



**CITY COUNCIL AGENDA
FEBRUARY 16, 2016, 7:00 PM
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. Minutes for January 19 and February 1, 2016 | Pages 1-31 |
| 2. Resolution 2016-3258, A Resolution authorizing the City Manager Pro Tem to appoint recommended candidates to positions in multiple departments | Pages 32-35 |

VII. PUBLIC HEARING – LEGISLATIVE

- | | |
|---|-------------|
| 1. Ordinance 2016-2795, An Ordinance to affirm the final assessments for the College Street Local Improvement District that was created by Ordinance No. 2013-2769 to recoup a portion of the costs for the west side frontage improvements of N. College Street from Illinois Street to Aldercrest Drive | Pages 36-41 |
| 2. Ordinance 2016-2797, An Ordinance granting Portland General Electric Company, An Oregon Corporation, a Franchise Agreement intended to clarify, enhance, expand, waive or vary the provisions of NMC 12.05 | Pages 42-49 |

Agenda continued on next page

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

VIII. NEW BUSINESS

- 1. Audit report and Annual Financial Statements for June 30, 2015 and plan of action to address deficiencies Pages 50-53

IX. COUNCIL BUSINESS

- 1. Information on December Financial Reports Pages 54-62
- 2. Information on Council Calendar Pages 63-67

X. ADJOURNMENT

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Recorder's Office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than two business days 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. Speakers who wish the Council to consider written material are encouraged to submit written information in writing by 12:00 p.m. (noon) the day of the meeting.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: February 16, 2016

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

SUBJECT: Minutes

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

RECOMMENDATION:

Approve City Council minutes from January 19 and February 1, 2016.

**NEWBERG CITY COUNCIL MINUTES
REGULAR SESSION
JANUARY 19th, 2016, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)**

The work session was held at 6:00 p.m. preceding the meeting. Present were Mayor Bob Andrews, Councilors Lesley Woodruff, Stephen McKinney, Scott Essin, Denise Bacon, Mike Corey and Tony Rourke. Also present were City Manager Pro Tem Stephen Rhodes, City Attorney Truman Stone, City Recorder Sue Ryan and Community Development Director Doug Rux.

COUNCIL ITEMS: Councilor Rourke had an item on the Clackamas County Commission meeting from today, Councilor McKinney had a question regarding sidewalks on Villa Road, and Councilor Corey had an item on CYFS.

PRESENTATION ON URBAN GROWTH BOUNDARY PROCESS OPTIONS: Community Development Director Rux said explained the history of the City's work on the Urban Growth Boundary. A decision was taken to DLCD who elevated it to the state level and it was remanded back to the City. During mediation the Council decided to withdraw from the process, which the state approved. Options for the City to expand its UGB included: the traditional method, the pending new UGB streamlined process or another process if the expansion was less than 50 acres.

The new streamlined process is called Vision 38. Expansion would be based on population and/or employment or a combination. There was a new way to establish study area boundaries, priority analysis, and serviceability. The new method was simpler, required a buildable lands study, and reduced ambiguity. Appeals would go to the Land Use Board of Appeals and applications were reviewed by DLCD and LCDC. It did not require an Economic Opportunities Analysis or Housing Needs Analysis. It had a 14 year horizon instead of 20 years, new standards for determining serviceable land, and the population forecast study looked both at residential and employment lands. The City had to wait until 2017 for a new population forecast.

The City had applied for a grant. DLCD wanted Cities to use the Vision 38 process. Evaluation work with the grant would be done between February 2016 and May 2017. There would also be a comprehensive public process. This would update the Comprehensive Plan goals and policies, do the buildable lands inventory, and establish the study area. This work could be used for both the traditional method or streamlined method, and the Council would need to decide which one to use. Funds had been budgeted to match the DLCD grant, which was given as a reimbursement, and he thought the work could be done for the amount of the grant and what was budgeted.

There was discussion on which method to use and how the grant reimbursement would work. CDD Rux said by accepting the grant the City would perform the tasks outlined in the scope of the grant and those were reimbursable. If they decided to use the traditional method, the City would have to fund an Economic Opportunities Analysis and Housing Needs Analysis which cost around \$80,000. It would cost around \$40,000 to finish the streamlined process and there might be other grant opportunities for that cost. How frequently the City went through the Urban Growth Boundary process to add land to its boundaries depended on growth. About every 20 years population doubled in a metropolitan area.

There was a discussion regarding the differences in 14 year and 20 year planning horizons and how much land might need to be added. CDD Rux said there would be an action item in the Business Session on accepting the grant or not.

PRESENTATION ON RELAY FOR LIFE: Michelle Martinez and Rachel Williams, Newberg Relay for Life, presented on the annual Relay for Life event in Newberg that helped fund cancer research. The event is June 25-26 this year at Newberg High School. They discussed the feedback from last year and wanted more participation. They requested to make the event a City of Newberg festival so they could improve their temporary signs and have more visibility.

OTHER ITEMS: Councilor Corey asked staff to follow up on the CYFS issue regarding homes in Newberg causing citizen complaints. CMPT Rhodes said the City needed to meet with the School District on the issue and he had not heard from the State on their investigation. Council President Denise Bacon and Police Chief Brian Casey wrote the State regarding the issue. Councilor Bacon said it looked like the State investigation had been completed and she was waiting to hear back from DHS with the details.

City Attorney Truman Stone reported on the Villa Road sidewalk property acquisition. A complaint was filed and served for the Newman property and they were currently in the time period where the defendant could file an answer to the claim.

There was a recess from 6:45 p.m. to 7:00 p.m.

CALL MEETING TO ORDER

The Mayor called the meeting to order at 7:00 p.m.

ROLL CALL

Members Present:	Mayor Bob Andrews	Scott Essin	Stephen McKinney
	Lesley Woodruff	Denise Bacon	Mike Corey
	Tony Rourke		

Staff Present:	Stephen Rhodes, City Manager Pro Tem	Sue Ryan, City Recorder
	Truman Stone, City Attorney	Jay Harris, Public Works Director
	Doug Rux, Community Development Director	Kaaren Hofmann, City Engineer

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was performed.

CITY MANAGER PRO TEM'S REPORT: CMPT Rhodes said the Chehalem Valley Future Focus Group was putting together a meeting for all elected officials on April 14 to discuss a County-wide survey and visioning. He attended the Mid-Willamette Valley Council of Governments Managers meeting.

PUBLIC COMMENTS:

Merle Smith, resident in the Newberg School District, discussed the Newberg Dundee Bypass and how the upgraded classification of Wilsonville Road to minor arterial was being used as a reason to send more bypass traffic onto Wilsonville Road. He thought the reason for the classification was to gain capacity for funding. He said the chief engineers in Yamhill and Clackamas counties agreed that the upgrade classification only met one criterion, that it connected two cities. To handle more traffic, lane widths would have to be 12 feet and minimum shoulder widths would have to be four feet. Wilsonville Road had no shoulders or turn lanes. The road upgrade was aspirational, and the capacity was not there.

Stan Halle, Newberg area resident who paid school taxes, was the director of the Ladd Hill Neighborhood Association and chair of the Bypass Impact Committee. The Planning Commission had helped open the door to getting all the jurisdictions together to work out a solution to the situation. The modeling and analysis of the affected area was limited to City boundaries and accurate numbers on all County roads were not available. Statements saying 50 more cars would be going down Wilsonville Road were not defensible. ODOT narrowed down eight options to two, the no through and the through through. Neither design sufficiently relieved the expected congestion and public safety problems on both local streets and regional streets. The debate of these two options had become polarized, contentious, and caused a lot of misinformation and reactions that were replacing good analysis, sound logic, and reasoning. They wanted the bypass to be completed. He was suggesting looking at a northern solution to relieve the intense congestion on Springbrook Road and a southern solution. He suggested looking at the couplet design proposed by Councilor Essin for a solution to the northern area and Option 5 as a solution to the southern area. This would allow the project to continue on time and on budget.

Councilor Essin submitted the couplet design to the State, and the State said they would do a study on that suggestion. Option 5 had been looked into by the State, and they had dismissed that option. He asked Mr. Halle his opinion. Mr. Halle said they were in favor of both the couplet and Option 5 because they helped relieve the congestion and public safety issues. ODOT indicated they were willing to participate in the meeting suggested by the Planning Commission. There was discussion on the couplet design concept as an option to resolve the issue.

CONSENT CALENDAR:

MOTION: Rourke/Corey moved to approve minutes from January 4, 2016 and Resolution 2016-3246, A resolution authorizing the City Manager Pro Tem to appoint recommended candidates of Carolyn Lowery and Tiffany Valenzuela to Police Department – Communication Dispatch Services. Motion carried (7 Yes/ 0 No).

PUBLIC HEARING - ADMINISTRATIVE:

Resolution 2016-3245:

Mayor Andrews opened the hearing and called for any abstentions or conflicts of interest on the part of the Council. There were none.

City Engineer Hofmann presented the staff report. This was a hardship request for a water service to 14995 NE Cullen Road. This was to transfer a connection that already existed for a residential home to the City's Springs system. A lot line adjustment and partition had been done, and the transfer was from one parcel to the new parcel. Staff concurred with the applicant that the property met the hardship request criteria as identified in the Code. The parcel was in the Springs system which had been transferred to the Chehalem Water Association in December 2015. The Association reviewed this request and approved the connection. The property owners would pay all the costs associated with the hardship request. Staff recommended approval of the application.

Proponent: Attorney Michael Galardi of Davis Wright Tremaine, representing the applicant Joseph O'Halloran, stated the property was northwest of town in the Springs area. The applicant had reconfigured the parcels to optimize their value. The Springs water connection was currently on parcel 1300, and the request was to transfer that to parcel 1400, which was a two acre site with an existing home that was carved out of parcel 1300. Mr. O'Halloran sold the property and part of the sale agreement was that the parties would work together for the transfer.

Opponents: None.

Mayor Andrews closed the public hearing.

MOTION: Corey/Bacon moved to adopt Resolution 2016-3245, A Resolution authorizing a hardship request for water service to 14995 NE Cullen Road including correcting the scrivener's error in the packet. Motion carried (7 Yes/0 No).

RESOLUTION 2016-3249:

Mayor Andrews opened the hearing and called for any abstentions or conflicts of interest on the part of the Council. There were none.

Finance Director Zook presented the staff report. The reasons for the Supplemental Budget were: personnel services requests, operational costs that exceeded the anticipated budget, and housekeeping items such as transfers and corrections as the audit was wrapping up.

There was no public testimony.

Mayor Andrews closed the public hearing.

FD Zook recommended adoption of the resolution.

MOTION: Corey/Rourke moved to approve Resolution 2016-3249, A Resolution to adopt supplemental budget # 1 for Fiscal Year 2015-2016 beginning July 1, 2015 and ending June 30, 2016. Motion carried (7 Yes/0 No).

NEW BUSINESS:

Presentation on Pavement Funding Options – Public Works Director Harris discussed seven potential funding options to enhance pavement revenue sources. Those options were: local gas tax, general obligation bond, local option levy, street utility fee, street lighting fee, local improvement district, and construction impact fee. The goal was to get direction from Council on what revenue sources staff should study further. The Council wanted to maintain the current pavement

condition index which would cost \$2 million per year. Any new program would need to be phased in over time and he discussed a conceptual implementation plan.

There was discussion on a gas tax option, whether the current condition included gravel streets and the number of unpaved roads in Newberg. PWSD Harris said the City received money currently from the State that went to streetlights. He said Newberg did not have a local gas tax and the numbers to enact a tax would bring in some revenue but would be offset by the work to put it on the ballot and whether local voters would pass it or not. PWSD Harris said the pavement condition report did not include gravel streets. The pavement condition report would be done again in 2020.

Councilor Essin said it looked like it was going to be more expensive because the work was being done by contractors instead of staff. PWSD Harris explained currently the City contracted for paving as the City did not have a paving machine or roller or staff to man the machines. Staff was able to do pothole repairs and crack sealing. The goal was to contract out the larger jobs which was a cost savings through the size of projects.

Councilor Rourke was in favor of a gas tax, especially if they could charge all traveling through Newberg, not just local citizens. Councilor McKinney asked what should the City do to obtain a substantial number of dollars that could make a potential difference. PWSD Harris said the larger dollars came from general obligation bonds or local option levies and street utility fees. He thought a successful program would have both. There should be multiple sources of funding and he wanted to keep looking at the local gas tax as well.

Councilor Rourke did not think it would be received well to have a bond and a utility fee. He thought they should try for a bond or levy first and if that failed, then look at a fee. PWSD Harris said putting something on the ballot would take some time and if it didn't pass, they would be further out and having the same discussion.

Mayor Andrews asked who would collect the gas tax. PWSD Harris said it could be the State or the stations could send it directly to the City or the City could collect it. There was discussion regarding how the street lighting fee and street utility fee worked, how the State gas tax fit in, how much revenue these could bring in, and what it would be used for.

Mayor Andrews asked if they could assess a street utility fee on exempt properties. PWSD Harris said it was an option. CMPT Rhodes said one of the advantages of the street utility fee was that it would become an ongoing source of revenue but a general obligation bond would be for a fixed period. He said the other advantage of doing the combination was that the street utility fee would be spread across a broader base which could include exempt properties and businesses as well as tourists. A reason for going with a fee first was if a bond was defeated, it would be harder to impose a fee after that. Councilor Rourke thought imposing a fee would be a problem because it did not give citizens an opportunity to say yes or no.

PWSD Harris asked for further direction from Council on what avenues to pursue to do further research.

Councilor Essin thought the local gas tax would be the most well received option as users of the roads would be paying for it. He was concerned for people such as seniors with fixed incomes. With any election they were trusting the citizens saw the need. He thought starting with a street utility fee and then going out for a bond would be confusing. Councilor Corey thought it best to have revenue immediately instead of waiting for an election. Funds could be used right away for the roads from starting a fee sooner. He thought they should go one time to the voters for a levy and not a gas tax because the gas tax would not bring in enough funds. Councilor McKinney was concerned that since 2006 the cost to repair the roads had increased drastically. If people used something, it needed to be associated with a fee because it was not free. They needed to articulate the need and a plan to take care of the need.

Councilor Bacon said utility billing to collect a street fee was a fair mechanism to charge users as long as the money was used well. The biggest complaint from citizens was about the streets and once they saw what was being accomplished, they would be open to more improvement. The fee would be there for future maintenance as well. Councilor Woodruff said communication with the public would be a huge part of this plan. Councilor Rourke thought with the communication needed to include that the City would be doing both a utility fee and local option levy. He thought they should do the utility fee and local option levy and a Local Improvement District for the gravel roads. Mayor Andrews asked how vulnerable the local option levy was to compression versus a general obligation bond. CMPT Rhodes explained local options fell within the compression limit and general obligation bonds did not.

Mayor Andrews said they might not be collecting as much as they thought with a levy if there was compression. He thought staff should look at local option versus general obligation and a pre or post utility fee.

PWSD Harris would look further into a street lighting fee, street utility fee, and perhaps the local gas tax numbers would come in higher and that could be taken to voters as opposed to a levy or bond. He would check to see if the City could do the collection of the local gas tax.

RESOLUTION 2016-3251:

CA Stone said in order for the Council to hold executive sessions regarding the employment of a City Manager, the Council by statute had to adopt procedures for the hiring of the manager and allow for public comment.

MOTION: McKinney/Corey moved to approve Resolution 2016-3251, A Resolution adopting procedures for the recruitment and selection of the City Manager. Motion carried (7 Yes/0 No).

RESOLUTION 2016-3250:

CE Hofmann said Phase 1G of the bypass extended from Highway 219 on Springbrook Road to Highway 99W. The City had existing water and wastewater lines in Springbrook Road. As part of the construction the existing water line would need to be relocated. The existing wastewater line was deep enough that the construction would not touch it. ODOT would pay for the relocation of the water line but not for upsizing or changing of pipe materials. The existing water line was 15 inches and the previous five year CIP did include upsizing it based on the 2007 Sewer Master Plan. The growth projected in the 2007 Master Plan had not happened. It was determined that the wastewater improvements were not needed until more development occurred. Two overflow instances had occurred due to inflow and infiltration, not wastewater flow. The extension of the reuse line was also delayed until a master plan study was completed. However, the City would be upsizing the water line. Any development that was proposed had to explain its demand for water and wastewater which was evaluated against the existing available public utilities. There had been questions raised about a potential hotel and shopping center development if the line was not upsized. She explained the line closest to the site and the one they would most likely choose was a 24 inch line. There were many options for how the line could be installed. The agreement in front of the Council was for the design and construction of the water line. ODOT would pay for the design and construction of the relocation, and the City would pay for upsizing to a 24 inch line. The estimated cost was \$538,000. Construction would be completed in 2017.

Councilor Essin felt there was a need to upgrade the sewer line as he thought it was close to capacity. He suggested staff meet with Larry Anderson, former City Engineer, who thought the line was undersized and needed to be upgraded and had a way to solve the issue. He thought staff was doing a good job, but wanted to make sure the Council stayed informed. CE Hofmann cautioned the Council not to start managing projects as that was staff's job, but she could make sure the Council was informed of big decisions.

Councilor McKinney asked about capacity and future need. CE Hofmann said this project had not substantially changed. He asked about the reuse system on Springbrook. CE Hofmann said it was being reviewed as part of the Water Master Plan for feasibility, location of possible users, and the best place to spend capital investment. The reuse line was going underneath the sidewalk, not in the roadway.

Councilor Essin said the area to the north could be served by the reuse line and Springs line without having to spend more than an agreement with the golf course for the use of their line. There were ways to make this line work without spending a lot of money. He thought if they worked together they could find ways to get the job done and save money.

