



**CITY COUNCIL WORK SESSION  
DECEMBER 17, 2012  
6:00 P.M.  
NEWBERG PUBLIC SAFETY BUILDING  
401 EAST THIRD STREET**

WORK SESSIONS ARE INTENDED FOR DISCUSSION. NO ACTION WILL BE TAKEN ON THE AGENDA ITEMS AND NO DECISIONS WILL BE MADE. NO ORAL OR WRITTEN TESTIMONY WILL BE HEARD OR RECEIVED FROM THE PUBLIC.

**I. CALL MEETING TO ORDER**

**II. ROLL CALL**

**III. REVIEW OF COUNCIL AGENDA AND MEETING**

Presentation from Jim Whitty of ODOT on New Road Financing Models

**IV. COUNCIL HOUSEKEEPING ITEMS**

**V. ADJOURNMENT**

**ACCOMMODATION OF PHYSICAL IMPAIRMENTS:**

*In order to accommodate persons with physical impairments, please notify the City Recorder's Office of any special physical accommodations you may need as far in advance of the meeting as possible and no later than 48 business hours prior to the meeting. To request these arrangements, please contact the city recorder at (503) 537-1283. For TTY service please dial 711.*



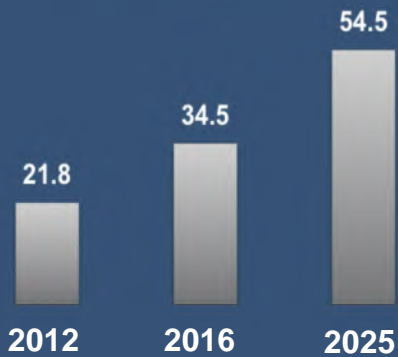
# ***A New Road Financing Model: Taxation for Distance Traveled***

Presentation to the Newberg City Council  
December 17, 2012

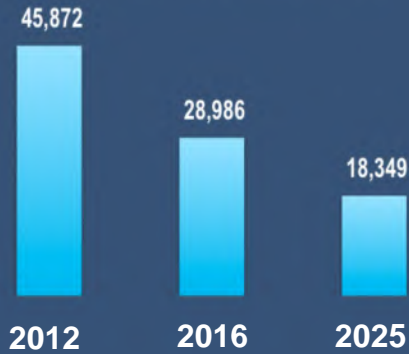


# Recent Increase in Vehicle Fuel Economy Standard will Reduce Revenue for Highways

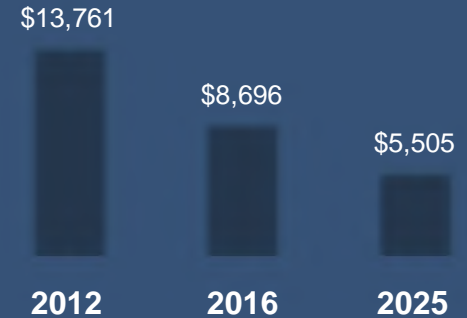
Fuel Economy



Gallons Consumed

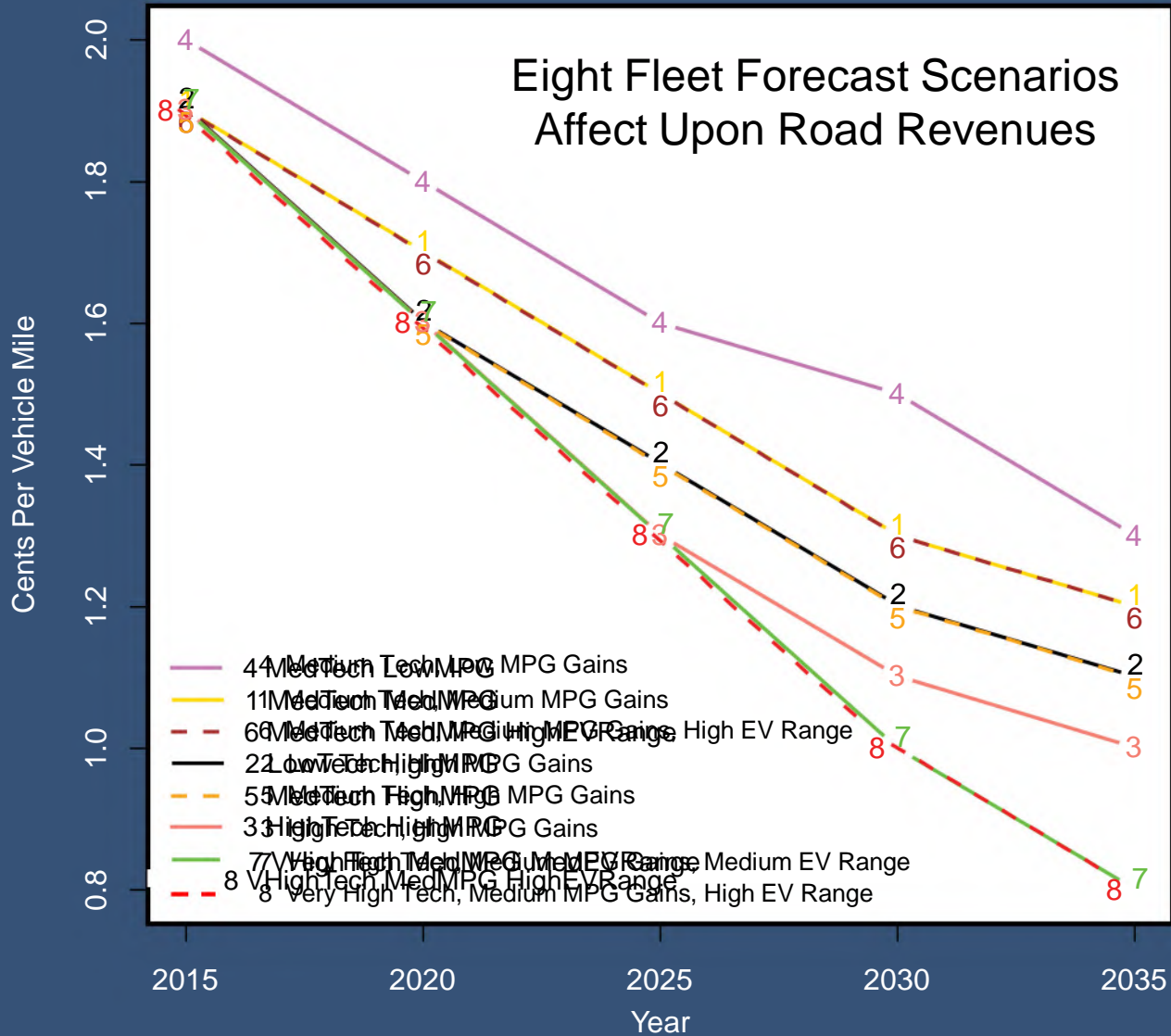


Nominal Revenues



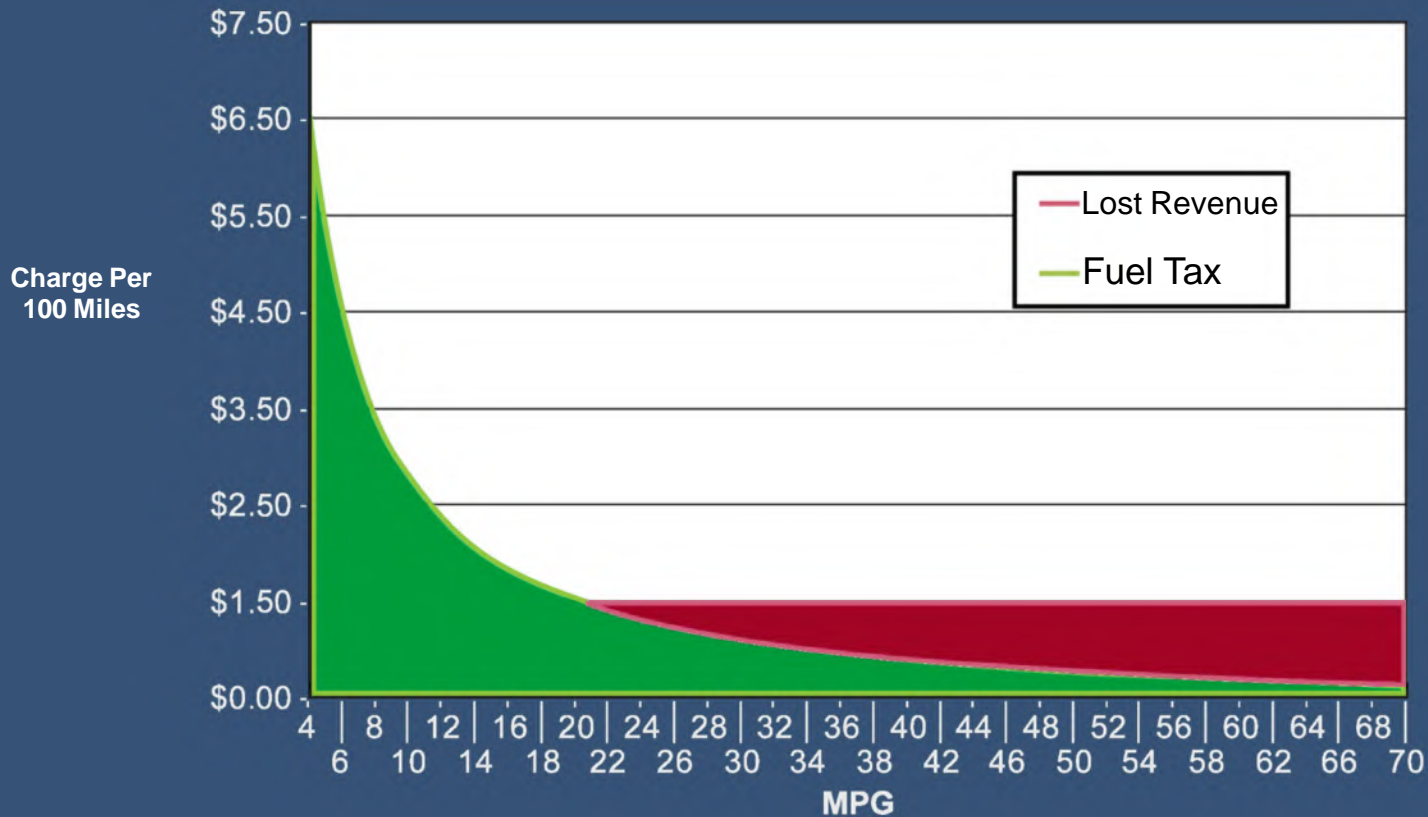
Additional Research Underway

Forecast of State and Federal Fuel Taxes on Light Duty Vehicles





# Fuel Tax Revenues and Lost Revenues





# Road User Fee Task Force

71st OREGON LEGISLATIVE ASSEMBLY--2001 Regular Session

**Enrolled**  
**House Bill 3946**

Sponsored by Representatives KRUMMEL, STARR, Senator GEORGE; Representatives DEVLIN, MORRISETTE, NELSON, ROSENBAUM, VERGER

## 2001

“To develop a design for revenue collection for Oregon’s roads and highways that will replace the current system for revenue collection.”

76th OREGON LEGISLATIVE ASSEMBLY--2011 Regular Session

**Enrolled**  
**House Bill 2138**

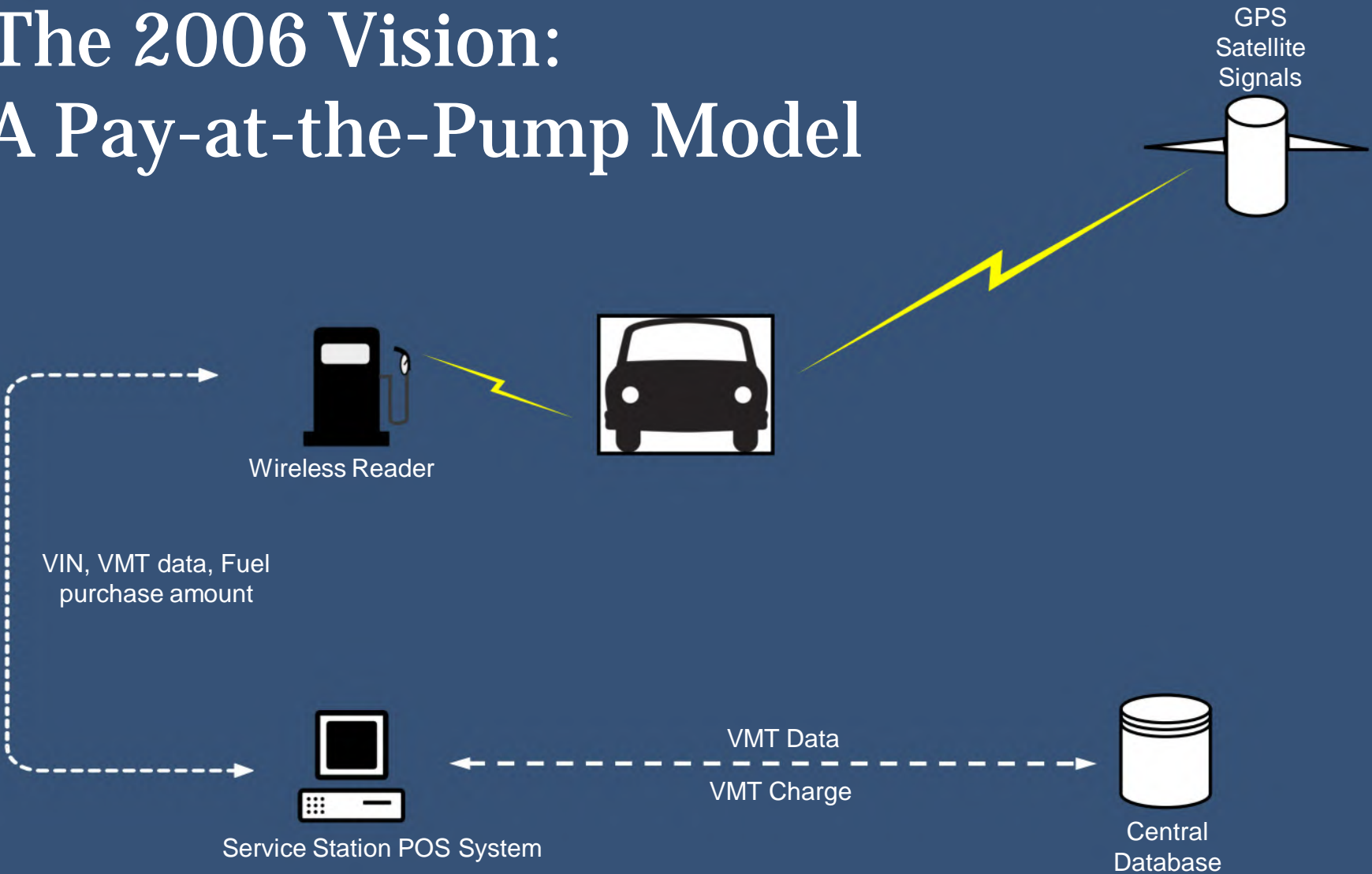
Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Transportation)

## 2011

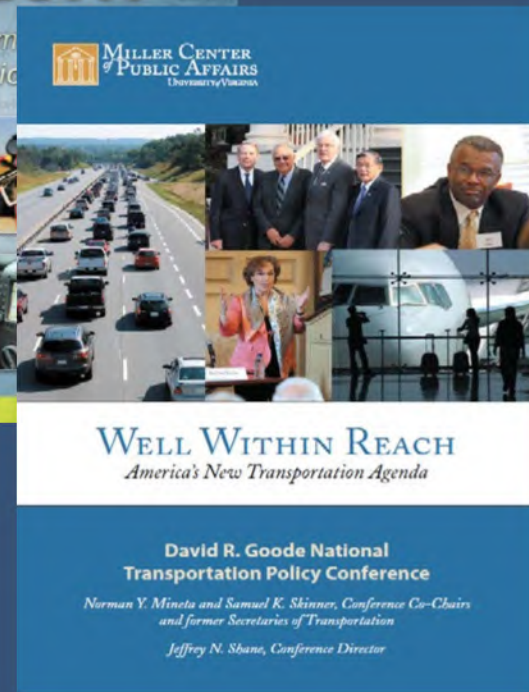
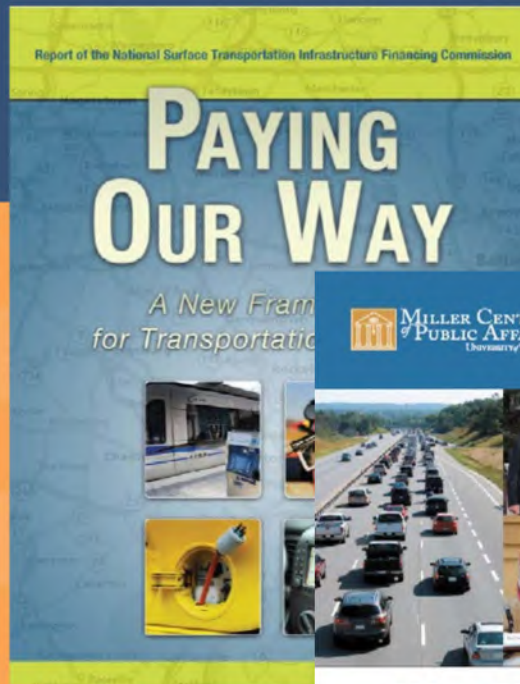
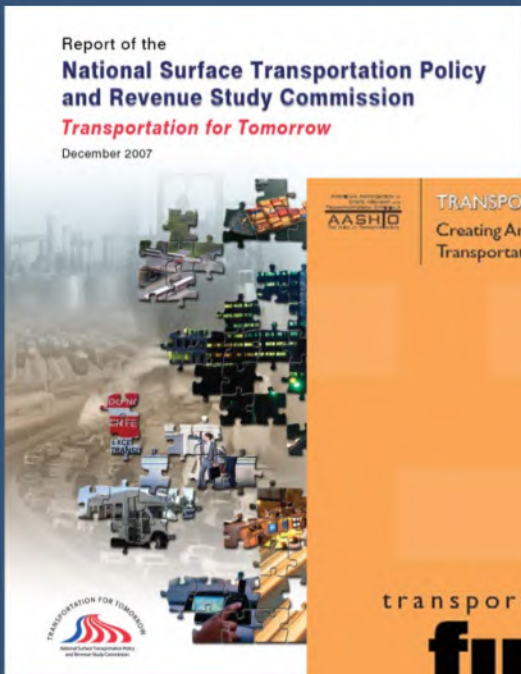
Directs the Road User Fee Task Force to consider additional factors in adopting policies for a new pilot program.



# The 2006 Vision: A Pay-at-the-Pump Model



# National Review & Support





# Tenets for Future Road Usage Charge System

- A. No technology mandate
- B. Open system to integrate with existing technology market
- C. Provide choices for motorists
- D. Private sector administration option

# Options for Reporting Mileage

1. Manual reporting
2. Activate a metering device in vehicle
3. Install a metering device in vehicle
4. Pay a high flat rate for unlimited driving





# Payment of Road Usage Charge

## Invoice

- Receive by mail or email

## Options for payment

- Check
- Credit
- Debit
- Electronic Funds Transfer

<b>From:</b> Sanef S.A. 30, Boulevard Gallieni 92 130 Issy les Moulineaux France	<b>On behalf of:</b> Oregon Department of Transportation 3700 SE 92 <sup>nd</sup> Ave Portland Oregon 97216		
<b>To:</b> A Customer 123 Main Street Portland Oregon 97201	Invoice No: SI1012-1234 Invoice Month: October 2012 Issue Date: Nov 5 2012		
Item Description	Amount	Rate (\$)	Subtotal
<b>VRM: YG59RZW</b> Vehicle: BMW Mini Clubman D VIN No: MWWMNS2080TW95921 OBU No. 0507011044000022 Plan: BASIC			
Mileage Tax	1123 miles	\$0.0156	17.52
Fuel Tax Refund	15.51 galls	\$0.30	-4.65
<b>Subtotal for Mini Clubman YG59RZW</b>			<b>12.87</b>
<b>VRM: SL58RZJ</b> Vehicle: Volvo V70 SE LUX D5 VIN No. YV1BW714191085570 OBU No. 0507011218500921 Plan: ADVANCED / SMARTPHONE			
Mileage Tax	1485 miles	\$0.0156	23.16
Total Mileage	1485 miles		
§(HOMESTATE) Taxable Miles	845 miles	\$0.0156	13.16
Fuel Tax Refund	28.17 galls	\$0.30	-8.45
<b>Subtotal for Volvo V70 SL58RZJ</b>			<b>4.73</b>
<b>TOTAL Mileage Tax Due</b>			
Total Mileage Tax Due / You are owed a credit of			<b>\$17.60</b>
Payment Date			<b>Dec 05 12</b>
To pay your Mileage Tax, please visit <a href="https://odot.sanefollong.co.uk">https://odot.sanefollong.co.uk</a> and follow the on-screen instructions.			



## Oregon's New Pilot Road Usage Charge Pilot Program

November 1, 2012 to January 31, 2013

50 volunteer participants agree to

- Pay 1.56 cents per mile
- Get fuel tax rebate

Private sector firms provide

- On board mileage reporting technologies
- Tax processing and account management

Multi-state: Washington and Nevada will manage own participants

Report to Legislature February 2013

NOVEMBER 2012						
SUN	MON	TUE	WED	THU	FRI	SAT
				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	



## Option 1: The Basic Plan (without GPS)



On Line Payment  
Credit Card Payments  
Debit Card Payments

## Option 2: The Smart Phone Plan



## Option 3: The Advanced Plan (with GPS)





Mail  
Pay by Check

## Option 4: The Basic Plan (without GPS)



## Option 5: Flat Rate Plan

		1025
		DATE <u>November 2012</u>
PAY TO THE ORDER OF	<u>Oregon Department of Transportation</u>	\$ <u>135.00</u>
<u>One Hundred Thirty Five Dollars and 00/100</u>		DOLLARS
MEMO <u>Joe Motorist</u>		
⑆0000000000⑆ ⑆0000000000⑆		⑆025



# Installation of an On Board Unit



# The Future of Mileage Reporting



Telematics



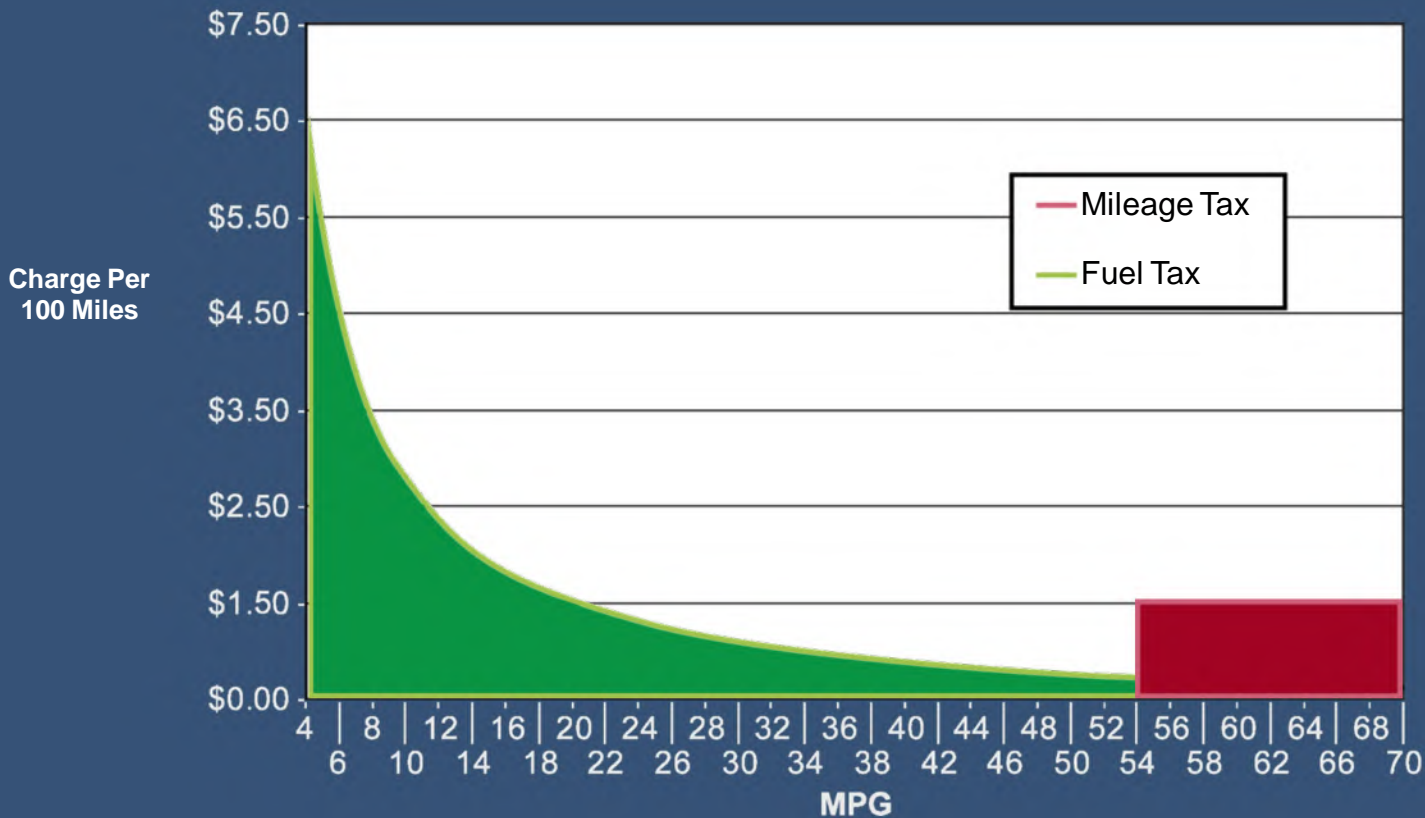
# Road User Fee Task Force Preparing Legislation

- For vehicles 55+ MPGe
- Road usage charge of x cents per mile
- Rebate fuel tax paid
- ODOT develops ways to report miles
- Motorists shall have choices
- Private sector administration option
- Protects personally identifiable information
- 50/30/20 revenue allocation





