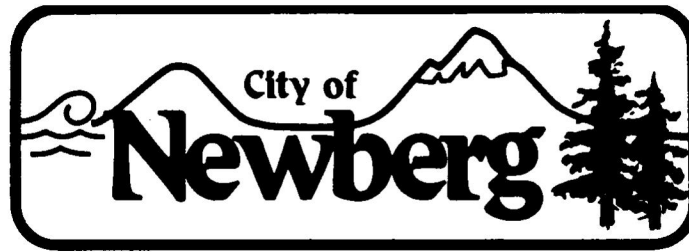


City Manager
(503) 538-9421

City Attorney
(503) 537-1206



414 East First St.
PO Box 970
Newberg, OR 97132

**CITY OF NEWBERG
CITY COUNCIL WORK SESSION
FEBRUARY 6, 2006
6:00 P.M.**

NEWBERG PUBLIC SAFETY BUILDING

THE CITY COUNCIL OF THE CITY OF NEWBERG WILL HOLD A WORK SESSION TO HEAR REPORTS FROM CITY BOARDS, COMMISSIONS, AND COMMITTEES AND TO REVIEW THE JANUARY 17TH COUNCIL AGENDA ITEMS. NO ACTION WILL BE TAKEN ON THE AGENDA ITEMS.

- CITY FINANCE COMMITTEE
- CITY PLANNING COMMISSION
- CITY TRAFFIC SAFETY COMMISSION
- CITY LIBRARY BOARD
- AD HOC COMMITTEES
- OTHER REPORTS
- REVIEW OF AGENDA ITEMS

PRESENTATION BY BARTON BRIERLEY, PLANNING & BUILDING DIRECTOR ON ANNEXATION CRITERIA.

THE WORK SESSION WILL BE FOLLOWED BY THE CITY COUNCIL MEETING TO BE HELD IN THE NEWBERG PUBLIC SAFETY BUILDING BEGINNING AT 7:00 P.M.

DATED THIS 6TH DAY OF JANUARY, 2006.

JAMES H. BENNETT
CITY MANAGER

ACCOMMODATION OF PHYSICAL IMPAIRMENTS:

In order to accommodate persons with physical impairments, please notify the City Manager's office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact Norma Alley, Deputy City Recorder, at (503) 537-1283. For TDY service please call (503) 554-7793.

● CITY MANAGER'S OFFICE: e-mail: nctymgr@ci.newberg.or.us Fax: 537-5013 ●
Building: 537-1240 ● Public Works: 537-1273 ● Finance: 537-1201 ● Fire: 537-1230
Library: 538-7323 ● Municipal Court: 537-1203 ● Police: 538-8321 ● Maintenance: 537-1233 ● 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"

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Council accepts comments on agenda items during the meeting. Please fill out a form and identify the items you wish to speak on and hand this to the Recording Secretary prior to the meeting, if possible. Otherwise, please fill out the form prior to the agenda item you wish to speak on and turn it in to the Recording Secretary. (The exception is formal land use hearings, which requires a specific public hearing process. The agenda items will be identified at the meeting.)

**CITY OF NEWBERG
COUNCIL AGENDA
FEBRUARY 6, 2006
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING - TRAINING ROOM**

I. CALL MEETING TO ORDER*

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. CITY MANAGER'S REPORT

PUBLIC MEETING SECTION

V. PUBLIC COMMENTS

(30 minutes maximum which may be extended at the Mayor or President's discretion; an opportunity to speak for 3 minutes but no more than 5 minutes per speaker allowed)

VI. CONSENT CALENDAR

1. Motion to consider approving City Council Regular Session Minutes for January 3, 2006.
2. Motion to consider appointing two citizens to the Citizen Rate Review Committee.
Mike Gougler Michael Sylvester

VII. PUBLIC HEARING

1. Public Hearing to review the City Charter decision.
Legislative Hearing

*The Mayor reserves the right to change the order of items to be considered by the Council at their meeting.

BUSINESS MEETING SECTION

VIII. NEW BUSINESS

1. Consider adopting **Resolution No. 2006-2617** authorizing the city Manager to develop and enter into an agreement for the purchase and sale of the “gateway” property.
2. Consider adopting **Resolution No. 2006-2618** initiating an amendment to the Newberg Development Code regarding signs for institutions.

IX. CONTINUED BUSINESS

X. EXECUTIVE SESSION

XI. ADJOURNMENT

INDEX OF RESOLUTIONS AND ORDINANCES:

RESOLUTIONS:

1. **Resolution No. 2006-2617** authorizing the City Manager to develop and enter into a purchase (from State of Oregon) and sale (to Jay Woodworth) agreement regarding the downtown “gateway” property located between First Street, Hancock Street and Center Street.
2. **Resolution No. 2006-2618** initiating an amendment to the Newberg Development Code regarding signs for institutions.

ORDINANCES:

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Manager’s office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact Norma Alley, Deputy City Recorder, at (503) 537-1283.

*The Mayor reserves the right to change the order of items to be considered by the Council at their meeting.

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: 2006, February 6

Ordinance ___ Resolution ___ Motion XX Information
No. No.

Date Submitted: January 20, 2006

**SUBJECT: Approve the Minutes from the
January 3, 2006 City Council Meeting.**

Contact Person (Preparer) for this Motion:
Norma Alley, Deputy City Recorder

Dept.: **Administration**

File No.: _____
(if applicable)

RECOMMENDATION:

Review and approve the January 3, 2006 City Council Minutes for preservation and permanent retention in the City's official records.

