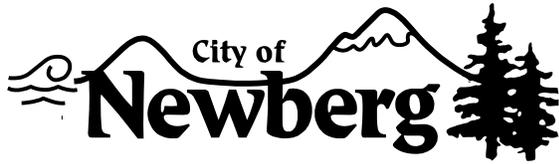


**NEWBERG HISTORIC
PRESERVATION COMMISSION
MEETING AGENDA
Tuesday, June 16, 2015
7:00 p.m., Newberg City Hall
Permit Center Conference Room
414 E. First Street, Newberg, OR**

- I. Open Meeting**
- II. Roll Call**
- III. Approval of May 11, 2015 Meeting Minutes**
- IV. Scope of work for grant – confirm before issuing RFP**
- V. Training refresher: How to conduct a quasi-judicial hearing**
- VI. Next Meeting – July 21, 2015 (third Tuesday of the month)**
- VII. Other Business**
- VIII. Adjourn**



**NEWBERG HISTORIC
PRESERVATION COMMISSION
MEETING MINUTES
Monday, May 11, 2015
7:00 p.m., Newberg City Hall
Permit Center Conference Room
414 E. First Street, Newberg, OR**

I. Open Meeting – 7:00 p.m.

II. Roll Call - Commissioner attendees included Chairman Rick Fieldhouse, Vice-Chairman Chuck Zickefoose, Barbara Doyle, Ryan Howard, and Geary Linhart. Excused absence: Isamar Ramirez.

Staff present: Associate Planner Steve Olson; Community Development Director Doug Rux

III. Approval of February 17, 2015 Meeting Minutes – The Commissioners noted some changes that needed to be made in the minutes. The CPRD signs do not use QR codes, they use phone numbers to provide information. The NDC downtown tour was composed by George Edmonston, but not narrated. Zickefoose moved to accept the minutes with the changes noted, seconded by Linhart. The motion carried unanimously.

IV. Discussion: Grant scope of work – Staff reviewed the preliminary scope of work, and the RLS that SHPO did in Newberg in 2013. Newberg has the opportunity to shift some of the funds targeted to RLS to other parts of the project. The Commissioners discussed the opportunity, and settled on three changes: 1) Take the RLS completed by SHPO and amend it slightly to match the downtown map being used for the TGM grant (include Institutional zone and part of Main St.); 2) Add some additional ILS properties to potentially add to the city historic landmark list, or to work towards the National Register (in either case, survey the property owners first); 3) Increase the public education effort and use readily available digital platforms (such as Google Maps or Bump) to help create a walking tour. Make the information available on Wikipedia and other platforms.

V. Next Meeting – June 16, 2015

VI. Other Business – None.

VII. Adjourn – 8:20 p.m.

Approved by the Newberg Historic Preservation Commission this 16th day of June, 2015.

AYES:

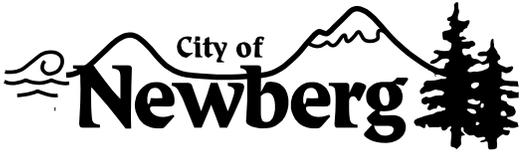
NO:

ABSENT:

ABSTAIN:

**Steve Olson
Minutes Recorder**

**Rick Fieldhouse,
Historic Preservation Commission Chair**



Community Development Department
P.O. Box 970 ▪ 414 E First Street ▪ Newberg, Oregon 97132
503-537-1240 ▪ Fax 503-537-1272 ▪ www.newbergoregon.gov

MEMORANDUM

TO: Newberg Historic Preservation Commission
FROM: Steve Olson, Associate Planner
SUBJECT: Grant scope of work & Training on holding quasi-judicial hearings
DATE: June 16, 2015

Study area map: Last month we discussed revising the scope of work for the grant to take advantage of the RLS work that SHPO did for Newberg in 2013. When we reviewed the 2013 RLS map we realized that we wanted the downtown RLS to cover a slightly wider area. The city is using a larger map for the Downtown Improvement Plan TGM grant, and the Commissioners wanted to consider using that. Please review the two maps on the next page and advise if we should use the same map for the Certified Local Government (CLG) historic grant that we are using for the Downtown Improvement Plan grant.

Revised Budget estimate: We also discussed revising the budget to reflect the different study area, and take advantage of the RLS work done by SHPO in 2013. Please review the revised project budget below. It acknowledges that there will still be some RLS work to do because of the larger study area, but shifts \$2,000 to the ILS work and \$2,000 to the public education work.

The total project budget is \$26,000.00.