MOTION: Essin/Corey moved to approve Resolution 2016-3250, A Resolution to authorize the City Manager Pro Tem to finalize and execute a Cooperative Improvement (Utility) Agreement (No. 30647) with the Oregon Department of Transportation for the Oregon Route 18: Newberg-Dundee Bypass – Phase 1G (Springbrook Road). Motion carried (7 Yes/0 No).

RESOLUTION 2016-3252:

Community Development Director Doug Rux said this resolution would accept a grant award from the Department of Land Conservation and Development in the amount of \$30,000 to begin the process for an Urban Growth Boundary expansion. City staff had been in negotiations for what the grant money would be used for, which ended up being for a visioning process to look at the Comprehensive Plan goals and policies, to do a buildable lands inventory, establish a

study area, and develop Comprehensive Plan readiness documents. A population number was needed from Portland State University which would not be available until June or July 2017.

MOTION: McKinney/Bacon moved to approve Resolution 2016-3252, A Resolution accepting a grant award from the Department of Land Conservation and authorizing the City Manager Pro Tem to execute all grant documents. Motion carried (7 Yes/0 No).

COUNCIL BUSINESS:

Mayor Andrews gave an update on the Wilsonville Road issue. Clackamas County commissioners gave consensus that they would not forward a letter unless the City of Wilsonville forwarded a letter. CDD Rux stated staff had been looking at Clackamas County’s TSP, Yamhill County’s TSP, and City of Wilsonville’s TSP. ODOT and the Ladd Hill Neighborhood Association were willing to get together to discuss the Wilsonville Road issue. CMPT Rhodes said a staff member from Wilsonville would be meeting with a staff member from Clackamas County tomorrow. Yamhill County Commissioners had deferred taking any action and there would be more discussion with the Parkway Committee on Thursday.

Councilor Essin attended the Planning Commission meeting and in the packet ODOT had sent a letter to Wilsonville saying they had done a traffic study to be used for the outlying areas such as Wilsonville. CDD Rux said the Ladd Hill Neighborhood Association had submitted material into the Planning Commission record indicating that the traffic analysis that was done for the bypass was insufficient and inadequate as it did not go far enough to the east. ODOT said they had done the study and the information was in the packet. There was a question about the validity of claims by the Neighborhood Association. Councilor Rourke asked when the meeting to discuss this issue might take place and would it affect the timing. CDD Rux said it needed to be done expediently, but at this point ODOT had gone out to bid for the project. ODOT said they could do change orders to the contract for what construction activities would occur when. Councilor McKinney wanted to know about the couplets being proposed by Councilor Essin. CDD Rux explained it was one way northbound on Springbrook and one way southbound on Elliot as a way to reduce congestion and discussed the intersection modifications that would be required. ODOT said it was outside the NEPA and EIS process to go to Elliot and they would have to reopen it to look at it and they questioned where the funds would come from. Councilor Essin did a drawing to help Council understand ODOT’s proposed design.

There was a brief recess.

Mayor Andrews asked Council to give staff guidance on the Relay for Life request.

CDD Rux suggested staff have a discussion with Relay for Life about their signage needs. Designation of the event as a City festival was a different issue. Relay for Life would need to submit a formal request to the Council which would be brought back to a Council meeting for action.

Mayor Andrews reported on the Martin Luther King, Jr. event at the Cultural Center which was well attended.

ADJOURNMENT: The meeting was adjourned at 9:40 p.m.

ADOPTED by the Newberg City Council this 1st day of February, 2016.

Sue Ryan, City Recorder

ATTESTED by the Mayor this ____ day of February, 2016.

_____ Bob Andrews, Mayor

**NEWBERG CITY COUNCIL MINUTES
REGULAR SESSION
FEBRUARY 1, 2016, 7:00 PM
PUBLIC SAFETY BUILDING (401 E. THIRD STREET)**

The work session was held at 6:00 p.m. preceding the meeting. Present were Mayor Bob Andrews, Councilors Lesley Woodruff, Stephen McKinney, Scott Essin, Denise Bacon, Mike Corey and Tony Rourke. Also present were City Manager Pro Tem Stephen Rhodes, City Attorney Truman Stone, City Recorder Sue Ryan and Finance Director Matt Zook, City Engineer Kaaren Hofmann.

REVIEW OF COUNCIL AGENDA: No changes were made to the agenda.

COUNCIL ITEMS: Mayor Andrews said there was information on the Council calendar regarding amnesty and there was a request from the City Manager and City Recorder to pick a date to review City Manager applications.

PRESENTATION ON WORKER'S COMPENSATION

Finance Director Zook explained how worker's compensation worked in Newberg. There was a range of insurance types and Newberg's retrospective plan was designed to help share the risk between the insured and insurer. Retrospective plans were used for low to medium severity of losses with frequent and predictable occurrences. This plan allowed the City to retain a larger portion of the risk and a larger portion of the savings. He discussed the differences between standard premiums and retrospective plans and what the City would have to prepay on an annual basis. He then gave an example of four years for both standard premium and retrospective plan and the types of activities, risk involved, and costs. There was a reserve fund to pay for claims that built up over time and anything that went over the reserves would come out of the City's contingency budget. The retrospective plan had been in place since 1991 and today the reserve balance was \$377,000 and current exposure was \$1.35 million. The amount of savings since 1991 was \$1.1 million. In the past 24 years, the City had only seen seven individual years where the cost exceeded what the standard premium would have been.

Councilor Rourke asked if the seven years were consecutive. FD Zook said the first year of loss was year two of the plan. Others were sporadic with the exception of a time from 2007 to 2009. Mayor Andrews asked about the status of the accounts. FD Zook said there was one outstanding claim at \$219,000 which would be paid in this fiscal year. Councilor McKinney asked about the rate of growth in the reserve fund and what was the anticipated number of dollars. FD Zook replied the fund usually received \$300,000 per budget year and 25% immediately went to City County Insurance Services. It was \$240,000 to \$250,000 per year less any losses incurred.

There was discussion on a contingency fund and what other cities did. Mayor Andrews asked about the upcoming budget report and if staff was going to recommend an operational contingency. CMPT Rhodes did not know yet as staff was just starting to put the numbers together. CMPT Rhodes confirmed on February 8 there would be a City Manager recruitment subcommittee meeting, March 14 would be a special Council meeting to select candidates for the first round of interviews, April 23 would be first round interviews, and April 30 would be final interviews. City Recorder Sue Ryan said on March 28 there would be an Economic Development Strategy meeting. There would be a Local Government Dinner in Amity on February 18.

CALL MEETING TO ORDER

The Mayor called the meeting to order at 7:00 p.m.

ROLL CALL

Members Present:	Mayor Bob Andrews	Scott Essin	Stephen McKinney
	Lesley Woodruff	Denise Bacon	Mike Corey
	Tony Rourke		

Staff Present:	Stephen Rhodes, City Manager Pro Tem	Sue Ryan, City Recorder
	Truman Stone, City Attorney	Kaaren Hofmann, City Engineer
	Doug Rux, Community Development Director	

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was performed.

CITY MANAGER PRO TEM'S REPORT: CMPT Rhodes said the City had been working with Portland General Electric on finalizing a franchise agreement. He attended a meeting on House Bill 4036 regarding clean energy. He had been meeting with Tualatin Valley Fire and Rescue and the proposal would be brought back to Council in March. He reported on the Transient Lodging Tax Advisory Committee meeting where it was agreed to hire a consultant to put together a tourism strategy for the City. Staff was also working on a facilitation process for the Bypass based on the Planning Commission's recommendation. All of the parties had agreed to the process.

PUBLIC COMMENTS: None.

CONSENT CALENDAR:

MOTION: Corey/Rourke moved to approve Resolution 2016-3256, A Resolution authorizing to accept staff's evaluation of the alternative contracting method used for the Waste Water Treatment Plant Repair, Renovation and Expansion Project and approval of Oregon Liquor Control Commission limited on-premises sales permit for Bert's Chuckwagon. Motion carried (7 Yes/0 No).

PUBLIC HEARING - LEGISLATIVE:

Ordinance 2016-2793:

Mayor Andrews opened the hearing and called for any abstentions or conflicts of interest on the part of the Council. There were none.

Community Development Director Rux gave the staff report (Exhibit A). The public hearing was in regard to proposed changes in the Development Code regarding medical marijuana grow sites, processors, and dispensaries. He gave a background on the legislative bills that modified medical marijuana regulations which would take effect March 1, 2016.

The Council had a marijuana subcommittee study the issue. Council had banned early recreational sales out of medical marijuana dispensaries and initiated the Development Code amendments. The Planning Commission held a public hearing in January and there was no public testimony given that night. No public comments had been received for tonight's hearing. He explained what HB 3400 and ORS 475 allowed and how local governments could regulate time, place, and manner. The City's proposal was more restrictive than what was allowed in the Statute and Administrative Rule.

The definitions of schools had been changed in HB 3400 and HB 3400 also dropped the definition of career school and a footnote in the Code had to be modified to reflect those changes. The Planning Commission added a new footnote, which required electrical inspection for grow sites in residential districts to make sure they were adequate to grow up to 12 plants.

By going with the new State law and dropping career school, some of the buffer area had been changed and he showed the area on a map. He also explained how the Zoning Table was amended. He did not know if Council wanted to include the Airport Industrial zone for processors as it was for aviation related industries only. A new section was added in the Code as Attachment 1 and 2 to address sub-districts and what was allowed in the sub-districts.

Councilor McKinney asked what reasons were there for the electrical inspection. CDD Rux said the Planning Commission was concerned about the service panels and correct amperage necessary to grow up to 12 mature plants plus the immature plants. The electrical inspection would look to make sure service at the residence was adequate. The City did not know where the medical marijuana grow sites were located as it was confidential information with the Oregon Health Authority. They did not know how many were already in existence, and whatever regulations Newberg created would be forwarded to the Oregon Health Authority.

Councilor Rourke asked about the difference between M4 I and M4 C in the Table. CDD Rux answered M4 I was for industrial and M4 C was for commercial. Processors would be allowed in the M4 I.

Councilor Woodruff asked for clarification on the sub-districts. If it was permitted in the main district, why was it conditional use in the sub-district?

CDD Rux explained the sub-district designations. Councilor Bacon said the conditional use was a way for the Planning Commission to decide if the use was compatible. Councilor McKinney stated in some of the structures, people lived in close proximity to each other and it might cause problems to a neighbor with a common wall.

CDD Rux said the process included opportunities for citizen involvement and met the economic goal in the Comprehensive Plan as these activities were legal and were regulated and provided assistance in the economy. Staff recommended approval of the Ordinance.

Proponents: None.

Opponents: Doug Heuer, marijuana grower, spoke against the Ordinance. He found this ordinance discriminatory, unjust, and unreasonable. Citizens could grow four plants for their own personal use, but growers who grew two more plants would have to follow all these new regulations. He cited Oregon Statutes saying they required medical marijuana be treated as a medicine. Most grow sites had less than 12 plants growing and many of the patients were sick and elderly people. He did not make a profit from his grow site and did not think it should be viewed as a business. The grandfathering did allow 96 plants in the City for areas not zoned residential.

Mayor Andrews closed the public hearing and asked for staff's recommendation.

CDD Rux said staff recommended adoption of the Ordinance, and the Council might want to consider removing processors and grow sites as allowed uses in the Airport Industrial zone.

MOTION: Bacon/Rourke moved to waive the second reading for Ordinance 2016-2793. Motion carried (7 Yes/0 No).

Deliberations:

Councilor Bacon had an issue with the electrical inspection requirement as it could make it more difficult for people to grow a few plants for medicinal use. The marijuana subcommittee lowered the number of plants allowed to be grown so they did not have to deal with electrical issues. Councilor McKinney lived in a home from the 1970s and the amperage was a problem. He did not want to make it difficult, but was concerned about safety and thought the inspection was a good idea. Councilor Bacon did not think they could regulate for everything and she was not comfortable making people pay more for an inspection. Many growers were already growing in their homes and there had not been a problem.

MOTION: Rourke/Bacon moved to approve Ordinance 2016-2793, An Ordinance amending the Newberg Development Code regarding Medical Marijuana Grow Sites, Processors and Dispensaries; and declaring an emergency, to be read by title only with the following amendments: removing Footnote 37 from the Zoning Table regarding the electrical inspection and removing Airport Industrial from the Zoning Table as a permitted use for processor and conditional use for grow site.

Deliberation: Mayor Andrews thought an electrical inspection was not an imposition on the grower as much as it was a public safety issue. He asked if there was a way to exempt a patient grower from someone who grew for others.

Councilor Rourke asked if staff had any statistics from the Fire Department regarding fires being started from electrical issues from growing marijuana in residential areas. CDD Rux said no, staff did not.

Motion passed (4 Yes/3 No [Andrews/McKinney/Woodruff]).

NEW BUSINESS:

Resolution 2016-3253:

CDD Rux said this resolution would initiate a Development Code amendment process. OLCC would start issuing licenses for recreational marijuana retailers after July 1. They were already in the process of issuing licenses for laboratories. The marijuana subcommittee voted unanimously to bring this initiation of amendment process to the Council. The proposed amendments would be taken to the Planning Commission for a public hearing, and then they would be brought before the Council for a public hearing.

MOTION: Rourke/Bacon moved to approve Resolution 2016-3253, A Resolution initiating an amendment to the Newberg Municipal Code, Title 15 Development Code for Place, Time and Manner regulations for Recreational Marijuana wholesalers, laboratories, research certificates and retailers. Motion carried (7 Yes/0 No).

Resolution 2016-3242:

City Engineer Hofmann said ODOT had been working to complete Phase 1 of the bypass project, which upon completion would divert Highway 99W traffic onto the new bypass from Springbrook Road in the City of Newberg to a point west on SE Parks Drive in the City of Dundee. One phase was currently under construction and the last phase was out to bid. Construction was projected to be completed by 2017. The City had received a revised agreement with last minute changes that were worked out between ODOT and City staff. The version was redlined to show the changes and all the changes were requested by City staff.

CA Stone said the City had been working under a draft IGA since 2014. Agreement had finally been reached on the language. He thought it was necessary for the agreement to cover work that had already been started which had taken extra steps. CE Hofmann highlighted some points in the agreement. One was that Springbrook Road between Oregon and 99W and Oregon and Highway 219 would be designated as a State highway until the bypass was extended easterly to 99W. Mayor Andrews asked about the jurisdictional ownership of Springbrook Road. CA Stone said the jurisdictional transfer occurred in July of 2010.

CE Hofmann said sound walls would be installed on certain portions of the residential areas on Springbrook and Highway 219 near Wynoski. The City would maintain the sound walls and landscaping. ODOT was responsible for all costs associated with construction and installation of the project minus the local match. They would be constructing an emergency access onto the elevated portion of the bypass from Weatherly Way per the City's request. ODOT also agreed to construct a signal at the intersection of Highway 219 and Everest within five years assuming warrants were met. ODOT would maintain all of the roadway improvements between the curbs and the traffic signals. ODOT agreed to monitor the performance of the local street network and would construct the appropriate remedy if an intersection failed on a local street. The agreement would remain in effect for 20 years, but would be evaluated every five years. The City entered into a loan agreement with ODOT to finance the City's portion of the cost which was estimated to be \$2,211,200. The installment payments were set at \$142,000 per year for the next 20 years. Staff recommended approval of the resolution. Councilor Rourke asked about the relocation of the utilities. CA Stone said it was now a City responsibility in the agreement to relocate City utilities. The State would reimburse the City for the cost of the relocations.

Councilor Essin did not think Council was ready to vote on this tonight. Mayor Andrews agreed. CA Stone said the majority of the provisions had been agreed to some time ago. Towards the beginning of January staff met with ODOT's director and explained their concerns and obtained some concessions, such as the emergency access and Everest/Highway 219 signal. Staff waited for a draft and there were still some things that needed to be addressed when it was sent to the City. It took several conversations between the attorneys to hammer out the rest of the details, and they were recently finalized.

Councilor Essin asked if this included the no through or through through design on Wilsonville Road. CE Hofmann explained the agreement stated ODOT would have to comply with what the City's TSP said the intersection would look like. CMPT Rhodes clarified the City was not committing to any particular alignment of the intersection at this time, but ODOT was agreeing to construct it in compliance with the City's TSP, whatever the result ended up being.

There was discussion on the design of the interchange. Mayor Andrews thought his questions had been answered and could move forward with this tonight. There was further discussion regarding what ODOT's director was committing to.

CMPT Rhodes thought it was important to move forward with the agreement and allow the Mayor and City Manager to finalize the agreement and get it in place before ODOT started the contracts for the next phase of work. He wanted it to be close to completion before the facilitated process began because of the commitment for mitigation of impacts in the agreement.

MOTION: Rourke/Bacon moved to approve Resolution 2016-3242, A Resolution to authorize the Mayor and City Manager Pro Tem to finalize and execute a Cooperative Improvement Agreement (No. 28658) with the Oregon Department of Transportation for the Oregon Route 18: Newberg-Dundee Bypass – Phase 1. Motion passed (5 Yes/2 No [Essin/McKinney]).

COUNCIL BUSINESS: None.

ADJOURNMENT: The meeting was adjourned at 8:45 p.m.

ADOPTED by the Newberg City Council this 16th day of February, 2016.

Sue Ryan, City Recorder

ATTESTED by the Mayor this ____ day of February, 2016.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: February 1, 2016

Order ___	Ordinance <u>XX</u>	Resolution ___	Motion ___	Information ___
No.	No. 2016-2793	No.		

SUBJECT: An ordinance amending the Newberg Development Code regarding medical marijuana grow sites, processors and dispensaries; and declaring an emergency

**Contact Person (Preparer) for this Motion: Doug Rux, Director
Dept.: Community Development
File No.: DCA-15-002**

HEARING TYPE: **LEGISLATIVE** **QUASI-JUDICIAL** **NOT APPLICABLE**

RECOMMENDATION:

Adopt Ordinance No. 2016-2793 amending the Newberg Development Code for medical marijuana grow sites, processors and dispensaries.

