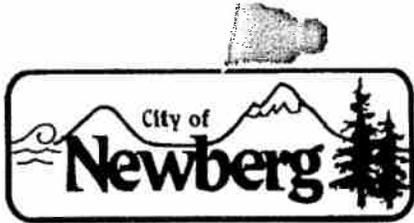
Terrence D. Mahr

Cc: City Manager Dan Danicic; Planning & Building Director Barton Brierley
Enclosures



Terrence D. and Eva Kay Mahr
1720 Crestview Circle, Newberg, OR 97132
(503) 538-9004
terrymahr@comcast.net

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PLANNING and BUILDING DEPARTMENT
P.O. BOX 970
NEWBERG, OREGON 97132

RECEIPT

BC07-0957

RECEIPT NO: R070001629
DATE: 11-27-2007

RECEIVED FROM: TERRY & EVA KAY MAHR

SITE ADDRESS: 1728 CRESTVIEW CIR NEWBERG

MISC LOCATION:

NOTATION: EVA KAY MAHR

Planning #: SFR ??

ACCOUNT ITEM LIST:

Description	Account Code	Current Pmts
BLDG Pln Chk	08-322001	744.19
		TOTAL: 744.19

CASH/CHECK:
Credit Crd

CHECK #:

REC'V BY:
MCM

Explanation for any SDC Credits:

TERRY & EVA KAY MAHR

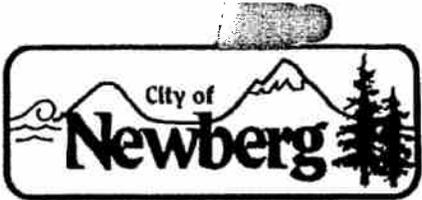
For Office Use:

Receipt Entered Date: 11/27/2007
Receipt Entered Time: 04:02 PM
Receipt Posted Date: 11/27/2007

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Terrence D. and Eva Kay Mahr
1720 Crestview Circle, Newberg, OR 97132
(503) 538-9004
terrymahr@comcast.net

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PLANNING and BUILDING DEPARTMENT
P.O. BOX 970
NEWBERG, OREGON 97132

COPY
03/04/2008

RECEIPT

BC07-0957

RECEIPT NO: R080000200
DATE: 03-04-2008

RECEIVED FROM: TERRY & EVA KAY MAHR

SITE ADDRESS: 1728 CRESTVIEW CIR NEWBERG

MISC LOCATION:

NOTATION:

Planning #: SFR ??

ACCOUNT ITEM LIST:

Description	Account Code	Current Pmts
BLDG Permit	08-322001	1,144.90
Chehalem Prk&Rec, County	01-202002	1,976.66
Chehalem Prk&Rec-City	01-202002	40.34
City Facility	10-322010	697.33
Community Dev	01-322009	2,091.98
MECH Permit	08-322002	113.36
MECH Plan Chk	08-322002	28.34
MECH Prmt Issuance	08-322002	21.80
PLMG Permit	08-322002	277.94
PLMG Plan Chk	08-322002	83.38
Sewer Dev	46-349002	2,166.00
St Mech SCg-8%	08-322002	10.81
St Plumbing SCg-8%	08-322002	22.24
St Structural SCg 8%	08-322001	91.59
Storm Water Dev	43-349002	258.00
Transp System Dev	42-349002	2,388.00
Water Dev	47-349002	3,533.00
Water Tap	07-349001	2,650.00

TOTAL:17,595.67

CASH/CHECK:
Credit Crd

CHECK #:

REC'V BY:
DJ

Explanation for any SDC Credits:

water connection fee is full street
installation

TERRY & EVA KAY MAHR

For Office Use:

Receipt Entered Date: 03/04/2008
Receipt Entered Time: 11:49 AM
Receipt Posted Date: 03/04/2008

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Building Permit Refund Worksheet