# Start of the Road Usage Charge





# Alternative Funding Options

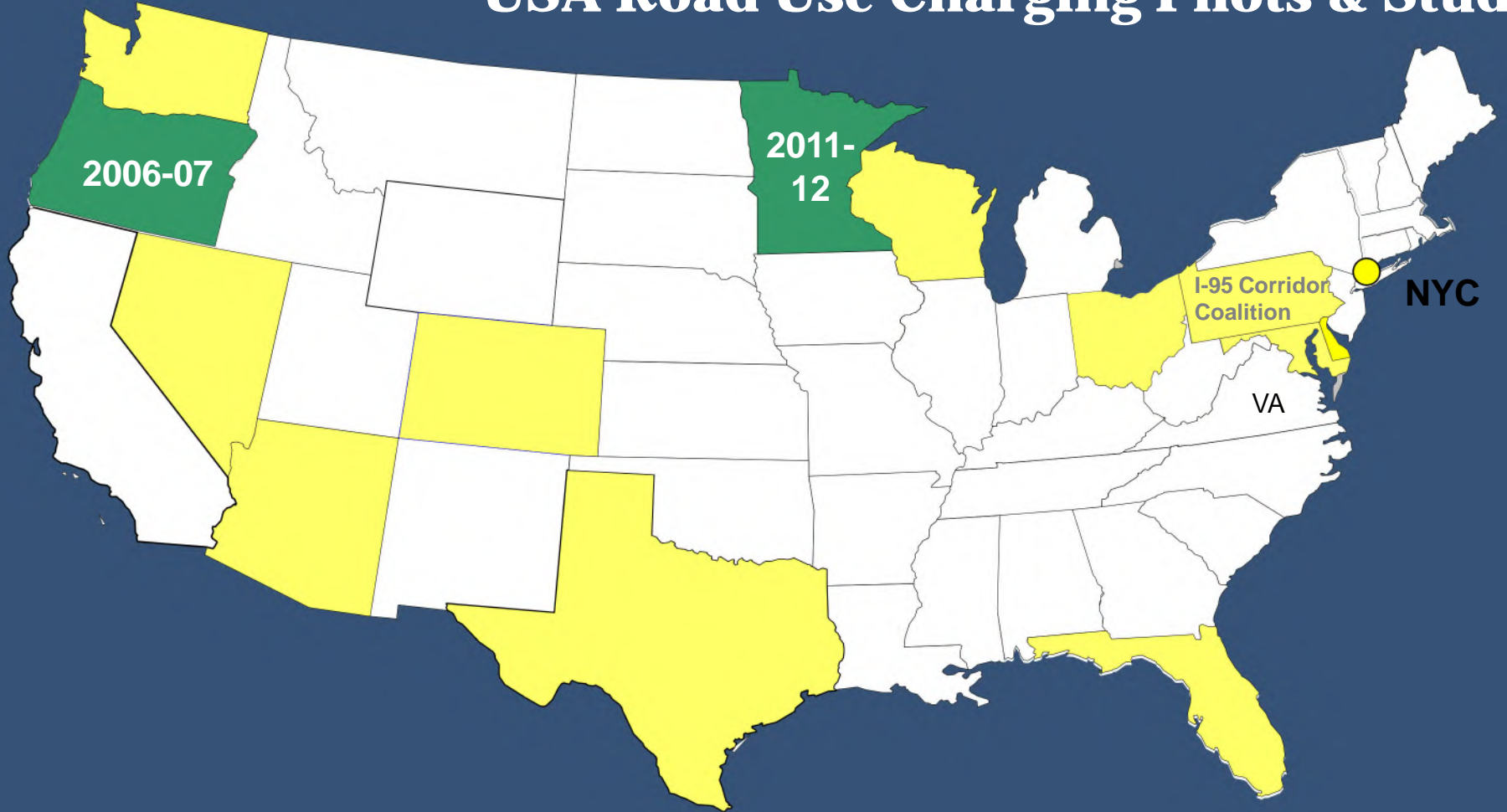
- Raise fuel tax
- Tax vehicle electricity use
- Tax tires
- Tax batteries
- Flat fee
- Toll interstate highways
- General fund
- Do nothing



The Following Slides are reserved for Q&A



# USA Road Use Charging Pilots & Study



Pilot Program



Formal study underway

## Office of Innovative Partnerships and Alternative Funding



Department

### Road User Fee Pilot Program

About Us

Contact Us

Innovative Partnerships

Road User Fee Task Force

Road Usage Charge Pilot Program (2012)

Road User Fee Pilot Program (2005 - 2007)

Electric Vehicle Charging Network

Oregon's Solar Highways

#### Pilot Pre-Testing Begins



The Oregon Department of Transportation launched its mileage fee pilot project in the Portland area in March 2006 with the recruitment of volunteers for the program. Administered by ODOT's Office of Innovative Partnerships, the mileage fee pilot project tests several key aspects of charging a per mile fee at the pump in lieu of paying the state gas tax. Volunteers for the one-year pilot will use a mileage-counting device for in-state travel and will purchase gas at select service stations in northeast and southeast Portland.

#### Background

In 2001, the Oregon State Legislature authorized the creation of the [Road User Fee Task Force](#) to examine various revenue raising alternatives for replacing Oregon's gas tax as the primary source of revenues for repairing, maintaining, and building Oregon's roads.

The purchasing power of the state's gas tax has steadily eroded over the years for several reasons:

1. the gas tax has not kept pace with inflation;
2. voters have opposed increases in the gas tax; and
3. the fuel efficiency of new vehicles, especially hybrids and alternative-fuel vehicles, continues to increase, resulting in less gas tax paid.

RUFTF, administered by the Oregon Department of Transportation, was charged by the Legislature to review all possibilities for replacing the gas tax. The task force reviewed 28 different options.

After 16 months of meetings, research, and discussions, RUFTF focused on a mileage-based charge.

RUFTF agreed that a replacement to the gas tax should be a user-based fee— like the road user fee being testing in the Pilot Program—because it is a fair, simple, and affordable way to generate revenue for road repair, maintenance, and construction, as it charges a fee based on actual miles traveled in Oregon.

ODOT will test the road user fee in a Pilot Program in Portland beginning in spring 2006 and lasting for one year.

Because the Pilot is a test, many policy options remain for decision makers, such as charging a lower rate-per-mile for vehicles that achieve a certain fuel efficiency, for motorists that avoid rush hour zones, or for those participating in other environmentally-friendly situations.

Based on the results of the Pilot Program, ODOT will draft model legislation for the Oregon State Legislature to consider, beginning in 2009.

#### Participants

[Information for participants in the pilot program](#)

#### Timeline

[A timeline of the pilot program](#)

#### How it works

[How the pilot program works](#)

#### FAQ

[Answers to frequently asked questions](#)

#### Contacts

[Contact information for the Road User Fee Pilot Program](#)

#### Newsroom

[Op-ed by Jim Whitty, "Corrections to News Reports"](#)

## Office of Innovative Partnerships and Alternative Funding



Department

### Innovative Partnerships Program

About Us

Contact Us

Innovative Partnerships

Road User Fee Task Force

Road Usage Charge Pilot Program (2012)

Road User Fee Pilot Program (2005 - 2007)

Electric Vehicle Charging Network

Oregon's Solar Highways

#### Overview

##### Latest Project News

- [Oregon's Solar Highway](#)
- [Electric Vehicle Charging Network](#)



#### Oregon Innovative Partnerships Program Development

The Oregon Innovative Partnerships Program (OIPP) was created to develop transportation projects for solicitation of private sector proposals for partnership and to respond to proposals initiated by private firms and units of government.

OIPP is also prepared to respond to unsolicited proposals from the private sector and units of government. Private sector involvement may range from pre-development services to project development to construction and delivery, depending upon the nature and stage of the particular project. The OIPP will evaluate proposals, both solicited and unsolicited, and select the proposal with best value for the citizens of the state.

ODOT has contracted with an assortment of expert consultants to assist in project procurement, evaluation of proposals, negotiation of public-private agreements and management of public-private initiatives. ([Download Public-Private Partnerships Fact Sheet](#)).

#### Background

[Oregon Innovative Partnerships Program](#)

#### Rules and Laws

[Administrative rules and laws pertaining to Innovative Partnerships](#)

#### Presentations

[Presentations given](#)

#### Archived Project Information 2005-07

[- Informational Materials](#)  
[- Archived Projects](#)

Download the OIPP brochure ([PDF](#))



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## Office of Innovative Partnerships and Alternative Funding



Department

### Road User Fee Task Force

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Road User Fee Task Force

Road Usage Charge Pilot Program (2012)

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Electric Vehicle Charging Network

Oregon's Solar Highways

#### Overview

The Road User Fee Task Force was established through [HB 3946](#), passed by the 2001 Oregon Legislative Assembly.

**Mission:** To develop a revenue collection design funded through user pay methods, acceptable and visible to the public, that ensures a flow of revenue sufficient to annually maintain, preserve and improve Oregon's state, county and city highway and road system.



*"As well as the gas tax has served the road needs of Oregonians in the past, it will soon become a declining revenue source. The Road User Fee Task Force is charged with the duty of designing a new revenue collection system for road funding to ultimately replace the gas tax. Oregon will be well served in finding a solution to this concern before it becomes an emergency."*

**Senator Bruce Starr**  
Road User Fee Task Force Chair

#### Final Report

- [Oregon's Mileage Fee Concept and Road User Fee Pilot Program \(PDF\)](#)
- [Pilot Program Results Summary \(PDF\)](#)

#### FAQ

[Answers to frequently asked questions](#)

#### Meetings

[RUFTF meetings by date](#)

#### Reports

[Reports](#)

#### Presentations

[Presentations](#)

#### Members

[Members of the Road User Fee Task Force](#)

#### Newsroom

[Op-ed by James Whitty, Corrections to news reports](#)

#### News Releases

[News Releases from the Road User Fee Task Force](#)

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**CITY COUNCIL AGENDA  
DECEMBER 17, 2012  
7:00 P.M. MEETING  
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

**Mission Statement**

*The City of Newberg serves its citizens, promotes safety, and maintains a healthy community.*

**Vision Statement**

*Newberg will cultivate a healthy, safe environment where citizens can work, play and grow in a friendly, dynamic and diverse community valuing partnerships and opportunity.*

**I. CALL MEETING TO ORDER**

**II. ROLL CALL**

**III. PLEDGE OF ALLEGIANCE**

**IV. CITY MANAGER'S REPORT**

**V. PUBLIC COMMENTS**

(30 minutes maximum, which may be extended at the Mayor's discretion, with an opportunity to speak for no more than 5 minutes per speaker allowed)

**VI. COMMITTEE APPOINTMENTS**

1. Consider appointing Rick Rogers and Thomas Barnes to the Newberg Urban Area Management Commission serving terms expiring December 31, 2015. (P. 3)
2. Consider appointing Gary Bliss and Jason Dale to the Newberg Planning Commission serving terms expiring December 31, 2015. (P. 5)
3. Consider appointing Ronald Johns, Jay (Greg) Martin, and Suzanne Stich to the Traffic Safety Commission serving terms expiring December 31, 2015. (P. 7)

**VII. CONSENT CALENDAR**

1. Consider a motion adopting **Resolution No. 2012-3025** accepting the canvass of votes for the November 6, 2012, Biennial General Election. (Pgs. 9-16)

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.

2. Consider a motion adopting **Resolution No. 2012-3027** approving funds for a contract administrator position for the new animal shelter facility. (Pgs. 17-18)
3. Consider a motion approving the October 1, 2012, November 5, 2012, and November 19, 2012, City Council meeting minutes. (Pgs. 19-30)

## **VII. PUBLIC HEARINGS**

Consider a motion adopting **Ordinance No. 2012-2757** adopting a new nonexclusive cable system franchise with Comcast of Oregon II, Inc. (Pgs. 31-46)  
**(Legislative Hearing)**

## **VIII. NEW BUSINESS**

1. Consider a motion adopting **Resolution No. 2012-3026** accepting the 2011-2012 Fiscal Year Budget Audit. (Pgs. 47-75)
2. Consider a motion adopting **Resolution No. 2012-3020** considering the formation of the College Street Local Improvement District and directing staff to prepare an engineer's report. (Pgs. 77-79)

## **IX. COUNCIL BUSINESS**

## **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 48 business hours prior to the meeting. To request these arrangements, please contact the City Recorder at (503) 537-1283. For TTY services please dial 711.*

**Council accepts comments on agenda items during the meeting. Fill out a form identifying the item you wish to speak on prior to the agenda item beginning and turn it into the City Recorder. The exception is land use hearings, which requires a specific public hearing process. The City Council asks written testimony be submitted to the City Recorder before 4:30 p.m. on the preceding Wednesday. Written testimony submitted after that will be brought before the Council on the night of the meeting for consideration and a vote to accept or not accept it into the record.**

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

# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 17, 2012

Order \_\_\_      Ordinance \_\_\_      Resolution \_\_\_      Motion XX      Information \_\_\_  
No.              No.                      No.                                                                \_\_\_

**SUBJECT: Appoint Rick Rogers as the Newberg Citizen Advisory Committee representative and ratify the Planning Commission's (PC) appointment of Thomas Barnes as the PC's representative to the Newberg Urban Area Management Commission.**

Contact Person (Preparer) for this  
Motion: Mayor Bob Andrews  
Dept.: Administration

## RECOMMENDATION:

To consent to the appointment, by the Mayor, of Rick Rogers as the Newberg Citizen Advisory Committee (NCAC) representative and ratify the Planning Commission's (PC) appointment of Thomas Barnes as the PC's representative to the Newberg Urban Area Management Commission (NUAMC) for two positions with terms expiring December 31, 2015.

## EXECUTIVE SUMMARY:

The NUAMC is a seven member commission. It consists of three members appointed by the City Council, three appointed by the Yamhill County Board of Commissioners, and one at large position appointed by NUAMC, which is ratified by the two governing bodies. We currently have the below positions with terms expiring December 31, 2012, needing to be filled:

### Planning Commission Representative:

The Planning Commission met on Thursday, November 8, 2012, and recommends Thomas Barnes as the PC representative. The Mayor concurs with this recommendation.

### Citizen Advisory Committee Representative:

Public notice for this position was posted in City buildings, advertised in the local paper, and posted on the City's website. One application was received prior to the deadline of 4:30 p.m. on Monday, November 5, 2012. The Mayor has decided to appoint Rick Rogers to the NUAMC as the NCAC representative.

## FISCAL IMPACT:

None.

## STRATEGIC ASSESSMENT:

The NUAMC serves a very important role in the betterment of our community. NUAMC will be asked to consider a number of important legislative and quasi-judicial matters in the future.

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# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 17, 2012

Order \_\_\_      Ordinance \_\_\_      Resolution \_\_\_      Motion XX      Information \_\_\_  
No.              No.                      No.                                                                No.

**SUBJECT: Appoint Gary Bliss and Jason Dale to the City of Newberg Planning Commission.**

Contact Person (Preparer) for this  
Motion: Mayor Bob Andrews  
Dept.: Administration

## RECOMMENDATION:

To consent to the appointment, by the Mayor, of Gary Bliss and Jason Dale to the Planning Commission for two positions with terms expiring December 31, 2015.

## EXECUTIVE SUMMARY:

The Newberg Planning Commission is a seven member committee that has two positions with terms expiring December 31, 2012. Public notice of this vacancy was posted in City buildings, advertised in the local paper, and posted on the City's website. Three applications were received prior to the final deadline of 4:30 p.m., Monday, November 5, 2012. All applications were considered and the Mayor has selected Gary Bliss and Jason Dale to fill the positions.

For privacy purposes, the original applications are retained in the City Recorder's Office. Please call (503) 537-1283 to request a copy.

## FISCAL IMPACT:

None.

## STRATEGIC ASSESSMENT:

The Newberg Planning Commission serves a very important role in the betterment of our community and downtown making our City government viable and a great place to grow.

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# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 17, 2012

Order \_\_\_      Ordinance \_\_\_      Resolution \_\_\_      Motion XX      Information \_\_\_  
No.              No.                      No.                                                                \_\_\_

**SUBJECT: Appoint Ronald Johns, Jay (Greg) Martin, and Suzanne Stich to the City of Newberg Traffic Safety Commission.**

**Contact Person (Preparer) for this Motion: Mayor Bob Andrews  
Dept.: Administration**

## RECOMMENDATION:

To consent to the appointment, by the Mayor, of Ronald Johns, Jay (Greg) Martin, and Suzanne Stich for three positions on the Newberg Traffic Safety Commission for new terms expiring December 31, 2015.

## EXECUTIVE SUMMARY:

The Newberg Traffic Safety Commission is a 10 member committee that has three positions with terms expiring December 31, 2012. Public notice of this vacancy was posted in City buildings, advertised in the local paper, and posted on the City's website. Seven applications were received prior to the final deadline of 4:3 p.m., Monday, November 5, 2012. All applications were considered and the Mayor has selected Ronald Johns, Jay (Greg) Martin, and Suzanne Stich to fill the positions.

For privacy purposes, the original applications are retained in the City Recorder's Office. Please call (503) 537-1283 to request a copy.

## FISCAL IMPACT:

None.

## STRATEGIC ASSESSMENT:

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

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# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 17, 2012

Order \_\_\_      Ordinance \_\_\_      Resolution XX      Motion \_\_\_      Information \_\_\_  
No.              No.              No. 2012-3025

**SUBJECT:** Canvass of Votes for the November 6, 2012, Biennial General Election.

Contact Person (Preparer) for this  
Motion: Dawn Wilson  
Dept.: City Attorney's Office  
File No.:

## RECOMMENDATION:

Adopt Resolution No. 2012-3025 accepting the canvass of votes for the November 6, 2012, Biennial General Election.

## EXECUTIVE SUMMARY:

At the November 6, 2012, Biennial General Election, the City had placed on the ballot before the voters of the City the following items:

### MUNICIPAL OFFICES

- Council Position – District 1
- Council Position – District 3
- Council Position – District 5

### PERSON

Lesley Woodruff\*  
Spencer Haley\*  
Mike Corey\*

\* *Won the election*

### MEASURE

*Annexation:*

- Annexation of two parcels under one acre each into Newberg – 1.36 acres – (Measure No. 36-157)  
**PASSED**

On November 28, 2012, the City received from Rebekah Stern Doll, County Clerk of Yamhill County, a Certificate certifying the true, actual, and final results (Canvass Report) of the November 6, 2012, Biennial General Election.

In accordance with the Newberg Municipal Code and State law, the City should accept the results as presented by the County Clerk.

## FISCAL IMPACT:

The annexation will add new property to the City's tax rolls.

## STRATEGIC ASSESSMENT:

There were no election violations. All deadlines and requirements were met in a timely manner by the City's elections officer. The annexation passed and the property was zoned as Community Commercial. The property met the land use criteria for annexation.



# RESOLUTION No. 2012-3025

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**A RESOLUTION ACCEPTING THE CANVASS OF VOTES (CANVASS REPORT) FOR THE NOVEMBER 6, 2012, BIENNIAL GENERAL ELECTION AS PROVIDED BY YAMHILL COUNTY CLERK REBEKAH STERN DOLL FOR THREE (3) CITY COUNCILOR POSITIONS AND ONE MEASURE (ANNEXATION) – MEASURE 36-157**

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**RECITALS:**

1. At the November 6, 2012, Biennial General Election, the City had placed on the ballot before the voters of the City the following items:

**MUNICIPAL OFFICES**

- Council Position – District 1
- Council Position – District 3
- Council Position – District 5

**PERSON**

- Lesley Woodruff\*
- Spencer Haley\*
- Mike Corey\*

*\* Won the election*

**MEASURE**

*Annexation:*

- Annexation of two parcels under one acre each into Newberg – 1.36 acres – (Measure No. 36-157)

2. On November 28, 2012, the City received from Rebekah Stern Doll, County Clerk of Yamhill County, a Certificate certifying the true, actual, and final results (Canvass Report) of the November 6, 2012, Biennial General Election.
3. In accordance with the Newberg Municipal Code and State law, the City should accept the results as presented by the county clerk.

**THE CITY OF NEWBERG RESOLVES AS FOLLOWS:**

1. The City accepts the Canvass Report of the Yamhill County Clerk certifying the true, actual, and final results (canvass of votes) for the November 6, 2012, Biennial General Election. A copy of the Certificate of Posting and Canvass Report showing the final results is attached as Exhibit “A,” which is hereby adopted and by this reference incorporated.
2. Based upon these results, the City declares the following persons elected to City Council Offices and the following measure to have passed.
- Council Position – District 1      Lesley Woodruff\*
  - Council Position – District 3      Spencer Haley\*

- Council Position – District 5      Mike Corey\*

\* *Won the election*

**MEASURE**

*Annexation:*

- Annexation of two parcels under one acre each into Newberg – 1.36 acres – (Measure No. 36-157) **PASSED**

3. The unofficial Yamhill County election results were obtained from the Internet and posted on November 6, 2012. A Certificate of Posting is hereby attached as Exhibit “B”, which is hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: December 18, 2012.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 17<sup>th</sup> day of December, 2012.

\_\_\_\_\_  
Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 20<sup>th</sup> day of December, 2012.

\_\_\_\_\_  
Bob Andrews, Mayor

Canvass Report — Total Voters — Official  
 Yamhill County — November 2012 General Election — November 06, 2012

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11/27/2012 09:50 AM

Total Number of Voters : 43,295 of 51,813 = 83.56%

Precincts Reporting 21 of 21 = 100.00%

**Newberg Councilperson District #1, 4-Year Term**

Precinct	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	Lesley Woodruff	Write-in	Totals
PRE002	0	2954	2954	3572	82.70%	1881	26	1907
PRE003	0	3629	3629	4205	86.30%	2298	45	2343
PRE004	0	2665	2665	3200	83.28%	1605	34	1639
<b>Totals</b>	<b>0</b>	<b>9248</b>	<b>9248</b>	<b>10977</b>		<b>5784</b>	<b>105</b>	<b>5889</b>



I CERTIFY THAT THE VOTES RECORDED ON THIS ABSTRACT CORRECTLY SUMMARIZE THE TALLY OF VOTES CAST AT THE ELECTION HEREBY.

SIGNATURE OF COUNTY CLERK:

DATE OF ABSTRACT



**Exhibit "A"**  
**to Resolution No. 2012-3025**  
**(total pages: 4)**

**Canvass Report — Total Voters — Official**  
**Yamhill County — November 2012 General Election — November 06, 2012**

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11/27/2012 09:50 AM

Total Number of Voters : 43,295 of 51,813 = 83.56%

Precincts Reporting 21 of 21 = 100.00%

**Newberg Councilperson District #3, 4-Year Term**

Precinct	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	Spencer Haley	Write-in	Totals
PRE002	0	2954	2954	3572	82.70%	1777	20	1797
PRE003	0	3629	3629	4205	86.30%	2153	45	2198
PRE004	0	2665	2665	3200	83.28%	1483	31	1514
<b>Totals</b>	<b>0</b>	<b>9248</b>	<b>9248</b>	<b>10977</b>		<b>5413</b>	<b>96</b>	<b>5509</b>



I CERTIFY THAT THE VOTES RECORDED ON THIS ABSTRACT CORRECTLY SUMMARIZE THE TOTAL OF VOTES CAST AT THE ELECTION INDICATED.

SIGNATURE OF COUNTY CLERK:

DATE OF ABSTRACT

*Rebecca S. Self*  
 11/27/12



**Exhibit "A"**  
**to Resolution No. 2012-3025**  
**(total pages: 4)**

Canvass Report — Total Voters — Official  
 Yamhill County — ||November 2012 General Election — November 06, 2012

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11/27/2012 09:50 AM

Total Number of Voters : 43,295 of 51,813 = 83.56%

Precincts Reporting 21 of 21 = 100.00%

**Newberg Councilperson District #5, 4-Year Term**

Precinct	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	Mike Corey	Write-in	Totals
PRE002	0	2954	2954	3572	82.70%	1774	22	1796
PRE003	0	3629	3629	4205	86.30%	2168	43	2211
PRE004	0	2665	2665	3200	83.28%	1494	28	1522
Totals	0	9248	9248	10977		5436	93	5529



I CERTIFY THAT THE VOTES RECORDED ON THIS ABSTRACT CORRECTLY SUMMARIZE THE TALLY OF VOTES CAST AT THE ELECTION INDICATED

SIGNATURE OF COUNTY CLERK:

DATE OF ABSTRACT

*Rebecca Stal*  
 11/27/12



**Exhibit "A"**  
**to Resolution No. 2012-3025**  
**(total pages: 4)**

**Canvass Report — Total Voters — Official**  
**Yamhill County — ||November 2012 General Election — November 06, 2012**

Page 98 of 100

11/27/2012 09:50 AM

Total Number of Voters : 43,295 of 51,813 = 83.56%

Precincts Reporting 21 of 21 = 100.00%

**Measure 36-157 Newberg Annex**

Precinct	Early Ballots Cast	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	Yes	No	Totals
PRE002	0	2954	2954	3572	82.70%	2042	584	2626
PRE003	0	3629	3629	4205	86.30%	2577	778	3355
PRE004	0	2665	2665	3200	83.28%	1854	517	2371
<b>Totals</b>	<b>0</b>	<b>9248</b>	<b>9248</b>	<b>10977</b>		<b>6473</b>	<b>1879</b>	<b>8352</b>

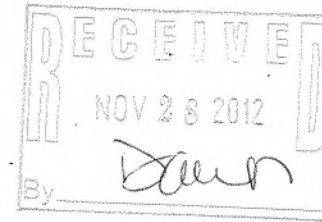


I CERTIFY THAT THE VOTES RECORDED ON THIS ABSTRACT CORRECTLY SUMMARIZE THE TALLY OF VOTES CAST AT THE ELECTION INDICATED.