EXECUTIVE SUMMARY:

A. SUMMARY: The proposed Development Code amendments do the following:

- Add Medical Marijuana Grow Sites allowing up to twelve mature plants as a permitted use in the R-1, R-2 and R-3 districts, indoor operations only. Medical Marijuana Grow Sites would be allowed as a conditional use in all other districts and subdistricts.
- Add Medical Marijuana Processors as an industrial use in all industrial districts and subdistricts (M-1, M-2, M-3, M-4, AI, SD/E, M-1/SP).
- Add definitions for Medical Marijuana Grow Sites and Medical Marijuana Processor.
- Modifies a footnote for Medical Marijuana Dispensaries deleting the reference to “Career School” and modifying reference to public or private primary, elementary, secondary schools to align with definitions in HB 3400.
- Adds a footnote for electrical inspections for grow sites as a permitted use in R-1, R-2 and R-3 districts.

B. BACKGROUND:

On March 19, 2014, Senate Bill (SB) 1531 was signed into law. SB 1531 gives local governments the ability to impose certain regulations and restrictions on the operation of medical marijuana dispensaries, including the ability to impose a moratorium for a period of time up until May 1, 2015. The city adopted a moratorium on April 7, 2014 by passage of Ordinance No. 2014-2772. On February 2, 2015, the

Newberg City Council initiated a potential amendment to Newberg's Development Code regarding medical marijuana dispensaries.

The Oregon Legislature enacted four bills during the 2015 legislative session related to the Oregon Medical Marijuana Act and Measure 91. House Bill (HB) 3400 was the omnibus bill covering recreational marijuana and modifications to the medical marijuana program. HB 2014 was enacted addressing taxes on the sale of recreational marijuana, SB 460 related to limited retail sales of marijuana from medical marijuana dispensaries and SB 844 enacted a task force on researching the medical and public health properties of cannabis. In addition to the enacting of the four bills the Oregon Liquor Control Commission adopted temporary Oregon Administrative Rules (OAR's) on October 22, 2015 that were subsequently modified on November 20, 2015 for recreational marijuana under Chapter 845, Division 25 and the Oregon Health Authority adopted temporary OAR's on September 22, 2015 for revisions to the medical marijuana program under Chapter 333, Division 8.

On April 6, 2015 the Newberg City Council passed Ordinance No. 2015-2780 regulating the time, place and manner for medical marijuana dispensaries within the city.

On September 8, 2015 the Newberg City Council was provided background information on medical and recreational marijuana at its Work Session. At the City Council Business Session on September 8th they established the Marijuana Subcommittee (Subcommittee) comprised of Councilors Rourke, Bacon and McKinney along with non-voting member Mayor Andrews. The City Council also directed staff to bring back an ordinance with a ban of the sale of recreational marijuana from Medical Marijuana Dispensaries.

On September 21, 2015 the Newberg City Council passed ordinance 2015-2787 declaring a ban on the early sale of recreational marijuana by medical marijuana dispensaries and declaring an emergency.

The Subcommittee met on November 19, 2015 to review the similarities and differences between the medical marijuana and recreational marijuana programs. The Subcommittee was briefed that the operational date for the medical marijuana modifications in HB 3400 was March 1, 2016. The Subcommittee was also provided a timeline of dates and activities that would need to occur to prepare place, time and manner land use regulations for medical marijuana grow sites and processors. The Subcommittee subsequently passed a motion 3-0 directing staff to create a Request for Council Action (RCA) to initiate the Development Code Amendment for medical marijuana grow site and processor regulations to bring forward for Council consideration on December 7.

The City Council adopted Resolution No. 2015-3244 on December 7, 2015 initiating the Development Code amendment process (Attachment 1).

The Subcommittee met again on December 9, 2015 and developed recommendations on Medical Marijuana Grow Sites, Processors and modifications to text in footnote (35) related to Medical Marijuana Dispensaries in the Zoning Use Table.

- C. PROCESS:** A development code amendment is a Type IV application and follows the procedures in Newberg Development Code 15.100.060. Important dates related to this application are as follows:

1. 12/7/15: The Newberg City Council initiated the Development Code amendment.
2. 1/14/16: After proper notice, the Planning Commission held a legislative hearing to consider the item, took public comment, and approved Resolution 2016-312.
3. 2/1/16: After proper notice, the City Council held a legislative hearing to consider the item.

D. PUBLIC COMMENTS: As of the writing of this report, the city has received no comments on the application. If the city receives additional written comments by the comment deadline, Planning staff will forward them to the City Council.

E. ANALYSIS:

Place, Time and Manner: Medical Marijuana Grow Sites and Processors have certain limitations per ORS 475.300 – 342, OAR 333-008 and HB 3400. HB 3400 states (bracketed and italicized text is deleted and bold text is new).

SECTION 89. Section 2, chapter 79, Oregon Laws 2014, is amended to read:

Sec. 2. *[Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities registered, or applying for registration, under ORS 475.314 that are located in the area subject to the jurisdiction of the city or county. For purposes of this section, “reasonable regulations” includes reasonable limitations on the hours during which a medical marijuana facility may be operated, reasonable limitations on where a medical marijuana facility may be located within a zone described in ORS 475.314 (3)(a) and reasonable conditions on the manner in which a medical marijuana facility may dispense medical marijuana.]*

(1) **For purposes of this section, “reasonable regulations” includes:**

- (a) **Reasonable limitations on the hours during which the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may operate;**
- (b) **Reasonable conditions on the manner in which a marijuana processing site or medical marijuana dispensary may transfer usable marijuana, medical cannabinoid products, cannabinoid concentrates, cannabinoid extracts, immature marijuana plants and seeds;**
- (c) **Reasonable requirements related to the public’s access to the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary;**
- (d) **Reasonable limitations on where the marijuana grow site of a person designated to produce marijuana by a registry identification cardholder, a marijuana processing site or a medical marijuana dispensary may be located.**

(2) Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of marijuana grow sites of persons designated to produce marijuana by registry identification cardholders, marijuana processing sites and medical marijuana dispensaries that are located in the area subject to the jurisdiction of the city or county.

PLACE

HB 3400 establishes limits on the number of mature plants that may be grown. The law reads as follows (bracketed and italicized text is deleted and bold text is new). Yellow highlighted text is applicable to grow sites.

(Grow Site Possession Limits)

SECTION 82. ORS 475.320 is amended to read:

475.320. *[(1)(a) A registry identification cardholder or the designated primary caregiver of the cardholder may possess up to six mature marijuana plants and 24 ounces of usable marijuana.]*
[(b) Notwithstanding paragraph (a) of this subsection, if a registry identification cardholder has been convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, the registry identification cardholder or the designated primary caregiver of the cardholder may possess one ounce of usable marijuana at any given time for a period of five years from the date of the conviction.]
[(2) A person authorized under ORS 475.304 to produce marijuana at a marijuana grow site:]
[(a) May produce marijuana for and provide marijuana:]
[(A) To a registry identification cardholder or a cardholder's designated primary caregiver as authorized under this section; or]
[(B) If the marijuana is usable marijuana or an immature marijuana plant and the registry identification cardholder authorizes the person responsible for the marijuana grow site to transfer the usable marijuana or immature marijuana plant to a medical marijuana facility registered under ORS 475.314, to the medical marijuana facility.]
[(b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each cardholder or caregiver for whom marijuana is being produced.]
[(c) May produce marijuana for no more than four registry identification cardholders or designated primary caregivers concurrently.]
[(d) Must obtain and display a marijuana grow site registration card issued under ORS 475.304 for each registry identification cardholder or designated primary caregiver for whom marijuana is being produced.]
[(e) Must provide all marijuana produced for a registry identification cardholder or designated primary caregiver to the cardholder or caregiver at the time the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.]
[(f) Must return the marijuana grow site registration card to the registry identification cardholder to whom the card was issued when requested to do so by the cardholder or when the person responsible for a marijuana grow site ceases producing marijuana for the cardholder or caregiver.]
[(3) Except as provided in subsections (1) and (2) of this section, a registry identification cardholder, the designated primary caregiver of the cardholder and the person responsible for a marijuana grow site producing marijuana for the registry identification cardholder may possess a

combined total of up to six mature plants and 24 ounces of usable marijuana for that registry identification cardholder.]

[(4)(a) A registry identification cardholder and the designated primary caregiver of the cardholder may possess a combined total of up to 18 marijuana seedlings or starts as defined by rule of the Oregon Health Authority.]

[(b) A person responsible for a marijuana grow site may possess up to 18 marijuana seedlings or starts as defined by rule of the authority for each registry identification cardholder for whom the person responsible for the marijuana grow site is producing marijuana.]

(1) Subject to subsection (2) of this section, a registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess six or fewer mature marijuana plants.

(2)(a) A person may be designated to produce marijuana under ORS 475.304 by no more than four registry identification cardholders.

(b) A person who is designated to produce marijuana by a registry identification cardholder may produce no more than six mature marijuana plants per registry identification cardholder.

(3) If the address of a person responsible for a marijuana grow site under ORS 475.304 is located within city limits in an area zoned for residential use:

(a) Except as provided in paragraph (b) of this subsection, no more than 12 mature marijuana plants may be produced at the address; or

(b) Subject to subsection (5) of this section, if each person responsible for a marijuana grow site located at the address first registered with the Oregon Health Authority under ORS 475.304 before January 1, 2015, no more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 12 mature marijuana plants, not to exceed 24 mature marijuana plants, may be produced at the address.

(4) If the address of a person responsible for a marijuana grow site under ORS 475.304 is located in an area other than an area described in subsection (3) of this section:

(a) Except as provided in paragraph (b) of this subsection, no more than 48 mature marijuana plants may be produced at the address; or

(b) Subject to subsections (5) and (6) of this section, if each person responsible for a marijuana grow site located at the address first registered with the authority under ORS 475.304 before January 1, 2015, no more than the amount of mature marijuana plants located at that address on December 31, 2014, in excess of 48 mature marijuana plants, not to exceed 96 mature marijuana plants, may be produced at the address.

(5) If the authority suspends or revokes the registration of a person responsible for a marijuana grow site that is located at an address described in subsection (3)(b) or (4)(b) of this section:

(a) No more than 12 mature marijuana plants may be subsequently produced at any address described in subsection (3) of this section at which the person responsible for that marijuana grow site produces marijuana.

(b) No more than 48 mature marijuana plants may be subsequently produced at any address described in subsection (4) of this section at which the person responsible for that marijuana grow site produces marijuana.

(6) If a registry identification cardholder who designated a person to produce marijuana for the registry identification cardholder pursuant to ORS 475.304 terminates the designation, the person responsible for the marijuana grow site whose designation has been terminated may not be designated to produce marijuana by another registry identification cardholder, except that the person may be designated by another registry identification cardholder if no

more than 48 mature marijuana plants are produced at the address for the marijuana grow site at which the person produces marijuana.

(7) If a law enforcement officer determines that a registry identification cardholder, the designated primary caregiver of a registry identification cardholder, or a person responsible for a marijuana grow site under ORS 475.304 who grows marijuana for a registry identification cardholder, possesses a number of mature marijuana plants in excess of the quantities specified in this section, the law enforcement officer may confiscate only the excess number of mature marijuana plants.

SECTION 82a. (1) Except as provided in subsection (2) of this section, a registry identification cardholder and the designated primary caregiver of the registry identification cardholder may jointly possess no more than 24 ounces of usable marijuana.

(2) Subject to subsection (3) of this section, a person designated to produce marijuana by a registry identification cardholder may possess the amount of usable marijuana that the person harvests from the person's mature marijuana plants, provided that the person may not possess usable marijuana in excess of the amount of usable marijuana in the person's possession as reported to the Oregon Health Authority under section 81a of this 2015 Act.

(3) A person designated to produce marijuana by a registry identification cardholder may not possess usable marijuana in excess of:

(a) For a marijuana grow site located outdoors, 12 pounds of usable marijuana per mature marijuana plant; or

(b) For a marijuana grow site located indoors, six pounds of usable marijuana per mature marijuana plant.

SECTION 82b. The amendments to ORS 475.320 by section 82 of this 2015 Act apply to persons who registered with the Oregon Health Authority under ORS 475.304 before, on or after the operative date specified in section 179 of this 2015 Act.

HB 3400 contains language on medical marijuana processing sites. At this time staff has not identified any OAR language regarding medical marijuana processing sites. The Planning Commission may want to include in their discussion the limitation on processing locations noted in HB 3400. Yellow highlighted text is applicable to processor locations.

(Medical Marijuana Processors)

SECTION 85. (1)(a) The Oregon Health Authority shall establish by rule a marijuana processing site registration system to track and regulate the processing of marijuana by a person responsible for a marijuana processing site.

(b) Except as provided in paragraph (c) of this subsection, a person may not process marijuana unless the person is registered under this section.

(c) Paragraph (b) of this subsection does not apply to the processing of marijuana as provided in sections 3 to 70, chapter 1, Oregon Laws 2015, or as otherwise provided for by the statutory laws of this state.

(2) The registration system established under subsection (1) of this section must require an applicant for a marijuana processing site to submit an application to the authority that includes:

- (a) The name of the individual who owns the marijuana processing site or, if a business entity owns the marijuana processing site, the name of each individual who has a financial interest in the marijuana processing site;
- (b) The name of the individual or individuals responsible for the marijuana processing site, if different from the name of the individual who owns the marijuana processing site;
- (c) The address of the marijuana processing site;
- (d) Proof, until January 1, 2020, that each individual responsible for the marijuana processing site has been a resident of this state for two or more years, and proof that each individual responsible for the marijuana processing site is 21 years of age or older;
- (e) Documentation, as required by the authority by rule, that demonstrates the marijuana processing site meets the requirements of subsection (3) of this section; and
- (f) Any other information that the authority considers necessary.

(3) To qualify for registration under this section, a marijuana processing site:

- (a) May not be located in an area that is zoned for residential use if the marijuana processing site processes cannabinoid extracts;
- (b) Must be registered as a business, or have filed an application to register as a business, with the office of the Secretary of State; and
- (c) Must meet the requirements of any rule adopted by the authority under subsection (10) of this section.

(4)(a) The authority shall conduct a criminal records check under ORS 181.534 for each individual named in an application under subsection (2) of this section.

(b) An individual convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a marijuana processing site for two years from the date the individual is convicted.

(c) An individual convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II may not own or be responsible for a marijuana processing site.

(5) If a person submits the application required under subsection (2) of this section, if the marijuana processing site identified in the application meets the requirements of this section and any rules adopted under this section and if each individual named in the application passes the criminal records check required under subsection (4) of this section, the authority shall register the marijuana processing site and issue proof of registration. Proof of registration must be displayed on the premises of the marijuana processing site at all times.

(6) A marijuana processing site that is registered under this section is not required to register with the State Board of Pharmacy under ORS 475.125.

(7) The individual or individuals responsible for a marijuana processing site shall maintain documentation of each transfer of usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(8) The authority may inspect:

- (a) The premises of a proposed marijuana processing site or a registered marijuana processing site to ensure compliance with this section and sections 85a and 85b of this 2015 Act and any rules adopted under this section and sections 85a and 85b of this 2015 Act; and
- (b) The records of a registered marijuana processing site to ensure compliance with subsection (7) of this section.

(9) Subject to the provisions of ORS chapter 183, the authority may refuse to register an applicant under this section or may suspend or revoke the registration of a marijuana processing site if the authority determines that the applicant, the owner of the marijuana processing site, a person responsible for the marijuana processing site, or an employee of the marijuana processing site, violated a provision of ORS 475.300 to 475.346, a rule adopted

under ORS 475.300 to 475.346 or an ordinance adopted pursuant to section 2, chapter 79, Oregon Laws 2014.

(10) The authority shall adopt rules to implement this section, including rules that:

- (a) Require a registered marijuana processing site to annually renew the registration for that site;
- (b) Establish fees for registering, and renewing the registration of, a marijuana processing site;
- (c) Require that medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts transferred by a marijuana processing site be tested to ensure the public health and safety; and
- (d) Impose any other standard on the operation of a marijuana processing site to ensure the public health and safety.

SECTION 85a. (1) A marijuana processing site must meet any public health and safety standards established by the Oregon Health Authority by rule related to:

- (a) Cannabinoid edibles, if the marijuana processing site processes marijuana into cannabinoid edibles;
 - (b) Cannabinoid concentrates, if the marijuana processing site processes marijuana into cannabinoid concentrates;
 - (c) Cannabinoid extracts, if the marijuana processing site processes marijuana into cannabinoid extracts; or
 - (d) Any other type of medical cannabinoid product identified by the authority by rule, if the marijuana processing site processes marijuana into that type of medical cannabinoid product.
- (2) The authority shall adopt rules to implement this section.

SECTION 85b. (1) The Oregon Health Authority shall require by rule a marijuana processing site to submit to the authority for inclusion in the database developed and maintained pursuant to section 85e of this 2015 Act the following information:

- (a) The amount of usable marijuana transferred to the marijuana processing site;
- (b) The amount and type of medical cannabinoid products transferred by the marijuana processing site;
- (c) The amount and type of cannabinoid concentrates transferred by the marijuana processing site; and
- (d) The amount and type of cannabinoid extracts transferred by the marijuana processing site.

(2) The authority by rule may require a marijuana processing site to submit to the authority for inclusion in the database developed and maintained pursuant to section 85e of this 2015 Act information that is in addition to the information described in subsection (1) of this section as the authority considers necessary to fulfill the authority's duties under section 85 (1) of this 2015 Act. The authority may not employ any method other than that described in this section to obtain information from a marijuana processing site.