The original project budget

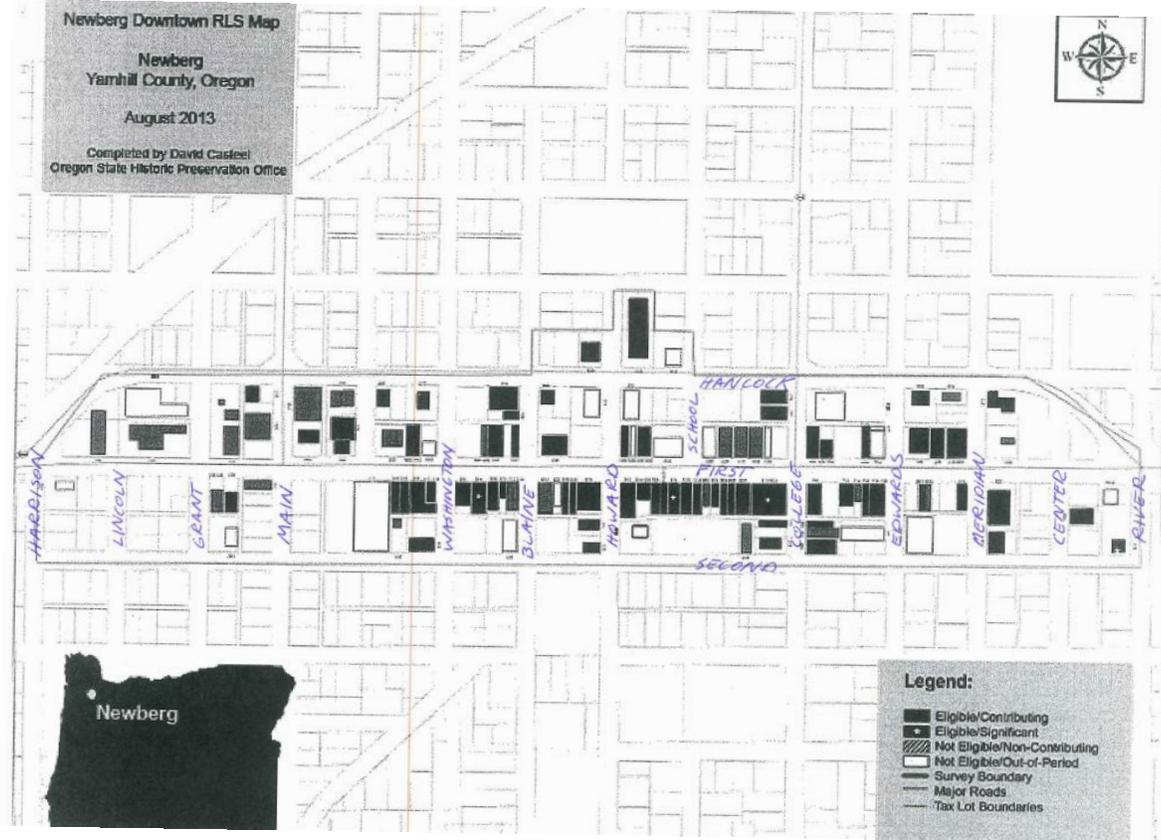
1. RLS (est. 50 sites)	\$6,075.00
2. ILS (est. 4 sites)	\$11,375.00
3. Education	\$5,700.00
4. Other	\$2,850.00

Revised project budget

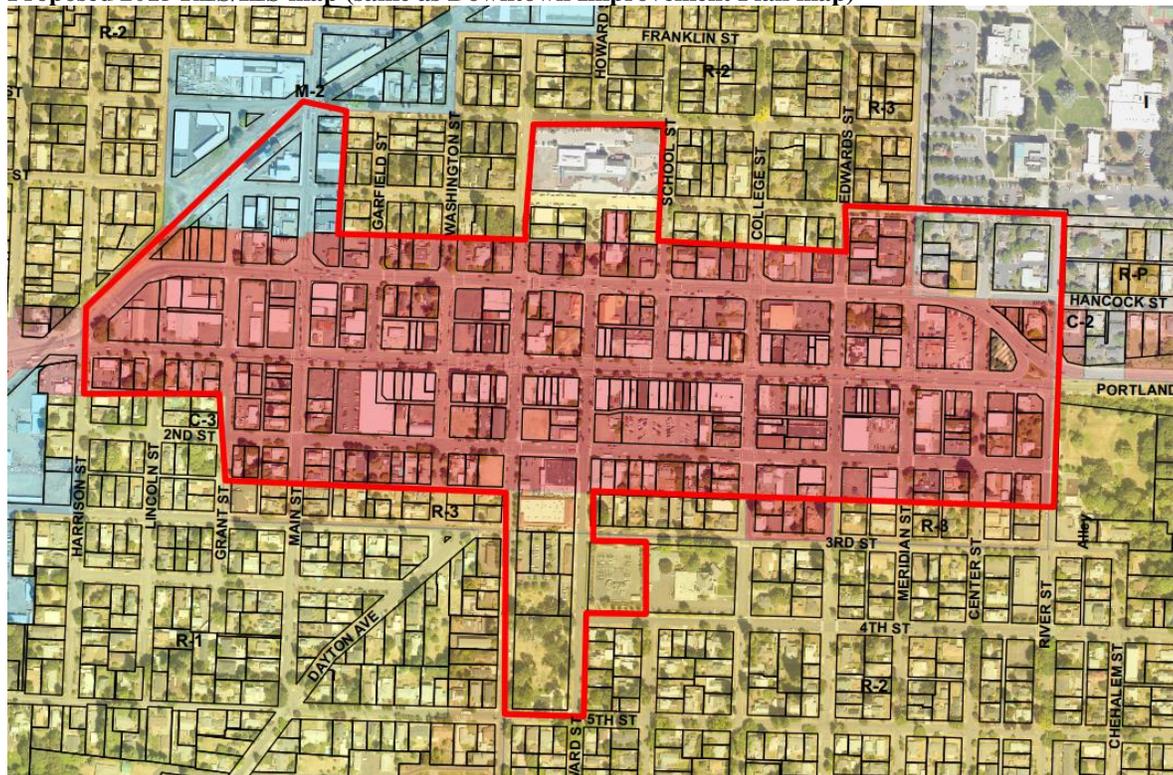
1. RLS (est. 15 sites)	\$2,075.00
2. ILS (est. 5-6 sites)	\$13,375.00
3. Education	\$7,700.00
4. Other	\$2,850.00

If the Commissioners confirm the revised study area and budget then staff will work with SHPO over the next month to revise the grant agreement and draft a RFP so we can hire a consultant and get to work.

Map from 2013 RLS



Proposed 2015 RLS/ILS map (same as Downtown Improvement Plan map)



Training: How to hold a quasi-judicial hearing and make a decision on an application to modify a historic landmark

Last fall we held an introductory training session on the quasi-judicial process, which governs how the Historic Preservation Commission holds public hearings and makes decisions on applications to modify historic landmark buildings and sites. At our July meeting the HPC will have one or possibly two applications to consider, so we will review the attached material and walk through the steps in the hearing process.