SIGNATURE OF COUNTY CLERK:

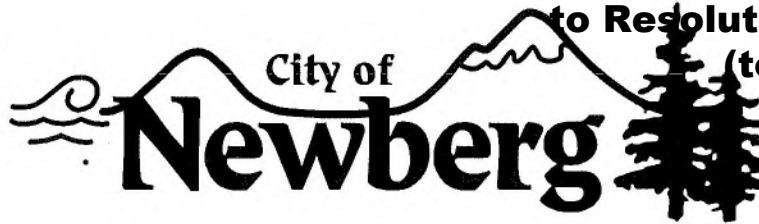
DATE OF ABSTRACT

*Rebekah A. Bell*  
 11/27/12



**Exhibit "A"**  
**to Resolution No. 2012-3025**  
**(total pages: 4)**

City Attorney  
(503) 537-1206  
  
City Manager  
(503) 537-1207



**Exhibit "B"**  
**to Resolution No. 2012-3025**  
**(total pages: 1)**

414 East First Street  
PO Box 970  
Newberg, OR 97132  
503-537-1206

**PLEASE POST:**

- \_\_\_ Newberg Fire Station (*Attn: Jill*)
- \_\_\_ Newberg Public Library (*Attn: Lori Biever-Lauder*)
- \_\_\_ Newberg City Hall (*Attn: Bobbie*)
- \_\_\_ Newberg Public Safety Building (*Attn: Mary/Karan*)

**CERTIFICATE OF POSTING**

***UNOFFICIAL***  
**YAMHILL COUNTY ELECTION RESULTS**  
**AS OF NOVEMBER 6, 2012**

**CITY OF NEWBERG ELECTION RESULTS**  
**Biennial General Election: November 6, 2012**

I, Dawn M. Wilson, Senior Paralegal & Elections Officer, City of Newberg Legal Department, hereby acknowledge that I posted the Unofficial Election Results on the held on November 6, 2012, at the following locations on November 7, 2012:

**Newberg City Hall**, 414 East First Street, Newberg, Oregon  
**Newberg Public Safety Building**, 401 East Third, Newberg, Oregon  
**Newberg Fire Department**, 414 East Second Street, Newberg, Oregon  
**Newberg Public Library**, 503 East Hancock Street, Newberg, Oregon

DATED this 7<sup>th</sup> day of November, 2012.

Dawn M. Wilson, Senior Paralegal & Elections Officer

O:\Legal\Recorder\Election\2012\Cert of Posting-Unofficial Results.doc

CITY ATTORNEY'S OFFICE: [nlegal@newbergoregon.gov](mailto:nlegal@newbergoregon.gov) - Fax: 503-537-5013   
Admin: 537-1261  Building: 537-1240  Public Works: 537-1273  Finance: 538-9421  Fire: 537-1230  
Library: 538-7323  Municipal Court: 537-1203  Police: 538-8321  Maintenance: 537-1234  Utilities: 537-1205  
Municipal Court Fax: 538-5393  Public Works Fax: 537-1277  Library Fax: 538-9720

"Working Together For A Better Community-Serious About Service"

# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 17, 2012

Order \_\_\_      Ordinance \_\_\_      Resolution XX      Motion \_\_\_      Information \_\_\_  
No.              No.              No. 2012-3027

**SUBJECT: To approve funds for a contract Administrator position for the new animal shelter facility for fiscal year 2012-2013.**

Contact Person (Preparer) for this Motion: Dan Danicic, City Manager  
Dept.: Administration

## RECOMMENDATION:

Adopt Resolution No. 2012-3027 approving funds for a contract administrator position for the new animal shelter facility.

## EXECUTIVE SUMMARY:

In 2000, the Newberg Animal Shelter Friends (NASF) began raising funds for the construction of a new animal shelter facility. Over the course of 12 years and with help from the City, sufficient funds have been contributed to build a shell for the new animal shelter facility. The shell has been completed and should be ready for occupancy by the end of December.

The City will be going from a very minimal animal shelter facility to a much larger facility, and with it, the need for dedicated administration and fund raising to enable NASF and the City to fulfill their vision.

Due to the demand to provide a higher quality facility, provide a variety of animal services, and the goal to make operating the facility more self-sustaining, the City believes we should provide initial funds to contract an animal shelter administrator. The proposed administrator would be responsible for the oversight of the volunteer program, including animal control, raise funds to pay for their position, and provide the opportunity for the shelter to become self-sustaining. Contracting for these services provides the City flexibility to terminate the services if they are deemed to be inadequate.

## FISCAL IMPACT:

The finance director estimates the fiscal impact for fiscal year 2012-2013 will be \$45,000.00. Funds will need to be transferred from General Fund Contingency to the Animal Control department code.

## STRATEGIC ASSESSMENT:

The City needs a professional administrator to manage the new Animal Shelter Facility to provide a higher quality facility, provide a variety of animal services, and work toward the goal of making facility operations more self-sustaining. This person will also focus on raising funds in order to reduce the financial burden on the City.



## RESOLUTION No. 2012-3027

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**A RESOLUTION APPROVING THE ALLOCATION OF FUNDS FOR THE POSITION OF A CONTRACT ADMINISTRATOR FOR THE NEW ANIMAL SHELTER FACILITY**

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### RECITALS:

1. The City currently has an undersized and structurally deficient animal shelter facility.
2. Newberg Animal Shelter Friends, and the City, have built a much larger animal shelter facility. This will require more funds to operate and expertise to manage the facility.
3. The need to have a full-time administrator to manage the facility and to raise funds is necessary in order for the facility to become self-sustaining.
4. Funds will need to be transferred from General Fund Contingency to provide the initial funds to create the new position for the rest of this fiscal year.
5. It is intended to budget for this position in the 2013-2014 budget year.

### THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

The Council delegates, authorizes, and directs the finance director to transfer \$45,000.00 from General Fund Contingency (current balance is \$798,947.00) to the Animal Control department code, 01-2160, in the 2012-2013 Budget.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: December 18, 2012.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 17<sup>th</sup> day of December, 2012.

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Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 20<sup>th</sup> day of December, 2012.

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Bob Andrews, Mayor

# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 17, 2012

Order \_\_\_ Ordinance \_\_\_ Resolution \_\_\_ Motion XX Information \_\_\_  
No. No. No.

**SUBJECT:** Approve the October 1, 2012,  
November 5, 2012, and the November 19, 2012, City  
Council Meeting minutes.

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

## RECOMMENDATION:

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

## EXECUTIVE SUMMARY:

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

## FISCAL IMPACT:

None.

## STRATEGIC ASSESSMENT:

None.

**CITY COUNCIL MINUTES  
OCTOBER 1, 2012  
7:00 P.M. MEETING  
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

A work session was held prior to the meeting. A presentation was given by Kelly Amador, ODOT, on the Newberg-Dundee Bypass Project. Mayor and Councilors were given a tour of the remodeled Fire station. All Councilors and the Mayor were present; no action was taken and no decisions were made.

**I. CALL MEETING TO ORDER**

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

**II. ROLL CALL**

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

Staff Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Brian Casey, Police Chief	Norma Alley, City Recorder
		Nicole Tannler, Minutes Recorder

Others Present: Robert Soppe, Peter Siderius, Ray Pacini, Philip White, Antoinette Marcel, and James Swanson.

**III. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was performed.

**IV. SPECIAL PRESENTATIONS**

Consider a motion approving a proclamation supporting National Manufacturing Day held on October 5, 2012.

TIME – 7:05 PM

<b>MOTION:</b> Shelton/McKinney approving a proclamation supporting National Manufacturing Day held on October 5, 2012. Motion carried (7 Yes/0 No).
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**V. CITY MANAGER’S REPORT**

Mr. Daniel Danicic, City Manager, reported he just attended the League of Oregon Cites Conference and several topics included state and local governments working better together and what other cities are doing in this tough budget time. Newberg won the Gold Award from CIS Insurance Company for a low workplace injury frequency rate of 1.3%, which helps lower our insurance rates.

**VI. PUBLIC COMMENTS**

TIME – 7:11 PM

Mr. Robert Soppe stated there is an issue having to do with approval requirements for non-public portable signs within the public right-of-way found in Newberg Municipal Code 15.435.110. He stated that it seems

appropriate to require approval by the property owner for anyone to put a sign in front of the property, regardless of zone. Mr. Soppe believes this could be resolved with the change of a single character in the code. Mr. Soppe discussed the recent Oktoberfest Festival and the resulting street closures. The closures traditionally have prevented vehicular traffic, but have allowed pedestrians to pass; however, the recent event closed the street to vehicles and pedestrians (see official meeting packet for full testimony).

Mr. Peter Siderius, Instructor of Horticulture at Newberg High School, stated he had heard the city may be privatizing landscaping and expressed his concerns for future partnership between the City and the horticulture program. He asked the Council to consider a four year relationship and hopes to keep a strong relationship growing. Mr. Danicic responded if the City decides to contract a landscaping service, it is staff's intent to not let the horticulture program die. There is no guarantee contracting landscaping services is the route the City is going; rather, we see this as an opportunity to take a look at options to share with the Budget Committee.

Mr. Ray Pacini stated he was representing the union (AFSME) and does not believe the City is going to get the kind of dedication and value received with the previous city employee through contracting for landscaping. The bargaining union encourages consideration of these things. Mr. Pacini does not think privatization will be as safe and could cause liability issues.

Mr. Philip White testified there should be some protection given to animals, so they are not able to be euthanized after only two hours. Mr. White asked what the Council intends to do and stated he accepts there is probably an issue with feral cats, but would like to see the Council review current practices. He shared that his cat was picked up at 11:06 a.m. by animal control and euthanized within two hours, as well as being left in a van for an hour and half. Mr. White stated his main objective is to allow 72 hours before drastic measures are taken on felines. Mr. White asked if the animal control officer is qualified to make decisions on euthanizations and whether a vet should be called in for those circumstances. Councilors Howard, Rierson, and Shelton gave their condolences, thanked Mr. White for sharing his situation, shared animal welfare is important to the Council, and stated they would like to see review of the City's policy.

Councilor Shelton asked staff if the animal was injured. Mr. Danicic responded the police report indicates the cat was not injured, but did display erratic behavior. Councilor Shelton asked if there is a typical restraining mechanism used for a cat. Mr. Danicic replied for the safety of the employee there is a restraint used.

Mr. White asked will the new animal shelter have cat facilities. Mr. Danicic responded the plans for the shelter do have a distinct cat play room, a separate room for cat quarantine, and cat kennels.

Ms. Antoinette Marcel, Yamhill County Cat Coalition, stated the goal of her coalition is to reduce the cat homelessness problem by spaying and neutering. She asked the Council to please take a look at what happened to Mr. White's cat. Any cat that will sit there while being noosed is not a dangerous cat. The cat was taken to animal control, euthanized, and then scanned for a microchip, which defeats the whole purpose of microchipping animals to identify them. There is a pole for microchip scanning to allow an animal control officer to scan from a distance or put through cage bars if they believe the cat is dangerous. She is appalled at the lack of professionalism and procedure and asks the Council to take a serious look at the situation. The animal control officer had a dog in the car when the cat was being held in it. For a cat to act "hissy" is totally normal in this case. Councilor Bacon stated we do not know the details of what actually happened as we were not there; there are many things that could have gone wrong. Ms. Marcel replied it was bad procedure to not have waited 24 hours and not scan for a microchip.

Councilor McKinney stated the scan did not return the registered owner and later we were told no ownership could be determined. There needs to be some kind of linkage for microchips from out of the country. Ms. Marcel replied that it was a UK chip, but anyone who went through the effort of putting a microchip in their pet would want the cat back.

Mr. James Swanson stated he believes there is a disconnect in the public policy. He originally found out about this situation through an online news report and has found a collection of comments from readers of the report. He provided handouts with particular remarks about the animal control officer (see official meeting packet for full testimony).

## **VII. COUNCIL BUSINESS**

TIME - 8:03 PM

Mr. Dan Danicic stated we all appreciate animals and a lot of facts have been spoken here tonight. He believes Councilor Bacon brought up a good point that only one person saw what actually happened. The City of Newberg does have a practice in place to follow the Oregon Humane Society Policy for dealing with strays, which is what the animal control officer did. The policy reads “stray cats that are housed at humane society while there is no legal holding time for cats our policy is to try to honor the 72 hour holding period used for dogs this may be shortened or not used at all if the cat is severely injured, un-weaned, sick, or obviously not tame”. Mr. Danicic stated he does appreciate questions posed from Mr. White and would like to hear from council on how they would like to proceed.

**MOTION: Shelton/Howard** approved a motion directing the City Manager and Police Chief to work with animal shelter staff and NASF to prepare a Request for Council Action (RCA) with the facts in more detail than what we saw in email and return to Council for more discussion. Motion carried (7 Yes/0 No).

Councilor Rierson stated he supported the motion and encouraged the citizens present to work with the Police Department on the new animal shelter. We have a great advocate in the police chief and we are very fortunate to have an animal shelter in our city; it is a priority for the council. Mayor Andrews stated he has heard the concerns of the Council and believes it is unfortunate the issue had to come to our attention this way.

## **VIII. EXECUTIVE SESSION**

1. Executive Session pursuant to ORS 192.660(2)(d) relating to labor negotiations and ORS 192.660(2)(f) to consider information or records that are exempt by law from public inspection.
2. Executive Session pursuant to ORS 192.660(2)(e) relating to a real property transaction.

Mayor Andrews went into executive session at 8:30 PM. All Council members were present; no action was taken and no decisions were made. Executive Session was closed at 11:00 PM

## **IX. ADJOURNMENT**

The meeting adjourned at 11:00PM.

**ADOPTED** by the Newberg City Council this 1<sup>th</sup> day of December, 2012.

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Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 20<sup>th</sup> day of December, 2012.

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Bob Andrews, Mayor

**CITY OF NEWBERG CITY COUNCIL MINUTES  
NOVEMBER 5, 2012  
7:00 P.M. MEETING  
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

A work session was held prior to the meeting. A presentation was given by Maggie Finnerty and Derrick Olsen with the Greater Portland Inc. on their recent economic development activities. All Councilors and the Mayor were present; no action was taken and no decisions were made.

**I. CALL MEETING TO ORDER**

Mayor Bob Andrews called the meeting to order at 7:00 PM

**II. ROLL CALL**

Members

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

Staff

Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Jason Wuertz, Project Engineer	Norma Alley, City Recorder
	Paul Chiu, Senior Engineer	Nicole Tannler, Minutes Recorder

Others

Present: Mary Starrett, Robert Soppe, Peter Siderius, and Casey McWilliams

**III. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was performed.

**IV. CITY MANAGER'S REPORT**

Mr. Daniel Danicic, City Manager, reported he has started the recruitment process for the human resources manager by advertising on websites and recruitment closes December 3, 2012. The leaf drop-off program gives residents the opportunity to deal with excess leaves on November 18, 2012, from 8:00am-12:00pm and December 1, 2012, from 8:00am-5:00pm for free. American Water alerted Mr. Danicic they will be sending out mailers to Newberg residents of their program to insure private water and sewer lines and to direct questions to the city although this is not a city related program. Groundskeeper position received four responses, but Mr. Danicic will come to council before any decision is made.

**V. PUBLIC COMMENTS**

Ms. Mary Starrett, Newberg resident, testified the sign outside the Public Safety Building stating all weapons are prohibited in this building violates state law and signs like this have been removed from many city buildings. Councilor Howard responded he thought police stations and courtrooms were an exception. Ms. Starrett responded a municipal judge can ban handguns from court, but this building is used for other things in addition to court. No county, city, or other municipal authority can make these kinds of rules and regulations. Mr. Terry Mahr, city attorney, said the sign was put up by the municipal judge who holds court during the day.

Mr. Peter Siderius acknowledged the city is still moving forward to possibly privatize the groundskeeping job. Mr. Siderius would like to continue the relationship the city currently has with the high school, and reminded

Council from an economic stand-point the city has a changed face from four years ago. He urged decision makers to take these things into consideration.

Mr. Siderius said it is not about the job, the city has probably benefited \$10,000.00 from using the greenhouse program because everything is done at cost or through donations. The students are very important and the program is something I am very proud of.

Mr. Casey McWilliams testified he donated a lot of personal time and product to the city through the greenhouse program. With privatizing the job I will no longer be able to do that.

## VI. CONSENT CALENDAR

Consider a motion approving the September 17, 2012, City Council meeting minutes.

**MOTION: Shelton/Bacon** approving the September 17, 2012, City Council meeting minutes. Motion Carried (7 Yes/0 No).

## VII. NEW BUSINESS

1. Consider a motion adopting **Resolution No. 2012-3019** authorizing the city manager to issue a task order in the amount of \$321,964.00 to the existing CM/GC contract with M.A. Mortenson Company for pre-construction services related to the design of the WWTP Headworks, Influent Pump Station, and Dewatering System.

TIME – 7:25 PM

Mr. Jason Wuertz, Project Engineer, presented the staff report including a PowerPoint slideshow (see official meeting packet for full report).

Councilor Shelton asked if the costs fall within debt already authorized. Mr. Wuertz responded it will draw from the loan we recently acquired, so the funding is there.

Councilor Howard asked with the approval of this resolution are these all up to the cost parameters. Mr. Wuertz said the pace used for budgeting was conservative so the budgets would be available for construction. Councilor Howard inquired if this is work that was contemplated in the master plan. Mr. Danicic responded yes.

**MOTION: Shelton/Rierson** adopting **Resolution No. 2012-3019** authorizing the city manager to issue a task order in the amount of \$321,964.00 to the existing CM/GC contract with M.A. Mortenson Company for pre-construction services related to the design of the WWTP Headworks, Influent Pump Station, and Dewatering System. Motion Carried (7 Yes/0 No).

2. Consider a motion adopting **Resolution No. 2012-3020** considering the formation of the College Street Local Improvement District (LID).

TIME – 7:51 PM

Mr. Paul Chiu, Senior Engineer, presented the staff report. (see official meeting packet for full report).

Councilor Shelton inquired whether the council has sole discretion and a choice of how we want to assess the residents. Mr. Chiu replied the council has the choice to assess residents according to code, and the opportunity to assess cost.

Councilor Shelton said option one is the only one that runs the risk of being challenged by the public. Mr. Chiu stated staff would like advice and guidance about using the money. Councilor Shelton asked if we have estimated costs for using option one, are there staff costs involved in that, and are there any costs that would be incurred by the city for going with option one. Mr. Danicic responded it is all construction cost, and the \$194,000.00 is just for construction.

Councilor Shelton asked about the fiscal impact if the council directs staff to use all or a portion. Terry Mahr, city attorney, replied options one and three do not recover cost, but option two does recover cost.

Mr. Robert Soppe stated in evaluating the different scenarios I look at this as the resolution as three questions: how much should be paid by the property owners who agreed to Waivers of Remonstrance, how much should be paid by the other property owners within the LID, and who should be paying the remainder, if any. Property owners effectively agreed to pay the appropriate allocation to their property of the full LID cost by accepting the Waiver when they purchased their property. While scenario 2 is not as financially attractive to the residents, it is still a 29% discount from the full cost. Their properties will increase in value with the sidewalks. If system development charges (SDCs) are allocated to this project to pay the city's share, is it fair to make future developers pay when they receive no benefit (See official meeting packet for full testimony).

Councilor Shelton asked what the terms of the amount are that we are getting in a grant if we are delayed in a challenge by 60% of the property owners. He asked if we need to finish this in a certain amount of time. Mr. Danicic replied we have funds budgeted of \$194,000.00 and with an LID the city pays that amount up front. The residents can pay their share right away or have a 10 year loan through the city. Councilor Howard wanted clarification on the billing for getting money from residents. Mr. Danicic replied the City is acting as the bank and at end of the project the city will go to each property owner with a bill. The property owners will have a period of time to tell the city whether they want to pay it or finance it.

Mayor Andrews stated he is a parishioner at Presbyterian Church which may be a conflict of interest, as it is in the LID area.

Councilor Shelton said he would like to know what staff recommends. Mr. Chiu responded he would like direction on how much of the \$194,000.00 the city should recoup. He feels scenario one would be the most reasonable and logical scenario. Mayor Andrews asked if having the construction start is contingent on the LID. Mr. Terry Mahr replied we have to establish the LID prior to construction or during the construction. Mr. Danicic stated he would suggest getting it done before construction begins on the next phase.

Councilor Shelton stated with other options the property owners are paying 25% of what they would have had to pay with option one. This is a state highway that has been efficient for the city. This is a benefit to the city much larger than just adding a curb and gutter and it is not fair for just the residents with the waivers of remonstrance to pay, all those affected should pay.

Councilor McKinney said as a councilor to give one neighborhood a perk or benefit that other neighborhoods do not have does not seem fair.

**MOTION: Shelton/Howard** to postpone **Resolution No. 2012-3020** to the December 17, 2012 meeting. Motion carried (7 Yes/0 No).

## VIII. COUNCIL BUSINESS

TIME – 9:38 PM

Mr. Terry Mahr reminded the Council of the joint meeting on the November 26, 2012. Mr. Mike Brandt, Yamhill County Planning Director, is envisioning a mutual agreement and a joint decision.

**IX. EXECUTIVE SESSION**

Executive Session pursuant to ORS 192.660(2)(d) relating to labor negotiations and ORS 192.660(2)(f) to consider information or records that are exempt by law from public inspection.

Council went into Executive Session at 9:45 PM. All Council members were present; no action was taken and no decisions were made. Executive Session was closed at 10:20 PM.

**X. ADJOURNMENT**

The meeting adjourned at 10:20 PM.

**ADOPTED** by the Newberg City Council this 17<sup>th</sup> day of December, 2012.

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Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 20th day of December, 2012.

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Bob Andrews, Mayor

**CITY COUNCIL MINUTES  
NOVEMBER 19, 2012  
7:00 P.M. MEETING  
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

A work session was held prior to the meeting. A presentation was given by Associate Planner Jessica Nunley on the Safe Routes to School Program. All council members were present with Councilor Howard arriving at 6:08 PM; no action was taken and no decisions were made.

**I. CALL MEETING TO ORDER**

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

**II. ROLL CALL**

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

Staff Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Jessica Nunley, Assistant Planner	Norma Alley, City Recorder
	Brian Casey, Chief of Police	Mandy Dillman, Minutes Recorder

Others Present: Mike Ragsdale

**III. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was performed.

**IV. CITY MANAGER'S REPORT**

Mr. Daniel Danicic, city manager, reported the annual turkey carnival brought in around \$2,000.00 in revenue, the city lights for Christmas will be put up on Saturday and the library will be hosting their annual tree lighting ceremony on Thursday, December 29, 2012.

**V. PUBLIC COMMENTS**

TIME – 7:08 PM

Mr. Robert Soppe stated his meaning was captured incorrect in the October 1, 2012, meeting minutes. The minutes are currently written as, "He stated it seems appropriate for property owners to receive approval to put a sign in front of personal property regardless of zone." Mr. Soppe believes his comment would be more accurately represented written as "He stated that it seems appropriate to require approval by the property owner for anyone to put a sign in front of the property, regardless of zone." Secondly, Mr. Soppe commented on the incorrect minutes he brought to the Council's attention at a previous meeting. He believes the councilors have the capability of creating motions that convey their intent, with help from staff when needed, and that once they have selected their text for the motion and it has been voted on, that text should not be changed without Council's approval. Mr. Soppe commented it was inappropriate for staff to make changes without consulting with the Council. Mr. Soppe understands a motion to be a force of law when included with a resolution and when changed in the minutes, the motion may not convey the same intent the council had voted on (see official meeting packet for full testimony).

Councilor Bart Rierson said that he does not find it objectionable for minutes recorders to make changes. He mentioned the councilors get to review minutes and make changes before they get finalized. Mr. Soppe replied this mistake was factually incorrect with only three of four items included in the motion and the minutes were still recorded and approved that way. He felt the bigger concern was they approved the wording in the meeting, but the correct wording did not make it into the minutes.

## VI. CONSENT CALENDAR

1. Consider a motion adopting **Resolution No. 2012-3021** for the surplus and sale or donation of a Fire Engine, a Water Rescue Vehicle, and a Rescue Ambulance and a motion to approve the October 1, 2012, City Council meeting minutes as amended.
2. Consider a motion approving the October 1, 2012, City Council meeting minutes.

TIME – 7:12 PM

The minutes were pulled from Consent Calendar and discussed under Council Business.

**MOTION: Howard/Rierson** to approve the Consent Calendar including **Resolution No. 2012-3021** for the surplus and sale or donation of a Fire Engine, a Water Rescue Vehicle, and a Rescue Ambulance, as amended. Motion carried (7 Yes/ 0 No).

## VII. NEW BUSINESS

1. Consider a motion adopting **Resolution No. 2012-3022** supporting the Newberg Downtown Coalition’s Transforming Downtown Application.

TIME – 7:15 PM

Mr. Mike Ragsdale, Newberg downtown coalition (NDC) director, presented the staff report accompanied by a PowerPoint presentation (see official meeting packet for full report).

Mr. Danicic asked if this included any obligations of funding or involvement by the council. Mr. Ragsdale replied that they have no financial obligations.

Mr. Witherspoon questioned if the resolution was for them to support the application process and recommended language change under the first resolves to change the word “the” to “an”. Mr. Ragsdale said the resolution is for the Council to support NDC to participate in the transformation of downtown and would have no problem with that amendment.

Mayor Andrews asked Mr. Ragsdale if he was the “guaranteed local representative” mentioned in the application paperwork. Mr. Ragsdale replied he was.

Mayor Andrews also mentioned that the paperwork talked about guaranteed adequate financial support. Mr. Ragsdale answered that it is not a requirement of the state, but that the city does support them already and no more is expected.

NDC recommends approval of Resolution No. 2012-3022.

**MOTION: Rierson/Howard** adopting **Resolution No. 2012-3022** supporting the Newberg Downtown Coalition’s Transforming Downtown Application. Motion carried (7 Yes/0 No).

2. Consider a report on policy changes and additions to the Newberg-Dundee Animal Control Policy.

TIME – 7:27 PM

Chief of Police Brian Casey reported on the recent incident of Mr. Phil White's cat, William, being euthanized without his consent or knowledge. First he thanked Mr. White for his help in changing the animal control policies to prevent something like this from happening again. The new policies to be implemented are no animals can be euthanized without notifying the police department first, all animals must be held 72 hours beforehand, if it is an emergency and the animal can not be held for 72 hours a veterinarian will be consulted, the animal will be scanned for a chip or a license searched, a detailed report will be filled out before all animals are euthanized, and new items have been purchased to assist with the new policies. The items purchased are a net to help catch cats without alarming them as much as a cat pole does, a scanner with a longer handle to aid in finding chips without getting too close to a possibly dangerous animal, and a squeeze cage to help restrain cats when searching for chips or sedating them. With these new policies and equipment Chief Casey feels they are off to a good start with animal control issues.

Mr. Phil White spoke about how valuable it has been to work with Chief Casey and how appreciative he is of the council's involvement. He is sad it was his cat that this happened too, but glad of what has come out of it as to prevent it from happening to others.

Councilor Howard thanked Mr. White for coming back to speak again and for helping in the process. He then asked Chief Casey how he sees a similar situation playing out with the new policies and equipment in place. Chief Casey replied the condition of the cat would determine which tools they use and an animal is now guaranteed to be held for 72 hours upon which time someone from police management must give approval before euthanizing the animal.