SECTION 85c. (1) A marijuana processing site may not transfer medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts to a person other than a registry identification cardholder, a designated primary caregiver or a medical marijuana dispensary.

(2) A person other than a marijuana processing site may not transfer medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts to a medical marijuana dispensary.

SECTION 85d. Section 85 of this 2015 Act does not apply to a registry identification cardholder or a person who has been designated as a primary caregiver under ORS 475.312 who processes a medical cannabinoid product or a cannabinoid concentrate for a registry identification cardholder.

HB 3400, Section 34 identifies marijuana as a crop for purposes of farm use, farm, farming practice and as farm product as noted below.

SECTION 34. (1) Notwithstanding any other provision of law, marijuana is:

- (a) A crop for the purposes of “farm use” as defined in ORS 215.203;**
- (b) A crop for purposes of a “farm” and “farming practice,” both as defined in ORS 30.930;**
- (c) A product of farm use as described in ORS 308A.062; and**
- (d) The product of an agricultural activity for purposes of ORS 568.909.**

(2) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses on land designated for exclusive farm use:

- (a) A new dwelling used in conjunction with a marijuana crop;**
- (b) A farm stand, as described in ORS 215.213 (1)(r) or 215.283 (1)(o), used in conjunction with a marijuana crop; and**
- (c) A commercial activity, as described in ORS 215.213 (2)(c) or 215.283 (2)(a), carried on in conjunction with a marijuana crop.**

(3) A county may allow the production of marijuana as a farm use on land zoned for farm or forest use in the same manner as the production of marijuana is allowed in exclusive farm use zones under this section and ORS 215.213 and 215.283.

TIME

HB 3400, Section 89 allows local government to regulate the hours of marijuana grow sites and processing sites. There are no additional provisions in Oregon Revised Statutes (ORS) or OAR’s regarding hours of operation for grow sites or processors. The City Council may want to consider the hours required for growing marijuana which is likely on a 24-hour bases. For processors, the operation could be considered similar to an industrial operation, the Development Code does not limit hours.

MANNER

HB 3400, Section 89 allows local government to regulate the manner and access hours of marijuana grow sites and processing sites. There are no additional provisions in ORS or OAR’s regarding manner of operation for grow sites or processors. The City Council may want to consider if a grow site can occur outdoors or indoors. If outdoors what type of visual screening or security requirements should be established? For processors should the operation be entirely indoors? There may be other manners of operation the City Council identifies for discussion and consideration.

MEDICAL MARIJUANA DISPENSARIES

HB 3400 modified the definition for schools related to medical marijuana dispensaries. The Bill redefines public primary and secondary schools and provides a definition for private and parochial schools. The former Oregon Revised Statute (ORS) 457 also included a definition for Career School and was deleted by HB 3400. The Oregon Administrative Rule (OAR) Division 8 still has the definition for Career School (bracketed and italicized text is deleted and bold text is new).

(Medical Marijuana Dispensaries)

SECTION 86. ORS 475.314, as amended by section 5, chapter 79, Oregon Laws 2014, is amended to read:

Enrolled House Bill 3400 (HB 3400-A) Page 45

475.314. *[(1) The Oregon Health Authority shall establish by rule a medical marijuana facility registration system to authorize the transfer of usable marijuana and immature marijuana plants from:]*

[(a) A registry identification cardholder, the designated primary caregiver of a registry identification cardholder, or a person responsible for a marijuana grow site to the medical marijuana facility; or]

[(b) A medical marijuana facility to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder.]

(1)(a) The Oregon Health Authority shall establish by rule a medical marijuana dispensary registration system for the purpose of tracking and regulating the transfer of:
(A) Usable marijuana, immature marijuana plants and seeds from registry identification cardholders, designated primary caregivers and persons responsible for marijuana grow sites to medical marijuana dispensaries;
(B) Medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from persons responsible for marijuana processing sites to medical marijuana dispensaries;
and
(C) Usable marijuana, immature marijuana plants, seeds, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts from medical marijuana dispensaries to registry identification cardholders and designated primary caregivers.

(b) A person may not operate an establishment for the purpose of providing the services described in paragraph (a) of this subsection unless the person is registered under this section.

(2) The registration system established under subsection (1) of this section must require an applicant for a medical marijuana [facility] dispensary to submit an application to the authority that includes:

(a) The name of the individual who owns the medical marijuana dispensary or, if a business entity owns the medical marijuana dispensary, the name of each individual who has a financial interest in the medical marijuana dispensary;

[(a)] (b) The name of the [person] individual or individuals responsible for the medical marijuana [facility] dispensary, if different from the name of the individual who owns the medical marijuana dispensary;

[(b)] (c) The address of the medical marijuana [facility] dispensary;

[(c)] (d) Proof, until January 1, 2020, that [the person] each individual responsible for the

medical marijuana [*facility is a resident of Oregon*] **dispensary has been a resident of this state for two or more years, and proof that each individual responsible for the medical marijuana dispensary is 21 years of age or older;**

[(d)] (e) Documentation, as required by the authority by rule, that demonstrates the medical marijuana [*facility*] **dispensary** meets the [*qualifications for a medical marijuana facility as described*

in] **requirements of** subsection (3) of this section; and

[(e)] (f) Any other information that the authority considers necessary.

(3) To qualify for registration under this section, a medical marijuana [*facility*] **dispensary:**

[(a) *Must be located in an area that is zoned for commercial, industrial or mixed use or as agricultural land;*]

(a) **May not be located in an area that is zoned for residential use;**

(b) May not be located at the same address as a marijuana grow site;

(c) Must be registered as a business, or have filed [*a pending*] **an** application to register as a business, with the office of the Secretary of State;

[(d) *Must not be located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school attended primarily by minors;*]

(d) **May not be located within 1,000 feet of:**

(A) **A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or**

(B) **A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a);**

(e) **Must not be located within 1,000 feet of another medical marijuana [*facility*] dispensary;** and

[(f) *Must comport with rules adopted by the authority related to:*]

[(A) *Installing a minimum security system, including a video surveillance system, alarm system and safe; and*]

[(B) *Testing for pesticides, mold and mildew and the processes by which usable marijuana and immature marijuana plants that test positive for pesticides, mold or mildew must be returned to the registry identification cardholder, the cardholder's designated primary caregiver or the cardholder's registered grower.*]

(f) **Must meet the requirements of any rule adopted by the authority under subsection (10) of this section.**

Staff therefore proposes the following code amendments for Medical Marijuana Grow Sites, Processors, a footnote modification for Dispensaries related to "Career Schools" and a new footnote on electrical inspection:

- Add Medical Marijuana Grow Sites as a permitted use for up to twelve mature plants in R-1, R-2 and R-3 districts as indoor operations only.
- Add Medical Marijuana Grow Sites as a conditional use to all other districts and subdistricts.
- Add Medical Marijuana Processors as a permitted use in all industrial districts and subdistricts (M-1, M-2, M-3, M-4, AI, SD/E and M-1/SP).
- Delete the definition of Career School.
- Add definitions for Medical Marijuana Grow Site and Medical Marijuana Processor.

Council Minutes Exhibit A 2016-0201

- Modify the footnote for Medical Marijuana Dispensaries in the Zoning Use Table to delete “Career School” and modify the public or private primary, elementary, secondary school references to align with new definitions in HB 3400.
- Add a footnote for electrical inspections for grow sites as a permitted use in R-1, R-2 and R-3 zones in the Zoning Use Table.

F. MEDICAL MARIJUANA SUBCOMMITTEE RECOMMENDATION: The Subcommittee developed the following recommendations.

Marijuana Grow Sites:

1. Allow up to twelve mature plants in residential R-1, R-2, R-3 or two patients as indoor operations. Above that the use would be a conditional use in all other zones.

Medical Marijuana Processors:

1. Processors be allowed in industrial zones and light manufacturing (M-1, M-2, M-3, M-4, AI, Springbrook District)

Medical Marijuana Dispensaries:

1. Remove Career Schools and change the definition to adopt the new definition of primary/secondary and private/parochial school.

G. PLANNING COMMISSION RECOMMENDATION

The Newberg Planning Commission held a public hearing on January 14, 2016, heard public testimony, and approved Resolution 2015-312, which recommends that the City Council:

- Add Medical Marijuana Grow Sites as a permitted use for up to twelve mature plants in R-1, R-2 and R-3 districts as indoor operations only.
- Add Medical Marijuana Grow Sites as a conditional use to all other districts and subdistricts.
- Add Medical Marijuana Processors as a permitted use in all industrial districts and subdistricts (M-1, M-2, M-3, M-4, AI and SD/E).
- Delete the definition of Career School.
- Add definitions for Medical Marijuana Grow Site and Medical Marijuana Processor.
- Modify the footnote for Medical Marijuana Dispensaries in the Zoning Use Table to delete “Career School” and modify the public or private primary, elementary, secondary school references to align with new definitions in HB 3400.
- Add a footnote for electrical inspections for grow sites as a permitted use in R-1, R-2 and R-3 zones in the Zoning Use Table.

FISCAL IMPACT: The fiscal impact of allowing medical marijuana grow sites and processors is unknown at this time.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS):

Medical Marijuana Grow Sites and Processors are a legal activity under state law, and the city wishes to allow businesses the opportunity to operate in the city. Zoning restrictions on the uses are appropriate to address potential adverse impacts on adjacent uses.

ATTACHMENTS:

Ordinance 2016-2793 with

Exhibit "A": Proposed Development Code Text Amendment

Exhibit "B": Findings

1. Resolution No. 2015-3244
2. Planning Commission Resolution 2016-312



ORDINANCE NO. 2016-2793

**AN ORDINANCE AMENDING THE NEWBERG DEVELOPMENT CODE
REGARDING MEDICAL MARIJUANA GROW SITES, PROCESSORS AND
DISPENSARIES; AND DECLARING AN EMERGENCY**

RECITALS:

1. House Bill 3400 enacted by the Oregon Legislature in 2015 modified provisions of ORS 475.300 – 475.346 the Oregon Medical Marijuana Act.
2. The Newberg City Council initiated a potential amendment to Newberg's Development Code regarding medical marijuana grow sites, processors and dispensaries on December 7, 2015, 2015, under City Council Resolution 2015-3244.
3. After proper notice, the Newberg Planning Commission held a hearing on January 14, 2016 to consider the amendment. The Commission considered testimony, deliberated, and found that adding regulations for medical marijuana grow sites, processors and modifying regulations of dispensaries would be in the best interests of the city. They approved Resolution 2016-312, which recommends that the City Council adopt the proposed amendments to the Newberg Development Code.
4. After proper notice, the Newberg City Council held a hearing on February 1, 2016 to consider the proposed amendment. The Council considered testimony and deliberated.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The Council finds that adding regulations for medical marijuana grow sites and processors, and modifying regulations of dispensaries would be in the best interests of the city. The Council adopts the amendments to the Newberg Development Code as shown in Exhibit "A". Exhibit "A" is hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit "B" are hereby adopted. Exhibit "B" is by this reference incorporated.
3. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect immediately upon passage by the council and signature of the mayor.

➤ **EFFECTIVE DATE** of this February 2, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 1st day of February, 2016, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

Sue Ryan, City Recorder

ATTEST by the Mayor this _____ day of _____, 2016.

Bob Andrews, Mayor

**Exhibit “A” to Ordinance 2016-2793
Development Code Amendments –File DCA-15-002
Medical Marijuana Grow Sites, Processors
and Dispensaries**

Section 1. The Newberg Development Code 15.05.030 shall be amended to read as follows:

**Note: Existing text is shown in regular font.
Added text is shown in double-underline
Deleted text is shown in ~~strikethrough~~.**

15.05.030 Definitions

For the purpose of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“Medical marijuana dispensary” means a medical marijuana facility registered by the Oregon Health Authority and in compliance with all other provisions of Oregon law.

“Medical Marijuana Grow Site” means a location registered under ORS 475.304 where marijuana is produced for use by a registry identification cardholder.

“Medical Marijuana Processor” means a medical marijuana processing facility registered by the Oregon Health Authority.

“School, primary or secondary category” means a category of uses under Chapter 15.303 NMC that includes public and private schools, secular or parochial, at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education primarily to minors.

~~“School, career”, for the purposes of medical marijuana dispensaries, means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession at a physical location attended primarily by minors.~~

Section 2. Newberg Development Code Section 15.305.020 shall be amended to read as follows:

15.305.020 Zoning use table

See Exhibit A, Attachment 1

Section 3. Newberg Development Code Section 15.305.030 is added to read as follows:

See Exhibit A, Attachment 2

**Exhibit “B” to Ordinance 2016-2793
Findings –File DCA-15-002
Medical Marijuana Grow Sites,
Processors and Dispensaries**

**Findings –File DCA-15-002
Medical Marijuana Grow Sites, Processors and Dispensaries**

I. Statewide Planning Goals - relevant goals

Goal 1, Citizen Involvement, requires the provision of opportunities for citizens to be involved in all phases of the planning process.

Finding: The City Council initiated the potential development code amendment at a public meeting on December 7, 2015. The Marijuana Subcommittee meet on December 9, 2015 at a public meeting to review potential place, time and manner regulations for Medical Marijuana Grow Sites, Processors and Dispensaries. The Planning Commission, after proper notice, held a public hearing on January 14, 2016. The City Council will consider the recommendation of the Planning Commission at a future public hearing date, and decide whether or not to adopt the development code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

Goal 2, Land Use Planning, requires the development of a process and policy framework that acts as a basis for all land use decisions.

Finding: The Medical Marijuana Grow Site, Processor and Dispensary proposal is supportive of this goal because it was developed following city procedures for legislative action.

II. Newberg Comprehensive Plan - relevant policies

A. CITIZEN INVOLVEMENT GOAL: To maintain a Citizen Involvement Program that offers citizens the opportunity for involvement in all phases of the planning process.

Finding: The City Council initiated the potential development code amendment at a public meeting on December 7, 2015. The Marijuana Subcommittee meet on December 9, 2015 at a public meeting to review potential place, time and manner regulations for Medical Marijuana Grow Sites, Processors and Dispensaries. The Planning Commission, after proper notice, held a public hearing on January 14, 2016. The City Council will consider the recommendation of the Planning Commission at a future public hearing date, and decide whether or not to adopt the development code amendment. The development code amendment process provides opportunity for public comments throughout the planning process.

B. LAND USE PLANNING GOAL: To maintain an on-going land use planning program to implement statewide and local goals. The program shall be consistent with natural and cultural resources

and needs.

Finding: The Medical Marijuana Grow Sites, Processors and Dispensaries proposal is supportive of this goal because it was developed following city procedures for legislative action.

H. THE ECONOMY GOAL: To develop a diverse and stable economic base.

1. General Policies

c. The City will encourage the creation of a diversified employment base, the strengthening of trade centers and the attraction of both capital and labor intensive enterprises.

g. The City shall encourage business and industry to locate within the Newberg City limits.

Finding: The city encourages new businesses to develop within the city. A Medical Marijuana Grow Sites, Processor and Dispensary operation is a legal business under State law. Allowing Medical Marijuana Grow Sites in residential zones R-1, R-2 and R-3 as permitted uses with up to 12 mature plants or two patients as an indoor operation and as conditional in all other zones; allowing Medical Marijuana Processors as a permitted use in M-1, M-2, M-3, M-4, AI and SD/E; and adjusting the footnote language for Medical Marijuana Dispensaries to align with HB 3400 definitions for public, private or parochial schools, is consistent with this Comprehensive Plan goal.

III. Conclusion: The proposed development code amendments meet the applicable requirements of the Statewide Planning Goals, and the Newberg Comprehensive Plan, and should be approved.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: February 16, 2016

Order ___	Ordinance ___	Resolution <u>XX</u>	Motion ___	Information ___
No. ___	No. ___	No. 2016-3258		

SUBJECT: Resolution authorizing the City Manager Pro Tem to appoint recommended candidates to positions as listed below.

**Contact Person (Preparer) for this Motion: Nancy McDonald, Interim Human Resources Director
Dept.: Administration
File No.:**

RECOMMENDATION:

Adopt **Resolution No. 2016-3258** authorizing the City Manager Pro Tem to appoint recommended candidates to positions as listed below.

EXECUTIVE SUMMARY:

The City Charter, Chapter VIII, Section 34(h) provides the manager pro tem “has the authority and duties of manager, except that a Manager Pro Tem may appoint or remove employees only with council approval”.

The City Manager Pro Tem Steve Rhodes and Interim Human Resources Director McDonald have reviewed the recommendations for hire submitted by the position’s supervisors and recommend the hiring of said candidates to the council for their approval pursuant to the city charter as stated above.

The City of Newberg has successfully recruited for the vacant positions listed below. The recommended candidates either have been vetted through the appropriate hiring procedure for each department as indicated.

Police Department

Line Item: 01-2120-431000

Police Officers - Lateral (2) Full Time, non-exempt, NDPSA-represented positions

- Current budget includes funding for two vacant full time positions.
- 10 applicants; interviewed by Detective Cameron Ferguson, Senior Officer Chris Rasmussen and Captain Jeff Kosmicki.
- Recommended candidates:

Tyler Joel Milton was born in Multnomah County. He and his parents have lived in Yamhill County since his birth until present. He attended and graduated from CS Lewis Academy in June 2012. After high school Tyler attended Chemeketa Community College in Salem and obtained his AAS degree.

Tyler obtained part-time employment with Les Schwab Tires in 2012, where he is still currently employed in Newberg. In 2014 Tyler was accepted as a cadet for the Yamhill County Sheriff’s Office. This is a non-sworn position that does not grant the authority to arrest or carry a firearm. In June of 2015 Tyler completed the reserve police officer academy was sworn in as a reserve police officer for the Newberg-Dundee Police Department.