Attachment A is a chapter out of an “Introductory Guide to Land Use Planning for Small Cities and Counties in Oregon.” It explains what the quasi-judicial process is, and some of the key concepts:

- It applies to land use decisions for individual sites
- The Commission will hold a public hearing, listen to testimony, determine what the relevant facts are, and make findings on whether the application meets the relevant criteria.
- The Commission can approve the application as proposed, approve the application with conditions (if conditions are necessary to make the application meet the criteria), or deny the application if it does not meet the criteria.
- The Commissioners should avoid ex-parte contact about the issues in a quasi-judicial hearing. This means the Commissioners should not discuss the applications among themselves prior to the hearing, and should also not talk to members of the community about the hearing items. If a Commissioner is familiar with the site of an application then they should state that at the beginning of the hearing, and note any observations they have made about the site. The key point is that a quasi-judicial decision must be based on information in the application or stated at the hearing so that all parties have the opportunity to hear all of the evidence and have an opportunity to comment or rebut the information.
- It is also important for the Commissioners to state at the beginning of the hearing if they have a bias or conflict of interest regarding the hearing.

Attachment B is the Planning Commission Rules and Guidelines. The HPC can use these same rules to conduct public hearings. Page 18 has a good outline of the quasi-judicial public hearing process, which the chair can use to run the meeting. The last page includes a list of statements that State law (ORS 197.763) requires to be read out loud at the start of a public hearing.

An Introductory Guide to Land Use Planning for Small Cities and Counties in Oregon



**Produced by the
Oregon Department of Land Conservation and Development**

January 2007

Chapter 11

Types of Public Hearings

In processing land use actions in Oregon, there are two types of public hearing procedures: legislative and quasi-judicial. The two-hearing processes differ significantly in the procedural and public notice requirements.

A legislative hearing is a public hearing in which the planning commission, city council, board of commissioners, or county court is acting as a legislator, making new law. A quasi-judicial hearing is a type of land use proceeding in which the decision maker is acting in the capacity of a judge.

When deciding whether a particular matter is legislative or quasi-judicial, ask three questions:

- Does the issue being considered affect only one or a few parcels and a small number of property owners?
- Does the decision have to comply with existing approval criteria?
- Is the jurisdiction required to make a decision on the matter?

If the answers to these questions are yes, then use quasi-judicial procedures. If the answers to all the questions are no, it is a legislative matter. Sometimes the answers are mixed and it is not clear which hearing procedure should be employed. Legal counsel will be able to help decide ambiguous cases.

Legislative Hearings

Legislative hearings typically occur when considering amendments to the goals and policies in the comprehensive plan, to major map amendments, and to changes to the zoning ordinance. They are generally initiated by the local government.

Zoning ordinances usually provide procedures for sending notice of legislative hearings. Procedures generally include providing notice of the hearing in a newspaper of general circulation at least 10 days before the hearing. Local provisions may include additional requirements.

There can be pre-hearing contact between citizens and the decision makers on legislative matters. That is, “*ex parte* contact” is not a concern. Decision makers are seeking all the input they can get on the issues in order to make a reasonable decision on the proposed amendments.

During the process of the hearing, it is appropriate for the presiding officer to explain the nature of the hearing, and ask for a staff report from the planner. Some jurisdictions ask people in favor of the proposed amendment to testify first, followed by those opposed to the amendment. This may not be appropriate for a legislative matter. Rather, it may be advisable simply to ask people to testify in the order they signed up. The proposal may be complex and the issues diverse.

A party may be in favor of parts of the proposal and opposed to others.

It is also advisable for decision makers to prepare a series of findings indicating the rationale for adopting or denying the proposed amendments.

Quasi-Judicial Hearings

A quasi-judicial hearing is a type of land use proceeding in which the decision maker addresses a narrow land use issue, normally related to one or a limited number of parcels, and apply existing criteria.

Typical variance, conditional use permit, and zone change hearings are all quasi-judicial hearings. They are generally initiated by an applicant. Appeals of an administrative decision on these types of applications are also quasi-judicial.

In Oregon, the quasi-judicial hearing has assumed a major importance in the land use arena. There are certain procedural steps that must be taken, including the notice of the hearing, announcements at the beginning of the hearing, testimony during the hearing, and process after the decision. (Public Notice is covered in the next chapter, but some of the state requirements overlap.)

It is suggested that you be familiar with several of the Oregon Revised Statutes. In particular, ORS 197.763, "Conduct of Local Quasi-Judicial Land Use Hearings, Notice Requirements, Hearing Requirements" (see Exhibit B). The requirements of ORS 197.763 mandate a certain procedure at the beginning of a quasi-judicial hearing.

At the outset of the hearing, the chairperson or designee announces the

nature of the hearing; indicates the review criteria; and polls the decision-making body for *ex parte* contact, pre-hearing bias, or other factors that would preclude an individual decision maker from sitting in on the case. These are situations in which the individual decision maker is asked to determine whether he or she will be able to render an unbiased decision because of contact with parties outside the hearing (*ex parte* contact), pre-hearing bias, or a conflict of interest.

In many cases, pre-hearing contact is difficult to avoid. It simply should be reported at the outset of the hearing, and the decision maker can remain on the board. It is very important that the report of *ex-parte* contact include a summary of what the person learned from the contact. This gives the other members of the decision-making body access to all of the information, and also allows an opportunity for rebuttal of the information if other parties disagree. For the same reason, if any member of the decision-making body has made a visit to the site, he or she should report on the visit and what was observed on the site.

A pre-hearing bias or conflict of interest, on the other hand, should cause the decision maker to step down from that particular hearing issue. A conflict of interest occurs in cases where a member of the decision-making body, or a member's family, stands to profit from the outcome of the decision.

The chairperson must advise the audience of the provisions of ORS 197.763, including statements that testimony, arguments, and evidence must be directed toward the criteria and that failure to raise an issue with

sufficient specificity to afford the decision maker and other parties an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue (the so-called “raise it or waive it” requirement).

The hearing normally begins with the staff report, followed by the proponent’s case, the opponent’s case, and rebuttal from the applicant, if necessary. Public agencies wishing to comment may follow.

The public hearing is then closed and the matter goes to deliberations. During deliberations, the decision-making body has essentially three options:

- Make a decision with findings documenting how the application satisfied or did not satisfy appropriate criteria;
- Determine that there is not enough information to make a decision and continue the hearing to a specified date and time; or
- Schedule deliberations for a specified date and time.

If the hearing or the deliberations are continued to a specified date and time, no additional advertising or notice is necessary. ORS 197.763 includes specific rights regarding who may ask for a continuance or for the record to be left open.