Councilor Howard further inquired as to the distance of the wand to read chips and asked if it could work through the cage. Chief Casey believed the wand would work with the cat enclosed in the squeeze cage, which without that device they were unable to get close enough to William to scan him.

Mr. White mentioned there are a number of feral cat colonies in Newberg, which citizens take care of and feed; however, they felt in the past they had to hide the cats to prevent them from being picked up and euthanized. With these new policies in place they can be assured their cats will not be immediately put to sleep.

Discussion commenced on how the wand can be used for dogs as well, the staff at the animal shelter will undergo training for using the new devices as well as other continued education, all animal control devices will be used at the animal control officers discretion depending on each individual case, and having several veterinarians working with the shelter.

## VIII. COUNCIL BUSINESS

1. Consider a motion approving the October 1, 2012, City Council meeting minutes.

TIME – 7:27 PM

**MOTION: Andrews/Rierson** to postpone October 1, 2012, City Council meeting minutes to the December 17, 2012, meeting directing staff to look into Mr. Soppe's recommended changes. Motion carried (7 Yes/0 No).

Councilor Shelton asked how long records are kept, in accordance to law. Mrs. Norma Alley, city recorder, replied written minutes are kept indefinitely; however, the city of Newberg's policy is to retain recorded minutes for only three years. The written minutes are the only formally recognized minutes by the State and are to be retained permanently.

Councilor Shelton explained he feels the issue Mr. Soppe brought forward is very important to the neighborhood. The fact that E1, E2, and C2 were the only ones recorded in the minutes being voted on discounted those citizens' needs that are affected by not including E3. He is concerned if they do not amend minutes they will lose that information when the recorded minutes are deleted in three years. Norma Alley stated the April minutes have been amended to include the E3 zone as well as the resolution correctly included all zones prior to collection of signatures.

2. Waste Management Franchise.

**MOTION: Howard/Shelton** directing staff to work with Waste Management on presenting council with options to move forward in residential glass recycling. Motion carried (7 Yes/0 No).

3. Introduction of newly elected Councilors.

Each councilor and staff gave a short introduction of themselves to the new councilors. Mayor Andrews thanked them for coming, mentioned they would start orientation on Wednesday, and invited them to attend the December Council meetings, the joint meeting on November 26, 2012, and the Local Government Dinner. Ms. Lesley Woodruff said she will be serving District 1 and was looking forward to serving on the council. She shared she was explaining to her children about attending more meetings to make Newberg a better place and her five year old suggested they plant more roses in Newberg. Ms. Woodruff said she might make that her first council agenda item. Mr. Mike Corey said he is representing District 5 and was glad to serve with the other councilors and for the city in this way. He is looking forward to being a part of a formulated government, knows it will not always be easy, and is looking forward to all of the thought provoking things he will encounter.

4. Other Items

Mr. Terry Mahr reported it has come to their attention that not allowing any weapons, including those carried by a person with a concealed hand gun permit, is not in order with the state statue, which states persons with concealed hand gun permits may bring weapons into city buildings just not into court rooms. Technically the council meets in a courtroom. However, court is not in session during council meetings so the rule does not apply. Mr. Mahr mentioned he will speak with the judge to see if he wants to press on the issue of stating the Training Room considered as a court room even when court is not in session. The sign outside stating "No Weapons" will probably not need to be repainted, however they may need to include a sign inside the building that is more specific. He will check with the judge and chief of police before deciding.

**IX. ADJOURNMENT**

The meeting adjourned at 8:26 PM.

**ADOPTED** by the Newberg City Council this 17<sup>th</sup> day of December, 2012.

\_\_\_\_\_  
Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 20<sup>th</sup> day of December, 2012.

\_\_\_\_\_  
Bob Andrews, Mayor

# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 17, 2012

Order \_\_\_ Ordinance XX Resolution \_\_\_ Motion \_\_\_ Information \_\_\_  
No. No. 2012-2757 No.

**SUBJECT:** A non-exclusive cable system franchise with Comcast of Oregon II, Inc. ("Comcast").

**Contact Person (Preparer) for this Motion:** Dawn Wilson  
**Dept.:** City Attorney's Office

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

**RECOMMENDATION:** Adopt Ordinance No. 2012-2757 repealing Ordinance Nos. 2000-2530 and 2012-2753, and adopting a new, non-exclusive cable system franchise with Comcast of Oregon II, Inc. ("Comcast").

## EXECUTIVE SUMMARY:

The cable TV franchise between the City and Comcast expired June 30, 2012. However, with Comcast's willingness, the City extended it for four (4) months in order to negotiate a new franchise via Ordinance No. 2012-2753. Due to unanticipated scheduling delays, Comcast agreed via a letter-agreement to extend the franchise through December 31, 2012.

It's vitally important that a new franchise be adopted so quality services are provided to subscribers and the City continues to receive revenue from the franchise fee. No major changes have been made with this new contract.

The Cities of Newberg and Dundee have negotiated with Comcast for the same Franchise Agreement. The negotiations between the City and Comcast have been extremely friendly, successful, and have resulted in a new Franchise Agreement, which comports with the requirements of federal and state laws, namely the Federal Communications Commission (FCC).

The main differences in this agreement versus the current agreement are as follows:

- There was a side letter that accompanied the prior agreement. Comcast provided \$10,000.00 per year to the City for scholarships. This is something Comcast is not continuing. They do not have this arrangement in any of their other franchise agreements.
- The customer service section has a requirement for a cable store/office within 15 miles of the city. The proposed agreement does not contain this provision. Comcast will continue to operate the cable stores in McMinnville and the one in Beaverton, both of which are within the 15 mile radius.
- The customer service section has been condensed to reflect Comcast requirements to provide customer service levels as stipulated by the Cable Act versus listing out all of those requirements.

- The proposed agreement provides for a technology/franchise review beginning with the third anniversary of the agreement, or any subsequent year thereafter, where the City can bring up issues related to public, education, and government (PEG) channels, PEG fees, or other issues related to the franchise. This gives the City the ability to plan the development of a PEG channel(s) for use in the future. The current agreement provides for PEG channel(s) and PEG fees. The City has not implemented the development of a PEG channel. Comcast is proposing this issue is something the City can undertake in the future; if it so chooses.
- The proposed franchise provides for the insertion of the City's right-of-way and tree maintenance ordinances. This is similar to what Dundee has added to its franchise.
- The proposed franchise does not provide for an INet, as is contained in the current agreement, but INet never moved forward. The INets are being phased out throughout our region and being replaced by Comcast's Metro product.
- There are changes to update language and definitions to reflect changes in the cable industry—much of which is similar to the City's franchise with Frontier.
- The proposed contract is for a term of ten (10) years as opposed to the current contract with a twelve (12) year term.

**FISCAL IMPACT:**

The City will continue to receive revenue from the 5% franchise fee.

**STRATEGIC ASSESSMENT:**

The new Franchise Agreement contains modern language addressing current practices and processes. The franchise has also been condensed for brevity without losing any substantive language. With the franchise being renewed, the City may continue to enforce citizen complaints efficiently and effectively to ensure that quality service is provided to subscribers. Additionally, the City may continue to collect revenue from the franchise fee.



## ORDINANCE No. 2012-2757

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**AN ORDINANCE REPEALING ORDINANCE NOS. 2000-2530 AND 2012-2753; AND ADOPTING AND GRANTING A NON-EXCLUSIVE CABLE SYSTEM FRANCHISE AGREEMENT WITH COMCAST OF OREGON II, INC. (“COMCAST”) FOR CONSTRUCTION AND OPERATION OF A CABLE SYSTEM WITHIN THE CITY LIMITS OF NEWBERG**

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### RECITALS:

1. The cable TV franchise between the City and Comcast expired June 30, 2012. However, with Comcast’s willingness, the City extended it for four (4) months in order to negotiate a new franchise via Ordinance No. 2012-2753. Due to unanticipated scheduling delays with Dundee’s, Comcast agreed via a letter-agreement to extend the franchise through December 31, 2012.
2. It is vitally important a new franchise be adopted so quality services are provided to subscribers and the City continues to receive revenue from the franchise fee.
3. The Cities of Newberg and Dundee have negotiated with Comcast for the same Franchise Agreement, and no major changes have been made with this new contract.
4. The negotiations between the City and Comcast have been extremely friendly, successful, and have resulted in a new Franchise Agreement, which comports with the requirements of federal and state laws, namely the Federal Communications Commission (FCC).

### THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

#### Section 1 – Title:

This Franchise will be known and be cited as the “Cable System Franchise with Comcast of Oregon II, Inc. (Comcast).”

#### Section 2 – Granting of Franchise:

- A) Pursuant to the public interest, the City hereby grants to Comcast a non-exclusive and revocable authorization to operate cable system services for cable television within the city limits of Newberg.
- B) This authorization is made in accordance with the applicable provisions of the Federal Communications Commission (“FCC”), as well as all applicable federal and state laws.

- C) The Franchise Agreement is hereby attached as Exhibit “A” and by this reference incorporated.
- D) The City agrees to the terms and conditions of the Franchise Agreement with Comcast. The City authorizes and directs the City Manager to sign the agreement on behalf of the City of Newberg with approval as to legal sufficiency by the City Attorney.

**Section 3 – Term of Franchise:**

The Franchise is granted for ten (10) years commencing on January 1, 2013, which will expire on December 31, 2022.

**Section 4 – Emergency Clause:**

The Charter states ordinances are effective 30 days after adoption. Due to the negotiations, finalization of the Franchise, and the timing of the last Council meeting prior to the current Franchise expiring, it’s essential for this Franchise to commence on January 1, 2013, rather than January 16, 2013. Therefore, an emergency is hereby declared, and the effective date of this ordinance is January 1, 2013.

➤ **EFFECTIVE DATE** of this ordinance is: January 1, 2013.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 17<sup>th</sup> day of December, 2012, by the following votes: **AYE:**    **NAY:**            **ABSENT:**            **ABSTAIN:**

\_\_\_\_\_  
Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 20<sup>th</sup> day of December, 2012.

\_\_\_\_\_  
Bob Andrews, Mayor

**A NONEXCLUSIVE FRANCHISE AGREEMENT  
TO PROVIDE CABLE SYSTEM SERVICES (CABLE TV)  
WITHIN THE CITY OF NEWBERG**

\* \* \*

**CABLE SYSTEM FRANCHISE AGREEMENT  
FOR CABLE TELEVISION**

This Cable Television System Franchise Agreement ("Franchise") is entered into this 1st day of January, 2013, by and between the CITY OF NEWBERG, OREGON, ("Grantor"), and COMCAST OF OREGON II, INC., ("Grantee").

WHEREAS, the Grantee is the successor to TCI CABLEVISION OF OREGON, INC. to provide services, facilities and equipment necessary for cable related needs of the community;

WHEREAS, the Grantor is authorized to grant one or more nonexclusive Franchises to construct, operate and maintain a cable television system within the municipal boundaries of the Grantor;

WHEREAS, the Grantor has considered the financial conditions, technical ability and legal qualifications of Grantee;

WHEREAS, the Grantor, after such consideration, analysis and deliberations as are required by applicable law, has approved and found sufficient the financial, technical and legal qualifications of Grantee to provide cable television service within the Grantor's boundaries;

WHEREAS, the Grantee is willing to accept this Franchise subject to terms and conditions herein, and to abide by those terms and conditions;

WHEREAS, the public has had adequate notice and opportunity to comment on Grantee's application to provide cable television service within the Grantor's boundaries;

WHEREAS, in consideration of the mutual promises made herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Grantor and the Grantee do agree as follows:

**SECTION 1**  
**Definition of Terms**

**1.1 Terms.** For the purpose of this Franchise, the following terms, phrases, words, and abbreviations will have the meanings ascribed to them below. When not inconsistent with the context, words used in the present

tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

- A. "Basic Cable" means any service tier that includes the retransmission of local television broadcast signals and any other programming provided by the Grantee.
- B. "Cable Act" means Title VI of the Communications Act of 1934, as amended.
- C. "Cable Service" will mean (1) the one-way transmission to subscribers of (a) video programming, or (b) other programming service, and (2) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- D. "Cable System" will mean the Grantee's facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within the Service Area have the meaning specified in the definition of "Cable System" in the Cable Act.
- E. "FCC" means Federal Communications Commission, or successor governmental entity thereto.
- F. "Franchising Authority" and "Grantor" means the City of Newberg or the lawful successor, transferee, or assignee thereof.
- G. "Grantee" means Comcast of Oregon II, Inc., or the lawful successor, transferee, or assignee thereof.
- H. "Gross Revenue" means any revenue derived by the Grantee from the operation of the Cable System to provide Cable Services in the Service Area in accordance with Generally Accepted Accounting Principles (GAAP), consistent with federal and state law, provided, however that such phrase will not include: (1) any tax, fee, or assessment of general applicability collected by the Grantee from Subscribers for pass-through to a government agency, including the FCC user fee; (2) unrecovered bad debt; (3) advertising agency commission and launch fees to the extent consistent with GAAP; and (4) franchise fees and any Public, Education and Government (PEG) amounts received from Subscribers. Gross Revenues will also not include revenue from any other sources or services unless and until such sources or service is finally, specifically and expressly declared to be a cable service under federal law or regulation, by Congress or the Federal Communication Commission.
- I. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.
- J. "Public Way" will have the meaning specified in the definition of "Right-of-Way" in Section 12.05.300 (Definitions), utility facilities in public Rights-of-Way, of the Newberg Municipal Code.
- K. "Service Area" means the legal boundaries of the Franchising Authority, and will include any additions thereto by annexation or other legal means, subject to the exceptions in Section 3.9.
- L. "Standard Installation" is defined as 125 feet from the nearest tap to the Subscriber's terminal.
- M. "Subscriber" means a Person who lawfully receives Cable Service of the Cable System with the Grantee's express permission.

**SECTION 2**  
**Grant of Franchise**

**2.1 Grant.** The Franchising Authority hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to construct and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way such facilities and equipment as may be necessary or appurtenant to the Cable System.

Notwithstanding anything to the contrary, any easement for such use which has already been granted by the Franchising Authority to a telephone or other utility company will to the fullest extent be interpreted so as to grant Grantee the same rights and privileges as have been granted to the telephone or other utility company (the “Other Grants”), to the extent the grant herein does not violate the terms and conditions of the Other Grants or unreasonably interfere with the uses allowed therein. In such easements, the words “telephone” or “telephone company,” “public utility” and the like will to the fullest extent be interpreted to include the Grantee.

**2.2 Other Ordinances.** The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. Neither the Franchising Authority nor the Grantee may unilaterally alter the material rights and obligations set forth in this Franchise. In the event of a conflict between any ordinance and this Franchise, the Franchise will control, provided however that the Grantee agrees that it is subject to the lawful exercise of the police power of the Franchising Authority.

**2.3 Competitive Equity.**

(A) The Grantee acknowledges and agrees that the Franchising Authority reserves the right to grant one (1) or more additional franchises or other similar lawful organizations to provide Cable Services within the Service Area; provided, the Franchising Authority agrees that, within ninety (90) days of the Grantee’s request, it will amend this Franchise to include any material terms or conditions that it makes to the new entrant, or provide relief from existing material terms or conditions, so as to ensure that the regulatory and financial burdens on each entity are materially equivalent. “Material terms and conditions” include, but are not limited to: franchise fees; insurance; system build-out requirements; security instruments; customer service standards; required reports and related record keeping; and notice and opportunity to cure breaches. The parties agree that this provision will not require a word for word identical franchise or authorization for competitive entry, so long as the regulatory and financial burdens on each entity are materially equivalent. Video programming services delivered over wireless broadband networks are specifically exempted from the requirements of this section.

(B) Notwithstanding any provision to the contrary, at any time that a non-wireless facilities based entity, legally authorized by state or federal law, makes available for purchase by Subscribers or customers, Cable Services or multiple Channels of Video Programming within the Service Area without a franchise or other similar lawful authorization granted by the Franchising Authority, then Grantee may seek modification as per (A) above, or the term of the Grantee’s Franchise will, upon ninety (90) days written notice from Grantee, be shortened so that the Franchise will be deemed to expire on a date six (6) months from the first day of the month following the date of Grantee’s notice.

**2.4 Term.** The Franchise granted hereunder will be for an initial term of ten (10) years commencing on the effective date of the Franchise as set forth in Section 8.6, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

**2.5 Technological Development Review.** Within sixty (60) days of the third anniversary or one of the subsequent anniversaries of the effective date of this Franchise, the Franchising Authority may, but is not required to, conduct a limited review of the Franchise. The purpose of the review will be to ensure, with the benefit of full opportunity for public comment, that the Grantee continues to effectively serve the public in light of new

developments in cable technology together with related developments in cable law and regulation, and community needs and interests—including public, education and government access, and consideration of all financial, technological, and operational impacts that may affect the Grantee. Both the Franchising Authority and Grantee agree to make a full and good faith effort to participate in the review.

If, after completion of the review, the Franchising Authority and Grantee agree that the public interest will be served by modifying certain franchise obligations and/or extending the term of the Franchise, the Franchising Authority, with the express written agreement of the Grantee, will modify the obligations and extend the term of the Franchise accordingly.

### **SECTION 3** **Standards of Service**

**3.1 Conditions of Occupancy.** The Cable System installed by the Grantee is subject to the terms and conditions of Section 12.05.300, utility facilities in public Rights-of-Way, of the Newberg Municipal Code (“Section 12.05.300”) for the use of the Public Ways. The Cable System installed by the Grantee pursuant to the terms hereof will be constructed, erected, located, maintained, repaired, replaced, or upgraded pursuant to Section 12.05.300 so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any such Public Ways. Section 12.05.300 will govern any conflict with Franchise terms herein for use of Public Ways. Notwithstanding section 3.1, Newberg Municipal Code section 12.05.300 will only apply to Grantee’s Cable Service as defined in this agreement, which is not subject to the privilege tax.

**3.2 Restoration of Public Ways.** If during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, Grantee will replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance. In the event Grantee fails to restore the Public Way to a condition reasonably comparable to the condition existing immediately prior to such disturbance, the Franchising Authority may restore or cause to restore such Public Way at the expense of Grantee; provided, that the Franchising Authority provides Grantee with reasonable notice to restore, and Grantee fails to restore such Public Way within the time period given by the Franchising Authority.

**3.3 Relocation at Request of the Franchising Authority.** Upon its receipt of reasonable advance written notice, to be not less than five (5) business days, the Grantee, at its own expense, will protect, support, temporarily disconnect, relocate in or remove from the Public Way, any property of the Grantee when lawfully required by the Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the Franchising Authority which are not used to compete with the Grantee's services. The Grantee will in all cases have the right of abandonment of its property.

**3.4 Relocation for a Third Party.** The Grantee will, on the request of any Person holding a lawful permit issued by the Franchising Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of Grantee, provided: (A) the expense of such paid by the Person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (B) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this Section 3.4, "reasonable advance written notice" will be no less than ten (10) business days in the event of a temporary relocation, and no less than 120 days for a permanent relocation.

**3.5 Trimming of Trees and Shrubbery.** The Grantee will have the authority to trim trees or other natural growth within the Public Ways in order to access and maintain the Cable System.

**3.6 Safety Requirements.** Construction, operation, and maintenance of the Cable System will be performed in an orderly and workmanlike manner. All such work will be performed in substantial accordance with generally

applicable federal, state, and local regulations and the National Electric Safety Code. The Cable System will not endanger or unreasonably interfere with the safety of Persons or property in the Service Area.

**3.7 Underground Construction.** In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise will construct, operate, and maintain its Cable System underground. The Franchising Authority will not incur any cost or expense in the event Grantee is lawfully required by the Franchising Authority to place its distribution facilities underground as provided in this Section 3.7. Nothing contained in this Section 3.7 will require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances.

**3.8 Access to Open Trenches.** The Franchising Authority agrees to include the Grantee in the platting process for any new subdivision. At a minimum, the Franchising Authority agrees to require as a condition of issuing a permit for open trenching to any utility or developer that (A) the utility or developer give the Grantee at least ten (10) days advance written notice of the availability of the open trench, and (B) that the utility or developer provide Grantee with reasonable access to the open trench. Notwithstanding the foregoing, Grantee will not be required to utilize any open trench.

**3.9 Required Extensions of the Cable System.** Grantee agrees to provide Cable Service to all residents in the Service Area subject to the density requirements specified in this Section 3.9. Whenever the Grantee receives a request for Cable Service from a Subscriber in a contiguous unserved area where there are at least 12 residences within 1320 cable-bearing strand feet (one-quarter cable mile) from the portion of Grantee's trunk or distribution cable which is to be extended, it will extend its Cable System to such Subscriber at no cost to said Subscriber for the Cable System extension, other than the published Standard/non-Standard Installation fees charged to all Subscribers. Notwithstanding the foregoing, the Grantee will have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where another operator is providing Cable Service, into any annexed area which is not contiguous to the present Service Area of the Grantee, or into any area which is financially or technically infeasible due to extraordinary circumstances, such as a runway or freeway crossing.

**3.10 Subscriber Charges for Extensions of the Cable System.** No Subscriber will be refused service arbitrarily. However, if an area does not meet the density requirements of Section 3.9 above, the Grantee will only be required to extend the Cable System to Subscriber(s) in that area if the Subscriber(s) are willing to share the capital costs of extending the Cable System. Specifically, the Grantee will contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of residences per 1320 cable-bearing strand feet from Grantee's trunk or distribution cable, and whose denominator equals twelve (12). Subscribers who request service hereunder will bear the remaining cost to extend the Cable System on a pro rata basis. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance. Subscribers will also be responsible for any Standard/non-Standard Installation charges to extend the Cable System from the tap to the residence.

**3.11 Cable Service to Public Buildings.** The Grantee, upon request, will provide without charge, a Standard Installation and one outlet of Basic Cable and expanded basic service or its equivalent to those administrative buildings owned and occupied by the Franchising Authority, fire station, police station, and K-12 public school(s) that are within the Service Area and passed by its Cable System; provided, however, those buildings or portions of buildings housing or occupied by prison/jail populations will be excluded. Cable Service to the Franchising Authority described herein is a voluntary initiative of Grantee and not a requirement under this Franchise. The Cable Service provided will not be distributed beyond the originally installed outlet without authorization from Grantee. The Cable Service provided will not be used for commercial purposes, and such outlets will not be located in areas open to the public. The Franchising Authority will take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in the inappropriate use thereof or any loss or damage to the Cable System. The Franchising Authority will hold the Grantee harmless from any and all liability or claims arising out of the provision and use of Cable Service required by this Section 3.11. The Grantee will not be

required to provide an outlet to such buildings where a non-Standard Installation is required, unless the Franchising Authority or building owner/occupant agrees to pay the incremental cost of any necessary Cable System extension and/or non-Standard Installation. If additional outlets of Basic Cable and expanded basic service are provided to such buildings, the building owner/occupant will pay the usual installation and service fees associated therewith.

**3.12 Emergency Use.** In accordance with, and at the time required by, the provisions of FCC Regulations Part 11, Subpart D, Section 11.51, as such provisions may from time to time be amended, Emergency Alert System (“EAS”) activation will be accomplished in compliance with such regulations and consistent with FCC approved Oregon State EAS plan and local area EAS plan applicable to Yamhill County.

**3.13 Reimbursement of Costs.** If funds are available to any Person using the Public Way for the purpose of defraying the cost of any of the relocations under Sections 3.3 and 3.4 hereof, the Franchising Authority will reimburse Grantee in the same manner in which other Persons affected by the requirement are reimbursed by the Franchising Authority. If funds are controlled by another government entity, the Franchising Authority will make application for such funds on behalf of Grantee.

**3.14 System Standards.** The Cable System will meet or exceed all applicable technical and performance standards of the FCC. The Grantee will also comply with all applicable testing requirements of the FCC. Upon request, Grantee will advise the Franchising Authority of schedules and methods for testing the Cable System within the Service Area to determine compliance with the provisions of applicable FCC technical standards. Representatives of the Franchising Authority may witness the tests.

Written records of all system tests required to be performed by or for the Grantee will be maintained at Grantee's business office, and will be available for inspection during Grantee's normal business hours by the Franchising Authority upon written request. Grantee, upon written request of Franchising Authority, will provide a summary or complete copy of such test results prepared in accordance with FCC rule.

Whenever it is necessary to shut off or interrupt service for the purpose of making repairs or maintaining the Cable System, Grantee will do so at such times as will cause the least amount of inconvenience to Subscribers, and unless such interruption is unforeseen and immediately necessary, it will give reasonable notice thereof to Subscribers. Notwithstanding anything to the contrary, Grantee's obligation to provide, replace, construct, maintain or operate the Cable System under this Franchise will be excused for any period during which such service is prevented or interrupted by causes beyond the control of Grantee including acts of nature, fire, flood, unavoidable casualty, extra-ordinary delays in transportation, strikes or power interruption, or regulations. Cable Service will thereafter be restored as soon as reasonably possible.

**3.15 Customer Service Standards/Complaint Resolution.** Grantee will comply with the customer service standards set forth in Section 76.309 of the FCC's Rules and Regulations, as may be amended from time to time.

Grantee may arrange for a drop box or its equivalent within the city limits of the Franchising Authority where Subscribers may drop or deliver their bill payment for cable service.

Should a Subscriber have an unresolved complaint regarding Cable Service with Grantee, the Subscriber may file a complaint with the Franchising Authority and thereafter to meet or discuss jointly with representatives of the Franchising Authority and Grantee within 30 days of filing the complaint with the Franchising Authority to address and resolve the Subscriber's complaint. For purposes of this paragraph, a "complaint" is a grievance related to the Cable Service provided by Grantee within the Service Area that is reasonably remediable by Grantee, but does not include grievances regarding the content of programming or information services other than broad categories of programming, and does not include customer contacts resulting in routine service calls that resolve the subscriber's problem satisfactorily to subscriber.

**3.16 Public, Education, and Government Access.** If the Franchising Authority and the Grantee, under Section 2.5, agree it is the best interest of the community to provide a local Public Access channel; Within 90 days of receipt of the written request of the Franchising Authority, Grantee agrees to provide the Franchising Authority a public, education, and government ("PEG") access channel to cablecast its local government meetings and other noncommercial programming on the Cable System within the Service Area. The Franchising Authority agrees to indemnify, save and hold harmless Grantee from and against any and all liability resulting from the use of Grantee's channel for PEG access by the Franchising Authority or its designee.