Dennis Louis Hohstadt Jr. was born in Union County Oregon. He attended and graduated from Imbler High School in 1992. He then attended Universal Technical Institute in Scottsdale, Arizona from 1992-1993 where he received a certificate in automotive technology. After returning to Oregon he went to work at Lynch Motor Company in LaGrande.

In 1997 Dennis moved to Newberg after getting hired full time at Les Schwab tires of Newberg. In June of 2013 Dennis completed the reserve police officer academy and was sworn in as a reserve police officer for the Newberg-Dundee Police Department.

FISCAL IMPACT:

Funding for these positions are in the adopted FY 2015-2016 Budget under the appropriate salary and benefit line items as indicated above.

STRATEGIC ASSESSMENT:

Departments are working at less than full-staff capacity; quickly refilling these vacancies is the fiscally responsible solution.



RESOLUTION No. 2015-3246

A RESOLUTION AUTHORIZING THE CITY MANAGER PRO TEM TO APPOINT RECOMMENDED CANDIDATES TO POSITIONS IN MULTIPLE DEPARTMENTS

RECITALS:

1. Reason for Vacancies: These regular, full time positions have been recently vacated.
2. Recommendations: Interim Human Resources Director McDonald recommends the appointment of the candidates listed for appropriate departments as soon as possible.
3. Funding: Position funding is within the FY 2015-2016 Budget and is indicated by the applicable departmental personnel services line items.
4. Manager Pro Tem Appointment: Steve Rhodes was appointed manager pro tem on September 8, 2015, by the city council. He has reviewed the recommendations for hire submitted by the supervisors of the positions and recommends the hiring of said candidates to the vacant positions. The City Charter, Chapter VIII, Section 34(h) provides the manager pro tem “has the authority and duties of manager, except that a manager pro tem may appoint or remove employees only with council approval”.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

The city council approves the appointment by the city manager pro tem of the selected candidates:

Carolyn Lowery	–	Communications Officer – Dispatch Center, Police Department
Tiffany Valenzuela	–	Communications Officer – Dispatch Center, Police Department

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: January 20, 2016.
ADOPTED by the City Council of the City of Newberg, Oregon, this 19th day of January, 2016.

Sue Ryan, City Recorder

ATTESTED by Mayor this _____ day of January, 2016.

Bob Andrews, Mayor

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: February 16, 2016

Order ___	Ordinance <u>XX</u>	Resolution ___	Motion ___	Information ___
No.	No. 2016-2795	No.		

SUBJECT: An ordinance to affirm the final assessments for the College Street Local Improvement District that was created by Ordinance No. 2013-2769 to recoup a portion of the costs for the west side frontage improvements of N. College Street from Illinois Street to Aldercrest Drive

**Contact Person (Preparer) for this Motion: Paul Chiu, P.E., Senior Engineer
Dept.: Engineering Services Department
File No.:**

HEARING TYPE: LEGISLATIVE

RECOMMENDATION:

Adopt Ordinance No. 2016-2795 to affirm the final assessments for the College Street Local Improvement District that was created by Ordinance No. 2013-2769 to recoup a portion of the costs for the west side frontage improvements of N. College Street from Illinois Street to Aldercrest Drive.

EXECUTIVE SUMMARY:

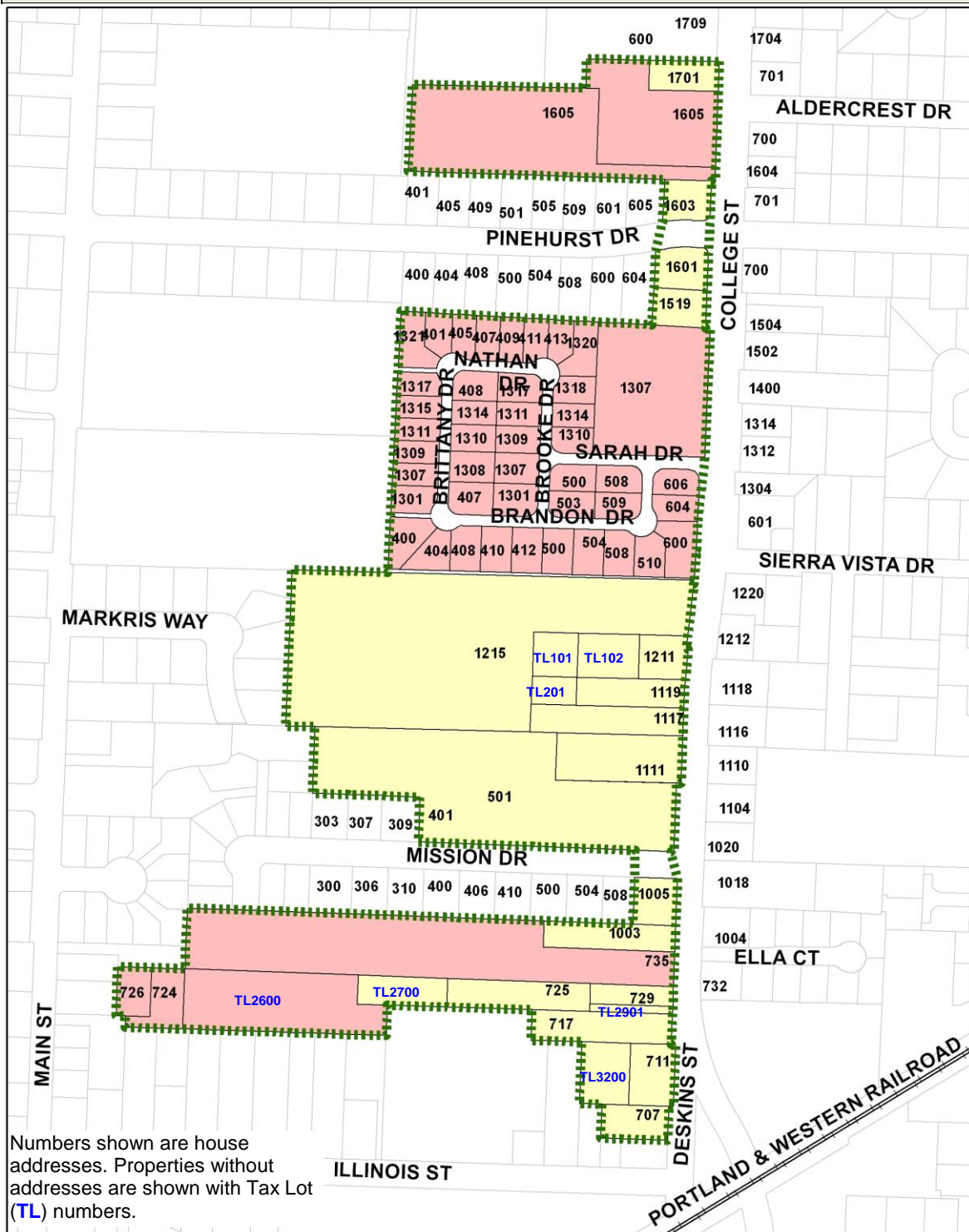
In July, 2013, the City of Newberg adopted Ordinance No. 2013-2769 for the College Street Local Improvement District, following the Local Improvement Districts (LID) rules and processes in Municipal Code §3.15. Refer to Figure 1 for the boundary of the College Street LID. Per Municipal Code §3.15.110, once construction is complete, final LID assessments are determined and the City Council shall approve them at a public hearing.

The Oregon Department of Transportation (ODOT) provided a transportation enhancement grant to fund the right-of-way acquisition, survey, design, and construction of curb and gutter, sidewalk, and storm drainage improvements on the west side, and bicycle lanes on both sides of State Highway OR-219 (also known as North College Street) from Illinois Street to Aldercrest Drive. The City of Newberg provided the required matching funds for the project through an intergovernmental agreement (IGA).

The contractor completed the construction of all improvements this past summer, and ODOT will be closing out this project soon. The city’s total design and construction contribution for the project was \$488,471.43, of which \$230,779.76 was for curb and gutter, sidewalk, and bicycle lanes. The proposed assessment of \$194,197.00 will recoup 84.1% of the costs noted in the Engineer’s Report.

All of the College Street LID property owners were invited to a Neighborhood Meeting that was held at Newberg Presbyterian Church on January 20, 2016, to provide comments prior to the final assessment public hearing. All participants received the final assessment package in advance of the public hearing. The recommended final assessments are listed in Table 1, which is hereby attached and incorporated. Comments or questions received from the neighbors are listed in Figure 2.

FIGURE 1: COLLEGE STREET LID BOUNDARY MAP



Legend
 LID Boundary

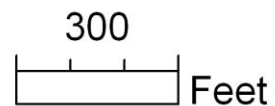


FIGURE 2: COMMENTS OR QUESTIONS RECEIVED AT THE NEIGHBORHOOD MEETING

(a) How was the assessment determined for each property?

The total frontage length along College Street for the LID is 2,167 linear feet. Staff calculated the assessment for each property based on its share of the frontage length.

(b) Why are some assessments a few hundred dollars while some others are several thousand dollars?

Take for an example a lot in Jaquith Park Estates; its assessment is about \$450 because all 43 lots in the subdivision receive an equal share of the assessment based on its College Street frontage length of 216 linear feet, and the assessment per foot of \$89.62.

(c) What is the LID cost?

The LID cost is \$194,197.00 for curb, gutter, sidewalk and bike lanes. This amount will recoup 84.1% of the actual construction cost.

(d) Who will decide for the final assessments?

The City Council will make the final decision for the LID assessments at the public hearing on February 16, 2016.

FISCAL IMPACT:

The city's portion of the project costs were budgeted over multi-years and expended in fiscal years 2011 through 2015 under account number 18-5150-702165. The city's total design and construction contribution for the project was \$488,471.43, of which \$230,779.76 was for curb and gutter, sidewalk, and bicycle lanes. The proposed LID assessment of \$194,197.00 will recoup 84.1% of the costs noted in the Engineer's Report.

STRATEGIC ASSESSMENT:

This project completes a critical portion of the pedestrian and bicyclist system along a major transportation route in accordance with the city's Transportation System Plan and the Newberg ADA/Pedestrian/Bike Route Improvement Plan.



ORDINANCE No. 2016-2795

AN ORDINANCE TO AFFIRM THE FINAL ASSESSMENTS FOR THE COLLEGE STREET LOCAL IMPROVEMENT DISTRICT THAT WAS CREATED BY ORDINANCE No. 2013-2769 TO RECOUP A PORTION OF THE COSTS FOR THE WEST SIDE FRONTAGE IMPROVEMENTS OF N. COLLEGE STREET FROM ILLINOIS STREET TO ALDERCREST DRIVE

RECITALS:

1. In July, 2013, the City of Newberg adopted Ordinance No. 2013-2769 for the College Street Local Improvement District (LID) to recoup a portion of the city's matching costs for the frontage improvements surveyed, designed, constructed and funded through a grant by the Oregon Department of Transportation (ODOT).
2. The contractor completed the construction of curb and gutter, sidewalk, and storm drainage improvements on the west side, and bicycle lanes on both sides of State Highway OR-219 (also known as North College Street) from Illinois Street to Aldercrest Drive in summer, 2015. ODOT will be closing out the project soon (upon establishment of the rain garden vegetation).
3. The city's total design and construction contribution for the project was \$488,471.43, of which \$230,779.76 was for curb and gutter, sidewalk, and bicycle lanes.
4. Staff recommends the final assessment to recoup \$194,197.00, the cost noted in the Engineer's Report in Ordinance No. 2013-2769, (which is 84.1% of \$230,779.76).
5. All participating property owners received the final LID assessment package by mail in advance of the public hearing held on February 16, 2016.
6. The final assessments followed the assessment methodology established by Ordinance No. 2013-2769, which also provided the owners an option to apply for financing through the city (at 1.50% annual interest rate over a 30 year period).
7. Each property within the LID is specifically benefitted in the amount shown on the assessment role.
8. The City Council has considered all objections and/or comments on the final assessments.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

- Section 1. The City of Newberg hereby levies a final special assessment, listed by property (tax lot) in Table 1 on the following page, which is hereby attached and incorporated, as an equitable share of the cost of the College Street LID against each of the properties listed in this ordinance. The assessment is due and payable at Newberg City Hall not later than 30 days after the effective date of this ordinance. Assessments paid in full within 30 days will receive a five percent discount.

- Section 2. The owner of property assessed by this ordinance may, within 10 days after notice of the final assessment is mailed, contract with the city to pay the assessment in sixty semi-annual installments of principal plus simple interest at the rate of 1.50% per annum until paid in full. The terms and conditions of payment shall be otherwise as set out in the installment payment contract. The assessment levied by this ordinance shall constitute a lien upon the real property assessed to secure payment of the assessment and shall be prior to any and all other liens on the property.

- Section 3. The City Council directs the City Manager Pro Tem to mail notice of the final assessment levied by this ordinance to the owner(s) of each property assessed and to publish in the newspaper, as required by Newberg Municipal Code §3.15.110(C).

- Section 4. The City Council, in accordance with Newberg Municipal Code §3.15.110 and Ordinance No. 2013-2769, does hereby authorize the City Manager Pro Tem to have these final assessments entered into the docket of City liens and the Yamhill County deed records as needed.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: March 17, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of February, 2016, by the following votes:

AYE: **NAY:** **ABSENT:** **ABSTAIN:**

Sue Ryan, City Recorder

ATTEST by the Mayor this 18th day of February, 2016.

Bob Andrews, Mayor

TABLE 1: FINAL ASSESSMENTS FOR EACH PROPERTY

Property Description (Name or Subdivision with Lot No. and Tax Lot No.)	Property Address	Final Assessment Costs (recommended)	
Open Bible Church	3218 AD 7100	1605 N COLLEGE ST	\$14,582.72
	3218 AD 7000	1605 N COLLEGE ST	\$2,688.55
Willow Place Assisted Living Facility	3218 AD 7401	1307 N COLLEGE ST	\$25,741.12
Lot 1 Jaquith Park	3218 AD 7621	606 BRANDON DR	\$449.72
Lot 2 Jaquith Park	3218 AD 7633	604 BRANDON DR	\$449.72
Lot 3 Jaquith Park	3218 AD 7634	600 BRANDON DR	\$449.72
Lot 4 Jaquith Park	3218 AD 7635	510 BRANDON DR	\$449.72
Lot 5 Jaquith Park	3218 AD 7636	508 BRANDON DR	\$449.72
Lot 6 Jaquith Park	3218 AD 7637	504 BRANDON DR	\$449.72
Lot 7 Jaquith Park	3218 AD 7638	500 BRANDON DR	\$449.72
Lot 8 Jaquith Park	3218 AD 7639	412 BRANDON DR	\$449.72
Lot 9 Jaquith Park	3218 AD 7640	410 BRANDON DR	\$449.72
Lot 10 Jaquith Park	3218 AD 7641	408 BRANDON DR	\$449.72
Lot 11 Jaquith Park	3218 AD 7642	404 BRANDON DR	\$449.72
Lot 12 Jaquith Park	3218 AD 7643	400 BRANDON DR	\$449.72
Lot 13 Jaquith Park	3218 AD 7628	1301 BRITTANY DR	\$449.72
Lot 14 Jaquith Park	3218 AD 7627	1307 BRITTANY DR	\$449.72
Lot 15 Jaquith Park	3218 AD 7626	1309 BRITTANY DR	\$449.72
Lot 16 Jaquith Park	3218 AD 7617	1311 BRITTANY DR	\$449.72
Lot 17 Jaquith Park	3218 AD 7616	1315 BRITTANY DR	\$449.72
Lot 18 Jaquith Park	3218 AD 7609	1317 BRITTANY DR	\$449.72
Lot 19 Jaquith Park	3218 AD 7608	1321 BRITTANY DR	\$449.72
Lot 20 Jaquith Park	3218 AD 7607	401 NATHAN DR	\$449.72
Lot 21 Jaquith Park	3218 AD 7606	405 NATHAN DR	\$449.72
Lot 22 Jaquith Park	3218 AD 7605	407 NATHAN DR	\$449.72
Lot 23 Jaquith Park	3218 AD 7604	409 NATHAN DR	\$449.72
Lot 24 Jaquith Park	3218 AD 7603	411 NATHAN DR	\$449.72
Lot 25 Jaquith Park	3218 AD 7602	413 NATHAN DR	\$449.72
Lot 26 Jaquith Park	3218 AD 7601	1320 BROOKE DR	\$449.72
Lot 27 Jaquith Park	3218 AD 7612	1318 BROOKE DR	\$449.72
Lot 28 Jaquith Park	3218 AD 7613	1314 BROOKE DR	\$449.72
Lot 29 Jaquith Park	3218 AD 7620	1310 BROOKE DR	\$449.72
Lot 30 Jaquith Park	3218 AD 7623	500 SARAH DR	\$449.72
Lot 31 Jaquith Park	3218 AD 7622	508 SARAH DR	\$449.72
Lot 32 Jaquith Park	3218 AD 7632	509 BRANDON DR	\$449.72
Lot 33 Jaquith Park	3218 AD 7631	503 BRANDON DR	\$449.72
Lot 34 Jaquith Park	3218 AD 7630	1301 BROOKE DR	\$449.72
Lot 35 Jaquith Park	3218 AD 7629	407 BRANDON DR	\$449.72
Lot 36 Jaquith Park	3218 AD 7625	1308 BRITTANY DR	\$449.72
Lot 37 Jaquith Park	3218 AD 7618	1310 BRITTANY DR	\$449.72
Lot 38 Jaquith Park	3218 AD 7615	1314 BRITTANY DR	\$449.72
Lot 39 Jaquith Park	3218 AD 7610	408 NATHAN DR	\$449.72
Lot 40 Jaquith Park	3218 AD 7611	1317 BROOKE DR	\$449.72
Lot 41 Jaquith Park	3218 AD 7614	1311 BROOKE DR	\$449.72
Lot 42 Jaquith Park	3218 AD 7619	1309 BROOKE DR	\$449.72
Lot 43 Jaquith Park	3218 AD 7624	1307 BROOKE DR	\$449.72
(Parcel 3)	3218 DB 2403	724 N MAIN ST	\$346.38
(Parcel 2)	3218 DB 2402	726 N MAIN ST	\$346.38
	3218 DB 2600	None	\$2,078.25
	3218 DB 2300	735 N COLLEGE ST	\$4,156.51
	3218 AD 6900	1701 N COLLEGE ST	\$5,914.82
	3218 AD 7200	1603 N COLLEGE ST	\$6,641.63
	3218 AD 7300	1601 N COLLEGE ST	\$7,159.62
	3218 AD 7309	1519 N COLLEGE ST	\$7,439.23
	3218 DB 0400	1215 N COLLEGE ST	\$11,112.69
(3 Tax Lots share frontage)	3218 DB 0100	1211 N COLLEGE ST	\$2,927.54
	3218 DB 0101	None	\$2,927.54
	3218 DB 0102	None	\$2,927.54
(2 Tax Lots share frontage)	3218 DB 0200	1119 N COLLEGE ST	\$3,719.17
	3218 DB 0201	None	\$1,859.58
	3218 DB 0300	1117 N COLLEGE ST	\$5,578.75
	3218 DB 0900	1111 N COLLEGE ST	\$9,409.94
Newberg Presbyterian Church	3218 DB 0800	501 MISSION DR ***	\$9,142.70
	3218 DB 2101	1005 N COLLEGE ST	\$9,409.94
	3218 DB 2200	1003 N COLLEGE ST	\$5,197.87
(4 Tax Lots share frontage)	3218 DB 2900	729 N COLLEGE ST	\$1,192.65
	3218 DB 2901	None	\$400.30
	3218 DB 2800	725 N COLLEGE ST	\$2,734.15
	3218 DB 2700	None	\$1,735.59
	3218 DB 3100	717 N COLLEGE ST	\$6,062.69
(2 Tax Lots share frontage)	3218 DB 3201	711 DESKINS ST	\$5,511.54
	3218 DB 3200	None	\$5,511.54
	3218 DB 3400	707 DESKINS ST	\$6,766.20
*** Reduced (net) assessment for 501 Mission Drive. City's responsibility for replacing existing sidewalk =		\$3,636.00	
GRAND TOTAL =		\$194,197.00	

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: Month Day, Year

Order ___ Ordinance XX Resolution ___ Motion ___ Information ___
No. No. 2016-2797 No.