Findings

There are entire books written on preparing findings of fact for decisions. Essentially, what needs to be done in any quasi-judicial land use case is to make findings to support the decision.

Basic facts need to be enumerated (facts such as who, what, where, when, and why). The review criteria need to be spelled out and findings evaluating whether the proposal complies with the review criteria must be outlined. These do not have to be lengthy documents in legal jargon. They need to simply state how the facts of the situation relate to the review criteria. These findings need to be included in the files as part of the hearing body’s decision.

For variances and conditional use permits, a simple order (such as the sample in Exhibits) is all that is needed. For Zoning Ordinance and Comprehensive Plan Map Amendments, an ordinance approved by the city council or board of commissioners is required.

Tips on Running Public Hearings

- Introduce the body (planning commission, council, board, or court) and staff at the outset of the hearing.
- Use a sign-up sheet that requires names and addresses to keep track of proponents and opponents who wish to speak or receive notice of the decision or both.
- Set a time limit for each speaker, if necessary. Try to keep speakers focused on relevant criteria.
- Keep control of the hearing. There are several short courses available for planning commissioners. New planning commissioners and other elected officials are encouraged to attend.
- Record names and mailing addresses of all hearing participants. These people qualify as “parties” to the hearing and must be notified of the decision.

Final Decision

A final decision is one made by the planning commission or council/board that stands unless appealed. The decision must be put in writing and signed by the appropriate city or county official.

Notice of Decision

Once the final decision has been made, a written notice of the decision must be mailed to the applicant, all parties at the public hearing, and those who requested it. In the case of a comprehensive plan text or map amendment or a zoning change, where the 45-day notice was

sent to DLCD, a notice of the decision must be given to DLCD within five working days of the final decision.

Appeals

The zoning ordinance has an appeal process, usually in the administrative provisions section. An appeal of the planning commission decision will generally go to the elected officials, but some jurisdictions use a hearings officer. A final local decision can be appealed to LUBA. LUBA appeals must be filed within 21 days of the final local decision.

**CITY OF NEWBERG
PLANNING
COMMISSION
PARTICIPATION
GUIDELINES**

Adopted January 12, 2012

NEWBERG PLANNING COMMISSION PARTICIPATION GUIDELINES

Newberg planning commission members will strive to:

- 1) Trust and respect the opinions of fellow commission members, staff, and the public and actively participate in the decisions of the planning commission.
- 2) Attend all planning commission meetings.
- 3) Notify the planning staff of an absence as soon as practical prior to the meeting time.
- 4) Make every attempt to resolve any personal conflict with a fellow planning commissioner prior to bringing the conflict to the attention of the planning commission.
- 5) Study material presented in a timely manner and be informed on the issues that come before the commission.
- 6) Follow the commission rules.

NEWBERG PLANNING COMMISSION MEETING EXPECTATIONS

Newberg planning commission members will:

- 1) Be courteous and respectful of citizens and create a welcoming environment that actively involves citizens in the governmental process.
- 2) Communicate in clear, concise and audible verbal and written communications.
- 3) Use a friendly and sincere tone of voice.
- 4) Honor and act on all requests for action and/or information in a timely and courteous manner.
- 5) Discuss issues, but not personalities, with non-commission members.
- 6) After an issue has been voted on, commission members will speak for themselves carefully, in a manner that does not undermine the integrity or motives of the planning commission, even if their personal opinion differs from the planning commission's decision.
- 7) Vote on all motions before the commission, or explain the reasons for abstaining.

CITY OF NEWBERG PLANNING COMMISSION RULES

Adopted January 12, 2012

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Newberg Planning Commission Rules

SECTION 1 – AUTHORITY

Rule 1.1 Authority of Rules

The planning commission will adopt commission rules by resolution to govern its meetings and proceedings. These rules will decide questions and give direction on debating, voting, membership, attendance, agendas, and other matters. The rules are intended to serve as a guide for the planning commission. One of the goals of the planning commission is to work with the residents of Newberg and provide a positive atmosphere at planning commission meetings. These rules provide the basic outline required to work together. The commission may need to vary from these rules from time to time to best serve the public interest.

Rule 1.2 Questions about these Rules

All questions regarding these rules will be resolved by majority vote of the commission.

Rule 1.3 Presentation of Rules to Planning Commission Members

These planning commission rules will be presented to all planning commission members at or before the time they take the oath of office.

Rule 1.4 Amendments to Planning Commission Rules

Amendments to these planning commission rules will be made by resolution.

SECTION 2 – GENERAL RULES

Rule 2.1 Public Meetings Law

All planning commission meetings will be held in accordance with the Oregon Public Meetings Law (“OPML”). The meetings of the commission, including regular meetings, special meetings, work sessions and emergency meetings are open to the public. The meetings are considered a limited public forum at which planning commission business is conducted in accordance with the agenda and rules of the planning commission. The chair, along with the commission, has the authority to require discussion at the meetings be addressed to the matters that are appropriate to be considered, to limit the time for discussion, and to restrict input concerning the matters to be discussed. The planning commission has the right to require persons attending the meeting, addressing the commission or participating in the meeting to conform to the rules of the commission and directions of the chair.

Rule 2.2 Quorum

Section 2.15.280 of city’s municipal code provides that a majority of the voting members of the planning commission constitutes a quorum to conduct business.

Rule 2.3 Lack of Quorum

If there is a lack of quorum at any scheduled meeting, any hearings scheduled shall be continued to the next scheduled meeting of the commission by announcement to those present, or by posting notice of such continuance prominently at the meeting location.

Rule 2.4 Rules of Order

"Robert's Rules of Order, Newly Revised, Tenth Edition" or the latest editions published thereafter hereafter referred to as "Robert's Rules of Order" will govern all planning commission proceedings unless they conflict with these rules. The chair will have the authority to appoint a parliamentarian for the commission. If there is no person appointed as parliamentarian or that person is absent, the city attorney or planning director will advise the chair concerning parliamentarian matters.

