



RESOLUTION No. 2015-3206

A RESOLUTION APPROVING THE LEASE OF APPROXIMATELY 87.3 ACRES OF CITY PROPERTY, AND THE TRANSFER OF WATER RIGHTS, WATERLINE AND ACCESS EASEMENTS, WATER TREATMENT AND DELIVERY INFRASTRUCTURE, AND AUTHORIZING THE CITY MANAGER PRO TEM TO NEGOTIATE AND EXECUTE THE NECESSARY DOCUMENTS TO COMPLETE THE CONVEYANCE OF THE CITY SPRING'S WATER SYSTEM TO THE CHEHALEM SPRING'S WATER ASSOCIATION.

RECITALS:

1. The City of Newberg currently owns and operates three spring fed water treatment and supply systems for the benefit of 72 rural customers.
2. The spring's water systems provided all of the potable water to the City from 1894 until 1948 when the first well was constructed at the City well field, located on the south side of the Willamette River.
3. Over the years the City installed additional wells at the well field and the reliance on water from the spring water sources decreased over time. Due to water quality issues during the winter months, by 2009 all of the spring water systems were disconnected from the City well field water supply system.
4. The three spring's systems are currently in use are named:
 - Oliver (27899 NE Bell Road, tax map 3S-2W-05, tax lots 4400 & 4501);
 - Skelton (18320 NE Bald Peak Road, tax map 2S-2W-31, tax lot 4200)
 - Snider (18525 NE Bald Peak Road, tax map 2S-3W-36, tax lot 1900)
5. Atkinson Spring is currently not in use and is located at 17100 NE Hillsboro Highway, tax map 3S-2W-06, tax lot 00900.
6. Costs to operate, maintain, and upgrade the spring water systems to meet State requirements for large municipal water systems has increased significantly over the last decade.
7. In 2008, Council Resolution No. 2008-2776 created a separate spring's customer class, and mandated the spring's customers pay the full cost of the operation, maintenance, and 50% of the capital improvement project costs for the spring's system improvements. Resolution No. 2008-2776 also declared that the Council is open to divesting ownership and operation of the spring's system to any responsible organization.
8. For the last 18 months a group representing the spring's customers has met with City staff to develop an agreement for the group to operate and maintain the spring's water system. Last winter, the user group formed the non-profit Chehalem Spring's Water Association that is proposing to manage the

spring's water system with the operations and maintenance assistance from Hiland Water Corporation.

9. The spring's water system conveyance agreement includes a description of the City spring's water system assets to be transferred to the Chehalem Spring's Water Association, which includes, but not limited to, debt forgiveness, water supply piping, waterline and access easements, water services and meters, water right certificates, water collection and treatment systems, chemical storage and dosing equipment, and electrical equipment. City-owned parcels where the spring's are located will be retained and leased to the Chehalem Spring's Water Association.
10. The Chehalem Spring's Water Association has adopted bylaws, elected Board members, and has had multiple meetings with the spring's customers to discuss the transition from City ownership of the system. Upon approval of this Resolution by Council, the Association is planning to begin the operation and maintenance of the spring's water system by the end of 2015.
11. Oregon Revised Statutes 221.725, requires published notice of the public hearing for sale of any interest in real property held by the City, which in this case includes the waterline and access easements. Notice was published on September 27, 2015, in the Oregonian, a newspaper of general circulation that meets the requirements of the Statute.
12. In compliance with ORS 221.725, a public hearing was held with the opportunity for any resident of the city, or members of the general public, to present written or oral testimony. Evidence of market value of the transfer of interests in the real property, was fully disclosed by the City Council at the public hearing.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

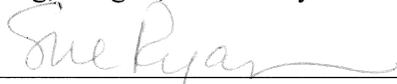
1. **Transfer:** – The City Council finds that the best interest of the City of Newberg, and the ratepayers of Newberg, is served by a transfer of the spring's water system.
2. **Conveyance Agreement:** – A water system conveyance agreement will be prepared that contractually binds the City and the Association, will describe the City water system assets to be transferred to the Chehalem Spring's Water Association, and will outline the responsibilities of each party. The assets include but are not limited to, debt forgiveness, water supply piping, waterline and access easements, water services and meters, water right certificates, water collection and treatment systems, chemical storage and dosing equipment, and electrical equipment. City-owned parcels where the spring's are located will be retained and leased to the Chehalem Spring's Water Association.
3. **City Manager Authority:** – The City Council delegates to the City Manager, or City Manager Pro Tem, the authority to execute the necessary documents to complete the transfer of the spring's water system improvements, water rights, and leasing of the real property. The City Manager Pro Tem is further authorized to negotiate any provisions of the final conveyance agreement and to sign all necessary documents to perfect the agreement. All documents and agreements shall be approved as to form and content by the City Attorney.
4. **Water Rate Increase:** – To allow additional time for the City and the Association to complete the property lease and transfer of the system, the spring's customer class water rate increase for

January 1, 2016, identified by Resolution No. 2014-3134 is hereby suspended. If the transfer of the spring's system does not occur by June 30 2016, the City Manager, or City Manager Pro Tem, is hereby authorized to convene the Citizens Rate Review Committee (CRRC) to complete the review of the current spring's water system operation, maintenance, and future/past capital project costs. The City Manager shall provide the proposed rate recommendations to the City Council upon completion of the work by the CRRC.

5. **City Modifications to System:** – To allow time to complete the conveyance of the system to the Association, the City shall temporarily suspend all modifications to the spring's systems except with the consent of the Springs' Association until the ownership transfer is completed, or until June 30, 2016. Modifications to the spring's systems does not include activities needed for the normal billing, operation, and maintenance of the system, including actions required in event of an emergency. Modification to the spring's water systems would include activities such as non-emergency pipe replacement projects, treatment system upgrades, removal of system infrastructure, and/or the addition of customer accounts.

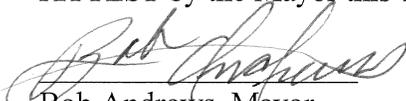
➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: December 8, 2015.

ADOPTED by the City Council of the City of Newberg, Oregon, this 7th day of December, 2015.



Sue Ryan, City Recorder

ATTEST by the Mayor this 10th day of December, 2015.



Bob Andrews, Mayor