Address 1728 Crestview Drive

Fee Item	Amount Paid	Refundable %	Non-refundable Amount	Refundable Amount
Building Plan Check	\$ 744.19	0%	\$ 744.19	\$ -
Building Permit	\$ 1,144.90	100%	\$ -	\$ 1,144.90
CPRD Parks SDC	\$ 1,976.66	100%	\$ -	\$ 1,976.66
CPRD Collection Fee	\$ 40.34	0%	\$ 40.34	\$ -
City Facility Fee	\$ 697.33	100%	\$ -	\$ 697.33
Community Devt.	\$ 2,091.98	100%	\$ -	\$ 2,091.98
Mechanical Permit	\$ 113.36	100%	\$ -	\$ 113.36
Mechanical Plan Check	\$ 28.34	0%	\$ 28.34	\$ -
Mechanical Permit Issuance	\$ 21.80	100%	\$ -	\$ 21.80
Plumbing Permit	\$ 277.94	100%	\$ -	\$ 277.94
Plumbing Plan Check	\$ 83.38	0%	\$ 83.38	\$ -
Sewer Devt.	\$ 2,166.00	100%	\$ -	\$ 2,166.00
State Mechanical Surcharge	\$ 10.81	100%	\$ -	\$ 10.81
State Plumbing Surcharge	\$ 22.24	100%	\$ -	\$ 22.24
State Structural Surcharge	\$ 91.59	100%	\$ -	\$ 91.59
Storm Water Devt.	\$ 258.00	100%	\$ -	\$ 258.00
Transp System Devt.	\$ 2,388.00	100%	\$ -	\$ 2,388.00
Water Devt.	\$ 3,533.00	100%	\$ -	\$ 3,533.00
Water Tap	\$ 2,650.00	100%	\$ -	\$ 2,650.00
Total	\$ 18,339.86		\$ 896.25	\$ 17,443.61
			Processing fee (NMC 14.05.280(F))	\$20.00
			Total Refund	\$17,423.61

14.05.280 Fee refunds and waivers.

A. The building official may authorize refunding of any fee paid thereunder which was erroneously paid or collected.

B. The building official may authorize refunding of the permit fees paid as required by this code when no work has been begun under a permit issued in accordance with this code. Permit fee refunds shall not exceed the amount set forth by resolution of the city council.

C. The building official may authorize a refund of plan review fees paid as required under this code if an application for a plan review permit is withdrawn or canceled before any plan review is conducted. Plan review fee refunds shall not exceed the amount set forth by resolution of the city council.

D. The building official shall not authorize refunding of any fee paid except on written application filed by the original permit holder not later than 180 days after date of fee payment.

E. Requests for waiver of all other permit fees shall be forwarded to the city council.

F. A \$20.00 processing fee shall be charged on all refunds authorized under this code.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: September 4, 2012

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

SUBJECT: Approve the August 6, 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 COUNCIL MINUTES
AUGUST 6, 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 demonstration from Public Works Maintenance on the new Street Sweeper was given. 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 7:00 PM.

II. ROLL CALL

Members Present:	Mayor Bob Andrews Stephen McKinney	Denise Bacon Wade Witherspoon	Ryan Howard
Members Absent:	Bart Rierson (excused)	Marc Shelton (excused)	
Staff Present:	Terrence Mahr, City Attorney Norma Alley, City Recorder	Barton Brierley, Planning and Building Director Jennifer Nelson, Deputy City Recorder	
Others Present:	Charles Colling		

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. SPECIAL PRESENTATIONS

1. Consider a motion approving a proclamation recognizing and supporting the Rotary Clubs in their efforts to register Newberg as a Rotary Peace Community.

MOTION: Bacon/Witherspoon approving a proclamation recognizing and supporting the Rotary Clubs in their efforts to register Newberg as a Rotary Peace Community. Motion carried (5 Yes/0 No/2 Absent [Rierson, Shelton]).

2. Consider a motion approving a proclamation declaring the week of August 12, 2012, as Newberg Firefighter Appreciation Week.

MOTION: Bacon/McKinney approving a proclamation declaring the week of August 12, 2012, as Newberg Firefighter Appreciation Week. Motion carried (5 Yes/0 No/2 Absent [Rierson, Shelton]).

V. CITY MANAGER'S REPORT

Mr. Terrence Mahr, City Attorney, reported on the new Animal Shelter event to take a peek at the new building and the upcoming Local Governments Dinner hosted by the City of Dundee on Thursday, August 16, 2012. He said the employee relations board received notification regarding a collective bargaining agreement certification and they can start the process soon with an executive session. He also mentioned the groundbreaking event for the Newberg-Dundee Bypass to be held on August 29, 2012.

VI. PUBLIC COMMENTS

Mr. Charles Colling said as a current landlord of properties in Newberg he is concerned over the utility billing practices of the City and would like to encourage they be reviewed to be more friendly to landlords. On August 1, 2012, he evicted a tenant who owed the City \$687.00 dollars for water and sewer services. He called the City to ask for reinstatement of the water to clean up the house and prepare for new tenants. He was told he would have to pay the balance in order for services to be turned back on. He questioned how someone can get a water bill that high when it is in the landlords name and commented only the City can shut the water off. He sent a letter to city officials stating he would not be responsible for the water and sewer bill, which had to be in his name only because the City would not allow it to be in the tenant's name; he was only willing to pay \$150.00 of the balance due. He met today with the city attorney who agreed to work with him to get the water turned on in an emergency manner to clean up the residence and re-rent it. However, there is still the problem of the outstanding water bill and the policies allowing this to happen should be changed.