Rule 2.5 Enforcement of Rules

The chair will enforce the planning commission rules. In addition, the chair has the authority to preserve decorum and will determine all points of order, subject to the right of any planning commissioner to appeal to the commission. The chair will enforce order, prevent attacks on personalities or the impugning of members' motives, and keep those in debate to the question under discussion.

Rule 2.6 Suspension of Rules

The vote to suspend commission rules, including Robert's Rules of Order, requires a majority vote of those members of the planning commission who are present. If the motion is carried, the rules will be suspended for that item only.

Rule 2.7 Commissioners Duties to Uphold Rules and Decorum

Commissioners will preserve order and decorum during planning commission meetings, and will not by conversation or other action delay or interrupt the proceedings or refuse to obey the orders of the chair and commission rules. Commissioners will, when addressing staff or commissioners, confine themselves to questions or issues that are under discussion, will not engage in personal attacks, will not impugn the motives of any speaker, and will at all times, while in session or otherwise, conduct themselves in a manner appropriate to the dignity of office. Commissioners will not attack the knowledge, skills, abilities and personalities or impugn city staff members' motives in commission or at any city meetings.

Rule 2.8 Removal of Any Person for Violation of Rules

Any persons making disruptive or threatening remarks or actions during a meeting will forthwith be barred from further audience at that meeting, unless permission to continue is granted by a majority vote of the commissioners present. The planning director or chair may summon the assistance of the police or other administrative staff to prevent further interruption by such person by any action necessary, including the removal of that individual. In case the planning director or chair should fail to act, any commissioner may obtain the floor and move to require enforcement of this rule, upon an affirmative vote of the majority of the commissioners present, the police or administrative staff will be authorized to remove the person(s) as the chair so directs.

Rule 2.9 Records of Proceedings

The city recorder will provide a secretary for the commission who will keep a record of commission proceedings. The records of the proceedings are to be known as "minutes." The minutes will be kept in accordance with the Oregon Public Records and Meetings Law.

SECTION 3 – PLANNING COMMISSION MEMBERS

Rule 3.1 Attendance

It is the duty of each commissioner to attend all meetings of the planning commission unless excused. A member of the commission may be removed by the city council after hearing for misconduct or nonperformance of duty. Per Newberg Code 2.15.250(C), a member who is absent from two consecutive meetings without an excuse as approved by the planning commission is rebuttably presumed to be in nonperformance of duty and the city council shall declare the position vacant unless finding otherwise following the hearing.

Rule 3.2 Excused Absences

When a commissioner cannot attend a meeting, the member is to notify the planning director prior to the meeting. Absences will be considered excused when such notice is given. An absence will be considered unexcused if there is no notification of the absence prior to the meeting, unless otherwise determined by vote of the commission.

Rule 3.3 Report of Absences

The planning director will report to the city council any time a commissioner has four or more absences in a twelve-month period, along with the reasons for any excused absences. The planning director also will report to the city council any time a commissioner has two or more unexcused absences in a twelve-month period. The purpose of this notice is to inform the council of the member's attendance, and does not require any particular action by the council unless they so elect.

Rule 3.4 Mayor as Ex-Officio Member of the Planning Commission

By code, the mayor serves as a non-voting ex-officio member of the planning commission. The mayor shall be invited to, but is not obligated to, attend all meetings and activities of the planning commission. When attending, the mayor shall sit with the commission.

When participating in legislative matters, the mayor shall be invited to participate in the discussion. The mayor shall recuse himself/herself from quasi-judicial matters that eventually may be before the council for decision. This is to avoid questions of ex parte contact or bias in the decision.

Rule 3.5 Student Planning Commissioner

The student planning commissioner is a high school student who applies for the position by filling out an application for the city committee and gives the City of Newberg a letter of recommendation from a teacher. The mayor selects an individual student and the city council approves the mayor's nomination. The student planning commissioner is expected to attend all planning commission meetings, unless excused by the planning commission. The student commissioner serves a one year term and is allowed and encouraged to participate in all planning commission events and activities except for voting. The chair shall seek the opinion of the student prior to any significant votes.

Rule 3.6 Planning Commissioner Training

The City shall offer training to planning commissioners to educate them in their duties. It shall be the duty of any newly appointed planning commissioner to attend a basic training session from staff within 30 days of his or her appointment. It shall be the duty of any re-appointed planning commissioner to attend at least a one-hour training session from staff or offered by the city within 12 months of the beginning of that person's appointed term. Planning commissioners are strongly encouraged to attend training of some kind annually.

SECTION 4 – PRESIDING OFFICER**Rule 4.1 Chair**

The chair will preside over and facilitate all planning commission meetings, preserve order, enforce commission rules, and determine the order of business pursuant to planning commission rules. The chair is a voting member of the commission and will sign all records of planning commission decisions.

Rule 4.2 Vice Chair

In the absence of the chair, or if the chair is unable to perform the chair's duties, the vice chair will act as the presiding officer. Whenever in these rules the chair is mentioned, the vice chair acting as presiding officer can exercise the same authority as the chair. The vice chair also assists the chair in his/her duties, such as keeping time, maintaining order, and determining order of speakers.

Rule 4.3 Chair Pro Tem

In the absence of the chair and vice chair at any meeting of the planning commission where a quorum is present, the planning commission members present shall appoint a chair pro tem who will act as presiding officer. The chair pro tem will exercise all the authority of the chair during that meeting.

Rule 4.4 Election of Chair and Vice Chair

At the first meeting of each year, or upon vacancy of the current chair or vice chair, the commission shall elect a chair and vice chair for the remainder of the calendar year. The commission's policy is to rotate the positions by seniority in such a fashion that each member has the opportunity to serve first as vice-chair, and then the following year as chair. Newly appointed members will be placed at the bottom of the current rotation to allow them to serve a few years first as commissioner then later as chair and vice chair. In case multiple members are appointed at the same time, the commission will decide seniority by vote. The policy does not compel any member to serve as chair who is unwilling, nor does it compel election when the majority determines the commission would be better served by election of different officers. The commission shall consent to the election of each chair and vice chair and absent such consent, shall elect positions by majority vote.