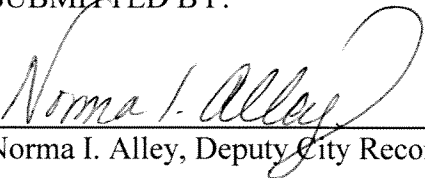
BACKGROUND:

January 3, 2006, City Council held a Council meeting at which minutes were recorded in text.

FISCAL IMPACT: None.

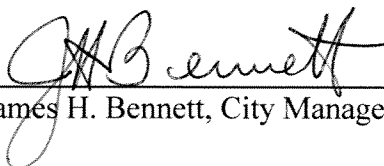
STRATEGIC ASSESSMENT: None.

SUBMITTED BY:



Norma I. Alley, Deputy City Recorder

APPROVED BY:



James H. Bennett, City Manager

**NEWBERG CITY COUNCIL MINUTES
JANUARY 3, 2006
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING - TRAINING ROOM**

I. CALL MEETING TO ORDER

Mayor Bob Stewart called the meeting to order.

II. ROLL CALL

Members

Present:	Mayor Bob Stewart	Bob Andrews	Mike Boyes
	Roger Currier	Dawn Nelson	Mike McBride
	Robert Soppe		

Members

Absent: None.

Staff

Present: James Bennett, City Manager
Terrence Mahr, City Attorney
Kathy Tri, Finance Director
Robert Tardiff, Police Chief
Barton Brierley, Planning and Building Director
Leah Griffith, Library Director
Al Blodgett, Fire
Dave Brooks, IT Manager
Dan Danicic, Public Works Director
David Beam, Planning
Kathleen Bochart, Recording Secretary

Others

Present: Grace Schaad, Warren Parrish, Lon Wall

III. PLEDGE OF ALLEGIANCE PERFORMED BY BOY SCOUT TROOP 269

The Pledge of Allegiance was performed.

IV. CITY MANAGER'S REPORT

James Bennett, City Manager presented staff report. Mr. Bennett stated that there is a special Council meeting on January 23, 2006. At this time the council subcommittees will give their report on the charter and recommend any changes. February 8, 2006 is the annual goal setting meeting starting at 6 PM at the Windrose Conference Center. Kathy Tri is now retired and is working as a contract employee and will be with the City of Newberg through the process of hiring a new finance director.

PUBLIC MEETING SECTION

V. PUBLIC COMMENTS

None.

VI. CONSENT CALENDAR

1. Consider approving City Council Regular Session Minutes for December 5, 2005.
2. Consider approving a sound permit application by Anna-Lisa Adams for the Second Chance Benefit Concert.

MOTION: Soppe/Currier to approve consent calendar approving City Council Regular Session Minutes for December 5th, 2005 as amended and approving a sound permit application by Anna-Lisa Adams for the Second Chance Benefit Concert. (Unanimous) Motion carried.

VII. PUBLIC HEARING

1. Public Hearing to consider approving **Ordinance No. 2006-2628** adopting rules relating to parking in planter strips and **Ordinance No. 2006-2632** adopting rules relating to maintenance of planter strips and public right-of-ways.
Legislative Hearing

Barton Brierley, Planning and Building Director presented staff report. Mr. Brierley stated that this was a continuing report on rules relating to parking in the planter strips.

Councilor Andrews asked what if there is no curb on the road.

Mr. Brierley stated that the driver can then park past the road.

Mr. Brierley recommended the adoption of **Ordinance No. 2006-2628 and 2006-2632**.

Councilor Soppe asked what would be needed if he wanted to pave the planter strip in front of his house.

Mr. Brierley stated that a permit from the city would be required.

Councilor Soppe stated that staff felt that it wasn't necessary to notify property owners of the new ordinances. Mr. Soppe stated that he believes they should be notified.

Councilor Currier asked about a statement on page 19 of the council pack. Under background 2-A It says "Staff suggests has modified..." Councilor Currier asked if that was a typo.

Mr. Brierley stated that it was a typo. The word suggest should not be there.

Councilor Currier asked if the date of adoption of the ordinance should be included in the ordinance.

Mr. Brierley stated that it was possible to do that.

Councilor Currier asked if there will be a problem when the Traffic Safety Commission gives a conditional use permit and other people think that it is ok for them to do it, not knowing about

the required permit. Councilor Currier asked for clarification on page 21 under 3-B, No signs shall be placed within the planter strip except as allowed under 151.600. It talks about everything but political signs. Councilor Currier stated that as he understood it, the only signs allowed in the right of way were political signs. Also there is no mention of R-1 and R-2 zones.

Councilor Soppe stated that R-1 and R-2 zones are covered on page 28 of the council packet under letter C.

MOTION: Soppe/Nelson to approve **Ordinance No. 2006-2632** adopting rules relating to maintenance of planter strips and public right-of-ways with the amendment to section 96.61 (A) as follows: All street trees that were required to be installed under a street tree plan or similar requirements shall be maintained in a healthy condition by the adjoining property owner, or replaced with a tree consistent with the approved street tree plan for that location or, if none, with any approved street tree plan for the area, or if none, with any tree from the city's approved street tree list. (Unanimous) Motion carried.