SUBJECT: An Ordinance granting Portland General Electric Company, an Oregon corporation, a franchise agreement intended to clarify, enhance, expand, waive or vary the provisions of NMC 12.05

Contact Person (Preparer) of this
RCA: Truman Stone
Dept.: City Attorney
File No.:

HEARING TYPE: LEGISLATIVE QUASI-JUDICIAL NOT APPLICABLE

RECOMMENDATION:

Adopt Ordinance No. 2016-2797

EXECUTIVE SUMMARY:

In 2008 the City of Newberg modernized its municipal code to adopt a licensing model for utility use of city right of way (licensing code). This was a change from the old model of granting franchises which are, in the broad sense of the term, a grant of special permission from the sovereign.

The applicable code sections are found in NMC 12.05.270 through 12.05.430. In adopting the licensing code, the council recognized that special circumstances might exist that require provisions in addition or contrary to the code. NMC 12.05.310(E) states:

E. Franchise Agreements. If the public interest warrants, the city and utility operator may enter into a written franchise agreement *that includes terms that clarify, enhance, expand, waive or vary the provisions of this article*, consistent with applicable state and federal law. *The franchise may conflict with the terms of this article with the review and approval of the city council.* The franchisee shall be subject to the provisions of this article to the extent such provisions are not in conflict with the franchise. *[emphasis added]*

Portland General Electric (PGE) has alleged special circumstances and requested a franchise. At the January 20, 2015 council meeting, PGE made a presentation to the council regarding its request for a franchise, and after considering the circumstances, council directed staff to negotiate the terms of the franchise with PGE. Before you tonight is the resulting agreement.

FISCAL IMPACT: Indeterminate.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS): This ordinance was prepared at the direction of the City Council.



ORDINANCE NO. 2016-2797

**AN ORDINANCE GRANTING PORTLAND GENERAL ELECTRIC COMPANY,
AN OREGON CORPORATION, A FRANCHISE AGREEMENT INTENDED TO
CLARIFY, ENHANCE, EXPAND, WAIVE OR VARY THE PROVISIONS OF
NMC 12.05**

RECITALS:

1. The city has jurisdiction and exercises regulatory management over all public rights-of-way within the city, under authority of the city Charter and state law.
2. Portland General Electric Company operates an electric utility within the jurisdiction of the City of Newberg.
3. Utilities which own or control utility facilities within the public rights-of-way are required to obtain a license from the city and operate under the terms of NMC 12.05.
4. There are some unique features of electric utilities that require clarification or modification of the terms of NMC 12.05.
5. NMC 12.05.310(E) contemplates and allows for situations when the city and utility operator will enter into a written franchise agreement that includes terms that clarify, enhance, expand, waive or vary the provisions of this article.
6. The franchise may conflict with the terms of NMC 12.05, with the review and approval of the city council.
7. The council finds that the public interest warrants a grant of a franchise to Portland General Electric Company.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

Section 1. Franchise Granted. Portland General Electric Company is hereby granted a franchise for the right and privilege to erect, construct, maintain and operate an electric light and power system within the corporate limits of Newberg, Oregon.

Section 2. Term and Conditions of Franchise Agreement. The term and conditions of the franchise are set forth in the attached "AGREEMENT BETWEEN CITY OF NEWBERG AND PGE ON TERMS TO CONSTRUCT AND OPERATE UTILITY FACILITIES WITHIN THE CITY RIGHTS OF WAY," which is marked "Exhibit A" and incorporated by this reference as if set out in full. Except as specifically modified in this agreement, the terms of NMC 12.05 shall be fully applicable.

Section 3. Authority. The City Manager Pro Tem is hereby authorized to execute the franchise agreement, upon approval by the City Attorney as to form and content. The City Manager or City Manager Pro Tem is authorized to interpret the terms of the agreement.

Section 4. Repeal. Ordinance No. 92-2348, by its terms, expired on or about June 30, 2012. To the extent that Ordinance No. 92-2348 remains active or valid it is hereby repealed.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: _____, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this ____ day of _____, 2016, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

Sue Ryan, City Recorder

ATTEST by the Mayor this _____ day of _____, 2016.

Bob Andrews, Mayor

AGREEMENT BETWEEN CITY OF NEWBERG AND PGE ON TERMS TO CONSTRUCT AND OPERATE UTILITY FACILITIES WITHIN THE CITY RIGHTS OF WAY

Whereas Newberg Municipal Code Chapter 12.05 regulates use of city rights of way (“City ROW”) by utilities; and

Whereas there are some unique features of electric utilities that require clarification or modification of the terms of NMC 12.05;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Term and effective date. This Agreement (“Agreement”) takes effect upon the signature of both parties (the “Effective Date”), and continues for five years from the Effective Date (the “Term”). The Term shall automatically renew for an additional five (5) years, unless either party provides the other party one hundred eighty (180) days advanced written notice of its desire not to renew this Franchise prior to the expiration of the initial Term or renewal Term. The Agreement may be amended at any time by mutual agreement of the parties.

2. Grandfathered Facilities. PGE shall furnish current maps to the City by electronic data in read-only format showing the general location of PGE Facilities in possession of PGE currently, excluding PGE proprietary information. Upon request of the City, PGE will also provide the City maps by electronic data in read-only format of all PGE Facilities in possession of PGE during the term of this Agreement, excluding PGE proprietary information. Such maps showing existing PGE Facilities as provided to the City are incorporated in this Agreement by this reference. All PGE Facilities in possession of PGE as currently shown on the map(s) provided to the City or during the Term that are located within the City ROW are covered by this Agreement and the location and placement of these PGE Facilities are approved for the purposes of this Agreement, subject to PGE’s acknowledgement that the City has not inventoried or evaluated PGE Facilities to ensure their compliance with applicable state and federal laws, regulations and orders. This Agreement also includes the privilege to repair, maintain, upgrade and operate Grantee Facilities located in City park property that are existing as of the Effective Date of this Agreement. Installation of Grantee Facilities in City park property on or after the Effective Date of this Agreement, and the right to repair, maintain, upgrade and operate such after-installed Grantee Facilities, shall be subject to applicable City Municipal Code provisions. With respect to Grantee Facilities located in City park property existing as of the Effective Date of this Agreement, as well as those whose locations are approved by the City during the Term, City park property shall be treated the same as the Public ROW for purposes of Sections 3 and 6 herein.

3. Construction. While the PGE Facilities used by PGE in the transmission and distribution of its services (PGE’s “Electric Light and Power System”) that are located inside the boundaries of the City are generally required to be constructed and maintained in accordance with NMC 12.05.320 and 12.05.330, should there be a conflict between NMC 12.05.320 or 12.05.330 and either PGE’s construction standards as provided to the Oregon Public Utility Commission (“OPUC”) or the National Electrical Safety Code (“NESC”), or both, it shall not be a violation of NMC 12.05.320 or 12.05.330 for PGE to follow its construction standards and the NESC.

4. Restoration. NMC 12.05.320.E requires ROW or property to be restored to the “same or better condition as existed before the work was undertaken.” PGE shall not be required, at its expense, to pave a gravel street that was gravel prior to the excavation. PGE shall not be required, at its expense, to install sidewalk panels or curbs

that did not exist prior to the excavation, except to the extent such panels or curbs are required to bring an existing sidewalk or curb up to current generally applicable published City standards. In the event that PGE's work is coordinated with other construction work in the City ROW, the City Engineer may excuse Grantee from restoring the surface of the City ROW, providing that as part of the coordinated work, the City ROW is restored to good order and condition.

5. Excavation. Should a customer of PGE be required, pursuant to PGE's tariff on file with the OPUC, to make excavations that are located in the City ROW under the customer's own permit with the City, the City agrees that PGE shall not be responsible or liable for any failure by such customer to comply with any applicable rules, regulations, and ordinances of the City and/or with City standards.

6. Relocation.

(A) Permanent Relocation Required by City. This subsection (A) covers permanent relocation of overhead PGE Facilities that will remain overhead, and underground PGE Facilities that will remain underground. The City shall have the right to require PGE to change the location of PGE's Electric Light and Power System located in the City ROW in accordance with NMC 12.05.330.C unless one of the following is true: a) the project or improvement necessitating the change in location will not be owned or managed by the City; or b) the majority of the funding for the project or improvement does not come from City, county, state, or federal government sources; or c) the public project or public improvement is not, or will not be, located in the City ROW. Notwithstanding NMC 12.05.330.C, when the City requests a subsequent relocation of all or part of the same PGE Facilities less than two years after the initial relocation, the subsequent relocation shall be at the expense of the City.

(B) Notice. The City will endeavor to provide as much notice prior to requiring PGE to relocate PGE Facilities as possible. The City and PGE may agree, either before or after notice is provided, to a mutually acceptable schedule for relocation, but unless agreed to otherwise, such timeframe shall be not later than 60 days from notice by the City, except in the event of a public emergency. Should PGE fail to relocate PGE facilities within the agreed upon time frame or 60 days, whichever is longer, PGE shall pay to the City \$500 for each business day beyond the deadline, or the City may cause or effect such removal or relocation, performed by a qualified contractor in accordance with applicable state and federal safety laws and regulations, and the expense thereof shall be paid by PGE.

(C) Permanent Relocation - Undergrounding. Regardless of whether or not such conversion is made in conjunction with a public project, should the City require PGE to convert any overhead PGE Facilities to underground PGE Facilities at the same or different locations, such underground conversion shall be subject to the NESC and PGE's engineering and safety standards, and it shall not be a violation of NMC 12.05 for PGE to follow such standards and the NESC. Nothing in NMC 12.05 or this Agreement shall be read to prevent the City and PGE from agreeing to a different form of cost recovery than that provided in NMC 12.05.330 on a case-by-case basis consistent with applicable statutes, administrative rules, or regulations.

(D) Temporary Relocation at Request of City. The cost of temporary removal or relocation of PGE Facilities, as well as cost of replacing PGE Facilities in their permanent location, shall be paid by PGE unless one of the following is true: a) the project or improvement necessitating the change in location will not be owned or managed by the City; or b) the majority of the funding for the project or improvement does not come from City, county, state, or federal government sources; or c) the public project or public improvement is not, or will not

be, located in the City ROW. However, when the City requests a subsequent relocation of all or part of the same PGE Facilities less than two years after the initial relocation, the subsequent relocation shall be at the City's expense unless the relocation is necessitated by an event or circumstance beyond the reasonable control of the City including, but not limited to, Acts of God, earthquake, severe storm, flood or other natural disaster. For the purposes of the preceding sentence, events or conditions beyond the City's control do not include events or conditions related solely to the City's receipt or expected receipt of funds from third parties. The City may make available a temporary construction easement on which the PGE may place its Facilities that meets NESC requirements and PGE's construction standards as provided to the OPUC if the City secures such easement for its own use, until such time as the PGE moves its Facilities to their permanent location.

(E) Relocation at Request of or to Accommodate Third Party. If the relocation of PGE Facilities is caused or required by legally enforceable conditions placed by the City on approval for projects of third parties, such relocation shall in no event fall under the provisions of subsections (A), (C) or (D) of this Section 6 or NMC 12.05.330.C. However, PGE agrees that, if the PGE Facilities are located in the existing City ROW, or on property that the third party has agreed to dedicate to the City for City ROW, and the third party has both provided reasonable advance written notice of the need for relocation of the PGE Facilities and has met with PGE and attempted to agree on a mutually acceptable relocation schedule, then unless PGE and the third party have agreed to a relocation schedule, PGE shall relocate the PGE Facilities within 60 days from the date of the meeting, except in the event of a public emergency.

7. Use of PGE facilities. City shall be permitted to string wires on all PGE poles or run wires in PGE's trenches and/or available conduit for any municipal purpose including the provision of Internet service to residents and businesses, provided that such wires and related equipment: a) do not unreasonably interfere with PGE operations; b) conform to the NESC; and c) the City's excess capacity on such wires and equipment is not leased to, sold to or otherwise used by non-governmental third parties. The City shall maintain permits from PGE for such use. PGE shall not charge the City for such attachments to its poles or in its conduits; however, the City shall be responsible to pay for any make-ready and inspections PGE must perform in order to provide access to PGE Facilities for City wires and equipment in accordance with the NESC. Should any of the City's attachments to PGE Facilities violate the NESC, the City shall work with PGE to address and correct such violations in an agreed-upon period of time. The City shall indemnify and hold PGE harmless from loss or damage resulting from the presence of City's wires and equipment on or in PGE Facilities. For purposes of this agreement, "make-ready" shall mean engineering or construction activities necessary to make a pole, conduit, or other support equipment available for a new attachment, attachment modifications, or additional facilities and "wires" includes fiber optic cable. PGE shall meet with the City at least yearly to discuss its plans for new or expanded pole and conduit facilities in the City in order to explore opportunities for City use of such facilities.

8. Payment for use of City ROW.

(A) Franchise Fee and Privilege Tax. The City retains the right, as permitted by Oregon law, to charge a privilege tax based on a percentage of the Gross Revenues earned from PGE's customers within the City for the privilege of using the City ROW as permitted by Oregon law. Should such privilege tax be in the amount of 3 ½ percent or more of the Gross Revenues received by PGE from its customers within the City, PGE agrees to pay such privilege tax as follows: (a) to the City as a franchise fee in the amount of 3 1/2 percent of the Gross Revenues received by PGE from its customers within the City; and (b) the balance of the privilege tax to the City at the same time as the payment of the franchise fee. The franchise fee and privilege tax shall be paid annually for each year during the term of the license on or before April 1. The amounts shall be based on the Gross Revenues received from PGE's customers within the City during the prior calendar year. Each payment shall be accompanied by an accounting of gross revenues, if applicable, and a calculation of the amount payable. To the

extent permissible under state law and regulation, the franchise fee shall be considered an operating expense of PGE and shall not be itemized or billed separately to consumers within the City. The City shall provide PGE at least ninety (90) days' notice prior to any privilege tax or increase in privilege tax becoming effective. PGE shall follow state regulations regarding the inclusion of any part of such privilege tax as an itemized charge on the electricity bills of its customers within the City.

(B) Definition of Gross Revenues. For the purposes of this Agreement, Gross Revenues shall mean any and all revenues derived by PGE within the City from PGE's Electric Light and Power System, and includes, but is not limited to, the sale of and use of electricity and electric service, and the use, rental, or lease of PGE Facilities, after adjustment for the net write-off of uncollectible accounts. Gross Revenues do not include proceeds from the sale of bonds, mortgages or other evidence of indebtedness, securities or stocks, or sales at wholesale by one public utility to another of electrical energy when the utility purchasing such electrical energy is not the ultimate consumer. Gross Revenues also do not include revenue from joint pole use. For purposes of this Agreement, revenue from joint pole use includes any revenue collected by PGE from other franchisees, permittees, or licensees of the City for the right to attach wires, cable or other facilities or equipment to PGE's poles or place them in PGE's conduits. This definition supersedes any definition that may be contained in NMC 12.05 or City resolution during the Term.

9. Financial Assurance. Notwithstanding any provision of NMC 12.05.320.C, the City shall not require PGE to provide a performance bond or other form of surety or financial security unless PGE has demonstrated a pattern of failing to correct material violations of applicable provisions of NMC 12.05. For the purposes of this Section, a "pattern" shall consist of three or more incidents of PGE's failure to correct material violations within the Term after notice from the City and a reasonable opportunity to cure such violations.