SECTION 5 – PLANNING COMMISSION MEETINGS

Rule 5.1 Regular Meetings

Section 12 of the city charter provides that the planning commission must meet at least once a month at a time and place designated by the planning commission. The planning commission designates through these rules that the regular meetings of the commission will be held on the second Thursday of each month, except on holidays in which event the commission will meet on the second Wednesday. The commission also will meet on the fourth Thursday if business so requires.

Rule 5.2 Meeting Times and Places

The regular meetings of the commission will begin at 7:00 p.m. Regular planning commission meetings will take place in the Public Safety Building in the training room at 401 E. Third St., unless specifically designated to occur at another location. Any other such location will be noted in the notice of the meeting. There will be no new items presented after 10:00 p.m. except by vote of the planning commission.

Rule 5.3 Notice of Meeting

The notice of the regular meeting of the planning commission, including the agenda which lists items to be considered by the planning commission, will be given in accordance with the OPML. However, the notice does not limit the matters that can be considered by the planning commission nor prevent the commission from taking up any matter brought before the commission in accordance with the OPML.

Rule 5.4 Special Meetings

The chair, upon the chair's own motion and after consulting the planning director, may, or at the request of three members of the commission, shall, by giving notice to the members of the commission, call a special meeting of the commission for a time not earlier than 24 hours after the notice is given. Notice of a special meeting shall be posted at City Hall and to the extent feasible, provided to interested persons and the local newspaper at least 24 hours prior to the meeting.

Rule 5.5 Cancellation of Meeting

Upon a majority vote of the planning commission members present, a meeting may be canceled when deemed appropriate. If there is no business to transact or a quorum of the planning commission cannot attend and there is no urgent necessity to have the meeting, the planning director with advice and consent of the chair may cancel the meeting. Planning commission members will be notified of the cancellation prior to notice being given to the public. Notice of cancellation will be given as soon as possible to the public in a manner aimed at giving adequate notice.

SECTION 6 – AGENDAS AND ADDITIONAL ITEMS FOR CONSIDERATION

Rule 6.1 Preparation of Agenda

The planning director with the advice and consent of the chair will prepare the agenda along with appropriate documentation for planning commission meetings. Any member of the planning commission may request, through the chair, for a matter to be placed upon the agenda. Such request is subject to the advice of the planning director. Each meeting agenda's format will be prepared as prescribed in the rules. If there is no item to be considered under a section of the agenda, that section will be omitted from the agenda and the agenda will be renumbered accordingly. The final authority on the agenda matters is the planning commission.

Rule 6.2 Non-Agenda Items

Prior to the meeting, the planning director may send out additions to the agenda with the appropriate documentation. The planning commission may consider the items which are not listed on the published agenda. The planning commission must, by a majority, place the item on the agenda. Action may then be taken on the item.

Rule 6.3 Time for Submission of Items

Items for the planning commission agenda will be submitted in time to allow for sufficient research by staff.

Rule 6.4 Staff Reports

Normally the staff will send a report of each planning commission item to be considered by the planning commission at least eight days prior to the commission meeting.

Rule 6.5 Agenda Availability

Planning commission agendas and the accompanying documents are available at the city planning office and are posted on the city website normally eight days prior to the planning commission meeting. Interested persons are encouraged to read the agenda along with supporting material, and address questions to the planning director or city staff prior to the meeting. The planning director and planning commission value public input. In order to efficiently conduct city business, those who have concerns are encouraged to address these issues prior to the planning commission meeting.

Rule 6.6 Regular Meeting Agenda

The regular meeting agenda will be as follows:

- I. Call Meeting to Order
- II. Administration of Oath of Office (if needed)
- III. Roll Call
- IV. Public Comment (30 minutes maximum which may be extended at the chair's discretion; an opportunity to speak for not more than five minutes per speaker allowed)
- V. Consent Calendar
- VI. Public Hearings
- VII. Continued Business
- VIII. New Business
- IX. Items from Staff
- X. Items from Commissioners
- XI. Adjournment

At the chair's discretion, the chair may change the order of the agenda and allow communications concerning items on the agenda or other commission business.

Rule 6.7 Consent Calendar

The director will place items which have been previously reviewed by the planning commission or items which are routine in nature on the consent calendar. Items may be removed from the consent calendar by the chair or by request of a planning commission member. Public comments will be held prior to the approval of the consent calendar to allow the public to address items under consent calendar.

SECTION 7 – PROCEDURES AT MEETINGS

Rule 7.1 **Call to Order**

The chair will call the planning commission members to order at the hour designated for the meeting. The secretary will call roll. Should there not be a quorum within 15 minutes, the members present will adjourn until a quorum can be gathered or until the next scheduled meeting time established by the planning commission or to the next regular meeting time.

Rule 7.2 **Public Comment on Non-Agenda Items**

Persons speaking to the planning commission concerning items not on the agenda or items that are on the consent calendar would speak under the public comment period. Those persons will be given the opportunity to speak for up to five minutes. Speakers may share their time at the discretion of the chair. The maximum time allowed for public comment, including all speakers, is 30 minutes. The chair has the discretion to extend these time limits. Speakers may address the planning commission for less than their allotted time. Speakers may also submit information at the meeting. The commission normally will not take immediate action on any request raised, but may consider acting on a request during items from commissioners.

Rule 7.3 **Legislative Public Hearings**

For legislative hearings, the commission will follow the legislative hearing format shown in Exhibit “1”. The planning commission’s legislative authority is usually exercised by the adoption of a resolution.

Rule 7.4 **Quasi-judicial Public Hearings**

For quasi-judicial hearing, the commission will follow the quasi-judicial hearing format shown in Exhibit “2”. The planning commission’s quasi-judicial authority is usually exercised by adoption of an order when the commission is the final decision maker, and by adoption of a resolution when the commission is a recommending body only.