Councilor Denise Bacon asked why the water bill was not put in the tenant's name because she rents homes and the bill is not in her name. Mr. Colling stated it is the policy of the utility billing department to deny service to residents with previous billing problems of nonpayment; the tenants were denied application when they came in to establish water in their name and they cannot get an application online. Councilor Bacon continued by asking if he is receiving the water bill. Mr. Colling replied it comes to his address and a complimentary copy also goes to the tenant. He is to collect the water payment with the rent, but the tenant refused to pay and the City did not turn it off because it was in his name.

Councilor Wade Witherspoon asked how he wished to see this policy change specifically. Mr. Colling said he would ask the Council, city manager, and city attorney to discuss the issues, how well to meet city ordinances and how well those ordinances are supported by current practice, then change what is needed in the operational process.

Mayor Andrews thanked Mr. Colling for his time and good conversation with the city attorney. He said he will contact the city manager to have a sit down for resolution to this problem and others similar to it.

Councilor Stephen McKinney asked the city attorney if there was a specific ordinance or policy for this practice. Mr. Mahr replied utility billing policies used to be reviewed by the finance committee; they passed the policy to have the water bill be in the landlord's name and the regular shut off routine is followed. There is no clear method in the Code. Since we no longer have this committee it can be delegated to the city manager or a policy can be adopted by Council. The finance director is reviewing the policies now, which has not been done in a while. Councilor McKinney was happy to revisit this and would also like to get the water bill paid.

VII. CONSENT CALENDAR

Consider a motion approving the June 18 and July 2, 2012, City Council meeting minutes.

<p>MOTION: Howard/Witherspoon approving the June 18 and July 2, 2012, City Council meeting minutes, as presented. Motion carried (5 Yes/0 No/2 Absent [Rierson, Shelton]).</p>
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VIII. PUBLIC HEARINGS

Consider a motion adopting **Ordinance No. 2012-2751** adopting revised findings for the South Industrial Urban Growth Boundary (UGB) amendment and revisions to the Economic Opportunities Analysis (EOA).

TIME – 7:25 PM

Mayor Andrews introduced the legislative hearing in its sixth reading and reminded everyone the record was closed.

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

Mayor Andrews closed the public hearing.

MOTION: Bacon/Witherspoon adopting **Ordinance No. 2012-2751** revised findings in support of the South Industrial Urban Growth Boundary Amendment, revisions to the Economic Opportunities Analysis, amendments to the Comprehensive Plan and Transportation System Plan, and repealing certain ordinances, read by title only.

Mayor Andrews said he has heard the pros and cons and will be voting yes.

Councilor Ryan Howard said they have tried to work out something appropriate for both the City and other interests but, despite efforts it has been difficult to continue. He is concerned with moving forward with anticipated litigation; he does not think there is an error in our process or those opposed because the law is still undefined. He believes pushing forward will cause them to be guinea pigs testing the waters and they could possibly proceed more smoothly if they took a phase approach and worked with the opponents. He plans on voting against this, not because he does not think the South Industrial Area is not the proper area for this, but because he thinks they can avoid some problems they will have in the future if they go about this differently.

Councilor Bacon struggled with this as well and she wished they could have come together with something; but, she was put into this position by the people and at this moment she works for the citizens of Newberg and this is the direction they want to go, so she will vote yes.

Councilor McKinney also struggles with this and believes if this proceeds how it is written there will be litigation. He appreciated the roundtable discussions and was concerned for the costs of going to court; he will not support this now as written.

VOTE: Adopting **Ordinance No. 2012-2751**. Motion failed (3 Yes/2 No/2 Absent [Rierson, Shelton]).

Mr. Mahr explained the motion failed because a majority vote of the entire membership of Council is required by Charter to pass the ordinance, which cannot be done with two absent members. According to the Council Rules & Guidelines, a member from the prevailing side can ask for a reconsideration to bring it back to the floor when all members are present.

IX. COUNCIL BUSINESS

TIME – 7:36 PM

Mr. Mahr discussed the deadline in September to file for Council positions in November and there being no candidates at this point. He spoke of previous attempts to solicit candidates by sending a first class mailing to registered voters in the district, which costs about \$1,000.00 per district according to the city recorder. Discussions followed about attempting to identify candidates within their own districts and approach people individually for interest as well as working with the Chamber of Commerce's legislative committee and the local newspaper. The due date for interest and signatures to be submitted is on August 20, 2012.

Mayor Andrews spoke about the upcoming audit; Newberg's 1st place winner being selected as the 2nd place winner at the Statewide conference; the appointment of Councilor Howard as the liaison for the water trail with the adoption of the MOU; and recognizing the two Newberg natives currently competing in the Olympics.

X. ADJOURNMENT

The meeting adjourned at 7:52 PM.

ADOPTED by the Newberg City Council this 4th day of September, 2012.

Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 6th day of September, 2012.

Bob Andrews, Mayor

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