## **SECTION 4** **Regulation by the Franchising Authority**

### **4.1 Franchise Fee.**

A. The Grantee will pay to the Franchising Authority a franchise fee equal to five percent (5%) of annual Gross Revenues (as defined in Section 1.1 of this Franchise). In accordance with the Cable Act, the 12-month period applicable under the Franchise for the computation of the franchise fee will be a calendar year. The franchise fee payment will be due quarterly and payable within forty-five (45) days after the close of the preceding calendar quarter. Each payment will be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation.

B. **Limitation on Franchise Fee Actions.** The period of limitation for recovery of any franchise fee payable hereunder will be three (3) years from the date on which payment by the Grantee is due.

**4.2 Rates and Charges.** The Franchising Authority may regulate rates for the provision of Basic Cable and equipment as expressly permitted by federal or state law.

**4.3 Inspections for Compliance.** The Franchising Authority may inspect the Cable System within the Service Area, during reasonable times and in a manner that does not unreasonably interfere with the normal business operations of Grantee, in order to determine compliance with applicable FCC standards. Except in emergency circumstances, such inspections may be undertaken only after giving not less than five (5) days advance notice thereof and after giving Grantee an opportunity to be present during such inspections. In the event such inspection determines that Grantee's Cable System has substantially failed to comply with applicable FCC standards, the reasonable costs of the inspection will be borne by Grantee. In the event such inspection demonstrates that Grantee has substantially complied with applicable FCC standards, the cost of the inspection will be borne by the Franchising Authority. Except in emergency circumstances, the Franchising Authority agrees that such inspection will be undertaken no more than annually, and that the results thereof will be provided to Grantee.

### **4.4 Renewal of Franchise.**

A. The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise will be governed by and comply with the provisions of Section 626 of the Cable Act.

B. In addition to the procedures set forth in said Section 626(a), the Franchising Authority agrees to notify the Grantee of all of its assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of the Grantee under the then current Franchise term. The Franchising Authority further agrees that such assessments will be provided to the Grantee promptly so that the Grantee has adequate time to submit a proposal under Section 626(b) of the Cable Act and complete renewal of the Franchise prior to expiration of its term.

C. Notwithstanding anything to the contrary set forth in this Section 4.4, the Grantee and the Franchising Authority agree that at any time during the term of the then current Franchise, while affording the

public appropriate notice and opportunity to comment, the Franchising Authority and the Grantee may agree to undertake and finalize informal negotiations regarding renewal of the then current Franchise and the Franchising Authority may grant a renewal thereof.

D. The Grantee and the Franchising Authority consider the terms set forth in this Section 4.4 to be consistent with the express provisions of Section 626 of the Cable Act.

**4.5 Transfer of Franchise.** The Grantee's right, title, or interest in the Franchise will not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld. No such consent will be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness, and for change in control to Grantee's parent company or an entity controlling, controlled by, or under common control with Grantee. Within thirty (30) days of receiving a request for transfer, the Franchising Authority will notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. Consent by the Franchising Authority will be deemed given if the Franchising Authority has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, unless the requesting party and the Franchising Authority agree to an extension of time.

## **SECTION 5** **Books, Records, and Maps**

**5.1 Books and Records.** The Grantee agrees that the Franchising Authority, upon thirty (30) days written notice to the Grantee, may review such of its books and records at the Grantee's business office, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure compliance with the terms of this Franchise. Such notice will specifically reference the section of the Franchise which is under review, so that the Grantee may organize the necessary books and records for easy access by the Franchising Authority. Alternatively, if the books and records are not easily accessible at the local office of the Grantee, Grantee may, at its sole option, choose to pay the reasonable travel costs of the Franchising Authority's representative to view the books and records at the appropriate location or to provide the Franchising Authority to view certain books and records in electronic format. The Grantee will not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. Notwithstanding anything to the contrary set forth herein, the Grantee will not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, nor disclose books and records of any affiliate of Grantee which is not providing Cable Service in the Service Area. In the event the Grantee asserts that certain information is proprietary or confidential in nature, the Grantee will identify generally the information which it deems proprietary or confidential and the reasons for its confidentiality in writing.

The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential under applicable federal and state law, and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee will not be required to provide Subscriber information in violation of Section 631 of the Cable Act.

**5.2 Maps.** Grantee will maintain "as built" drawings for the Cable System at Grantee's business office, and make them available to the Franchising Authority for inspection during normal business hours upon written request. "As built" drawings will be updated as changes occur in the Cable System serving the Service Area. Upon written request of the Franchising Authority, Grantee will provide the Franchising Authority copies of strand and trench maps showing the location of Grantee's lines within the Public Ways in the Service Area within sixty (60) days of request for the same. The Franchising Authority recognizes that the information contained in such maps is confidential and proprietary, and remains the property of the Grantee. To the extent provided under the Oregon Public Records Law, the Franchising Authority will safeguard such information from the public law.

**SECTION 6**  
**Insurance and Indemnification**

**6.1 Insurance Requirements.** The Grantee will maintain in full force and effect, at its own cost and expense, during the term of the Franchise, the following liability policies that protect the Grantee and the Grantor, as well as the Grantor's officers, agents, and employees:

A. Comprehensive general liability insurance with limits not less than:

- i. Two million (\$2,000,000) dollars for bodily injury or death to each person;
- ii. Two million (\$2,000,000) dollars for property damage resulting from any one accident;

and

- iii. Two million (\$2,000,000) dollars for all other types of liability.

B. Motor vehicle liability insurance for owned, non-owned and hired vehicles with a limit of one million (\$1,000,000) dollars for each person and two million (\$2,000,000) dollars for each accident.

C. Workers' Compensation insurance within statutory limits and employer's liability with limits of not less than \$1,000,000.

D. The limits of the insurance will be subject to statutory changes as to maximum limits of liability imposed on municipalities of the state of Oregon. The insurance will be without prejudice to coverage otherwise existing and will name or cover, or the certificate of insurance will name or cover, as additional insureds the Grantor and its officers, agents, and employees. The coverage must apply as to claims between insureds on the policy. The certificate of insurance will provide that the insurance will not be canceled or materially altered without 30 days' prior written notice first being given to the Grantor. If the insurance is cancelled or materially altered, the Grantee will provide a replacement policy with the terms as outlined in this section. The Grantee will maintain continuous uninterrupted coverage, in the terms and amounts required. The Grantee may self-insure, or keep in force a self-insured retention plus insurance, for any or all of the above coverage.

E. The Grantee will maintain on file with the Grantor a certificate of insurance, or proof of self-insurance acceptable to the Grantor, certifying the coverage required above.

**6.2 Indemnification.** The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of Grantee's construction, operation, or maintenance of its Cable System, provided that the Franchising Authority will give Grantee written notice of its obligation to indemnify the Franchising Authority within ten (10) days of receipt of a claim or action pursuant to this Section 6.2. Notwithstanding the foregoing, Grantee will not indemnify the Franchising Authority for any damages, liability, or claims resulting from the willful misconduct or negligence of the Franchising Authority.

**6.3 Bonds and Other Surety.** No bond or other surety will be required of Grantee at the inception of the Franchise. In the event Grantee is required by the Franchising Authority to obtain a bond or other surety in the future, the Franchising Authority agrees to give Grantee at least 60 days advance written notice thereof stating the specific reasons for such requirement. Such reasons must demonstrate a change in Grantee's legal, financial or technical qualifications that would materially prohibit or impair Grantee's ability to comply with the terms and conditions of this Franchise.

**SECTION 7**  
**Enforcement and Termination of Franchise**

**7.1 Notice of Violation.** In the event that the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, the Franchising Authority will informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Franchising Authority will notify the Grantee in writing of the exact nature of the alleged noncompliance.

**7.2 The Grantee's Right to Cure or Respond.** The Grantee will have thirty (30) days from receipt of the notice described in Section 7.1: (A) to respond to the Franchising Authority, contesting the assertion of noncompliance, or (B) to cure such default, or (C) in the event that, by the nature of default such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

**7.3 Public Hearing.** In the event that the Grantee fails to respond to the notice described in Section 7.1 pursuant to the procedures set forth in Section 7.2, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to 7.2(C) above, if it intends to continue its investigation into the default, then the Franchising Authority will schedule a public hearing. The Franchising Authority will provide the Grantee at least ten (10) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, and provide Grantee the opportunity to be heard.

**7.4 Enforcement.** Subject to applicable federal and state law, in the event the Franchising Authority, after the hearing set forth in Section 7.3, determines that the Grantee is in default of any provision of the Franchise, the Franchising Authority may:

- A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- B. Commence an action at law for monetary damages or seek other equitable relief; or
- C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise in accordance with Section 7.5.

**7.5 Revocation.** Should the Franchising Authority seek to revoke the Franchise after following the procedures set forth in Section 7.1-7.4 above, the Franchising Authority will give written notice to the Grantee of its intent. The notice will set forth the exact nature of the noncompliance. The Grantee will have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public hearing. The Franchising Authority will cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

At the designated hearing, Grantee will be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant officials, agents, employees or consultants of the Franchising Authority, the testimony of other persons as permitted by law. A complete record minutes and audio tape will be made of the hearing by the Franchising

Following the hearing, the Franchising Authority will determine the franchise will be revoked. If the Franchising Authority determines that the franchise will be revoked, Grantee may appeal such determination to an appropriate court, which will have the power to review the decision of the Franchising Authority *de novo*. Grantee will be entitled to such relief as the court finds appropriate. Such appeal to the appropriate court must be taken within sixty (60) days of the issuance of the determination of the Franchising Authority.

The Franchising Authority may, at its sole discretion, take any lawful action which it deems appropriate to enforce the Franchising Authority's rights under the Franchise in lieu of revocation of the Franchise.

**7.6 Force Majeure.** The Grantee will not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which the Grantee's Cable System within the Service Area is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

Furthermore, the parties hereby agree that it is not the Franchising Authority's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Franchising Authority and/or Subscribers.

## **SECTION 8** **Miscellaneous Provisions**

**8.1 Actions of Parties.** In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party will act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent will not be unreasonably withheld.

**8.2 Entire Agreement.** This Franchise constitutes the entire agreement between the Grantee and the Franchising Authority. Amendments to this Franchise will be mutually agreed to in writing by the parties.

**8.3 Notice.** Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Franchising Authority or the Grantee will be in writing, and will be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: a) upon receipt when hand delivered with receipt/acknowledgment, b) upon receipt when sent certified, registered mail, or c) within five (5) business days after having been posted in the regular mail.

The notices or responses to the Franchising Authority will be addressed as follows:

City Manager  
City of Newberg  
P.O. Box 970  
Newberg, OR 97132

Notices or responses to the Grantee will be addressed as follows:

Comcast of Oregon II, Inc.  
Attention: Government Affairs  
9605 SW Nimbus Ave.  
Beaverton, OR 97008

With a copy to:

Comcast of Oregon II, Inc.  
Attention: West Division -Government Affairs  
15815 25th Ave West  
Lynnwood, WA 98087

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this Section.

**8.4 Descriptive Headings.** The captions to sections contained herein are intended solely to facilitate the reading thereof. Such captions will not affect the meaning or interpretation of the text herein.

**8.5 Severability.** If any section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination will have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

**8.6 Effective Date.** The effective date of this Franchise is January 1, 2013, pursuant to the provisions of applicable law. This Franchise will expire on December 31, 2022, unless extended by the mutual agreement of the parties.

\* \* \*

**IN WITNESS WHEREOF**, the Parties enter into this Franchise. Each person signing this Franchise represents and warrants that he or she has been duly authorized to enter into this Franchise by the Party on whose behalf it is indicated that the person is signing.

**COMCAST OF OREGON, II, INC.**

**CITY OF NEWBERG**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Daniel Danicic  
Title: City Manager  
Date: \_\_\_\_\_  
Approved by Ordinance No. 2012-2757

Approved as to Legal Sufficiency:

Approved as to Legal Sufficiency:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Terrence D. Mahr  
Title: City Attorney  
Date: \_\_\_\_\_

# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 17, 2012

Order \_\_\_      Ordinance \_\_\_      Resolution XX      Motion \_\_\_      Information \_\_\_  
No.              No.              No. 2012-3026

**SUBJECT: To accept the annual audit report and financial statements for the fiscal year ending June 30, 2012.**

Contact Person (Preparer) for this  
Motion: Janelle Nordyke  
Dept.: Finance

## RECOMMENDATION:

Adopt Resolution No. 2012-3026 accepting the annual auditor's report and financial statements for the fiscal year ending June 30, 2012.

## EXECUTIVE SUMMARY:

Following the close of each fiscal year, auditors come to the City to review the financial records. The current auditors are Boldt, Carlisle and Smith, LLC of Salem, Oregon, who specialize in performing governmental audits. The audit team was at the City the week of September 24, 2012, conducting field work. This process includes: obtaining an understanding of the City's internal controls by asking pertinent questions, reviewing City Council minutes, critically examining and testing samples of various transactions, and intently questioning management and other employees about fraud risks. Fraud risks include: untimely bank reconciliations, not having separation of duties, and lack of internal controls that could lead to collusion and material errors.

On November 16, 2012, the City of Newberg was issued an unqualified opinion on the financial statements for the year ending June 30, 2012 (see Attachment 1 for the Independent Auditor's Report). An unqualified opinion means that the financial statements are presented fairly in the auditors' opinion, are free of material misstatements, have been prepared in accordance with the United States generally accepted accounting principles, and are consistently applied. A material misstatement is the presentation of misleading financial information, whether caused by error or fraud, which could influence the decision of the intended users. The City received the highest positive opinion an auditor can give.

As Oregon municipal auditors, Boldt, Carlisle & Smith are also required to issue a report that states the City of Newberg has substantially complied with the Minimum Standards required for audits of a municipality (Attachment 2). They gave the City one comment on compliance with minimum standards: the General Government line item exceeded appropriations in the amount of \$3,250.00. This was due to the unknown amount to pay Chehalem Valley Chamber of Commerce for their portion of the transient lodging tax that was received in the last quarter of the fiscal year.

The City of Newberg's Comprehensive Annual Financial Report for the year ending June 30, 2012, can be found on the City's website at [www.newbergoregon.gov/finance/comprehensive-annual-financial-report](http://www.newbergoregon.gov/finance/comprehensive-annual-financial-report), select CAFR 2012. For an analysis of the financial results, please read the Transmittal Letter (Attachment 3) and Management Discussion and Analysis Report (Attachment 4).

The following information briefly summarizes the major sections of the City's financial statements:

- The Government-Wide Statements of the City are presented on pages 1-4 of the report. These statements show the result of operations for all services of the City on a full accrual basis of accounting. These statements also focus on the long-term health of the City. The full accrual basis of accounting includes reporting long-term liabilities, long-term receivables, depreciation, and the capitalization of asset purchases. The functions of the City are split into two categories: Governmental Activities (everything except business-type activities) and Business-Type Activities (Water, Wastewater, Stormwater, and Emergency Medical Services).
- The Governmental Fund Statements are presented on pages 5-12. These statements have a short-term focus, therefore, only current revenues and current expenses are reported. This accounting method is called the modified accrual approach. These reports include General Fund, Street Fund, Building Inspection Fund and Other Governmental Funds (Special Revenue, General Government Debt Service and non-utility Capital Projects).
- The Proprietary Fund Statements are presented on pages 13-16. These reports show the financial results of the utility operations and emergency medical services prepared under the full accrual basis of accounting. The utilities and emergency medical services are considered business-type activities due to the collection of user charges to fully recuperate costs. The Internal Services Funds (Administrative Support Services and the Vehicle/Equipment Replacement Reserve) are also included in this category as they fully recuperate costs.
- The Fiduciary Funds are presented on pages 17-20. These reports are intended to disclose the employee retirement funds that the City manages in a fiduciary capacity and the City's court bail deposits. The amounts reported in these funds do not belong to the City, but are held in trust for other parties.
- The Notes to the Financial Statements are presented on pages 21-52. The Notes describe the summary of significant accounting policies of the City; stewardship, compliance and accountability of the City; detailed notes on all funds, including debt; and other information such as retirement plans and property tax limitations.
- The Combining Statements and Budget to Actual Reports are presented on pages 53-110. The purpose of the Budget to Actual reports is to demonstrate how the City complied with budgetary restrictions over the course of the fiscal year. Also included in this section are reconciling statements on pages 96-97 and 105. The purpose of combining and reconciling reports is to document how the individual fund statements were consolidated and adjusted to prepare the information for the summary reports shown back on pages 1-20.
- Pages 111-152 have additional information about the City's operations, including pertinent statistical facts.

- Pages 153-164 contain information about the City's compliance with state and federal accounting and auditing requirements. The City was required to undergo a Single Audit for 2011-12 due to the expenditure of over \$500,000.00 in federal money. A Single Audit encompasses an examination of a recipient's financial records, financial statements, federal award transactions and expenditures, the general management of its operations, internal control systems, and federal assistance it received during the audit period.

A full copy of the Comprehensive Annual Financial Report can be found on the City's website at <http://www.newbergoregon.gov/finance/comprehensive-annual-financial-report> or by contacting the Finance Director at (503) 537-1216.

**FISCAL IMPACT:**

There is no fiscal impact with accepting the annual audit report and financial statements for the fiscal year ending June 30, 2012.

**STRATEGIC ASSESSMENT:**

The City of Newberg's financial statements for the year ending June 30, 2012, have been prepared in conformity with Generally Accepted Accounting Principles of the United States of America and Oregon Local Budget Law. These statements will be filed with all regulatory agencies that monitor City financial activities.



**INDEPENDENT AUDITOR'S REPORT**

**Honorable Mayor and Members of the City Council  
CITY OF NEWBERG  
Newberg, Oregon**

We have audited the accompanying financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of **CITY OF NEWBERG**, as of and for the year ended June 30, 2012, which collectively comprise the City's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the City's management. Our responsibility is to express opinions on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the **CITY OF NEWBERG**, as of June 30, 2012, the respective changes in financial position, and, where applicable, cash flows, thereof, and the respective budgetary comparisons for the General, Street, and Building Inspection Funds, for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated November 16, 2012, on our consideration of the City's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

A

Honorable Mayor and Members of the City Council  
CITY OF NEWBERG  
Newberg, Oregon

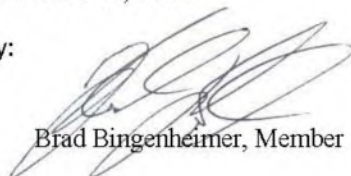
**INDEPENDENT AUDITOR'S REPORT (Continued)**

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages a through o be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the City's financial statements as a whole. The introductory section, combining and individual fund financial statements and schedules, and statistical section are presented for purposes of additional analysis and are not a required part of the financial statements. The accompanying schedule of expenditures of federal awards is presented for purposes of additional analysis as required by U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, and is also not a required part of the financial statements. The combining and individual fund financial statements and schedules and the schedule of expenditures of federal awards are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole. The introductory and statistical sections have not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we do not express an opinion or provide any assurance on them.

**Boldt, Carlisle & Smith LLC**  
Certified Public Accountants  
Salem, Oregon  
November 16, 2012

By:



Brad Bingenheimer, Member

B



**INDEPENDENT AUDITOR’S REPORT REQUIRED BY THE  
MINIMUM STANDARDS FOR AUDITS OF OREGON MUNICIPAL CORPORATIONS**

We have audited the basic financial statements of the **CITY OF NEWBERG** as of and for the year ended June 30, 2012, and have issued our report thereon dated November 16, 2012. We conducted our audit in accordance with auditing standards generally accepted in the United States of America.

**Compliance**

As part of obtaining reasonable assurance about whether the **CITY OF NEWBERG**’s financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, including the provisions of Oregon Revised Statutes as specified in Oregon Administrative Rules 162-10-240 through 162-10-320 of the Minimum Standards for Audits of Oregon Municipal Corporations, noncompliance with which could have a direct and material effect on the determination of financial statements amounts. However, our audit was not directed primarily toward obtaining knowledge of such noncompliance. As such, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

We performed procedures to the extent we considered necessary to address the required comments and disclosures which included, but were not limited to the following:

- **Deposit of public funds with financial institutions (ORS Chapter 295).**
- **Indebtedness limitations, restrictions and repayment.**
- **Budgets legally required (ORS Chapter 294).**
- **Insurance and fidelity bonds in force or required by law.**
- **Programs funded from outside sources.**
- **Highway revenues used for public highways, roads, and streets.**
- **Authorized investment of surplus funds (ORS Chapter 294).**
- **Public contracts and purchasing (ORS Chapters 279A, 279B, 279C).**

In connection with our testing nothing came to our attention that caused us to believe the City was not in substantial compliance with certain provisions of laws, regulations, contracts, and grants, including the provisions of Oregon Revised Statutes as specified in Oregon Administrative Rules 162-10-240 through 162-10-320 of the Minimum Standards for Audits of Oregon Municipal Corporations except that expenditure in excess of appropriations occurred as follows:

<u>Fund / Category</u>	<u>Appropriation</u>	<u>Actual</u>	<u>Variance</u>
General - General Government	\$ 322,701	\$ 325,951	\$ (3,250)

**OAR 162-10-0230 Internal Control**

In planning and performing our audit, we considered the City's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the CITY OF NEWBERG's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the City's internal control over financial reporting.

We have issued a separate letter to the City regarding a significant deficiency in internal controls.

This report is intended solely for the information and use of the board of directors/council members/commissioners and management of the CITY OF NEWBERG and the Oregon Secretary of State and is not intended to be and should not be used by anyone other than these parties.

**Boldt, Carlisle & Smith LLC**  
Certified Public Accountants  
Salem, Oregon  
November 16, 2012



December 3, 2012

To the Honorable Mayor, City Councilors, and Citizens of the City of Newberg, Oregon

The Comprehensive Annual Financial Report (CAFR) of the City of Newberg, Oregon (the City) for the fiscal year ended June 30, 2012 is hereby submitted.

This report presents the financial position of the City as of June 30, 2012 and the results of its operations and cash flows where applicable for the year then ended. The financial statements and supporting schedules have been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP) and meet the requirements of the Secretary of the State of Oregon. We believe the data, as presented, is accurate in all material respects and presented in a manner designed to comply with reporting requirements.

Management assumes full responsibility for the completeness and reliability of the information presented in this report, based upon a comprehensive framework of internal controls that it has established for this purpose. Because the cost of internal controls should not exceed anticipated benefits, the objective is to provide reasonable, rather than absolute, assurance that the financial statements are free of any material misstatements.

GAAP requires that management provide a narrative introduction, overview, and analysis to accompany the basic financial statements in the form of a Management's Discussion and Analysis (MD&A). This letter of transmittal is designed to complement the MD&A and should be read in conjunction with it. The City's MD&A is located immediately following the report of the independent auditors, beginning on page a.

The City of Newberg's financial statements have been audited by Boldt, Carlisle & Smith LLC, a firm of licensed certified public accountants. They have issued an unqualified opinion on the City of Newberg's financial statements for the fiscal year ended June 30, 2012. The independent auditor's report is located at the front of the financial section of this report, beginning with page A.

The City underwent a Single Audit in conformity with the provisions of the Single Audit Act and US Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Information related to this single audit, including the schedules of expenditures of Federal awards, findings and questioned costs, and auditor's reports on the internal control over financial reporting and compliance with certain provisions of laws, regulations, contracts and grants is included in this document. The City received more than \$500,000 in Federal funds for the remodel of Fire Station 20.

**Governmental Structure**

The City of Newberg was incorporated in 1889. The City is located 23 miles southwest of Portland, Oregon's largest city, and lies on the main east-west route between Portland and the central Oregon coast. It is the second largest city in Yamhill County. Yamhill County is part of the Portland-Vancouver metropolitan statistical area. The City currently has a land area of 6.83 square miles and a 2012 population of 22,230. The City has the authority to extend its corporate limits by annexation. During the 2011-12 fiscal year the City did not have any annexations.

The City operates under a Council-Manager form of government. Policy making and legislative authority are vested in the Mayor and City Council which is composed of six members. Each council member represents a City district and is elected at large. Mayor and Council members are non-partisan and serve four-year terms. Terms are staggered with three positions being appointed every other year. With the 2010 census, the City was required to re-district the City. The City Council approved the new district on November 21, 2011. The redistricting has resulted in two Councilors for District 4. The Councilor whose term expires first will be required to step down. The next election will be held November 2012 with three Council positions up for election. The City Manager is appointed by the Council and is responsible for carrying out the policies of the Council, overseeing the day-to-day operations and appointing department heads. Other positions appointed by the City Council are the City Attorney and Municipal Judge.

The City provides a full range of services. These services include police and fire protection; 911 emergency telephone center; emergency medical services; municipal court; library services; land use planning; building inspection; economic development; engineering; the construction and maintenance of streets and related infrastructure; and water, wastewater treatment and stormwater systems. The City has no component unit entities. Yamhill County, the Newberg School District and Chehalem Park and Recreation District are separate overlapping local governments under State law and are not included in this report.

**Economic Condition and Outlook**

It should be noted that with the passing of Measure 50 in May of 1997, the State no longer imposes property taxes based on real market value. Instead, the voters approved a measure that bases taxation on a value that rolled back assessed values to 90% of the 1995-96 real market value of the property. The annual growth rate is capped at 3% with greater increases allowed for major remodeling and new construction.

In addition, taxes on any individual property may not exceed Measure 5 tax limits of \$5 per \$1,000 of real market value for schools and \$10 per \$1,000 for general government, like the City and other special districts. These districts include: Chehalem Park & Recreation District, Yamhill County, Yamhill County Extension Service and Yamhill County Soil & Water. Voter approved bonds may exceed the Measure 5 limits, but other temporary levies may not. The City has a permanent tax rate of \$4.3827 per \$1,000 of assessed value. Assessed values and market values are set at 12:01 a.m. of each January 1<sup>st</sup> for taxes levied for the following fiscal year.

What properties are subject to property taxation? The majority of taxable property in Newberg is residential, with some commercial and multi-housing property, and a small amount of industrial properties. There are quite a few non-taxable properties within the City limits such as all the churches, the university, K-12 schools, government buildings and the hospital.

With the decrease in market value of properties, the gap between assessed value and real market value is narrowing rapidly. The number of houses that were capped at real market value for 2009 was 50; 2010 was 115; 2011 was 402; and 2012 was 1,702. It is estimated that for 2013 the number of capped properties will be 3,956. If the real property market continues to decline as it is projected to do for yet another year before the market turns around in 2015, the estimated number of capped properties for 2014 will be 9,195. That is just about every property in Newberg. The perfect storm has hit.