Rule 7.5 **Public Comment Registration**

In order to properly notify persons who participate in the hearing and to be able to send them information, it is necessary for the interested person to register at the planning commission meeting before making oral comments and/or providing input at the meeting. The interested person shall register for each subject under which they wish to provide comment. The public comment registration forms will be made part of the meeting records in accordance with OPML. The registration forms will contain a provision by which a person may indicate that they do not wish for their address, phone number, and email address to be released in any public records request. When the interested person addresses the commission or gives oral comments, that person should state their name, but does not need to state their mailing address, phone number, or email address. A form complying with this rule will be available at all meetings of the planning commission. The planning director may produce and revise the necessary form that complies with this rule.

Rule 7.6 **Public Testimony**

Each interested person addressing the commission should do so in a courteous and considerate manner. The person needs to register and follow other rules as provided in the commission rules. The public will be furnished guidelines and should comply with these guidelines for testifying before the planning commission.

Rule 7.7 Time Limits for Testimony

The principal applicant for a proposal will be allotted 15 minutes for an initial presentation. Prior to the meeting the applicant may petition the planning director for additional time for the initial presentation, not to exceed 30 minutes.

A principal opponent, if any, will be allotted time in the same manner as the principal applicant.

All other speakers will be given the opportunity to speak for up to five minutes. Speakers may share their time at the discretion of the chair.

The chair has the discretion to extend these time limits.

Rule 7.8 Written Testimony

In order to be considered at a hearing, written testimony must be received at the Planning and Building Department by noon on the third business day (typically Monday) prior to any meeting. Written testimony received after that date will be read out loud at the meeting, subject to time limits for speakers, and will be included in the record if there are future proceedings.

Rule 7.9 Ex parte Contact

Whenever the planning commission conducts a quasi-judicial public hearing, the planning commission must declare any ex parte contact. Rules concerning ex parte contact are set forth in state law.

Commissioners may visit a site individually prior to hearing an application, and shall declare the substance of that visit as ex parte contact. Otherwise, planning commissioners should avoid ex parte contacts.

Rule 7.10 Questions of Speakers

Commissioners may ask questions of speakers following their testimony. Such questions should be directed to elicit information that will help the commission reach a decision. Commissioners should avoid debating or arguing with speakers.

Rule 7.11 Order of Deliberation

The commission's deliberation on an agenda item may begin with a formal motion, or an informal discussion. If the informal discussion is not leading toward a decision, the chair shall call for a formal motion.

The chair shall determine the order of speakers to a motion. Except as otherwise determined by the chair, the maker of the motion will speak first to the motion, followed by the second, and then by other commissioners in the order they request to speak.

Rule 7.12 Speaking and Addressing the Chair

When any commissioner is about to speak in debate or deliver any matter to the planning commission, that commissioner should respectfully address the chair, and be given the floor before speaking. The commissioner should confine the remarks to the question under consideration.

The commissioner should use electronic speaking equipment provided to insure his or her comments are recorded.

Rule 7.13 Motions, Seconds, and Decisions by Unanimous Consent

Generally, no motion will be considered unless it has been seconded. However, routine motions that have the general consent of the planning commission do not require a second, unless requested by any member of the planning commission. Motions brought forth by the chair, which receive no seconds, but also no objections, will be passed by unanimous consent.

Rule 7.14 Voting and Abstaining from Voting

Commissioners shall vote on each motion brought before the commission, or shall explain the reason for abstaining.

Commissioners who abstain from participating in a matter due to a conflict of interest shall retire to the lobby during the time the matter is under consideration. A commissioner in the lobby will continue to be counted in the quorum. Commissioners may not provide testimony before the commission on any matter from which they abstain, but may designate a representative to speak to their interests.

Rule 7.15 Tabled Items

Items that are tabled may be taken from table by majority vote any time during the calendar year, but no later. Items may be postponed to a time certain, including to a following year.

Rule 7.16 Reconsideration

When a question has been decided, it will be in order for a member who voted on the prevailing side to move for reconsideration at the same meeting or next meeting only. For quasi-judicial matters, a motion for reconsideration at the next meeting only may be made upon request of the applicant, having waived rights to the time limits for decisions, and only to correct any technical issue in a decision and not to reverse a decision or decide again any substantive issue.

SECTION 8 – ELECTRONIC MAIL AND ELECTRONIC COMMUNICATION

Rule 8.1 Electronic Mail and Electronic Communication

E-mail or other forms of electronic communication may be used to schedule meetings, send informative messages, or request information from other planning commissioners or the planning director, except as limited by these rules or other applicable law. E-mail or other electronic communication may not be used to discuss policy issues with a quorum of the planning commission at one time or a quorum of a standing advisory body in any manner which would be in violation of the OPML. All planning commission e-mail correspondence is subject to the Oregon Public Records and Meetings Laws and is subject to disclosure.

Rule 8.2 Electronic Mail and Electronic Communication Regarding Quasi-Judicial Items

Commissioners shall refrain from sending electronic communication regarding the substance of any quasi-judicial item. If commissioners receive e-mail or electronic communication concerning the substance of any quasi-judicial item, they shall forward the communication to the planning director. As such information may be ex parte contact, commissioners shall avoid reading such communication outside the period the record is open for written comment. If reading such items is unavoidable, the commissioner shall declare the ex parte contact.

SECTION 9 - RELATIONSHIP WITH THE CITY COUNCIL

Rule 9.1 Role of Planning Commission in Relation to the City Council

Members of the planning commission are appointed by the mayor with consent of the city council. The mayor and council appoint them to provide study and perspective on issues beyond what the council can provide. Commissioners provide the highest value providing independent recommendations and not anticipating or mimicking what they feel the council's decision on a matter would be.

After the city council has voted on an issue that previously has been before the planning commission, commission members will speak for themselves carefully, in a manner that does not undermine the integrity or motives of the city council, even if their personal opinions or the commission's decisions differ from the city council's decision.

Rule 9.2 Joint Meetings with City Council or Other Boards

The commission should periodically hold joint meetings with the city council to share directly information and perspectives regarding particular issues. The mayor shall preside at such joint meetings.

The commission also may have joint meetings with other boards or commissions, such as the traffic safety commission. The chairs of the boards shall determine the agenda and the manner of facilitating the meeting.