10. Damage to PGE's Facilities. The City has required PGE to defend and indemnify the City, and hold the City harmless, in accordance with NMC 12.05.390.C. In the event that the City should damage PGE's Facilities in the course of work performed by or for the City as described in NMC 12.05.310.I, the City shall hold PGE harmless from any and all damage to or loss of such Facilities arising out of the negligent, willful, intentionally tortious, or malicious acts or omissions of the City, its employees or agents in the performance of such work, subject to any applicable limitations in the Oregon Constitution and the Oregon Tort Claims Act. The obligations imposed by this Section are intended to survive termination of this Agreement.

11. Notice. Any notice provided for under this Agreement shall be sufficient if in writing and (1) delivered personally to the following addressee, (2) deposited in the United States mail, postage prepaid, certified mail, return receipt requested, (3) sent by overnight or commercial air courier (such as Federal Express or UPS), or (4) sent by facsimile transmission with verification of receipt, addressed as follows, or to such other address as the receiving party hereafter shall specify in writing:

If to the City: City Manager, City of Newberg, Oregon

PO Box 970
Newberg, Oregon 97132
FAX # (503) 537-5013

With a copy to: City Attorney, City of Newberg

PO Box 970

Newberg, OR 97132
FAX # (503) 537-5013

If to the PGE: Government Affairs
Portland General Electric Company
121 SW Salmon St, 1WTC03
Portland, Oregon 97204
FAX: (503) 464-2354

With a copy to: Portland General Electric Company
Attn: General Counsel
One World Trade Center, 17th Floor
121 SW Salmon Street
Portland, Oregon 97204
FAX: (503) 464-2200

Any such notice, communication or delivery shall be deemed effective and delivered upon the earliest to occur of actual delivery, three (3) business days after depositing in the United States mail, one (1) business day after shipment by commercial air courier or the same day as confirmed facsimile transmission (or the first business day thereafter if faxed on a Saturday, Sunday or legal holiday).

12. Termination. The City may terminate this Agreement under the same terms as provided in NMC 12.05.310.M for termination of a utility license. Such termination shall not affect PGE’s right to provide electric service in the City, which shall be determined in accordance with Oregon statutes and regulations.

13. Limitations of Agreement. All provisions of NMC 12.05 not addressed in this Agreement continue to apply to PGE’s use of City ROW.

IN WITNESS WHEREOF, the parties, through their duly authorized representatives, have executed this Agreement as of the dates indicated below.

PORTLAND GENERAL ELECTRIC COMPANY

CITY of NEWBERG

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: February 16, 2016				
Order ___	Ordinance ___	Resolution ___	Motion <u>XX</u>	Information ___
No. ___	No. ___	No. ___		
SUBJECT: Audit report and Annual Financial Statements for June 30, 2015 and Plan of Action to address deficiencies.			Contact Person (Preparer) for this Item: Matt Zook Dept.: Finance	

RECOMMENDATION:

Staff recommends City Council to accept via motion the auditor’s report and the annual financial statements, and adopt the plan of action to address deficiencies identified in the audit report for June 30, 2015.

EXECUTIVE SUMMARY:

Each fiscal year, the City is required to engage a qualified municipal auditing firm to conduct an audit of the City’s finances and review the financial statements of the City for the purpose of expressing an independent opinion on these financial statements. For the July 1, 2014 to June 30, 2015 fiscal year, the City engaged Boldt, Carlisle + Smith (BCS) of Salem, Oregon to conduct this annual audit and review the financial statements. On January 29, 2016, the City received an unmodified opinion on the financial statements. You have individually been provided a hard copy of these financial statements and two letters from BCS communicating the results of the audit. The public can find the financial statements electronically at the City’s website under the Finance Department documents. At the February 16 Council meeting, Mr. Brad Bingenheimer, partner, of BCS, will present a verbal report to the Council regarding the audit and financial statements.

Regarding the timing of the annual audit, the State of Oregon requires that these annual audits be concluded by December 31 following the close of the fiscal year. The City was granted a 30-day extension by the Secretary of State, which it met by filing the audit on February 1, 2016.

Several factors presented a challenge in completing this year’s audit. One significant task involved in the preparation of the financial statements was the implementation of Governmental Accounting Standards Board (GASB) Statements #67 & #68, which changed the reporting requirements pertaining to pensions. Much more information is presented in the Notes section of the financial statements than in previous years. Second, Finance staff prepared for the audit with less resources than previous years due to the half-time position vacancy that was not filled until the middle of September. Further, each staff member was going through the audit for the first time in Newberg. While some current staff was involved in the past, the main load of audit knowledge and preparation had been carried by former staff members who had been doing it for many years. Staff put in many extra hours to complete this audit, and while we filed the audit report earlier than the June 30, 2014 report, we still have additional needs to get the audit accomplished even earlier in future years. We will evaluate these needs during the upcoming budget process for FY2016-17.

PLAN OF ACTION ADDRESSING DEFICIENCIES IDENTIFIED IN THE AUDIT REPORT:

In an effort to improve sound financial management, as well as to adhere to the requirement of ORS 294.466(2) through (3)(a), staff recommends the following plan of action to address the deficiencies identified in the audit report, which can be found on pages 106 and 113-114 in the financial statements.

Cash Reconciliations – Page 113 in Annual Financial Report

- **Problem Description** - The nature of this material weakness stems originally from staff transition beginning in April 2014. One month of cross-training was inadequate for a successful transition plan. Bank reconciliations were being performed but not completely balanced, and the absence of two key staff positions (Finance Director and Financial Analyst) created an extra burden in keeping up with workloads. Further, the budget for the Financial Analyst vacancy was redirected to contract employees to assist in preparing for the FY 2013-14 audit, which left the department with even less resources to address the workload challenge until July 2015 when the new budget year began.
- **Action Already Taken** - Several steps were taken to rectify this situation throughout calendar year 2015, including the temporary assistance of the former Financial Analyst in August, 2015, as well as filling the Financial Analyst position in September, 2015. Additionally, an independent CPA was brought in to review the bank reconciliation process in December 2015 and provided observations and recommendations. The bank reconciliations are now being performed successfully within a short period after the close of the previous month. Management review of the bank reconciliations is one of the remaining steps to be accomplished.
- **Future Plan of Action** :
 - 1) Create a written internal control document that will strengthen the process for performing the bank reconciliations. Timeline - May 2016.
 - 2) Staff will begin cross-training between the Assistant Finance Director and the Financial Analyst so that there is redundancy in the event of future staff turnover. Timeline : June 2016
 - 3) Staff will be requesting additional personnel in the FY2016-17 budget process to provide additional staff resources to meet the workload demand. Timeline - July 2016.
 - 4) Management will review month-end closing documents, including the bank reconciliation, within two weeks of the close of the previous month. Timeline – Immediately.

Utility Billing Collections and Adjustments – Page 114 in Annual Financial Report

- **Problem Description** – The Finance Department oversees the Utility Billing function. Written internal controls do exist. However, the application of the adjustment review process, which was being done as part of the bank reconciliation process, was not being performed after the transition of the bank reconciliation process in April 2014.
- **Action Already Taken** – Staff has resumed the routine review of bill adjustments since December 2015.
- **Future Plan of Action** – A complete review of internal controls and system efficiencies in the Utility Billing function by an external consultant will be requested for the FY 2016-17 budget process, probably in the \$5-15k range, depending on the scope of work. Staff is aware of at least three external parties that could be engaged to perform a review and make recommendations for improved internal controls and system efficiencies. Timeframe – Fall 2016. These recommendations would then be evaluated by staff using a cost/benefit approach and addressed during the FY 2016-17 fiscal year. Timeframe – December 2016. If budget resources are unavailable for an external consultant, the review will be conducted either by additional staff requested through the budget process or by existing staff, which would be accomplished by March 2017.

Preparation of the Financial Statements – Page 113 in Annual Financial Report

- Problem Description – Due to staff transition, as noted above, the Finance Department has not had the expertise nor the resources to produce the financial statements in-house as done previously. The Finance Department formerly had a dedicated, long-time Financial Analyst prepare the financial statements. The auditor has prepared the financial statements the last two years. This is an additional service for which the City pays approximately \$11,000. While it is ideal for these statements to be prepared internally and reviewed by the auditors, there is a considerable amount of complexity and dedicated training necessary to produce the additional statements required by the GASB. The production of the financial statements by the auditor is a fairly common approach by many public entities.
- Action Already Taken – In April 2015, staff met with BCS to discuss a plan of action to bring the financial statement preparation back to the City. The outcome chosen was to invest time and money into using the financial statement software used by BCS. The City paid for training from BCS and purchased the software in the summer of 2015. It became clear that the efforts were more ambitious than realistic in light of the learning curve and limited staff resources to both prepare for the June 30, 2015 audit and produce the statements. BCS agreed to produce these statements another year. The benefit of the funds already spent will remain as described in the future plan of action below.
- Future Plan of Action – The City still maintains the goal of producing the financial statements in-house, provided additional resources or a longer training curve is provided. In order to accomplish this, however, additional resources need to be obtained in the form of dedicated staff. The existing staff is currently designed to maintain the day-to-day operations and would be stretched thin to take on this additional task. The additional staff request will be made in the FY 2016-17 budget process. The additional staff requested would be designed to address all of the concerns mentioned above and utilize the existing software and training purchased in 2015. Timeline – The production of the June 30, 2016 financial statements by December 2016.

Municipal Court Fines – Page 114 in Annual Financial Report

- Problem Description – The Court internal controls has not utilized the software appropriately to maintain a separate login for each user of the system. Further, there has not been an adequate monitoring of the transactional activity. This comment originally appeared in the audit for June 30, 2012.
- Action Already Taken – A strong management emphasis has set the tone for internal controls in the Court area, as in the entire Finance Department. Staff has begun to review the Court internal controls and make changes necessary to strengthen these internal controls. Specifically, the single log-in has been eliminated and individual user log-ins have been assigned to each staff member. Additionally, the access to code maintenance has been segregated from Court operations and given to management. Finally, management and staff established a regular meeting schedule to review Court operations and issues, strengthening the relationship and trust as internal control changes are made.
- Future Plan of Action – Additional review of internal controls is underway using existing staff. Specific items to address are control procedures for transaction and adjustment review. A system-wide review is highly recommended, preferably by an independent third-party. This review request will be included in the FY 2016-17 budget process, with the outcome a fresh set of written internal controls spread among existing staff. Timeline – Fall 2016.

Expenditures in Excess of Appropriations – Page 106 in Annual Financial Report

- Problem Description – Two budget appropriation categories were overspent – Admin Support Services Fund, Public Works Dept and Vehicle/Equipment Replacement Fund, Public Works Dept. The error made in the Finance Department was the result of expanding knowledge of accounting principles and is clearly understood at this time. The over-expenditure made in the Public Works Department is the result of a year-end inventory adjustment.
- Action Already Taken – Staff is looking further into the Public Works Fleet Maintenance inventory system to ensure that any year-end accounting adjustments fall within existing budget.
- Future Plan of Action – Staff coordination between Finance and Public Works to understand the inventory/work order system of Fleet Maintenance Department to better anticipate and/or eliminate year-end adjustments. Timeframe – March 2016.

Beginning Fund Balance Estimates – Page 106 in Annual Financial Report

- Problem Description – Budget estimates are typically created in February/March of each year. Estimates for funds that are heavily involved in capital projects can be harder to estimate due to timing in the construction season, variations in economic activity, or other such factors.
- Action Already Taken – None
- Future Plan of Action – Staff will continue to sharpen their estimating skills, although there will always be a tendency to use more conservative estimates, which would lend to estimating beginning balances lower than actual, as occurred with these five funds. Timeframe – Ongoing.

Ending Fund Balance in Second Preceding Year not Matching Beginning Fund Balance in First Preceding Year

- Problem Description – The Debt Service and City Hall Funds in the FY 2015-16 Adopted Budget document did have correct numbers in the City's accounting records. However, the document only included summary information that did not reflect the correct level of detail. The proper level of detail will be included in the FY 2016-17 budget document. Timeframe – Immediate.

FISCAL IMPACT:

There is no fiscal impact involved in accepting this report. The financial impacts proposed in the plan of action will be vetted and approved through the budget process.

STRATEGIC ASSESSMENT:

The Council action recommended will continue moving the City forward toward managing and operating the City in an efficient and effective manner (Goal #7).

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: February 16, 2016

Order ___ No.	Ordinance ___ No.	Resolution ___ No.	Motion ___	Information <u>XX</u>
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**SUBJECT: Newberg Financial Report for
December 2015**

**Contact Person (Preparer) for this
Item: Matt Zook
Dept.: Finance**

EXECUTIVE SUMMARY:

Included with this report are the financial summary statements for December 2015. These are provided for your information only. No action is required.

In general, the December report is on track with the budget. The Supplemental Budget passed by Council on January 19, 2016 will be reflected in the January report. Staff is working diligently on preparing estimates for the rest of the current fiscal year and preparing for the 2016-17 Proposed Budget.

SUMMARY REPORT

DEC 2015

FUNDS	2015-16 BUDGET	MONTH OF DEC 2015	2015-16 YTD	Current YTD	2014-15 PRIOR YTD
				Compare to Budget 50%	
City Budget Totals					
Total Beg Fund Balance	\$ 33,133,594	\$ 38,243,710	\$ 38,243,710	115%	31,493,673
Total Revenues	55,031,136	2,552,988	24,151,354	44%	34,480,641
Total Beg Fund Bal & Revenues	88,164,730	40,796,698	62,395,064		65,974,314
Total Expenses	63,999,403	5,532,721	21,062,041	33%	29,369,420
Total Contingencies / Reserves	24,165,327	-	-	0%	-
Total Exp & Contingen / Reserves	88,164,730	5,532,721	21,062,041	24%	29,369,420
Total Monthly Activity Net Gain / (Loss)		\$ 35,263,977			
Total Ending Fund Balance			<u>\$ 41,333,023</u>		36,604,894

City Services

General Fund

Beg Fund Balance	\$ 2,528,413	\$ 2,797,675	\$ 2,797,675	111%	2,835,743
Revenues					
General Government	-	-	-	0%	15,155.00
Municipal Court	31,000	1,302	13,436	43%	13,416
Police	1,074,135	67,302	538,009	50%	549,959
Fire	330,504	96,632	96,722	29%	31,576
Communications	59,686	-	29,787	50%	28,308
Library	112,859	3,621	38,152	34%	61,529
Planning	476,700	17,351	247,965	52%	273,781
Property Taxes	7,200,000	-	6,498,324	90%	6,321,247
Other Taxes	1,400	-	125	9%	203,977
Franchise Fees	1,486,882	-	81,076	5%	79,637
Intergovernmental	1,246,755	80,641	572,593	46%	555,500
Miscellaneous	2,500	(14)	5,729	229%	1,499
Interest	7,300	1,798	3,480	48%	3,539
Transfers	555,000	-	-	0%	-
Revenue Total	12,584,721	268,633	8,125,398	65%	8,139,123
Expenses					
General Government	178,758	13,845	101,631	57%	187,659
Municipal Court	356,023	45,522	182,062	51%	162,067
Police	5,695,178	552,329	2,829,902	50%	2,750,504
Fire	3,356,599	329,439	1,868,688	56%	1,681,383
Communications	1,061,396	95,665	564,423	53%	549,553
Library	1,251,056	103,502	680,540	54%	622,118
Planning	613,035	54,319	301,593	49%	302,276
Transfers	39,067	-	12,323	32%	-
Contingency	1,462,022	-	-	0%	-
Unappropriated Ending Balance	1,100,000	-	-	0%	-
Total Expenses	15,113,134	1,194,620	6,541,163	43%	6,255,560
Monthly Activity Net Gain / (Loss)		\$ 1,871,688			
Ending Fund Balance			\$ 4,381,910		4,719,305

SUMMARY REPORT

DEC 2015

FUNDS	2015-16				Current YTD Compare to Budget 50%	2014-15 PRIOR YTD
	BUDGET	MONTH OF DEC 2015	2015-16 YTD			
<u>Public Safety Fee</u>						
Beg Fund Balance	\$ 134,969	\$ 197,858	\$ 197,858	147%	196,153	
Revenues	480,600	40,721	242,909	51%	143,533	
Expenses	522,796	56,822	253,692	49%	225,875	
Contingencies / Reserves	92,773	-	-	0%	-	
Monthly Activity Net Gain / (Loss)		\$ 181,757				
Ending Fund Balance			\$ 187,075		113,810	
<u>EMS</u>						
Beg Fund Balance	\$ 595,725	\$ 806,952	\$ 806,952	135%	457,509	
Revenues	1,791,600	165,726	1,178,705	66%	980,161	
Expenses	1,789,930	196,747	857,261	48%	941,285	
Contingencies / Reserves	597,395	-	-	0%	-	
Monthly Activity Net Gain / (Loss)		\$ 775,931				
Ending Fund Balance			\$ 1,128,397		496,384	
<u>911 Emergency</u>						
Beg Fund Balance	\$ 19,768	\$ 20,940	\$ 20,940	106%	89,061	
Revenues	196,200	(11)	52,623	27%	50,896	
Expenses	197,566	20,931	102,365	52%	114,338	
Contingencies / Reserves	18,402	-	-	0%	-	
Monthly Activity Net Gain / (Loss)		\$ (2)				
Ending Fund Balance			\$ (28,802)		25,619	
<u>Civil Forfeiture</u>						
Beg Fund Balance	\$ 19,596	\$ 20,146	\$ 20,146	103%	-	
Revenues	4,100	11	4,072	99%	3,582	
Expenses	23,696	-	-	0%	-	
Contingencies / Reserves	-	-	-	0%	-	
Monthly Activity Net Gain / (Loss)		\$ 20,157				
Ending Fund Balance			\$ 24,218		3,582	
<u>Library Gift & Memorial</u>						
Beg Fund Balance	\$ 48,169	\$ 86,434	\$ 86,434	179%	92,623	
Revenues	129,389	2,125	17,364	13%	22,711	
Expenses	171,000	4,862	18,192	11%	31,348	
Contingencies / Reserves	6,558	-	-	0%	-	
Monthly Activity Net Gain / (Loss)		\$ 83,698				
Ending Fund Balance			\$ 85,606		83,986	