MOTION: Soppe/McBride to approve **Ordinance No. 2006-2628** adopting rules relating to parking in planer strips. (Unanimous) Motion carried.

2. Public Hearing to consider approving **Ordinance No. 2006-2634** amending the Newberg Comprehensive Plan Policies.
Legislative Hearing

Barton Brierley, Planning and Building Director presented staff report and recommended adopting **Ordinance No. 2006-2634**.

Councilor Currier asked about target densities on page 35 of the council packet. Councilor Currier asked if it can exceed the density.

Mr. Brierley stated that these are just targets showing the minimum of what the committee wants.

Councilor Boyes asked about tax incentives that are mentioned on page 34. Councilor Boyes asked if this was something that the city currently provides.

Mr. Brierley stated that it is something that could be put into effect.

Councilor Soppe stated that he doesn't feel comfortable adopting the ordinance with the wording as is on page 34 under Letter H 1-A. Councilor Soppe feels that it should include something similar to "using methods such as..." before "tax incentive programs...". Councilor Soppe also commented on item H, letter I under Industrial Area Policies. Councilor Soppe asked what happens if land is needed for something else and needs to be re-zoned.

Mr. Brierley stated that the council can decide to go back and change this part of the plan.

Councilor Soppe asked if there was a reply from the committee to a citizen when asked how the city can promote a country feel with such high density numbers.

Mr. Brierley stated that it was more of a thought provoking question for the committee.

Councilor Andrews asked about school policies on council page 36. Councilor Andrews asked if it was referring to k-12 or k-12 and the university.

Mr. Brierley stated that it included the university.

Councilor Currier asked if there could be an Ordinance saying that there is no annexation of clear cut property.

Mr. Brierley stated that the concept hasn't been brought up in either the Planning Commission or the Ad-Hoc committee.

Councilor Currier stated that it might be something that could be brought up to the committee's.

Grace Schaad stated that she is here to say that there should be more active wording in the Ordinance instead of passive wording. Ms. Schaad stated that when the word encourages to her it seems that nothing will ever happen.

Warren Parrish stated that he is not against improving the comprehensive plan. Mr. Parrish stated that he thinks it is important that the City Charter has a statement about keeping the small town atmosphere.

Mr. Mahr stated that he believes that statement is in the Comprehensive Plan.

Mr. Parrish stated that he thinks it is really important to keep thinking about how to keep a small town atmosphere once the bypass is in.

Lon Wall stated that he has been very public with how he feels about the Planning and Ad-Hoc Committees and how good of job they have been doing. Mr. Wall stated that he believes it is a fair and reasonable document. Mr. Wall stated that he agrees with Councilor Soppe, that some of the language needs to be changed. Mr. Wall stated that there may be citizens who don't like the idea of economic development and those citizens may try and attack this document.

Councilor McBride asked if Mr. Wall would like to see the document more precise.

Mr. Wall stated what bothers him is that it clearly states the city will encourage a stable economic base through tax incentives.

Councilor McBride asked if Mr. Wall was opposed to the wording.

Mr. Wall said that was correct.

Mr. Brierley stated that the recommendation from staff is to adopt **Ordinance No. 2006-2634**, with changes to council packet page 34 Policies 1-A.

Councilor Soppe asked what the disadvantage was of not mentioning the item on tax incentives and preferential assessments.

Mr. Brierley stated that the document loses direction.

MOTION: Soppe/Andrews to approve **Ordinance No. 2006-2634** amending the Newberg Comprehensive Plan Policies. (Unanimous) Motion carried.

MOTION: Soppe/Currier to amend the motion on **Ordinance No. 2006-2634**.

Under item H policy 1-A to read as follows "In order to increase the percentage of persons who live in Newberg and work in Newberg, the City shall encourage a diverse and stable economic base. Potential methods may include, but are not limited to, land use controls and capital improvement programs. (Unanimous) Motion carried.

3. Public Hearing to consider approving **Ordinance No. 2006-2635** adopting the Economic Opportunity Analysis as part of the Newberg Comprehensive Plan.

Legislative Hearing

David Beam presented staff report and recommended adopting **Ordinance No. 2006-2635**.

Councilor Soppe asked when a student at the university can be a resident of Newberg.

Mr. Beam stated that it is his understanding that a student can choose to be a resident.

Councilor Soppe asked about the last bullet on page 64. Councilor Soppe asked if this has been done already.

Mr. Brierley stated that it can be taken out.

Councilor Soppe asked about the shortage of 63 buildable commercial acres. Councilor Soppe asked where Winterbrook come to the conclusion that there was a shortage.

Mr. Bennett reminded the council that the report from Winterbrook was from 2004 and could have already been put into effect with these recommendations.

Councilor Soppe asked if the numbers for table 12-10 were correct.

Mr. Brierley stated that they are correct.

Councilor Andrews asked if the table 12-1 on page 52 include the Urban Growth Boundary.

Mr. Beam stated that they do include the population of the UGB.

MOTION: McBride/Andrews to approve **Ordinance No. 2006-2635** adopting the Economic Opportunity Analysis as part of the Newberg Comprehensive Plan. (Unanimous)

BUSINESS MEETING SECTION

VIII. NEW BUSINESS

None.

IX. CONTINUED BUSINESS

None.

X. EXECUTIVE SESSION

- 1. Executive Session pursuant to ORS 192.660(2)(e) relating to a real property transaction – Gateway Property.*

Executive Session was held during work session.