During 2010-11 to 2011-12, the City's assessed value increased 2.63% and the market value decreased 10.83%. The difference between market value and assessed value is \$476.6 million compared to \$752 million the prior year.

Table 1  
City of Newberg Assessed and Market Values

	2008-09	2009-10	2010-11	2011-12
Assessed Value	1,271,921,638	1,364,210,006	1,441,923,513	1,479,778,703
Percent Change	6.60%	7.26%	5.70%	2.63%
Market Value	2,239,316,374	2,187,831,882	2,193,902,961	1,956,379,200
Percent Change	-1.29%	-2.30%	0.28%	-10.83%

Source: Yamhill County Assessor's Office

During the fiscal year 2011-12, construction continued to decline. The following chart gives a list of the building permits, commercial versus residential, for the past four years:

Building Permits	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>
Commercial	122	105	121	97
Residential	<u>182</u>	<u>181</u>	<u>88</u>	<u>117</u>
Total	304	286	209	214

Residential construction permits are beginning to increase, but the City still has a ways to go to get to the 2008-09 levels. Residential activity was 33% higher over that of the prior year. Although the Building Inspection Department has been experiencing declining revenues, this fiscal year ended up being better than expected with a positive ending fund balance. The total inspections for the 2011-12 fiscal year were 4,038 compared to 3,925 in 2010-11 fiscal year.

The City benefits from its proximity to the Portland Metropolitan Area. The diversified economy of the Tri-county area (Multnomah, Washington, and Clackamas counties) and Yamhill County help the City to maintain a relatively stable economic condition. Agriculture dominates economic activities outside the urban area, particularly nurseries, vineyards and wineries. The City also benefits from a family-owned dental equipment manufacturer inside the City and a large paper manufacturer just outside the City. Major employers also include Providence Newberg Medical Center, George Fox University, Fred Meyer, the Allison Inn, Friendsview Retirement Community and Climax Portable Machine Tools. The unemployment rates in the area have been declining. As of June 2012, the unemployment rates were as follows:

Unemployment Rates:

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Yamhill County	13.2%	10.5%	9.3%	8.4%
State of Oregon	11.6%	10.2%	9.4%	8.6%
National USA	9.5%	9.5%	9.2%	8.4%

Source: Bureau of Labor Statistics Data website at <http://data.bls.gov> for Oregon and <http://daba.bls.gov> for National USA.

Rising retirement costs continue to be an economic challenge. In 2004, the City entered into an agreement with several other local cities to borrow at a lower rate of interest and pay down a portion of the then unfunded liability of O-PERS. Depending on the time a loan is sold on the market, the results can be one of the three options: very beneficial, neither positive nor negative, or very negative. Over the long-term, the impact of the debt has been neutral. Since the market crash in 2008, the PERS rates have continued to skyrocket every year. The rates for the fiscal year were 14.75% for Tier 1/Tier 2 employees, 7.35% for OPSRP general employees, and 10.06% for OPSRP public safety employees. This was an increase of 57.6% for Tier 1/Tier 2, 44.4% for OPSRP general employees, and 59.3% for OPSRP public safety employees.

**Major Activities and Accomplishments**

*For the Year.* The City had a number of citizens' groups working on various issues during the year, in addition to the normal, routine citizens groups such as the Planning Commission, Traffic Safety Committee, Library Board and Budget Committee.

The Citizen's Rate Review Committee reconvened in September of 2011 to recommend rates for the City Council to adopt user fees for water, wastewater and stormwater utilities for the next two years. The rates were adopted by the City Council on March 15, 2012 with an effective date of January 1, 2013.

The City received a FEMA grant in 2011 for remodeling the Fire Station 20 on Second Street. Construction began and was expected to be completed by early 2012. There were delays but it is soon to be completed.

Construction finally began on the new Animal Shelter Facility in the fall of 2011 located on the corner of the Baker Rock property the City sectioned out to be used for the shelter. The City agreed to help financially with the construction of the shell by taking out an internal loan with the Water SDC Fund for \$200,000. Construction of the shell continues into the next fiscal year.

The City also received two state grants to construct bike lanes along both sides of the northern section of College Street, a sidewalk along the west side of N College, as well as pedestrian railroad crossings on both sides of the railroad on N College. Construction for the east sidewalk and railroad crossing was mostly completed in 2012. Construction has begun on the west side with an expected completion date in 2013.

The City continues to evaluate staffing needs. In light of the continuing downturn in the economy, every job that becomes vacant gets evaluated. Some jobs get filled, some get delayed in being filling, and then there are others that don't get filled. The City underwent some additional layoffs in the Engineering Division of the Public Works Department at the beginning of the fiscal year.

For the Future.

The City continues to focus on City operations, particularly the street system, providing sufficient quality water to the community, improving wastewater treatment processes, and improving the downtown. Over the past several years the City has grown to the point that the wastewater treatment plant has reached its capacity. In addition to being at capacity, the plant is over 25 years old. The average lifespan of a treatment plant is 20 years. All four pumps have been replaced and other equipment is failing. The plant is in need of major repairs and must be expanded. The City is in the process of beginning construction on phase 1 of the repair and renovation of the wastewater treatment plant. Clean Water State Revolving Loan Fund, through the Department of Environmental Quality, has given the City a line of credit in the amount of \$11,409,645 to provide funding for construction during the first phase. The City has also asked Department of Environmental Quality and been granted another loan in the amount of \$14,484,130 for Phase 2 of the wastewater treatment plant repair, renovation and expansion.

Finishing touches are being made on the shell of the new Animal Shelter facility in order to get the certificate of occupancy. A memo of understanding will then be agreed upon between the City and the Newberg Animal Shelter Friends (NASF). The Shelter will be run by the City (Police Department through Animal Control) with Newberg Animal Shelter Friends still continuing with fund raising for special projects associated with the animal shelter.

The City received notice from the PERS Board that the City's pension retirement rates for the next two fiscal years will be 19.08% for Tier 1/Tier 2 employees, 11.90% for OPSRP general employees, and 14.63% for OPSRP public safety employees. This is an increase of 29.4% for Tier 1/Tier 2, 61.9% for OPSRP general employees, and 45.4% for OPSRP public safety employees. The estimated affect on the City's personnel budget is \$277,000 before cost of living raises.

Groundbreaking for the Newberg-Dundee Bypass took place on August 29, 2012. After decades of statements "we need a bypass", it is finally happening. Properties have been purchased by ODOT and negotiations have been entered into between ODOT and the affected cities of Yamhill County (McMinnville, Newberg, and Dundee) and the Grand Ronde Tribe for financing Phase 1 of the Newberg-Dundee Bypass.

**Relevant Financial Policies**

Fund Reserves. The General Fund shall maintain a four-month cash reserve including contingency and unappropriated fund balance. All other operating funds reliant on user fees or monthly intergovernmental revenues shall maintain 60 days cash.

Non-recurring Revenues. The City's general guideline is to use non-recurring revenue for non-recurring expenditures.

Cash Management. In order to maximize interest income in conformance with the City's investment policy, cash in all City funds, with the exception of restricted funds, is pooled and invested in instruments as allowed by Oregon Revised Statutes. Earnings are distributed to each fund on a pro rata basis by the balance in each fund.

Risk Management. City of Newberg's risk management program includes various risk control techniques, including employee accident prevention training, and has third party coverage for all lines of insurance, which includes workers' compensation.

**Awards and Acknowledgements**

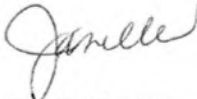
Awards. The Government Finance Officers Association of the United States and Canada (GFOA) awarded a Certificate of Achievement for Excellence in Financial Reporting to the City of Newberg for its comprehensive annual financial report (CAFR) for the fiscal year ended June 30, 2011. This was the 20th consecutive year that the City has received this award. In order to be awarded a Certificate of Achievement, the City published an easily readable and efficiently organized CAFR. This report satisfied both GAAP and applicable legal requirements.

The Certificate of Achievement is valid for one year. We believe our current report continues to conform to the Certificate of Achievement program requirements, and we are submitting it to the GFOA to determine its eligibility for another certificate.

Acknowledgments. The preparation of the comprehensive annual financial report was made possible by the dedicated service of the entire staff of the Finance Department. I especially want to thank Elaina Canutt, CPA, for preparing this report.

Finally, the Finance Department staff would like to thank the Mayor, City Councilors and the City Manager for their support and commitment to maintaining the highest standards of professionalism in the management of the City of Newberg's finances.

Sincerely,



Janelle Nordyke  
Finance Director

**CITY OF NEWBERG, OREGON**  
**Management's Discussion and Analysis**  
*For the Year Ended June 30, 2012*

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The management of the City of Newberg, Oregon (City) presents this narrative overview and analysis to facilitate both a short and a long-term analysis of the financial activities of the City for the fiscal year ended June 30, 2012. This Management's Discussion and Analysis (MD&A) is based on currently known facts, decisions, and conditions that existed as of the date of the independent auditor's report. Additional information outside the scope of this analysis can be found in the Letter of Transmittal.

**FINANCIAL HIGHLIGHTS**

- Total assets of the City exceeded its liabilities by \$142.6 million. Of this amount, \$17.3 million is reported as unrestricted net assets, amounts which are available for use to meet the City's on-going obligations to citizens and creditors.
- The net assets of the City increased by \$2.4 million during the fiscal year. Increases in revenues from business-type activities paired with declining expenses resulted in positive results.
- During June of 2012, the City Council approved a loan with Clean Water State Revolving Loan Fund in the amount of \$14,484,130 for expansion and repair of the wastewater treatment plant
- Charges for services increased \$1.5 million (10%) over the prior year due to significant increases in utility rates.
- Property taxes increased \$0.2 million or 2.8% during the fiscal year. Franchise and public service taxes increased slightly over the prior fiscal year.
- Depreciation expense for 2011-12 was \$5,025,285.
- Total cost of all programs was \$27.2 million, a decrease of \$0.4 million.

**Overview of the Financial Statements**

The City's annual financial report consists of several sections. The components of the report include the following:

**Management's Discussion and Analysis.** This section of the report provides financial highlights, overview and economic factors affecting the City.

**Basic Financial Statements.** These statements include the government-wide statements, fund financials, and the notes to the financial statements.

**Government-wide financial statements.** The government-wide financial statements are designed to provide readers with a broad overview of the City's finances, in a manner

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**CITY OF NEWBERG, OREGON**  
**Management's Discussion and Analysis**  
*For the Year Ended June 30, 2012*

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similar to a private-sector business. Within this view, all City operations are categorized and reported as either governmental or business-type activities and are presented using the full accrual basis of accounting. Governmental activities include basic services such as public safety, library, community development and general government administration. Business-type activities are water, wastewater, stormwater and emergency medical services. The government-wide statements include the Statement of Net Assets and the Statement of Activities.

**Fund Financial Statements.** Fund financial statements focus separately on major governmental funds and proprietary funds. Governmental funds are used to account for activities where the emphasis is placed on available financial resources, rather than upon net income determination. Therefore, unlike the government-wide financial statements, governmental fund financial statements focus on the acquisition and use of current available resources, as well as on balances of current resources available at the end of the fiscal year. Such information may be useful in evaluating a government's near-term requirements.

Due to the fact that the focus of the governmental funds is narrower than that of the government-wide financial statements, it is useful to compare the information presented for governmental funds with similar information presented for governmental activities in the government-wide financial statements. By doing so, readers may further understand the long-term impact of the government's near-term financial decisions.

**Governmental Funds.** The City maintains 16 individual governmental funds. Information is presented separately in the Governmental Fund Balance Sheet and in the Governmental Fund Statement of Revenues, Expenditures, and Changes in Fund Balances for those funds that are considered significant (major) to the City taken as a whole. These financial statements report three major funds: General Fund, Street Fund, and Building Inspection Fund. Data from the other 13 governmental funds are combined into a single, aggregated presentation. For each major fund, a Budgetary Comparison Statement is presented. Readers who wish to obtain information on nonmajor funds can find it in the Combining Schedules of Nonmajor Funds and/or the Supplemental Information-Budgetary Comparison Schedules sections of this report.

**Proprietary funds** are used to account for activities where the emphasis is placed on net income determination. The City maintains two different types of proprietary funds – enterprise funds and internal service funds. Enterprise funds are used to report the same functions presented as business-type activities in the government-wide financial statements. The City uses enterprise funds to account for its water, wastewater, stormwater, and emergency medical services operations. Internal service funds are an accounting device used to accumulate and allocate costs internally among the City's various functions. The City uses internal service funds to account for facilities and fleet services, information systems, finance, legal, administration, human resources, vehicle/equipment replacement, and risk management activities. The assets and liabilities

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**CITY OF NEWBERG, OREGON**  
**Management's Discussion and Analysis**  
*For the Year Ended June 30, 2012*

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of the internal service funds have been allocated among the governmental and business-type activities.

The enterprise funds, all of which are considered to be major funds (on a consolidated basis) of the City, are reported separately as proprietary fund financial statements in the basic financial statements. Conversely, all internal service funds are combined into a single, aggregated presentation in the proprietary fund financial statements. Individual fund data for the internal service funds is provided as other supplementary information in the form of combining statements.

**Fiduciary Funds.** Fiduciary funds are used to account for resources held for the benefit of parties outside the government. Fiduciary funds are not reflected in the government-wide financial statement because the resources of those funds are not available to support the City of Newberg's own programs. The accounting used for fiduciary funds is similar to the treatment used for proprietary funds. The City has two fiduciary funds: Employee Pension Trust Fund and the Bail Fund.

**Notes to the Financial Statements.** The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements.

**Other Supplementary Data.** The supplementary data section includes combining statements for the non-major governmental funds, combining statements by fund type, and budgetary comparison statements. The combining internal service fund statements are also included in this section.

**Other Information.** This section includes capital asset and other financial schedules.

**Statistical Section.** This section includes trend information and demographics.

**Reports of Independently Certified Public Accountants Required by Statutes.** Supplemental communication on City compliance and internal controls as required by Oregon statutes.

**Compliance – Single Audit.** Additional reports by the City's independent auditor and the schedule of expenditures of federal awards as required by Governmental Auditing Standards (Yellow Book) and the Single Audit Act.

**CITY OF NEWBERG, OREGON**  
**Management's Discussion and Analysis**  
*For the Year Ended June 30, 2012*

**GOVERNMENT-WIDE FINANCIAL ANALYSIS**

Net assets serve as a useful indicator of a government's financial position especially when viewed over multiple periods of time. In the case of the City, assets exceed liabilities by \$142.6 million at the close of the most recent fiscal year. This represents a \$2.4 million increase over the prior fiscal year.

The following table reflects the condensed Statement of Net Assets compared to prior year.

**TABLE 1**  
**NET ASSETS AT YEAR END**  
(in millions)

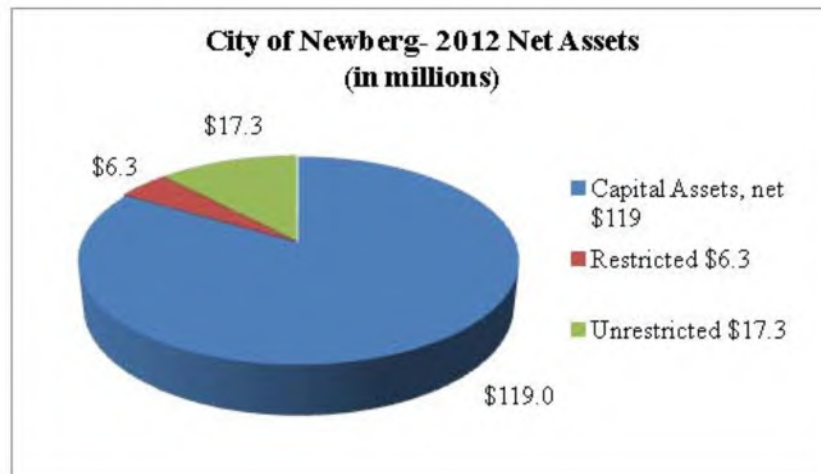
	Governmental Activities		Business-type Activities		Total Government	
	2012	2011	2012	2011	2012	2011
Cash and investments	\$ 9.9	\$ 10.5	\$ 15.4	\$ 12.7	\$ 25.3	\$ 23.2
Other assets	3.7	3.2	1.6	1.6	5.3	4.8
Capital assets	76.3	75.6	68.6	69.7	144.9	145.3
Total assets	89.9	89.3	85.6	84.0	175.5	173.3
Long-term obligations	7.8	7.9	23.0	23.3	30.8	31.2
Other liabilities	1.2	0.9	0.9	1.0	2.1	1.9
Total liabilities	9.0	8.8	23.9	24.3	32.9	33.1
Net assets:						
Invested in capital assets, net of related debt	72.8	71.9	46.2	46.8	119.0	118.7
Restricted	4.0	4.5	2.3	3.0	6.3	7.5
Unrestricted	4.1	4.1	13.2	9.9	17.3	14.0
Total net assets	\$ 80.9	\$ 80.5	\$ 61.7	\$ 59.7	\$ 142.6	\$ 140.2

By far, the largest portion of the City of Newberg's net assets (\$119 million, or 83.5%) reflects the government's investment in capital assets (land, building, equipment, infrastructure, net of depreciation) less any related outstanding debt used to acquire those capital assets. The City uses these capital assets to provide services to citizens and consequently, they are not available for future spending. Although the City of Newberg's investment in capital assets is reported net of related debt, it should be noted that the resources used to repay this debt must be provided from other sources, since the capital assets themselves can't be used to liquidate these liabilities.

**CITY OF NEWBERG, OREGON**  
**Management's Discussion and Analysis**  
*For the Year Ended June 30, 2012*

An additional portion of the City of Newberg's net assets represents resources that are subject to external restrictions on how they may be used. Restricted net assets total \$6.3 million, or 4.4%, and represent cash and investments that are legally restricted for capital expansion or debt service. The remaining balance of unrestricted net assets totaling \$17.3 million, or 12.1%, may be used to meet the City's ongoing obligations.

At the end of the current fiscal year, the City of Newberg is able to report positive balances in all reported categories of net assets, both for the government as a whole, as well as for its separate governmental and business-type activities. The same situation held true for the prior fiscal year.



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**CITY OF NEWBERG, OREGON**  
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**STATEMENT OF ACTIVITIES**

The following table reflects the condensed Statement of Activities and Changes in Net Assets compared to prior year.

**TABLE 2**  
**GOVERNMENTAL AND PROPRIETARY ACTIVITIES**  
**FOR FISCAL YEARS ENDING JUNE 30, 2012 and 2011**  
(in millions)

	Governmental Activities		Business-type Activities		Total Government	
	2012	2011	2012	2011	2012	2011
Revenues						
Charges for services	\$ 3.4	\$ 3.2	\$ 13.2	\$ 11.9	16.6	15.1
Operating grants and contributions	1.2	1.2	-	-	1.2	1.2
Capital grants and contributions	0.8	1.5	0.7	0.9	1.5	2.4
Taxes	9.9	9.6	-	-	9.9	9.6
Interest	0.1	0.1	0.1	0.1	0.2	0.2
Other	0.2	-	-	-	0.2	-
Total revenues	<u>15.6</u>	<u>15.6</u>	<u>14.0</u>	<u>12.9</u>	<u>29.6</u>	<u>28.5</u>
Expenses						
General government	0.4	0.4	-	-	0.4	0.4
Public safety	9.9	9.7	-	-	9.9	9.7
Library	1.2	1.2	-	-	1.2	1.2
Community development	3.3	3.6	-	-	3.3	3.6
Interest on long-term debt	0.3	0.4	-	-	0.3	0.4
Water	-	-	4.7	4.7	4.7	4.7
Wastewater	-	-	5.2	5.3	5.2	5.3
Stormwater	-	-	0.9	0.9	0.9	0.9
Emergency medical services	-	-	1.3	1.4	1.3	1.4
Total expenses	<u>15.1</u>	<u>15.3</u>	<u>12.1</u>	<u>12.3</u>	<u>27.2</u>	<u>27.6</u>
Increase (decrease) in net assets before transfers	<u>0.5</u>	<u>0.3</u>	<u>1.9</u>	<u>0.6</u>	<u>2.4</u>	<u>0.9</u>
Transfers	<u>(0.1)</u>	<u>-</u>	<u>0.1</u>	<u>-</u>	<u>-</u>	<u>-</u>
Changes in net assets	<u>0.4</u>	<u>0.3</u>	<u>2.0</u>	<u>0.6</u>	<u>2.4</u>	<u>0.9</u>
Beginning net assets	80.5	80.2	59.7	59.1	140.2	139.3
Ending net assets	<u>\$ 80.9</u>	<u>\$ 80.5</u>	<u>\$ 61.7</u>	<u>\$ 59.7</u>	<u>\$ 142.6</u>	<u>\$ 140.2</u>

***Governmental Activities***

During the current fiscal year, the net assets for governmental activities increased \$0.4 million from the prior fiscal year for an ending balance of \$80.9 million. While the current recession certainly had an impact on the City of Newberg, management was able to take various actions (e.g. forgoing all employee cost of living and merit increases, cuts to services, holding materials and services costs steady) that neutralized its effect on governmental activities. Revenues were consistent with the prior fiscal year, while expenses decreased. An analysis of the revenue sources follows:

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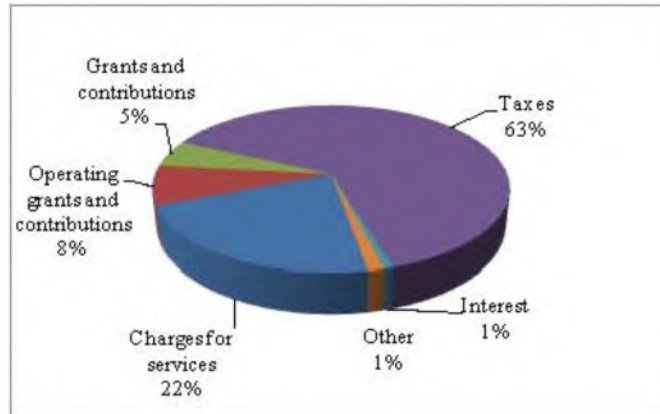
**CITY OF NEWBERG, OREGON**  
**Management's Discussion and Analysis**  
*For the Year Ended June 30, 2012*

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- Charges for services – These are revenues that arise from charges to customers, applicants, or others who purchase, use or directly benefit from the goods, services, or privileges provided, or are otherwise directly affected by the services. This category also includes municipal court revenues from issuance of traffic citations. Fees for community development and building permits increased over the prior fiscal year. This increase was the main contributor to the \$0.2 million change in charges for services revenues for fiscal year 2011-12.
- Grants and contributions – These are revenues arising from mandatory and voluntary non-exchange transactions with other governments, organizations, or individuals that are restricted for use in a particular program.
- Operating grants/contributions – These revenues primarily consist of state gas tax disbursed to the City to use for road maintenance. Other small state and private contributions are also included in the operating grant category. These funds go to support specific activities within the City. Revenues for 2011-12 were consistent with the prior fiscal year.
- Capital grants/contributions – These revenues primarily consist of grants and developer infrastructure contributions (e.g. fair market value of subdivision's infrastructure such as streets, roads, and rights-of-way/easements). Overall grants/contributions decreased \$0.7 million. There were no significant capital contributions in 2011-12, with the exception of an ARRA grant for \$0.7 million.
- Taxes – These are revenues that consist primarily of property taxes, transient lodging taxes, and franchise fees based on gross revenues. Property taxes increased \$0.2 million or 2.8% over the prior fiscal year. Franchise fees increased approximately \$0.1 million. Both transient lodging tax and the utility franchise revenues were up slightly.
- Interest – This is revenue derived from the City's investment of temporarily idle assets. Due to poor investment market earnings, revenues from this source were minor.
- Other - This is miscellaneous revenue not related to services provided. Governmental activities had a gain on sale of capital assets and received various other non-recurring revenues.

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**Governmental Activities – Revenues by Source**



- Programs – These are direct expenses that are specifically associated with a service, program, or department and are clearly identifiable to a particular function. The following table reflects the changes in program expenses:

**Table 3**  
**Governmental Activities - Program Expenses**  
**for the fiscal year ended June 30, 2012**  
**(in millions)**

Programs	FY 2011-12		Compared to FY 2010-11	
	Amount	Percent of Total	Increase/(Decrease) Amount	Percent
General government	\$ 0.4	2.6%	\$ -	0.0%
Public safety	9.9	65.6%	0.2	2.1%
Library	1.2	7.9%	-	0.0%
Community development	3.3	21.9%	(0.3)	-8.3%
Interest on long-term debt	0.3	2.0%	(0.1)	-25.0%
<b>Total expenses</b>	<b>\$ 15.1</b>	<b>100.0%</b>	<b>\$ (0.2)</b>	

- General government expenses were consistent with the prior fiscal year.
- Public safety consists of the police, fire, court, and 911 operations. The increase in program expense is primarily due to increases in retirement costs and other post employment benefits.
- Library costs were consistent with the prior fiscal year.

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**CITY OF NEWBERG, OREGON**  
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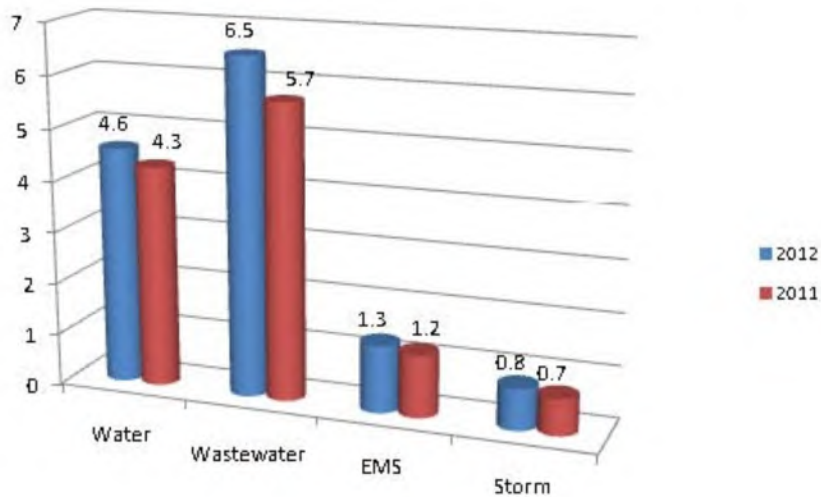
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- o Community development consists of planning, economic development, building inspection, and road maintenance programs. The planning and building divisions continued to make comprehensive program cuts in recognition of declining construction related revenues. The result of all these efforts was a \$0.3 million decrease in community development expense for 2011-12.