SUMMARY REPORT

DEC 2015

FUNDS	2015-16 BUDGET	MONTH OF DEC 2015	2015-16 YTD	Current YTD	2014-15 PRIOR YTD
				Compare to Budget 50%	
<u>Building Inspection</u>					
Beg Fund Balance	\$ 404,838	\$ 620,378	\$ 620,378	153%	339,929
Revenues	407,850	25,764	277,769	68%	324,404
Expenses	456,453	43,543	225,129	49%	206,564
Contingencies / Reserves	356,235	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 602,600			
Ending Fund Balance			\$ 673,019		457,769
<u>Streets (Operating)</u>					
Beg Fund Balance	\$ 808,548	\$ 798,186	\$ 798,186	99%	689,103
Revenues	1,343,520	109,014	606,277	45%	609,487
Expenses	1,516,339	121,589	817,739	54%	638,099
Contingencies / Reserves	635,729	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 785,611			
Ending Fund Balance			\$ 586,724		660,491
<u>Water (Operating)</u>					
Beg Fund Balance	\$ 3,294,255	\$ 3,773,455	\$ 3,773,455	115%	4,783,887
Revenues	9,851,130	323,228	3,443,572	35%	3,099,559
Expenses	8,298,954	738,453	2,063,307	25%	2,445,252
Contingencies / Reserves	4,846,431	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 3,358,230			
Ending Fund Balance			\$ 5,153,720		5,438,194
<u>Wastewater (Operating)</u>					
Beg Fund Balance	\$ 4,403,799	\$ 4,944,662	\$ 4,944,662	112%	7,576,184
Revenues	11,780,602	638,717	3,541,685	30%	3,032,830
Expenses	8,419,662	885,425	3,336,936	40%	3,943,825
Contingencies / Reserves	7,764,739	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 4,697,954			
Ending Fund Balance			\$ 5,149,411		6,665,189
<u>Stormwater (Operating)</u>					
Beg Fund Balance	\$ 573,645	\$ 731,487	\$ 731,487	128%	1,004,730
Revenues	1,924,972	101,139	623,024	32%	588,396
Expenses	1,680,019	129,774	740,814	44%	441,392
Contingencies / Reserves	818,598	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 702,851			
Ending Fund Balance			\$ 613,697		1,151,734

SUMMARY REPORT

DEC 2015

FUNDS	2015-16 BUDGET	MONTH OF DEC 2015	2015-16 YTD	Current YTD	2014-15 PRIOR YTD
				Compare to Budget 50%	
Administrative Support					
Beg Fund Balance	\$ 563,272	\$ 588,457	\$ 588,457	104%	684,851
Revenues	3,652,103	304,386	1,833,451	50%	1,821,346
Expenses					
City Manager	529,362	48,483	372,249	70%	133,831
Human Resources	-	-	-	0%	65,381
City Recorder	-	-	-	0%	60,266
Emergency Management	-	-	-	0%	-
Finance	544,827	56,536	299,908	55%	284,416
Gen Office(Postage/Phones)	155,000	11,262	70,411	45%	68,632
Utility Billing	275,106	24,073	137,296	50%	131,170
Information Technology	683,610	70,390	358,627	52%	323,499
Legal	497,180	33,035	221,277	45%	214,305
Fleet Maintenance	178,772	13,060	87,138	49%	76,258
Facilities Repair/Replacement	417,695	29,554	189,474	45%	180,255
Insurance	353,168	-	297,260	84%	242,717
Transfers	-	-	-	0%	500,000
Contingencies / Reserves	580,655	-	-	0%	-
Total Expenses	4,215,375	286,392	2,033,640	48%	2,280,729
Monthly Activity Net Gain / (Loss)		\$ 606,450			
Ending Fund Balance			\$ 388,267		225,468
Capital Improvement Projects					
Streets CIP's					
Beg Fund Balance	\$ 164,193	\$ 164,209	\$ 164,209	0%	109,838
Revenues	778,425	21,207	571,110	73%	282,897
Expenses	777,625	21,112	570,470	73%	282,535
Contingencies / Reserves	164,993	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 164,304			
Ending Fund Balance			\$ 164,849		110,200
Water / Wastewater / Stormwater CIP's					
Beg Fund Balance	\$ -	\$ -	\$ -	0%	-
Revenues	6,346,875	124,922	1,068,653	17%	3,841,683
Expenses	6,346,875	124,922	978,902	15%	1,864,667
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ -			
Ending Fund Balance			\$ 89,751		1,977,015
Wastewater Financed CIP's					
Beg Fund Balance	\$ -	\$ (749,096)	\$ (749,096)	0%	-
Revenues	-	-	-	0%	6,671,082
Expenses	-	-	173,023	0%	5,530,711
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ (749,096)			
Ending Fund Balance			\$ (922,119)		1,140,371

SUMMARY REPORT

DEC 2015

FUNDS	2015-16 BUDGET	MONTH OF DEC 2015	2015-16 YTD	Current YTD	2014-15 PRIOR YTD
				Compare to Budget 50%	
Street SDC					
Beg Fund Balance	\$ 1,918,739	\$ 2,574,473	\$ 2,574,473	134%	2,534,551
Revenues	47,839	13,555	409,838	857%	407,674
Expenses	259,125	899	121,140	47%	111,040
Contingencies / Reserves	1,707,453	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 2,587,129			
Ending Fund Balance			\$ 2,863,171		2,831,185
Water SDC					
Beg Fund Balance	\$ 36	\$ 1,239,405	\$ 1,239,405	3442793%	468,918
Revenues	927,540	25,083	222,874	24%	291,646
Expenses	846,856	757,834	758,000	90%	1,372,022
Contingencies / Reserves	80,720	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 506,654			
Ending Fund Balance			\$ 704,279		(611,458)
Wastewater SDC					
Beg Fund Balance	\$ 3,475,181	\$ 4,175,483	\$ 4,175,483	120%	1,794,112
Revenues	75,120	50,711	345,928	461%	941,847
Expenses	739,361	280,127	284,700	39%	408,334
Contingencies / Reserves	2,810,940	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 3,946,067			
Ending Fund Balance			\$ 4,236,711		2,327,625
Stormwater SDC					
Beg Fund Balance	\$ 138,259	\$ 131,416	\$ 131,416	95%	351,007
Revenues	3,980	1,507	24,804	623%	24,007
Expenses	3,125	1,200	1,366	44%	603
Contingencies / Reserves	139,114	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 131,724			
Ending Fund Balance			\$ 154,855		374,411

SUMMARY REPORT

DEC 2015

FUNDS	2015-16 BUDGET	MONTH OF DEC 2015	2015-16 YTD	Current YTD	2014-15 PRIOR YTD
				Compare to Budget 50%	
Debt					
<u>Debt Service (General Op)</u>					
Beg Fund Balance	\$ 206,309	\$ 210,221	\$ 210,221	102%	195,259
Revenues	896,711	257,123	723,648	81%	727,072
Expenses	895,317	468,173	551,022	62%	537,566
Contingencies / Reserves	207,703	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ (829)			
Ending Fund Balance			\$ 382,847		384,765
<u>City Hall</u>					
Beg Fund Balance	\$ 529,638	\$ 535,601	\$ 535,601	101%	576,115
Revenues	89,400	4,152	43,109	48%	54,344
Expenses	108,240	95,224	95,224	88%	76,977
Contingencies / Reserves	-	-	-	0%	-
Unappropriated Ending Balance	510,798	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 444,529			
Ending Fund Balance			\$ 483,486		553,482
Reserves					
<u>Water Replacement Reserve</u>					
Beg Fund Balance	\$ 5,018,630	\$ 5,151,846	\$ 5,151,846	103%	2,961,007
Revenues	-	-	-	0%	612,435
Expenses	5,018,630	-	-	0%	32,651
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 5,151,846			
Ending Fund Balance			\$ 5,151,846		3,540,791
<u>Wastewater Replacement Reserve</u>					
Beg Fund Balance	\$ 5,193,602	\$ 6,446,100	\$ 6,446,100	124%	1,234,745
Revenues	-	-	-	0%	1,015,453
Expenses	5,193,602	-	-	0%	1,178,186
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 6,446,100			
Ending Fund Balance			\$ 6,446,100		1,072,013
<u>Stormwater Replacement Reserve</u>					
Beg Fund Balance	\$ 814,722	\$ 684,702	\$ 684,702	84%	-
Revenues	-	-	-	0%	51,876
Expenses	814,722	-	-	0%	-
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 684,702			
Ending Fund Balance			\$ 684,702		51,876

SUMMARY REPORT

DEC 2015

FUNDS	2015-16 BUDGET	MONTH OF DEC 2015	2015-16 YTD	Current YTD	2014-15 PRIOR YTD
				Compare to Budget 50%	
<u>Vehicle / Equipment Replacement</u>					
Beg Fund Balance	\$ 1,367,710	\$ 1,362,426	\$ 1,362,426	100%	1,658,968
Revenues	\$ 653,111	\$ 53,089	\$ 335,925	51%	553,256
Expenses					
General Government	1,348	-	-	0%	-
City Manager's Office	4,856	-	-	0%	-
Human Resources	-	-	-	0%	-
City Recorder/Clerk	-	-	-	0%	-
Finance	17,267	-	284	2%	-
Information Technology	241,635	5,844	70,027	29%	164,397
Legal	411	-	-	0%	-
Municipal Court	4,548	-	560	12%	-
Police	530,369	-	123,181	23%	76,892
Fire	494,099	-	-	0%	-
Communications	97,865	-	2,694	3%	6,149
Library	11,374	110	862	8%	-
Planning	-	-	-	0%	11,137
Building	49,573	-	280	1%	-
PW Administration	381,089	-	49,403	13%	99,797
Fleet Maintenance	14,521	20	232	2%	254
Facilities Repair/Replacement	157,000	66,979	69,178	44%	-
Contingencies / Reserves	14,866	-	-	0%	-
Total Expenses	2,020,821	72,953	316,702	16%	358,627
Monthly Activity Net Gain / (Loss)		\$ 1,342,562			
Ending Fund Balance			\$ 1,381,649		1,853,596
<u>Fire & EMS Equip Fee</u>					
Beg Fund Balance	\$ 244,012	\$ 246,483	\$ 246,483	101%	174,453
Revenues	143,700	12,335	73,442	51%	72,148
Expenses	387,712	11,179	11,179	3%	11,179
Contingencies / Reserves	-	-	-	0%	-
Monthly Activity Net Gain / (Loss)		\$ 247,639			
Ending Fund Balance			\$ 308,746		235,423

SUMMARY REPORT

DEC 2015

FUNDS	2015-16		MONTH OF	2015-16		Current YTD	2014-15
	BUDGET		DEC 2015	YTD		Compare to Budget	
						50%	PRIOR YTD
Community Projects							
<u>Cable TV Trust</u>							
Beg Fund Balance	\$ 38,171	\$ 37,339	\$ 37,339	98%			41,744
Revenues	200	17	86	43%			92
Expenses	38,371	-	50	0%			-
Contingencies / Reserves	-	-	-	0%			-
Monthly Activity Net Gain / (Loss)		\$ 37,356					
Ending Fund Balance			\$ 37,375				41,836
<u>Economic Development</u>							
Beg Fund Balance	\$ 629,395	\$ 646,472	\$ 646,472	103%			643,183
Revenues	66,448	3,715	34,653	52%			117,101
Expenses	446,640	8,467	141,180	32%			80,053
Contingencies / Reserves	249,203	-	-	0%			-
Monthly Activity Net Gain / (Loss)		\$ 641,719					
Ending Fund Balance			\$ 539,945				680,232
<u>Transient Lodging Tax</u>							
Beg Fund Balance	\$ -	\$ -	\$ -	0%			-
Revenues	855,000	6,118	350,436	41%			-
Expenses	855,000	11,471	68,847	8%			-
Contingencies / Reserves	-	-	-	0%			-
Monthly Activity Net Gain / (Loss)		\$ (5,353)					
Ending Fund Balance			\$ 281,589				-

REQUEST FOR COUNCIL ACTION

Date of Council Meeting: February 16, 2016

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

**SUBJECT: Forward Looking Calendar,
Traffic Safety Commission Vacancy**

**Contact Person (Preparer) for this
Item: Sue Ryan, City Recorder
Dept.:
File No.:**

EXECUTIVE SUMMARY: These items are informational for the Council and the public.

The city of Newberg is seeking applications from citizens to serve on the Traffic Safety Commission. This is an opportunity to serve and be part of the decision-making team governing your community. Applications are available on the city's website at <https://www.newbergoregon.gov/citycouncil/> or from the City Recorder's Office at city hall (414 E. 1st Street), cityrecorder@newbergoregon.gov and submitted via mail, email, or in person. Questions ? Contact City Recorder Sue Ryan at cityrecorder@newbergoregon.gov or call (503) 537-1283.

Traffic Safety Commission - 1 vacancy with 3-year term starting in March 2016;

The purpose of the Traffic Safety Commission is to promote traffic safety through investigation, study, and analysis of traffic patterns. The Commission makes decisions on the location of parking, crosswalks, safety zones, traffic lanes, truck routes, and all manner of traffic control devices within the community. In addition, they conduct and promote traffic safety programs. The commission has 9 members and generally meets each month.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS): To keep the citizenry informed.

**NEWBERG CITY COUNCIL
2016 FORWARD LOOKING CALENDAR**

Monday, March 7, 2016

Work Session on Urban Forestry Program
Work Session on Newberg Animal Shelter Contract Review
Committee appointments for Planning & Traffic Safety Commissions
Resolution Employment action tentative for Library substitute
Resolution 3255 Tourism Consultant Contract
Resolution 3257 Administrative public hearing for utility rates
Resolution 3254 Tualatin Valley Fire and Rescue contract
Ordinance 2796 Transportation System Plan Amendment Newberg Dundee Bypass Highway 219 Southbound lane removal
Information on Newberg Affordable Housing Commission micro grant/loan program for manufactured housing rehabilitation

Monday, March 14, 2016 Executive Session at 6:00 p.m.

Executive Session – Review of City Manager applications

Monday, March 21, 2016

Work Session – Committee Reports
Resolution on Murray Smith Contract amendment
Resolution on Villa Road ROW acquisition
Resolution on Relay for Life Festival Day
Council Priorities timelines
Ordinance: Recreational Marijuana Producers and Processors – time, place and manner
Ordinance 2794 Transportation System Plan amendment for Wilsonville Road & Newberg Dundee Bypass
Presentation on Sportsman Airpark
Presentation on Cultural District Report
Information on January Financial Reports
Information on Yamhill County Housing Authority CDBG grant

Monday, April 4, 2016

Work Session – Design Star Kids presentations
Ordinance on Rourke annexation
Resolution tentative on Master Fee Schedule Adoption

Saturday, April 9, 2016 9:00 a.m. to 3:00 p.m.

Executive Session City Manager 1st round interviews

Other upcoming Council meetings

Monday, March 28 – 4:00 p.m. Economic Development Strategy Meeting
Thursday, April 14 – 6:00 p.m. Chehalem Future Focus at Cultural Center
Saturday, April 16 – 9:00 a.m. to 2:00 p.m. Budget Committee Tour and orientation

March 2016

March 2016							April 2016						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
6	7	1	2	3	4	5	3	4	5	6	7	8	9
13	14	8	9	10	11	12	10	11	12	13	14	15	16
20	21	22	23	24	25	26	17	18	19	20	21	22	23
27	28	29	30	31			24	25	26	27	28	29	30

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Feb 28	29	Mar 1	2	3	4	5
6	7 Council Meeting, 6 p.m. (PSB)	8	9	10	11	12
13	14 Council Meeting, Executive Session, 6 p.m. (City Hall 1st floor)	15	16	17	18	19
20	21 Council Meeting, 6 p.m. (PSB)	22	23	24	25	26
27	28 Economic Development Meeting, 4 p.m. (location tbd)	29	30	31	Apr 1	2

April 2016

April 2016							May 2016						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
3	4	5	6	7	1	2	1	2	3	4	5	6	7
10	11	12	13	14	15	16	8	9	10	11	12	13	14
17	18	19	20	21	22	23	15	16	17	18	19	20	21
24	25	26	27	28	29	30	22	23	24	25	26	27	28
							29	30	31				

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Mar 27	28	29	30	31	Apr 1	2
3	4 Council Meeting, 6 p.m., PSB	5	6	7	8	9 Council Meeting, Executive Session, 9 - 3 p.m. (location tbd)
10	11	12	13	14 Chehalem Future Focus, 6 p.m., Cultural Center	15	16 Budget Committee tour and orientation, 9 - 2 p.m.
17	18 Council Meeting, 6 p.m. (PSB)	19	20	21	22	23 Council Meeting, Executive Session, 9 - 3 p.m. (location tbd)
24	25	26 Budget Committee Meeting 6-8 p.m. (PSB)	27	28	29	30

May 2016

May 2016

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

June 2016

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
May 1	2 Council Meeting, 6 p.m. (PSB)	3 Budget Committee Meeting, 6-8 p.m. (PSB)	4	5	6	7
8	9	10 Budget Committee Meeting, 6-8 p.m. (PSB)	11	12	13	14
15	16 Council Meeting, 6 p.m. (PSB)	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	Jun 1	2	3	4