XI. ADJOURNMENT

MOTION: Currier/Soppe to adjourn. (Unanimous)

ADOPTED by the Newberg City Council this 6th day of February, 2006.

James H. Bennett, City Recorder

ATTEST by the Mayor this ____ day of February, 2006.

Bob Stewart, Mayor

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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: 2006, February 6

Ordinance _____ Resolution ____ Motion XX Information
No. No.

Date Submitted: January 23, 2006

**SUBJECT: Citizen Rate Review Committee
Appointments**

Contact Person (Preparer) for this
Resolution: **Kathy Tri, Finance
Director**

Dept.:
File No.:
(if applicable)

RECOMMENDATION:

Appointment two members to the Citizens Rate Review Committee, effective immediately, to fill two positions which both expire on December 31, 2006.

BACKGROUND:

1. There are two vacancies on the Citizens Rate Review Committee. Members Lou Larson (term expires 12/31/06) and Blane Hansen (term expires 12/31/06) have resigned.
2. The staff has advertised in the Graphic and has requested Council and committee members to recruit applicants.
3. Two people have applied:

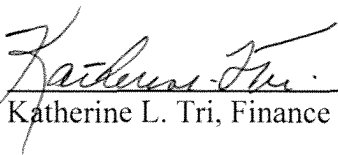
Mike Gougler 4729 Master Drive
Michael Sylvester 213 Quail Drive

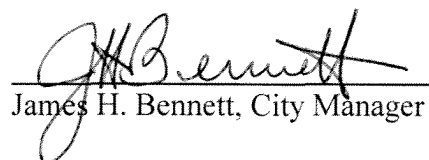
FISCAL IMPACT: none

STRATEGIC ASSESSMENT: The Citizens Rate Review Committee began meeting January 25, 2006 to review water, sewer and storm water monthly rates and water systems development rates. It is critical to have a full complement on the committee for these reviews.

SUBMITTED BY:

APPROVED BY:


Katherine L. Tri, Finance Director


James H. Bennett, City Manager

CITY OF NEWBERG

APPLICATION FOR POSITION ON
CITIZEN RATE REVIEW COMMITTEE

NAME: Michael Sylvester HOME PHONE: 503 537 2034
 ADDRESS: 213 Quail Dr WORK PHONE: 1 800 547 1883
Newberg OR 97132 EXT 4440
 E-Mail ADDRESS: Sabine.Sylvester@verizon.net

Are you eligible to be a registered voter? yes
 Do you live within the City limits? yes How long? 17 years
 How long have you lived at the above address? 17 years
 Previous Address: U S Army Ft Lewis How long? 4 years
 Occupation: Customer service Rep Employer: A-DEC
1-20-06 (Date) Michael Sylvester Signature

Why do you want this position? (Continue on back or separate sheet, if necessary)
I would like to see Newberg grow in a way
that will help all of its citizens, Also to
help take care of the city needs in a prompt
and fair way to all of Newberg citizens, and
be able to work with others to get this done
in a way that will help everyone.

RETURN THIS FORM TO THE OFFICE OF THE CITY RECORDER

Post-It™ brand fax transmittal memo 7571 # of pages ▶ 1

To <u>Ernie Amundson</u>	From <u>KATHY Tri</u>
Co.	Co.
Dept.	Phone #
Fax #	Fax #

Rec'd
1/18/06

CITY OF NEWBERG

APPLICATION FOR POSITION ON
CITIZEN RATE REVIEW COMMITTEE

NAME: MIKE GOUGLER HOME PHONE: 503-538-2732

ADDRESS: 4729 MASTERS DRIVE WORK PHONE: 503-810-5576
NEWBERG

E-Mail ADDRESS: GGONG@YAHOO.COM

Are you eligible to be a registered voter? YES

Do you live within the City limits? YES How long? 4 MONTHS

How long have you lived at the above address? 4 MONTHS

Previous Address: 5241 WINDSOR TERRACE WESTLIN How long? 16 YEARS

Occupation: Developer Employer: MSG DEVELOPMENT INC.

1/2/06
(Date)

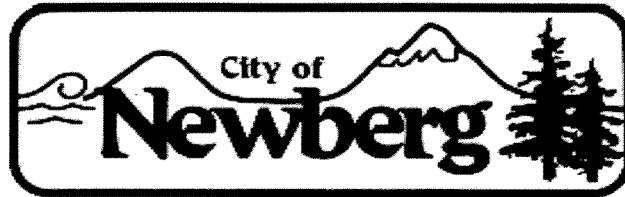
Mike Gougler
Signature

Why do you want this position? (Continue on back or separate sheet, if necessary)

DESIRE TO VOLUNTEER TIME TO NEWBERG CITY.

RETURN THIS FORM TO THE OFFICE OF THE CITY RECORDER

PO Box 970
Newberg, OR 97132
(503) 537-1283



NEWS RELEASE

FOR IMMEDIATE RELEASE

January 12, 2006

FOR MORE INFORMATION

Kathy Tri
Finance Director
(503) 537-1216

Citizens Rate Review Committee Openings

Newberg – The City of Newberg is seeking applicants to serve on the Citizens Rate Review Committee for three year terms. Two years remain on one open term and one year remains on the other open term. Committee members attend bi-monthly meetings to review water, sewer and storm water rates and related systems development charges. The Committee meetings begin in January 2006.