***Business-type Activities***

Overall revenues increased by \$1.1 million over the prior fiscal year due to significant rate increases in the utility divisions.

**Business-Type Activities – Operating Revenues by Service**



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The following table reflects the changes in program expenses for the business-type activities:

**Table 4**  
**Business-Type Activities - Program Expenses**  
**for the fiscal year ended June 30, 2012**  
**(in millions)**

Programs	FY 2011-12		Compared to FY 2010-11	
	Amount	Percent of Total	Amount	Percent
Water	4.7	38.8%	-	0.0%
Wastewater	5.2	43.0%	(0.1)	-1.9%
Stormwater	0.9	7.4%	-	0.0%
Emergency medical services	1.3	10.7%	(0.1)	-7.1%
Total expenses	\$ 12.1	100.0%	\$ (0.2)	

The \$0.1 million decrease in the wastewater service division was attributable to lower personal services costs. For 2011-12, materials and services costs in the emergency medical services division were slightly lower than the previous fiscal year.

**FUND-BASED FINANCIAL ANALYSIS**

As previously discussed, the City uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements.

***Governmental Funds***

The focus of the City's governmental funds is to provide information on near-term inflows, outflows, and balances of available resources. Such information is useful in assessing the City's financing requirements. In particular, unassigned fund balance may serve as a useful measure of a government's net resources available for discretionary use as they represent the portion of fund balance which has not yet been limited to use for a particular purpose by either an external party, the City of Newberg itself or a group or individual that has been delegated authority to assign resources for use for particular purposes by the City of Newberg City Council.

As of the end of the current fiscal year, the City's governmental funds reported combined ending fund balances of \$8.1 million, a decrease of \$0.5 million in comparison with the prior year. Approximately 32.9% of this amount (\$2.7 million) constitutes unassigned fund balance, which is available for spending at the government's discretion. The remainder of the fund balances is either nonspendable, restricted, committed, or assigned to indicate that it is 1) not in spendable form (\$0.1 million), 2) restricted for particular purposes (\$3.9 million), 3) committed for particular purposes (\$0.6 million) or 4) assigned for particular purposes (\$0.8 million).

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The General Fund is the chief operating fund of the City. The fund balance of the City's General Fund increased by \$0.2 million, or 6.8%, during the current fiscal year. Key components to the change for the year ended June 30, 2012 are as follows:

- Property taxes increased \$0.2 million, or 3.3%.
- Other taxes, which consist of franchise fees, public service taxes, and motel taxes, increased \$0.1 million over the prior fiscal year.
- Licenses and permits revenues were up slightly over the prior fiscal year.
- Intergovernmental revenues increased \$0.7 million due to the receipt of grant proceeds. However, the increase was offset by matching expenditures.
- Expenditures in the General Fund grew by \$0.8 million or 6.8% over the prior fiscal year. Costs basically held steady with the exception of the expenditure of an ARRA grant to remodel Fire Station 20 for \$0.7 million.

The Street Fund ending balance increased by \$162,810 due to a combination of cost cutting measures and increasing revenues from the state gas tax.

The Building Inspection Fund rebounded somewhat during 2011-12 with an ending fund balance increasing from \$24,843 in 2010-11 to \$155,081 at June 30, 2012. Building inspection revenues were nearly double the amount of the previous fiscal year. Additional spending cuts were made to the department in an effort to scale back costs as well.

Other governmental fund balances decreased by \$917,726 due primarily to capital improvement expenditures for the new animal shelter and road improvements.

***Proprietary Funds***

The City of Newberg's proprietary funds provide the same type of information found in the government-wide financial statements, but in more detail.

Net assets of the water utility were nearly unchanged between the current and prior fiscal years. Charges for services increased by nearly 8.5% during the fiscal year due to a rate increase implemented in July of 2011. Operating costs were consistent with the prior fiscal year. Transfers to other funds increased by approximately \$0.2 million.

The net assets of the wastewater utility increased by \$1.9 million (7.1%) during fiscal year 2011-12. Charges for services increased by \$0.8 million (14.5%) due to a significant rate increase implemented July 1, 2011. Operating expenses, particularly personal services, decreased compared to the prior year.

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The net assets of the stormwater utility decreased by \$0.1 million during fiscal year 2011-12. Operating costs continued to outpace operating revenues resulting in an operating loss of \$120,935. Stormwater charges for services increased 15.9% consistent with the rate change implemented July 1, 2011. Operating costs decreased 1.8%.

Net assets of the emergency medical services division increased \$243,465 during fiscal year 2011-12. The governmental activities purchased over \$400,000 in capital equipment and transferred it to the emergency medical services division. Operating revenues increased 6.6% while operating expenses were consistent with the prior fiscal year.

**BUDGETARY HIGHLIGHTS**

Original budget compared to final budget

The budgetary statement for the General Fund, page 10, shows the original budget, final budget, actual revenues, expenditures and transfers in and out for the fiscal year ended June 30, 2012. The City recognized \$707,279 in additional beginning fund balance through the supplemental budget process. A portion of this extra resource was allocated to Contingency. Another large portion, \$165,000, was appropriated to purchase property for the library department. Over the course of the fiscal year, other minor changes were made to appropriations to cover unexpected costs.

Final budget compared to actual results

The police department expended \$225,237 less than anticipated in the budget process due to lower personal services costs. Several higher paid officers retired at the end of fiscal year 2010-11, leaving some vacancies in the department for a portion of the year. The fire department expended \$123,954 less than budgeted due to lower than expected administrative service charges and suppression costs.

**CAPITAL ASSETS AND DEBT ADMINISTRATION**

**Capital Assets.** As of June 30, 2012, the City had invested \$144.9 million in capital assets as reflected in the following table, which represents a net decrease (additions, deductions and depreciation) of \$0.4 million.

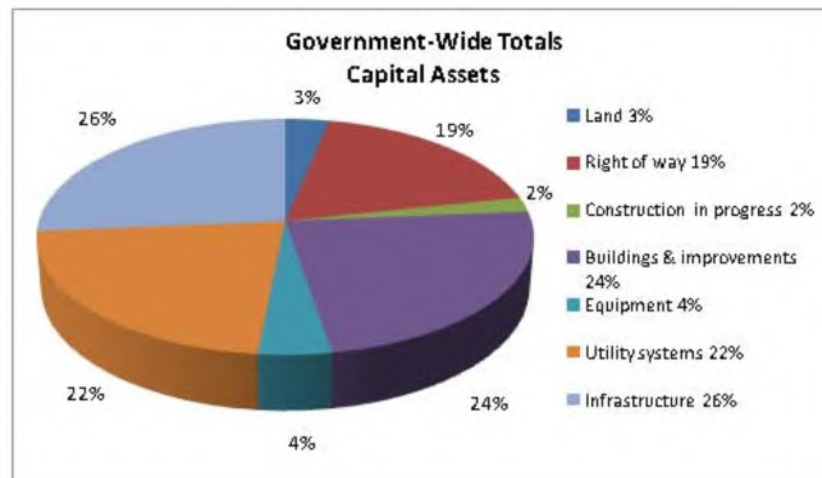
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**TABLE 5**  
**CAPITAL ASSETS AT YEAR END**  
**(NET OF DEPRECIATION)**  
 (in millions)

	Governmental Activities		Business-type Activities		Totals	
	2012	2011	2012	2011	2012	2011
Land	\$ 1.1	\$ 1.0	\$ 3.6	\$ 3.6	\$ 4.7	\$ 4.6
Right of way	26.7	26.7	-	-	26.7	26.7
Construction in progress	1.4	0.2	1.5	0.2	2.9	0.4
Buildings & improvements	7.0	7.0	27.3	28.5	34.3	35.5
Equipment	1.9	1.9	4.2	4.5	6.1	6.4
Utility systems	-	-	32.0	32.9	32.0	32.9
Infrastructure	38.2	38.8	-	-	38.2	38.8
<b>Total</b>	<b>\$ 76.3</b>	<b>\$ 75.6</b>	<b>\$ 68.6</b>	<b>\$ 69.7</b>	<b>\$ 144.9</b>	<b>\$ 145.3</b>

Major capital asset events during the current fiscal year included the following:

- Lease purchase of two new caterpillars for \$75,937 each
- Lease purchase of a new street sweeper \$238,056
- Purchase of a new ambulance at a cost of \$187,108 to replace one totaled in an accident. In addition, an old ambulance was remounted with a new chassis for \$143,113
- Depreciation expense for 2011-12 was \$5,025,285
- Completion of Crestivew Drive/Oxberg Lake street and storm improvements at a cost of \$709,042



Additional information on the City's capital assets can be found in the Notes to the Basic Financial Statements on page 37 of this report.

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**Debt.** As of June 30, 2012, the City had a total long-term debt obligation of \$28.6 million. Of this amount, \$5.9 million represented outstanding bonded indebtedness. Outstanding bonded debt included \$1.7 million to be serviced by property taxes, \$4.2 million to be serviced by the City Hall fee and internal charges to departments. All of these debts are backed by the full faith and credit of the City.

**TABLE 6**  
**OUTSTANDING DEBT AT YEAR END**  
(in millions)

	Governmental Activities		Business-type Activities		Totals	
	2012	2011	2012	2011	2012	2011
General obligation	\$ 1.7	\$ 1.9	\$ -	\$ -	\$ 1.7	\$ 1.9
Certificates of participation	1.6	1.8	-	-	1.6	1.8
Limited tax bonds	2.6	2.7	-	-	2.6	2.7
Notes payable	-	-	22.4	22.9	22.4	22.9
Capital leases	0.3	0.1	-	-	0.3	0.1
<b>Total</b>	<b>\$ 6.2</b>	<b>\$ 6.5</b>	<b>\$ 22.4</b>	<b>\$ 22.9</b>	<b>\$ 28.6</b>	<b>\$ 29.4</b>

The City maintained it's A1 debt rating with Moody's Investor Service.

During June of 2012, the City Council approved a loan with Clean Water State Revolving Loan Fund in the amount of \$14,484,130 for expansion and repair of the wastewater treatment plant. As of fiscal year end, no draw downs had been requested upon the funding.

Additional information on the City's long-term obligations can be found in the Notes to the Basic Financial Statements on page 40 of this report.

**ECONOMIC FACTORS**

The following economic factors currently affect the City of Newberg and were considered in developing the 2012-13 fiscal year budget.

- The unemployment rate for Yamhill County is currently 8.4%, which is a slight decrease from a rate of 9.3% a year ago. While the unemployment rate continues to decrease, it is not expected to reach the pre-recession level for several years.
- No rate increases for any of the utility divisions for 2012-13.
- Declines in taxable assessed value of properties within the City will continue to affect the City of Newberg's property tax revenue. For 2012-13, the assessed value is expected to only increase by 1%.
- New construction is anticipated to be relatively stagnant with just a few small developments on the horizon.

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**CITY OF NEWBERG, OREGON**  
**Management's Discussion and Analysis**  
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- Interest rates are expected to remain at record low levels throughout fiscal year 2012-13.
- On the expenditure side, the City's retirement contributions for Oregon Public Employees Retirement System (PERS) employees remained consistent with the 2011-12 rates. The City's private retirement plan is budgeted to have a 2% increase in the City's contribution rate for the next fiscal year. Looking to the future, the City's retirement contribution rate for both PERS employees and the City's private retirement plan are both anticipated to increase substantially in 2013-14. The Oregon PERS Board is scheduled to adopt new rates for 2013-15 in September of 2012.
- Health care costs are anticipated to continue to escalate.
- Non-represented employees within the City are budgeted to forego all cost of living and merit increases for 2012-13.
- Cost of living and merit increases negotiated by contract with City bargaining units will continue to result in increasing expenditures for public safety.

Providing stable funding for City services during the current economic recession poses a challenge for the next few years. The City recognizes that costs of providing services at the current level will increase at a faster rate than the revenue used to fund those services. The City was able to avoid significant staff reductions during the development of the 2012-13 budget. However, it is anticipated that further staff reductions/budget savings will be needed for the 2013-14 budget year.

More detail about the impacts of the economy on the City is found in the Letter of Transmittal.

**REQUESTS FOR INFORMATION**

This financial report is designed to provide a general overview of the City's finances for those with an interest in the government's finances. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to:

Finance Director  
City of Newberg  
PO Box 970  
Newberg, OR 97132

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## RESOLUTION No. 2012-3026

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**A RESOLUTION ACCEPTING THE ANNUAL AUDIT REPORT AND  
FINANCIAL STATEMENTS FOR THE FISCAL YEAR THAT ENDED JUNE 30,  
2012**

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### RECITALS:

1. The week of September 24, 2012, the auditing firm of Boldt, Carlisle & Smith LLC conducted field work to review the City's financial records of the fiscal year ending June 30, 2012.
2. On November 16, 2012, Boldt, Carlisle & Smith, LLC issued an unqualified opinion on the City's financial report for the fiscal year ending June 30, 2012.
3. The annual audit report and financial statements for the fiscal year ending June 30, 2012, have been submitted to the City Council with this resolution.
4. The City of Newberg's financial statements for the year ending June 30, 2012, have been prepared in conformity with Generally Accepted Accounting Principles of the United States of America and Oregon Local Budget Law.

### THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

The Council accepts the annual audit report and financial statements for the fiscal year ending June 30, 2012.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: December 18, 2012.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 17<sup>th</sup> day of December, 2012.

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Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 20<sup>th</sup> day of December, 2012.

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Bob Andrews, Mayor

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# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: December 17, 2012

Order \_\_\_      Ordinance \_\_\_      Resolution XX      Motion \_\_\_      Information \_\_\_  
No.              No.              No. 2012-3020

**SUBJECT: Consider the formation of the College Street Local Improvement District and direct staff to prepare an engineer's report.**

Contact Person (Preparer) for this Motion: Paul Chiu, P.E., Senior Engineer  
Dept.: Public Works Department - Engineering

## RECOMMENDATION:

Adopt Resolution No. 2012-3020 considering the formation of the College Street Local Improvement District and directing staff to prepare an engineer's report.

## EXECUTIVE SUMMARY:

The City entered into an intergovernmental agreement (IGA) with the Oregon Department of Transportation (ODOT) to complete the N. College Street Improvement Project in 2011. The IGA provides over \$800,000.00 in Transportation Enhancement (TE) funding through an ODOT grant for right-of-way acquisition, survey, design, and construction of curb and gutter, sidewalk, and storm drain on the west side of N. College Street (also known as Highway 219), and bicycle lanes on both sides, from Vermillion Street to Aldercrest Drive. The City agreed to provide a grant match and complete a portion of the improvements near the Vermillion Street/College Street intersection at the railroad crossing. The City's budget for the remaining construction project is estimated at \$194,197.00.

On June 4, 2012, City Council directed staff to prepare an informational report for a potential College Street Local Improvement District (LID) to recoup all or a portion of the City's costs for the project. On November 5, 2012, Council reviewed that report and discussed the options presented. They indicated their preference for Scenario #1 to apportion cost to all west side property owners regardless of whether those properties have waivers of remonstrance agreements in place. Council directed staff to present several variations of Scenario #1 that would recoup different percentages of the total City's cost for further consideration in December, 2012. Council also requested staff provide approximate costs for any easements or right-of-way acquisitions. The variations and the other approximate costs are all shown in Exhibit "A". The estimated construction cost for proposed curbs and sidewalks is approximately \$120,000.00, which is around 61% of the City's cost.

## FISCAL IMPACT:

Although the bulk of this improvement project is being paid by grant funds, the City will contribute approximately \$194,197.00 to the project. Part of the project cost was budgeted and expended in Fiscal Year 2011-2012 under account number 18-5150-702165. The remaining project cost is included in the approved Fiscal Year 2012-2013 budget under the same account number. If Council directs staff to proceed with the LID, the City could recover all or a portion of these costs.

## STRATEGIC ASSESSMENT:

This project provides an improved pedestrian and bicyclist connection along a major state and city route in accordance with the City's Transportation System Plan and the Newberg ADA/Pedestrian/Bike Route Improvement Plan. The establishment of an LID will result in the city recouping all or part of the value of its grant match, and being able to apply these funds to other projects.



## RESOLUTION No. 2012-3020

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**A RESOLUTION CONSIDERING THE FORMATION OF THE COLLEGE STREET LOCAL IMPROVEMENT DISTRICT AND DIRECTING STAFF TO PREPARE AN ENGINEER'S REPORT**

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### RECITALS:

1. The City and Oregon Department of Transportation (ODOT) have an existing intergovernmental agreement to complete the College Street Transportation Enhancement Project along N. College Street. ODOT grant funds will pay for the majority of the project. The City's expense is estimated at \$194,197.00.
2. On November 5, 2012, an informational report was presented to City Council for a potential College Street Local Improvement District (LID) along the west side of N. College Street from Illinois Street to Aldercrest Drive. The report explains the significance of the existing waivers of remonstrance agreements, and provides methodologies for three potential LID scenarios.
3. After review of the report and proposed scenarios, City Council requested several variations of Scenario #1 be presented for further consideration in December, 2012. These variations are shown in attached Exhibit "A", which is hereby attached and by this reference incorporated.

### THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

The City Council considers the formation of the College Street Local Improvement District and directs staff to prepare an Engineer's Report.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: December 18, 2012.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 17<sup>th</sup> day of December 2012.

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Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 20<sup>th</sup> day of December 2012.

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Bob Andrews, Mayor

# EXHIBIT "A" TO RESOLUTION 2012-3020

## EXHIBIT "A": VARIATION OF SCENARIO 1 AT VARIOUS PERCENTAGE LEVELS

Benefiting Property		Address	Estimated Assessment Costs (Recouped) for Scenario					App. R/W or Esmt. Cost
			W/O Grant	#1A (100%)	#1B (75%)	#1C (50%)	#1D (25%)	
Open Bible Ch.	3218 AD 7100	1605 N COLLEGE ST	\$57,220.79	\$14,582.72	\$10,937.04	\$7,291.36	\$3,645.68	\$3,000.00
	3218 AD 7000	1605 N COLLEGE ST	\$10,549.56	\$2,688.55	\$2,016.42	\$1,344.28	\$672.14	\$500.00
	3218 AD 7401	1307 N COLLEGE ST	\$101,004.97	\$25,741.12	\$19,305.84	\$12,870.56	\$6,435.28	\$2,000.00
Willow Pl. ALF	(43 lots)							
Jaquith Pk. Est.	Lot 1	3218 AD 7621	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	\$1,000.00
	Lot 2	3218 AD 7633	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 3	3218 AD 7634	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 4	3218 AD 7635	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 5	3218 AD 7636	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 6	3218 AD 7637	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 7	3218 AD 7638	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 8	3218 AD 7639	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 9	3218 AD 7640	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 10	3218 AD 7641	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 11	3218 AD 7642	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 12	3218 AD 7643	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 13	3218 AD 7628	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 14	3218 AD 7627	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 15	3218 AD 7626	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 16	3218 AD 7617	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 17	3218 AD 7616	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 18	3218 AD 7609	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 19	3218 AD 7608	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 20	3218 AD 7607	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 21	3218 AD 7606	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 22	3218 AD 7605	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 23	3218 AD 7604	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 24	3218 AD 7603	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 25	3218 AD 7602	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 26	3218 AD 7601	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 27	3218 AD 7612	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 28	3218 AD 7613	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 29	3218 AD 7620	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 30	3218 AD 7623	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 31	3218 AD 7622	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 32	3218 AD 7632	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 33	3218 AD 7631	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 34	3218 AD 7630	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 35	3218 AD 7629	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 36	3218 AD 7625	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 37	3218 AD 7618	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 38	3218 AD 7615	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 39	3218 AD 7610	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 40	3218 AD 7611	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 41	3218 AD 7614	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 42	3218 AD 7619	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
	Lot 43	3218 AD 7624	\$1,764.64	\$449.72	\$337.29	\$224.86	\$112.43	
Parti. Plat P95-89	(4 tax lots)							
(Parcel 3)	3218 DB 2403	724 N MAIN ST	\$1,359.13	\$346.38	\$259.78	\$173.19	\$86.59	
(Parcel 2)	3218 DB 2402	726 N MAIN ST	\$1,359.13	\$346.38	\$259.78	\$173.19	\$86.59	
	3218 DB 2600	No Address	\$8,154.81	\$2,078.25	\$1,558.69	\$1,039.13	\$519.56	
	3218 DB 2300	735 N COLLEGE ST	\$16,309.61	\$4,156.51	\$3,117.38	\$2,078.25	\$1,039.13	\$500.00
<b>Subtotal from properties with waivers =</b>				<b>\$69,277.78</b>	<b>\$51,958.33</b>	<b>\$34,638.89</b>	<b>\$17,319.44</b>	<b>\$7,000.00</b>
	3218 AD 6900	1701 N COLLEGE ST	\$23,209.02	\$5,914.82	\$4,436.12	\$2,957.41	\$1,478.71	\$4,000.00
	3218 AD 7200	1603 N COLLEGE ST	\$26,060.92	\$6,641.63	\$4,981.22	\$3,320.81	\$1,660.41	\$1,000.00
	3218 AD 7300	1601 N COLLEGE ST	\$28,093.47	\$7,159.62	\$5,369.72	\$3,579.81	\$1,789.91	
	3218 AD 7309	1519 N COLLEGE ST	\$29,190.62	\$7,439.23	\$5,579.42	\$3,719.62	\$1,859.81	
	3218 DB 0400	1215 N COLLEGE ST	\$43,604.83	\$11,112.69	\$8,334.52	\$5,556.35	\$2,778.17	
	3218 DB 0100	1211 N COLLEGE ST	\$11,487.30	\$2,927.54	\$2,195.65	\$1,463.77	\$731.88	\$2,000.00
(3 Tax Lots share frontage)	3218 DB 0101	No Address	\$11,487.30	\$2,927.54	\$2,195.65	\$1,463.77	\$731.88	
	3218 DB 0102	No Address	\$11,487.30	\$2,927.54	\$2,195.65	\$1,463.77	\$731.88	
(2 Tax Lots share frontage)	3218 DB 0200	1119 N COLLEGE ST	\$14,593.55	\$3,719.17	\$2,789.38	\$1,859.58	\$929.79	\$4,000.00
	3218 DB 0201	No Address	\$7,296.78	\$1,859.58	\$1,394.69	\$929.79	\$464.90	
	3218 DB 0300	1117 N COLLEGE ST	\$21,890.33	\$5,578.75	\$4,184.06	\$2,789.38	\$1,394.69	\$4,000.00
	3218 DB 0900	1111 N COLLEGE ST	\$36,923.45	\$9,409.94	\$7,057.46	\$4,704.97	\$2,352.49	\$500.00
	3218 DB 0800	501 MISSION DR	\$50,142.04	\$12,778.70	\$9,584.03	\$6,389.35	\$3,194.68	\$9,000.00
	3218 DB 2101	1005 N COLLEGE ST	\$36,923.45	\$9,409.94	\$7,057.46	\$4,704.97	\$2,352.49	\$2,000.00
	3218 DB 2200	1003 N COLLEGE ST	\$20,395.81	\$5,197.87	\$3,898.40	\$2,598.94	\$1,299.47	\$500.00
	3218 DB 2900	729 N COLLEGE ST	\$4,679.80	\$1,192.65	\$894.48	\$596.32	\$298.16	
(4 Tax Lots share frontage)	3218 DB 2901	No Address	\$1,570.71	\$400.30	\$300.22	\$200.15	\$100.07	\$500.00
	3218 DB 2800	725 N COLLEGE ST	\$10,728.48	\$2,734.15	\$2,050.62	\$1,367.08	\$683.54	
	3218 DB 2700	No Address	\$6,810.26	\$1,735.59	\$1,301.70	\$867.80	\$433.90	
	3218 DB 3100	717 N COLLEGE ST	\$23,789.25	\$6,062.69	\$4,547.02	\$3,031.35	\$1,515.67	
(2 Tax Lots share frontage)	3218 DB 3201	711 DESKINS ST	\$21,626.59	\$5,511.54	\$4,133.65	\$2,755.77	\$1,377.88	\$7,000.00
	3218 DB 3200	No Address	\$21,626.59	\$5,511.54	\$4,133.65	\$2,755.77	\$1,377.88	
	3218 DB 3400	707 DESKINS ST	\$26,549.72	\$6,766.20	\$5,074.65	\$3,383.10	\$1,691.55	\$4,000.00
<b>Subtotal from properties without waivers =</b>				<b>\$124,919.22</b>	<b>\$93,689.41</b>	<b>\$62,459.61</b>	<b>\$31,229.80</b>	<b>\$38,500.00</b>
<b>TOTAL RECOUPED COSTS =</b>				<b>\$194,197.00</b>	<b>\$145,647.74</b>	<b>\$97,098.50</b>	<b>\$48,549.24</b>	<b>\$45,500.00</b>

# NEWBERG CITY COUNCIL MEETING INFORMATION

Meeting Date: December 17, 2012

Prepared by: Jessica Nunley

Councilors	Roll Call	MOTION Topic: NUAMC Committee Appointments	MOTION Topic: Planning Commission Appointments	MOTION Topic: Traffic Safety Commission Appointments	MOTION Topic: Consent Calendar – Canvass of Votes, 10/1/12, 11/5/12, & 11/19/12 Minutes	ORDINANCE NO. 2012-2757  Topic: Comcast Cable Franchise Agreement	RESOLUTION NO. 2012-3026  Topic: 2011- 2012 Fiscal Year Budget Audit	RESOLUTION NO. 2012-3020  Topic: Formation of College St LID
ANDREWS, Bob, Mayor	X	YES	YES	YES	YES	YES	YES	YES
BACON, Denise	X	YES	YES	YES	YES	YES	YES	YES
HOWARD, Ryan	X	YES	YES	YES	YES	YES	YES	YES
McKINNEY, Stephen	X	YES	YES	YES	YES	YES	YES	YES
RIERSON, Bart		ABSENT	ABSENT	ABSENT	ABSENT	ABSENT	ABSENT	ABSENT
SHELTON, Marc	X	YES	YES	YES	YES	YES	YES	YES
WITHERSPOON, Wade	X	YES	YES	YES	YES	YES	YES	YES
ROLL CALL VOTES		YES: 6 NO: 0 Absent: 1 Abstain: 0	YES: 6 NO: 0 Absent: 1 Abstain: 0	YES: 6 NO: 0 Absent: 1 Abstain: 0	YES: 6 NO: 0 Absent: 1 Abstain: 0	YES: 6 NO: 0 Absent: 1 Abstain: 0	YES: 6 NO: 0 Absent: 1 Abstain: 0	YES: 6 NO: 0 Absent: 1 Abstain: 0
Department Prepared Action Item:		Administration	Administration	Administration		Legal	Finance	Engineering
MOTION (1 <sup>st</sup> /2 <sup>nd</sup> ):		McKinney/ Shelton	Bacon/ Howard	Witherspoon/ Bacon	Howard/ Bacon	Shelton/ Bacon	Howard/ Shelton	Shelton/ Bacon