Rule 9.3 Planning Commission Presentations at City Council Work Sessions

The city council has established a work session before council meetings, and has invited the planning commission to make presentations on any matter during that meeting. The commission may appear as a whole, the chair or vice-chair may represent the commission, or the commission may appoint one or more members to represent the commission to the council. The planning commission chair shall notify the mayor as far in advance as possible and at least one week in advance of the meeting if the commission wishes to make use of this time

Rule 9.4 Attendance at and Participation in City Council Meetings

In legislative matters, after the planning commission has taken action on an item, the mayor or city manager may request that the chair or chair's designee attend a city council meeting to report the commission's recommendation. The planning commission also may appoint a representative to attend the city council meeting and convey the commission's recommendation.

On quasi-judicial items, the planning commission's report to the council consists of their written decision, findings and the record. Commission members do not speak at the council meeting unless requested by the city council or mayor.

Otherwise, planning commissioners may attend any meeting of the city council. They may speak to the council for themselves as a citizen on any item.

Exhibit "1"
To Planning Commission Rules

OUTLINE FOR LEGISLATIVE PUBLIC HEARING

Newberg Planning Commission

- 1. CALL TO ORDER**
OPEN THE PUBLIC HEARING, ANNOUNCE THE PURPOSE, DISCUSS TESTIMONY PROCEDURE, AND TIME ALLOTMENTS
- 2. CALL FOR ABSTENTIONS AND OBJECTIONS TO JURISDICTION**
- 3. STAFF REPORT**
COMMISSION MAY ASK BRIEF QUESTIONS FOR CLARIFICATION
- 4. PUBLIC TESTIMONY**
5 MINUTE TIME LIMIT PER SPEAKER (15 MINUTE LIMIT FOR APPLICANT AND PRINCIPAL OPPONENT). SPEAKER GOES TO WITNESS TABLE, STATES NAME & PRESENTS TESTIMONY. COMMISSION MAY ASK QUESTIONS OF SPEAKERS.
 - A. APPLICANT(S) (IF ANY)
 - B. OTHER PROPONENTS
 - C. OPPONENTS AND UNDECIDED
 - D. STAFF READS WRITTEN CORRESPONDENCE (TIME LIMIT APPLIES)
 - E. APPLICANT (IF ANY) REBUTTAL
- 5. CLOSE OF PUBLIC TESTIMONY PORTION OF HEARING**
- 6. FINAL COMMENTS FROM STAFF AND RECOMMENDATION**
- 7. PLANNING COMMISSION DELIBERATION**
- 8. ACTION BY THE PLANNING COMMISSION**
 - A. RESOLUTION – Usually requires passage of resolution.
 - B. VOTE – Vote is done by roll call.
 - C. COMBINATION – Can be combined with other commission action; separate vote on each action is required.

Exhibit "2"
To Planning Commission Rules

OUTLINE FOR QUASI-JUDICIAL PUBLIC HEARING

Newberg Planning Commission

1. **CALL TO ORDER**
OPEN THE PUBLIC HEARING, ANNOUNCE THE PURPOSE, DISCUSS TESTIMONY PROCEDURE, AND TIME ALLOTMENTS
2. **CALL FOR ABSTENTIONS, BIAS, EX PARTE CONTACT, AND OBJECTIONS TO JURISDICTION**
3. **LEGAL ANNOUNCEMENT**
READ "QUASI-JUDICIAL ANNOUNCEMENTS" SHEET
4. **STAFF REPORT**
COMMISSION MAY ASK BRIEF QUESTIONS FOR CLARIFICATION
5. **PUBLIC TESTIMONY**
5 MINUTE TIME LIMIT PER SPEAKER (15 MINUTE LIMIT FOR APPLICANT AND PRINCIPAL OPPONENT). SPEAKER GOES TO WITNESS TABLE, STATES NAME & PRESENTS TESTIMONY. COMMISSION MAY ASK QUESTIONS OF SPEAKERS.
 - A. APPLICANT(S)
 - B. OTHER PROPONENTS
 - C. OPPONENTS AND UNDECIDED
 - D. STAFF READS WRITTEN CORRESPONDENCE (TIME LIMIT APPLIES)
 - E. APPLICANT REBUTTAL
6. **CLOSE OF PUBLIC TESTIMONY PORTION OF HEARING**
7. **FINAL COMMENTS FROM STAFF AND RECOMMENDATION**
8. **PLANNING COMMISSION DELIBERATION INCLUDING DISCUSSION OF CRITERIA WITH FINDINGS OF FACT**
9. **ACTION BY THE PLANNING COMMISSION**
 - A. ORDER OR RESOLUTION – Usually requires passage of order if the commission is the final decision maker, or a resolution if the commission is only advisory to the council.
 - B. VOTE – Vote is done by roll call.
 - C. COMBINATION – Can be combined with other commission action; separate vote on each action is required.

**QUASI-JUDICIAL
PUBLIC HEARING PROCESS
TESTIMONY AND EVIDENCE REQUIREMENTS**

ORS 197.763 requires certain statements to be made at the commencement of a public hearing.

- The applicable City and State zoning criteria must be listed. This means that we must advise you of the standards that must be satisfied by the applicant prior to our approval of an application. The Planning Staff will list the applicable criteria during his or her presentation of the staff report.
- Persons wishing to participate in this hearing must direct their testimony or the evidence toward the criteria stated by the Planner or other specific City or State criteria which you believe apply. You must tell us why the testimony or evidence relates to the criteria.
- Any issue which might be raised in an appeal of this case to the Land Use Board of Appeals (LUBA) must be raised in person or by letter at the local level prior to the City approving or denying the application. The law states that the issue must be raised in enough detail to afford the decision-maker and the parties an opportunity to respond. This part of the law is also known as the "raise it or waive it" requirement. If you do not bring it up now, you can't bring it up at LUBA.
- Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval in enough detail to allow the local government or its designee to respond to the issue precludes an action for damages in Circuit Court.
- Prior to the conclusion of the initial evidentiary hearing on an application, any participant may request an opportunity to present additional evidence or testimony regarding the application. The Planning Commission will grant such a request through a continuance or extension of the record.