Applications and more information are available by contacting Kathy Tri at (503) 537-1216 or Dan Danicic at (503) 537-1238. Completed applications are due by January 31. The City Council will fill these positions at the February 6th meeting. Applicants should attend the meeting ready to respond to questions.

The committee recommends rate changes to the city council based on a cost to serve analysis. Meetings continue until the updates are done or as needed. The committee reviews all utility rates every two years.

Katherine L. Tri
Finance Director
Phone: (503) 537-1216
Fax: (503) 538-5393

City of Newberg
PO Box 970
401 East Third Street
Newberg, Oregon 97132

**CITIZENS RATE REVIEW COMMITTEE LIST
January 2006**

Member

Charles Zickefoose
1201 Fulton #9
Newberg OR 97132
(H) (503) 538-8047 (W) (503) 244-7005
czicky@comcast.net

Term: 3 years
Appointed: 11/7/05
Expires: 12/31/07
Class: Residential

~~VACATED BY LON WALL
When term expired on 12/31/04~~

~~Term: 3 years
Appointed:
Expires: 12/31/07
Class: Residential~~

Ernie Amundson, Jr.
2901 E 2nd St, space 70
Newberg, Oregon 97132
(H) 503-538-6320 (W) 503-538-7478
imelkhunter@hotmail.com
Ernie.Amundson@a-dec.com

Term: 3 year
Appointed: 2/20/01, reappointed 2/03, 11/05
Expires: 12/31/02, 12/31/05, 12/31/08
Class: Residential

Matson Haug
1524 Hess Creek Court
Newberg, OR 97132
(H) 538-1186 (W) 520-4398
matson_haug@mentorg.com

Term: 3 years (replaced Reinhardt)
Appointed: 4/6/98, reappointed 2/03, 11/07/05
Expires: 12/31/02, 12/31/05, 12/31/08
Class: Residential

Dan Schutter
2216 Thorne St.
Newberg, OR 97132
(H) (503) 538-6097 (H)(503) 554-2014
dschutter@georgefox.edu

Term: 3 years (replaced Ferrell) (chair)
Appointed: 1/4/99, reappointed 2/03, 11/7/05
Expires: 12/31/02, 12/31/05, 12/31/08
Class: Large user (GFU)

VACATED BY LOU LARSON
In January 2006

Term: 3 year
Appointed: 12/2003
Expires: 12/31/06
Class: Residential

David Maben
308 E 8th St
Newberg, Oregon 97132
(H) 503-538-4578 (W) 503-538-9471 x2411
Term: 3 years
Appointed: 2/20/01
Expires: 12/31/06
Class: Business - ADEC

VACATED BY BLANE HANSEN
In November 2005
Term: 3 year
Appointed: 2/2/04
Expires: 12/31/06
Class: Residential

Staff Members

Katherine Tri, Finance Director
(503) 537-1216
kathy.tri@ci.newberg.or.us

Dan Danicic, PE, Public Works Director
(503) 537-1238
dan.danicic@ci.newberg.or.us

Jim Bennett, City Manager
(503) 537-1207
james.bennett@ci.newberg.or.us

Mayor Bob Stewart, Ex-officio

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: 2006, February 6

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

Date Submitted: January 26, 2006

SUBJECT: Review of City Charter decision.

Contact Person (Preparer) for this
Motion: Terry Mahr, City Attorney

Dept.: Legal

File No.:

(If applicable)

RECOMMENDATION:

Hold a public hearing on the revision of the City Charter, based upon the new League of Oregon Cities Model Charter published in 2004. Purpose of the meeting is to receive public input and after consideration of that input, decide whether to recommend the revised charter be placed before the voters at the May 2006 election on Tuesday, May 16th.

BACKGROUND:

1. The Newberg City Charter of 1893 was substantially revised in 1982 at which time the Mayor/Council/Manager form of government was established.
2. The Charter was amended by initiative, most notably establishing vote on all annexations, nominating City Council members by district, and changing the membership from eight to six members.
3. In 2004 the League of Oregon Cities published a new model charter.
4. In 2005 the City Council appointed an ad-hoc subcommittee to review the new LOC Model Charter with the City's Charter and make a recommendation to the Council.
5. The Subcommittee compared the Model Charter with Newberg's present Charter and recommends the new revised charter to take advantage of the improvements set out in the Model Charter. These improvements generally provide for division of the Council's powers to clearly separate legislative, administrative, and quasi-judicial. Further, the charter takes full advantage of the general grants of power provided for in State law. The revised charter moves the Mayor to a voting member of the Council and a four-year term. There are other changes, which will be discussed in the presentation.
6. On January 23rd, the Council held a special meeting and received the recommendation of the Subcommittee. Council considered issues raised by the revision. After the lengthy meeting the Council determined to set the matter at their regular Council meeting on February 6, 2006, in order to receive further public comment.

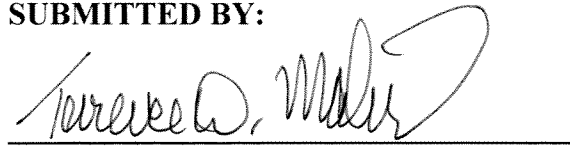
FISCAL IMPACT:

Not applicable.