# ***A New Road Financing Model: Taxation for Distance Traveled***

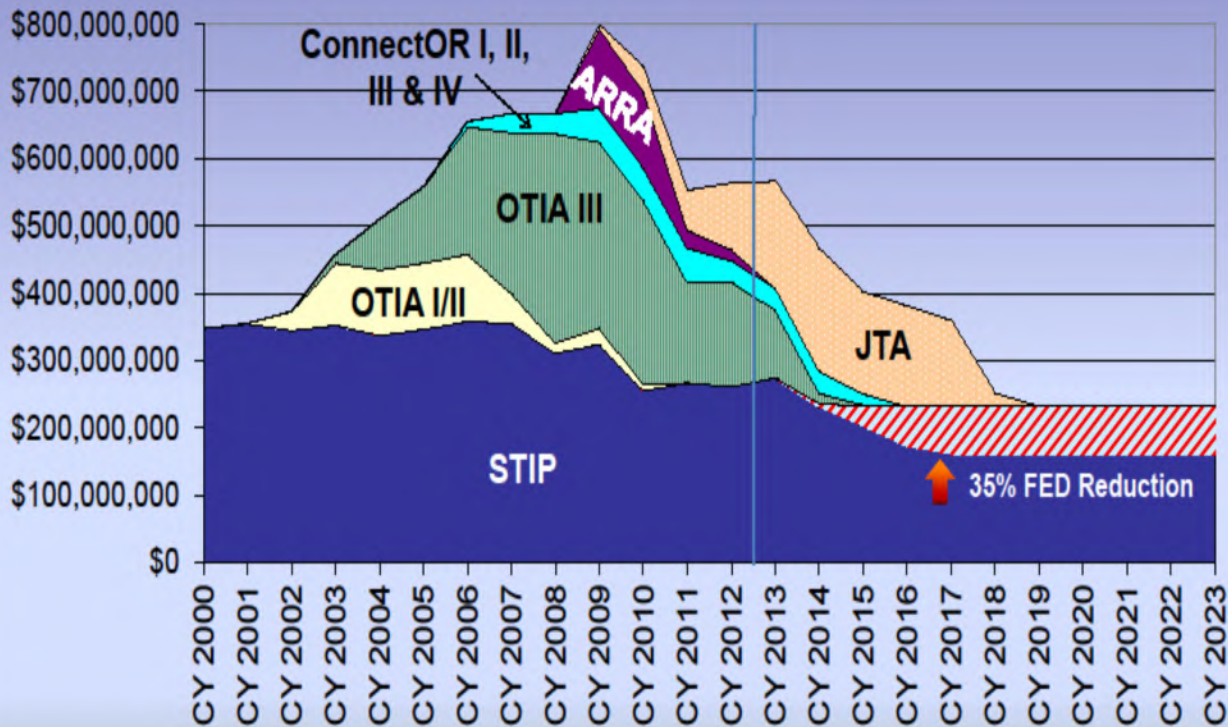
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Presentation to the Newberg City Council  
December 17, 2012



## STIP, ConnectOR, ARRA JTA & OTIA Programs

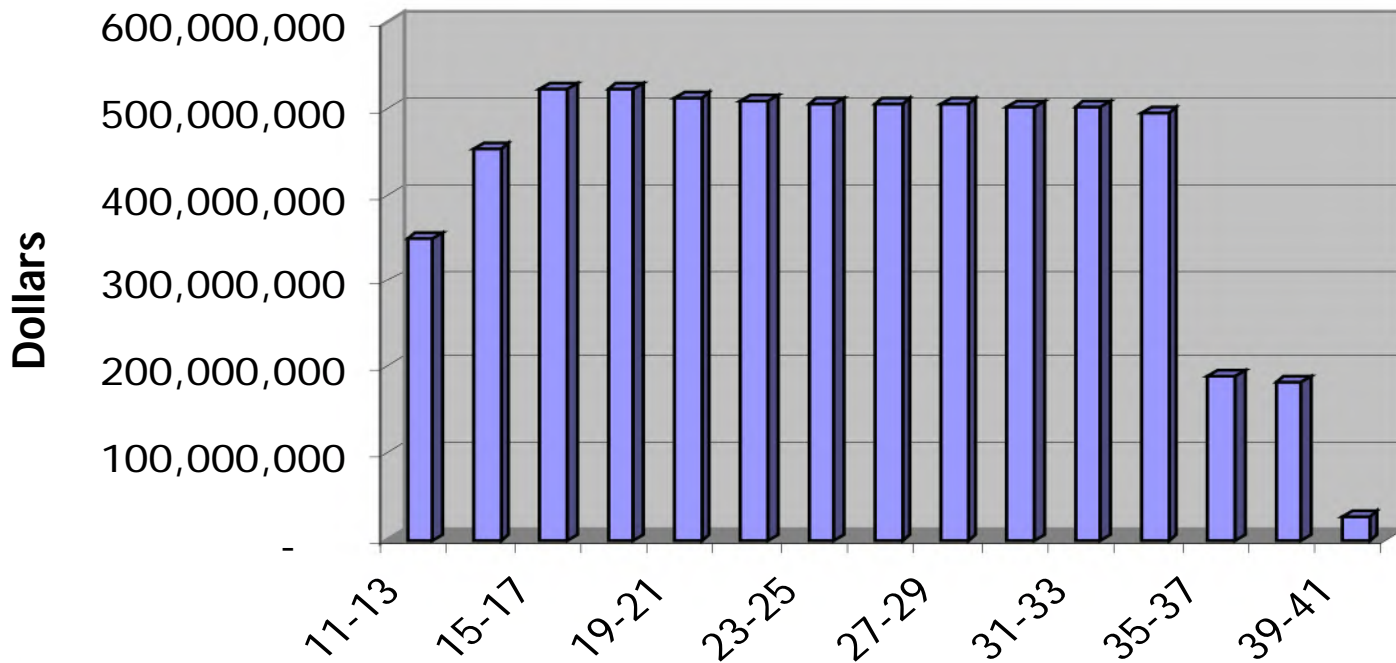
(Excludes Columbia River Crossing Project)



Highway Budget Office - Revised 08/27/12 (actuals through Mid CalYr2012)

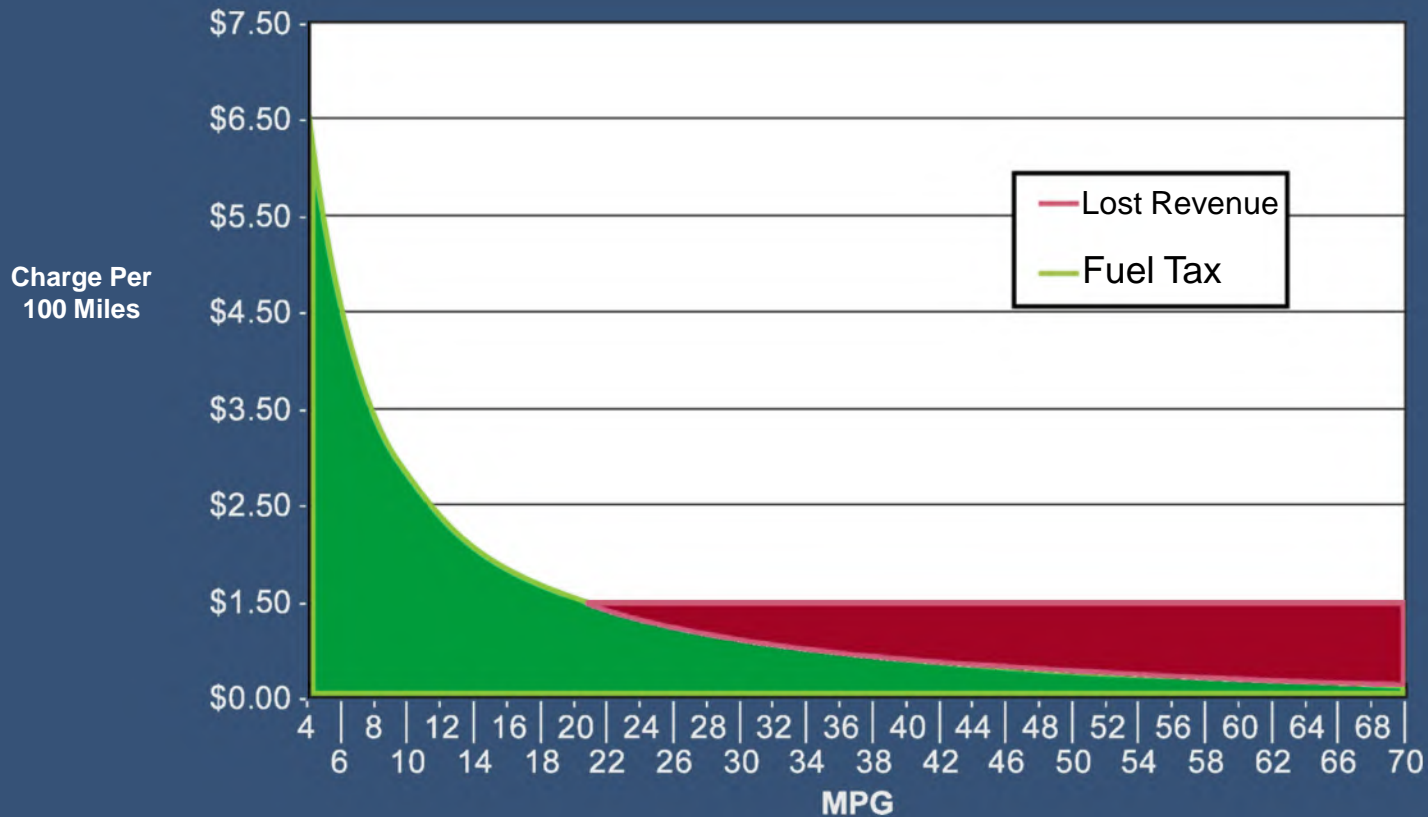


# Other Fund Debt Service 2011-13 thru 2039-41





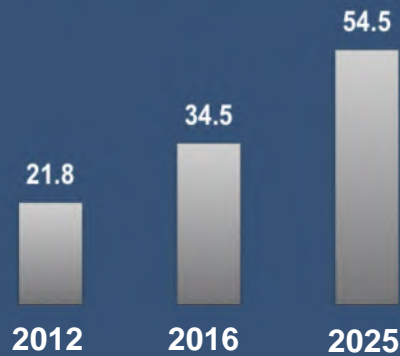
# Fuel Tax Revenues and Lost Revenues



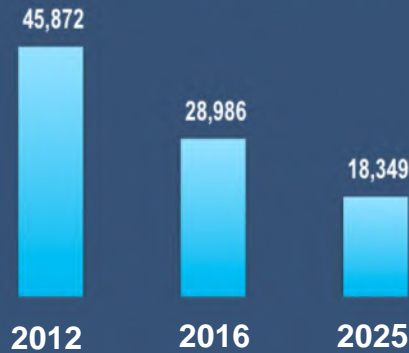


# Recent Increase in Vehicle Fuel Economy Standard will Reduce Revenue for Highways

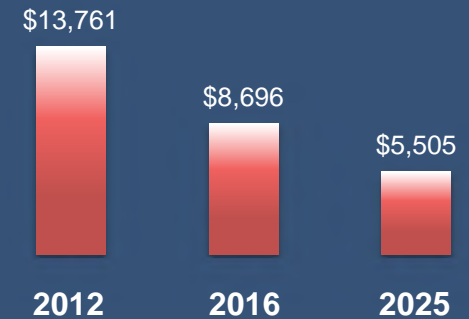
Fuel Economy



Gallons Consumed



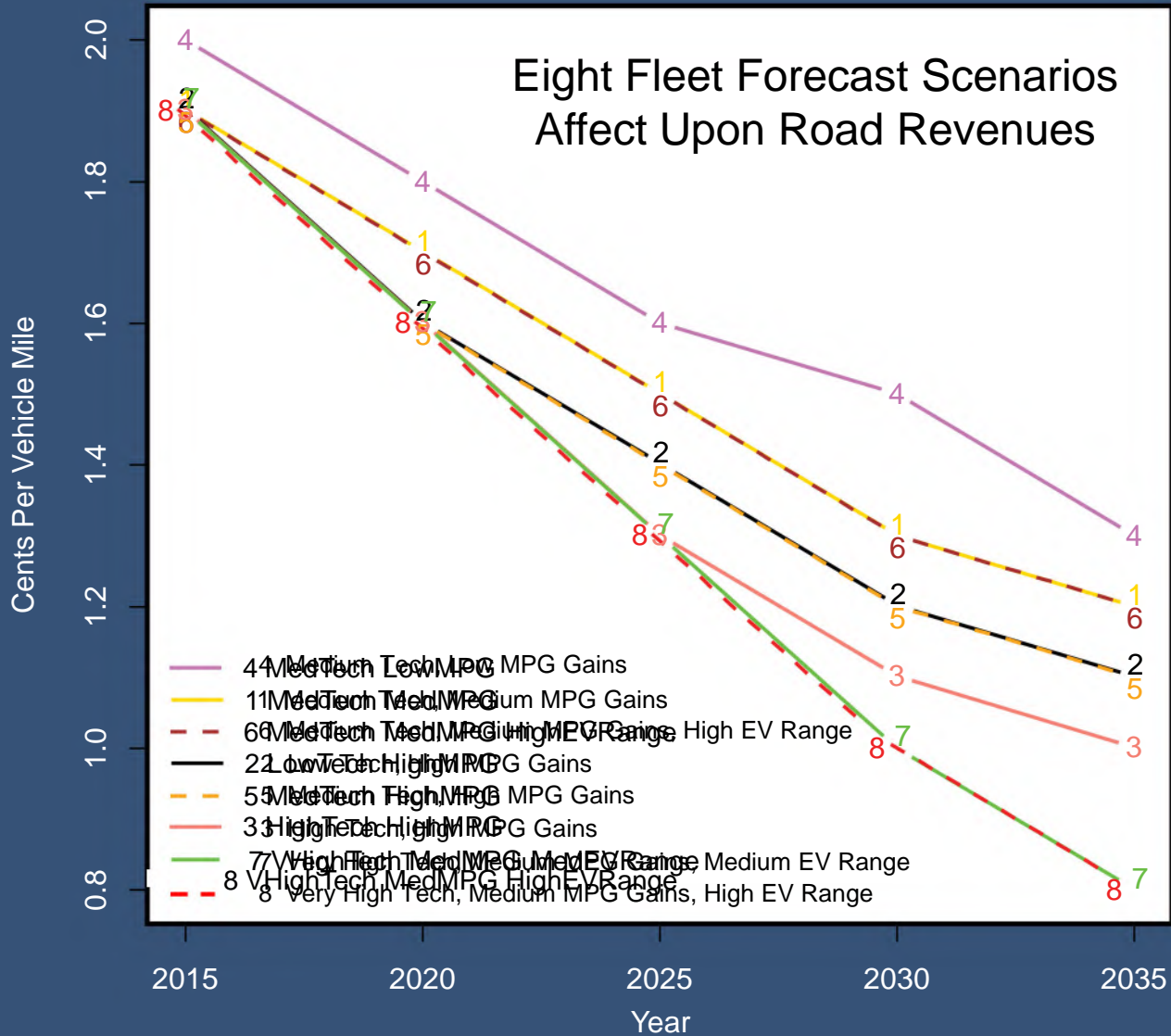
Nominal Revenues





Additional Research Underway

Forecast of State and Federal Fuel Taxes on Light Duty Vehicles





# Road User Fee Task Force

71st OREGON LEGISLATIVE ASSEMBLY--2001 Regular Session

**Enrolled**  
**House Bill 3946**

Sponsored by Representatives KRUMMEL, STARR, Senator GEORGE; Representatives DEVLIN, MORRISETTE, NELSON, ROSENBAUM, VERGER

## 2001

“To develop a design for revenue collection for Oregon’s roads and highways that will replace the current system for revenue collection.”

76th OREGON LEGISLATIVE ASSEMBLY--2011 Regular Session

**Enrolled**  
**House Bill 2138**

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber for Department of Transportation)

## 2011

Directs the Road User Fee Task Force to consider additional factors in adopting policies for a new pilot program.



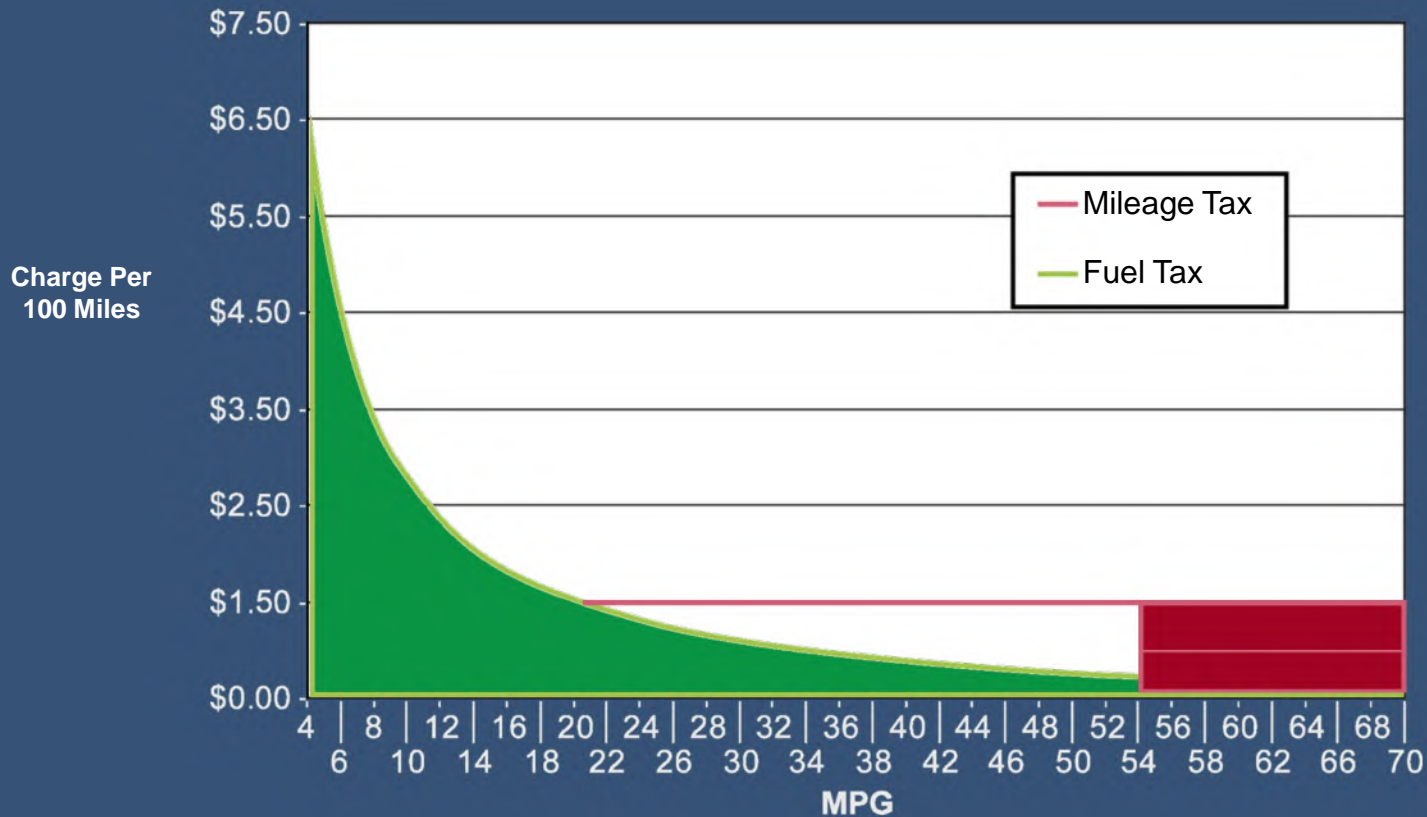
# Road User Fee Task Force Preparing Legislation

- For vehicles 55+ MPGe
- Road usage charge of x cents per mile
- Rebate fuel tax paid
- ODOT develops ways to report miles
- Motorists shall have choices
- Private sector administration option
- Protects personally identifiable information
- 50/30/20 revenue allocation





# Start of the Road Usage Charge





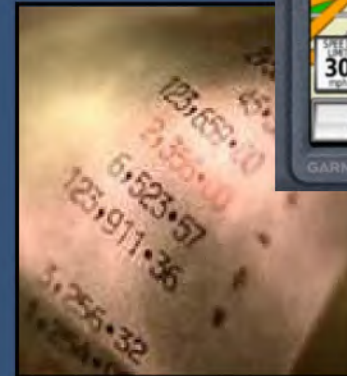
# Tenets for a Future Road Usage Charge System

- A. No technology mandate
- B. Open system to integrate with existing technology market
- C. Provide choices for motorists
- D. Private sector administration option



# How Highly Fuel Efficient Vehicle Operators will Report Miles Driven

1. Activate a metering device within vehicle
2. Install a metering device in vehicle
3. Manual reporting
4. Pay a high flat rate for unlimited driving





# Payment of Road Usage Charge

## Invoice

- Receive by mail or email

## Options for payment

- Check or Cash
- Credit
- Debit
- Electronic Funds Transfer

<b>From:</b> Sanef S.A. 30, Boulevard Gallieni 92 130 Issy les Moulineaux France	<b>On behalf of:</b> Oregon Department of Transportation 3700 SE 92 <sup>nd</sup> Ave Portland Oregon 97216		
<b>To:</b> A Customer 123 Main Street Portland Oregon 97201	Invoice No: SI1012-1234 Invoice Month: October 2012 Issue Date: Nov 5 2012		
Item Description	Amount	Rate (\$)	Subtotal
<b>VRM: YG59RZW</b> Vehicle: BMW Mini Clubman D VIN No: MWWMN52000TW95921 OBU No. 0507011044000022 Plan: BASIC			
Mileage Tax	1123 miles	\$0.0156	17.52
Fuel Tax Refund	15.51 galls	\$0.30	-4.65
<b>Subtotal for Mini Clubman YG59RZW</b>			<b>12.87</b>
<b>VRM: SL58RZJ</b> Vehicle: Volvo V70 SE LUX D5 VIN No. YV1BW71419108570 OBU No. 0507011218500921 Plan: ADVANCED / SMARTPHONE			
Mileage Tax	1485 miles	\$0.0156	23.16
[S(HOMESTATE)] Taxable Miles	645 miles	\$0.0156	13.10
Fuel Tax Refund	28.17 galls	\$0.30	-8.45
<b>Subtotal for Volvo V70 SL58RZJ</b>			<b>4.73</b>
<b>TOTAL Mileage Tax Due</b>			
Total Mileage Tax Due / You are owed a credit of			<b>\$17.60</b>
Payment Date			<b>Dec 05 12</b>
To pay your Mileage Tax, please visit <a href="https://odot.sanefolling.co.uk">https://odot.sanefolling.co.uk</a> and follow the on-screen instructions.			



# Oregon's New Pilot Road Usage Charge Pilot Program

November 1, 2012 to January 31, 2013

40 volunteer participants agreed to

- Pay 1.56 cents per mile
- Get fuel tax rebate

Private sector firms provide

- On board mileage reporting technologies
- Tax processing and account management option

Multi-state: Washington and Nevada manage own participants

Report to Legislature February 2013

NOVEMBER 2012						
SUN	MON	TUE	WED	THU	FRI	SAT
				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	



## Option 1: The Basic Plan (without GPS)



On Line Payment  
Credit Card Payments  
Debit Card Payments

## Option 2: The Smart Phone Plan



## Option 3: The Advanced Plan (with GPS)





Mail  
Pay by Check

## Option 4: The Basic Plan (without GPS)



## Option 5: Flat Rate Plan

		1025
		DATE <u>November 2012</u>
PAY TO THE ORDER OF <u>Oregon Department of Transportation</u>		\$ <u>135.00</u>
<u>One Hundred Thirty Five Dollars and 00/100</u>		DOLLARS
MEMO _____		<u>Joe Motorist</u>
⑆0000000000⑆ ⑆0000000000⑆		⑆025



# Installation of an On Board Unit





# The Future of Mileage Reporting



Telematics



## Alternative Funding Options

- Raise fuel tax
- Tax vehicle electricity use
- Tax tires
- Tax batteries
- Flat fee
- Toll interstate highways
- General fund
- Do nothing



The Following Slides are reserved for Q&A

**City of Newberg**

**Comprehensive Annual  
Financial Report  
(CAFR)**



# Duties of the Finance Department

Throughout the year, the Finance Department provides accounting services including:

- paying vendors,
- billing and receipting in payments,
- paying employees,
- Reconciling accounts

# Responsibilities of the Auditors

Sometime in September, the auditors spend a week at the City doing:

- Testing samples of invoices paid
- Testing invoices paid in July and August
- Comparing revenues with billings

# Responsibilities of the Auditors (cont)

- Reading Council minutes
- Assessing accounting principals
- Assessing significant estimates
- Evaluating internal controls
- Evaluating the overall presentation of the financial statements

# Results of the Audit for 2011-12

Boldt, Carlisle and Smith, LLC of Salem,  
Oregon:

- City's auditors for the past 9 years.
- Board of Accountancy certified
- Unqualified Opinion

# Major Sections of the Audit Report

- Government-wide  
Statements (pp 1-4)
- Governmental Fund  
Statements (pp 5-12)
- Proprietary Fund  
Statements (pp 13-16)
- Fiduciary Funds (pp 17-20)

# Major Sections of the Audit Report (cont)

- Notes to the Financial Statements (pp 21-52)
- Combining Statements and Budget to Actual Reports (pp 53-110)
- Other Information (pp 111-128)
- Statistical Section (pp 129-152)

▶ **QUESTIONS ?**