STRATEGIC ASSESSMENT:

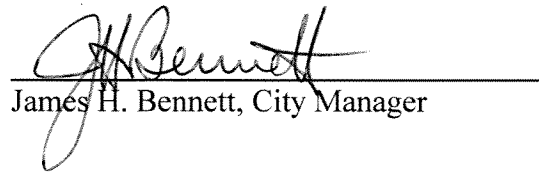
The revision would take advantage of the improvements set out in the LOC Model Charter. The City in the past has used the Model Charter as a guideline for establishing its charter. The new charter will provide for a more efficient running of the City.

SUBMITTED BY:



Terrence D. Mahr, City Attorney

APPROVED BY:



James H. Bennett, City Manager

Attachments:

Revised Charter as of January 25, 2006
Appendix A – General Grants of Power
Current Charter

REVISED
CITY OF
NEWBERG
CHARTER

LATEST
REVISION:
JANUARY 25, 2006

(TAKES INTO ACCOUNT AMENDMENTS FROM THE
JANUARY 23, 2006, SPECIAL COUNCIL MEETING)

G:\CITY COUNCIL\CHARTER REVIEW SUBCOMMITTEE 2005\COVER SHEETS.DOC

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Draft 1/25/06

PREAMBLE

We, the voters of Newberg, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state, and enact this Home Rule Charter.

Chapter I

REVISION CLAUSE; NAME AND BOUNDARIES

Section 1. Revision Clause. The sections of the Charter have been revised as hereafter indicated.

Section 2. Title. This charter may be referred to as the 2006 Newberg Charter.

Section 3. Name. The City of Newberg, Oregon, continues as a municipal corporation with the name City of Newberg.

Section 4. Boundaries. The city includes all territory within its boundaries as they now exist or are legally modified by a majority of the voters. Unless mandated by state law, annexation, delayed or otherwise, to the City of Newberg, may only be approved by a prior majority vote among the electorate. The city will maintain as a public record an accurate and current description of the boundaries.

Chapter II

POWERS

Section 5. Powers. The city has all powers that the constitutions, statutes and common law of the United States and Oregon expressly or impliedly grant or allow the city, as fully as though this charter specifically enumerated each of those powers.

Section 6. Construction. The charter will be liberally construed so that the city may exercise fully all powers possible under this charter and under United States and Oregon law.

Section 7. Distribution. The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to city voters. This charter vests all other city powers in the council except as the charter otherwise provides. The council has legislative, administrative and quasi-judicial authority. The council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The council may not delegate its authority to adopt ordinances.

Chapter III

COUNCIL

Section 8. Council. The council consists of a mayor nominated and elected from the city at large, and six councilors nominated from districts and elected from the city at large.

Section 9. Mayor. The mayor presides over and facilitates council meetings, preserves order, ~~enforces council rules,~~ and determines the order of business under council rules. The mayor is a voting member of the council and has no veto authority. With the consent of council, the mayor appoints members of commissions and committees established by ordinance or resolution. The mayor must sign all records of council decisions. The mayor serves as the political head of the city government.

Section 10. Council President. At its first meeting each year, the council must elect a president from its membership. The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties.

Section 11. Rules. The council must by resolution adopt council rules to govern its meetings and other rules as necessary.

Section 12. Meetings. The council must meet at least once a month at a time and place designated in the council rules, and may meet at other times in accordance with council rules.

Section 13. Quorum. A majority of the council members is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by council rules.

Section 14. Vote Required. The express approval of a majority of a quorum of the council is necessary for any council decision, except when this charter requires approval by a majority of the council.

Section 15. Record. A record of council meetings must be kept in a manner prescribed by the council rules.

Chapter IV

LEGISLATIVE AUTHORITY

Section 16. Ordinances. The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state “The City of Newberg ordains as follows:”.

Section 17. Ordinance Adoption.

(a) Except as authorized by subsection (b), adoption of an ordinance shall before being put upon its final passage, be fully and distinctly read in open council meeting.

(b) The reading may be by title only if no council member present at the meeting requests to have the ordinance read in full, provided the proposed ordinance is available in writing to the public at least one week before the meeting.

(c) Any substantive amendment to a proposed ordinance must be read aloud or made available in writing to the public before the council adopts that ordinance at that meeting.

(d) After the adoption of an ordinance, the vote of each member must be entered into the council minutes.

(e) After adoption of an ordinance, the city custodian of records must endorse it with the date of adoption and the custodian's name and title.

Section 18. Effective Date of Ordinances. Ordinances normally take effect on the 30th day after adoption, or on a later day provided in the ordinance. An ordinance may take effect as soon as adopted or other date less than 30 days after adoption if it contains an emergency clause.

Chapter V

ADMINISTRATIVE AUTHORITY

Section 19. Resolutions. The council will normally exercise its administrative authority by approving resolutions. The approving clause for resolutions may state "The City of Newberg resolves as follows:".

Section 20. Resolution Approval.

(a) Approval of a resolution or any other council administrative decision requires approval by the council at one meeting.

(b) Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the council adopts the resolution at that meeting.

(c) After approval of a resolution or other administrative decision, the vote of each member must be entered into the council minutes.

(d) After approval of a resolution, the city custodian of records must endorse it with the date of approval and the custodian's name and title.

Section 21. Effective Date of Resolutions. Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolution.

Chapter VI

QUASI-JUDICIAL AUTHORITY

Section 22. Orders. The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders may state "The City of Newberg orders as follows:".

Section 23. Order Approval.

(a) Approval of an order or any other council quasi-judicial decision requires approval by the council at one meeting.

(b) Any substantive amendment to an order must be read aloud or made available in writing to the public at the meeting before the council adopts the order.

(c) After approval of an order or other council quasi-judicial decision, the vote of each member must be entered in the council minutes.

(d) After approval of an order, the city custodian of records must endorse it with the date of approval and the custodian's name and title.

Section 24 Effective Date of Orders. Orders and other quasi-judicial decisions take effect on the date of final approval, or on a later day provided in the order.

Chapter VII ELECTIONS

Section 25. Councilors. The term of a councilor in office when this charter is adopted is the term for which the councilor was elected. At each general election after the adoption, three councilors will be elected for four-year terms.

Section 26. Mayor. The term of the mayor in office when this charter is adopted continues until the beginning of the first odd-numbered year after adoption. At every other general election after the adoption, a mayor will be elected for a four-year term.

Section 27. State Law. City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for city offices must be nonpartisan.

Section 28. Qualifications.

(a) The mayor and each councilor must be a qualified elector under state law, and reside within the city for at least one year immediately before election or appointment to office. For the purpose of this section, city shall mean any area included in the corporate limits as of the date of the election.

(b) The city shall be divided into six geographical areas representing as near as practical, the same number of electors. When this charter section is adopted, the current six city district boundaries shall be the six district boundaries. The districts shall be reapportioned thereafter whenever the United States census is taken and within a reasonable time after the data is available, or when the city so orders. Whenever the districts are reapportioned, the councilor in office shall not lose their qualification for office by reason of the boundary change for the remainder of their term, unless otherwise disqualified. In addition to the other qualifications, the councilor must have and maintain their residence in the district from which they were nominated during the term of their office, except as provided for in reapportionment.

(c) Neither the mayor nor a councilor may be employed by the city, unless the employment is substantially volunteer in nature. The municipal judge shall make the determination of whether employment is substantially volunteer.

(d) No person may be a candidate at a single election for more than one city office.

(e) Except as provided in subsection (c) of this section, the council is the final judge of the election and qualifications of its members.

Section 29. Nominations. The council must adopt an ordinance prescribing the manner for a person to be nominated to run for mayor or a city councilor position.

Section 30. Terms. The term of an officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes the office.

Section 31. Oath. The mayor and each councilor must swear or affirm to faithfully perform the duties of the office, support the constitutions and laws of the United States and Oregon, and the ordinances and charter of the city.

Section 32. Vacancies: The mayor or a council office becomes vacant:

(a) Upon the incumbent's:

- (1) Death,
- (2) Adjudicated incompetence, or
- (3) Recall from the office.

(b) Upon declaration by the council after the incumbent's:

- (1) Failure to qualify for the office within 10 days of the time the term of office is to begin,
- (2) Absence from the city for 30 days or from all council meetings within a 60-day period, without council consent,
- (3) Ceasing to reside in the city,
- (4) Ceasing to reside within the district from which the councilor was nominated, except as provided for in reapportionment; however, the councilor shall remain in office until such time as the vacancy is filled, but in no event shall the time exceed 120 days.
- (5) Ceasing to be a qualified elector under state law,
- (6) Conviction, while in office, of a public offense punishable by loss of liberty,
- (7) Resignation from the office, or
- (8) Removal under Section 34(i).

Section 33. Filling Vacancies. A mayor or councilor vacancy will be filled by appointment by a majority of the remaining council members. The appointee's term of office runs from appointment until expiration of the term of office of the last person elected to that office.

Chapter VIII APPOINTIVE OFFICERS

Section 34. City Manager.

(a) The office of city manager is established as the administrative head of the city government. The city manager is responsible to the mayor and council for the proper administration of all city business. The city manager will assist the mayor and council in the development of city policies, and carry out policies established by ordinances, ~~and~~ resolutions, and orders.

(b) A majority of the council must appoint and may remove the manager. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.

(c) The manager need not reside in the city or the state at the time of appointment.

(d) The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a majority of the council. The council must fill the office by appointment as soon as practicable after the vacancy occurs.

(e) The manager must:

- (1) Attend all council meetings unless excused by the mayor or council;
- (2) Make reports and recommendations to the mayor and council about the needs of the city;
- (3) Administer and enforce all city ordinances, resolutions, orders, franchises, leases, contracts, permits, and other city decisions;
- (4) Appoint, supervise and remove city employees;
- (5) Organize city departments and administrative structure;
- (6) Prepare and administer the annual city budget;
- (7) Administer city utilities and property;
- (8) Encourage and support regional and intergovernmental cooperation;
- (9) Promote cooperation among the council, staff and citizens in developing city policies, and building a sense of community;
- (10) Perform other duties as directed by the council;
- (11) Delegate duties, but remain responsible for acts of all subordinates.

(f) The manager has no authority over the council, city attorney, or the judicial functions of the municipal judge.

(g) The manager, the city attorney, and other employees designated by the council may sit at council meetings but have no vote. The manager may take part in all council discussions.

(h) When the manager is temporarily disabled from acting as manager or when the office of manager becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.

(i) No council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decisions regarding city property or contracts. Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing. In council meetings, councilors may discuss or suggest anything with the manager relating to city business.

Section 35. City Attorney. The office of city attorney is established as the chief legal officer of the city government. A majority of the council must appoint and may remove the attorney. The attorney must appoint and supervise, and may remove any city attorney's office employees.

Section 36. Municipal Court and Judge.

(a) A majority of the council may appoint and remove a municipal judge. A municipal judge will hold court in the city at such place as the council directs. The court will be known as the Municipal Court.

(b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.

(c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.

(d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by city ordinance.

(e) The municipal judge may:

- (1) Render judgments and impose sanctions on persons and property;
- (2) Order the arrest of anyone accused of an offense against the city;
- (3) Commit to jail or admit to bail anyone accused of a city offense;
- (4) Issue and compel obedience to subpoenas;
- (5) Compel witnesses to appear and testify and jurors to serve for trials before the court;
- (6) Penalize contempt of court;
- (7) Issue processes necessary to enforce judgments and orders of the court;
- (8) Issue search warrants; and
- (9) Perform other judicial and quasi-judicial functions assigned by ordinance.

(f) The council may appoint and may remove municipal judges pro tem.

(g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.

Chapter IX

PERSONNEL

Section 37. Compensation. The council must authorize the compensation of city employees and city officers, including council members and the mayor, as part of its adoption of the annual city budget. The Council shall establish a procedure for implementing the compensation of its members and the mayor.

Section 38. Merit Systems. The council by resolution will determine the rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees based on merit and fitness.

Chapter X

PUBLIC IMPROVEMENTS

Section 39. Procedure. The council may by ordinance provide for procedures governing the making, altering, vacating, or abandoning of a public improvement. A proposed public improvement may be suspended for six months upon remonstrance by owners of the real property to be specially assessed for the improvement. The number of owners necessary to suspend the action will be determined by ordinance.

Section 40. Special Assessments. The procedure for levying, collecting and enforcing special assessments for public improvements or other services charged against real property will be governed by ordinance.

Chapter XI

MISCELLANEOUS PROVISIONS

Section 41. Debt. City indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize city indebtedness.

Section 42. Ordinance Continuation. All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.

Section 43. Repeal. All charter provisions adopted before this charter takes effect are repealed.

Section 44. Severability. The terms of this charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other part of the charter.

Section 45. Time of Effect. This charter takes effect _____, 20____.

APPENDIX A

GENERAL GRANTS OF POWER

The first version of the Model Charter for Oregon Cities was published in 1947. It was drafted to confer powers on cities in general terms rather than by a detailed enumeration of specific powers. All subsequent revisions have continued this practice.

Since about 1910, a city charter has been viewed as a city constitution. For this reason city powers have generally been stated in general, comprehensive terms. The charter should deal only with the basic, broad fundamentals of city government. The charter should be as concise as possible, and adaptable to changing conditions to avoid the need for frequent amendment.

Most Oregon cities have charters that grant authority for their activities under general grants of powers. In 1934, Huntington adopted a general powers charter quite similar to the 1947 model charter. Since then, almost all Oregon cities have adopted charters that resemble this model.

The Oregon Incorporation Act (now ORS 224.010-221.100) provides that cities without a home rule charter have comprehensive power and need no grants of specific powers.

A general grant of power allows a city to assume extraterritorial powers granted by statute and conditioned upon the existence of charter authority. ORS 225.020 authorizes a city to own and operate utilities outside city limits if its charter allows it such power. *Kassel v. City of Salem*, 34 Or. App. 739, 579 P.2d 875 (1978) construes this section and states that Salem's charter "accepts this offer [of extramural powers] in broad terms." These broad terms were more specific than the general grant of powers in the model. No city with a general grant has been challenged in its exercise of the power offered by ORS 225.020.

Constitutional Grants in General Terms.

The 1906 home rule amendments to the Oregon Constitution empower "the legal voters of every city ... to enact and amend their municipal charter, subject to the Constitution and criminal laws of the State."^b They also empower "the qualified voters of each municipality" to exercise the powers of initiative and referendum "as to all local, special and municipal legislation of every character in or for their municipality"^c These grants of power are general in terms.

Specific Power Derived from General Grants.

Courts have often held that a general grant of power confers a particular power not specified in the grant. Such specific powers include the following:

- (1) To regulate amusement devices.^d
- (2) To levy special assessments.^e
- (3) To develop a program of free parking using tax revenues.^f

^b Or. Const. art. XI, sec. 2.

^c Or. Const. art. IV, sec. 1a (1906), sec. 1(5) (1968).

^d *Terry v. City of Portland*, 204 Or. 478, 269 P.2d 544 (1955); app. dis., 348 U.S. 979 (1955); 33 Or. Op. Att'y. Gen. 174 (1967).

^e *Paget v. City of Pendleton*, 219 Or. 253, 346 P.2d 1111 (1959).

- (4) To govern labor relations with public employees.^g
- (5) To license certain businesses or occupations.^h
- (6) To levy license taxes for revenue.ⁱ
- (7) To provide police protection.^j
- (8) To control disposal of refuse.^k
- (9) To regulate the storage of gasoline and kerosene.^l
- (10) To control streets.^m
- (11) To levy taxes in the form of licenses.ⁿ
- (12) To adopt taxes on sales and incomes.^o
- (13) To supply water.^p
- (14) To impose registration and license fees.^q
- (15) To impose fees and regulatory requirements on telecommunications providers.^r

^f *Jarvill v. City of Eugene*, 289 Or. 157, 613 P.2d 1 (1980), U.S. cert. den. at 449 U.S. 1013 (1980). Although the majority opinion in this case relies on a specific grant of power stemming from a 1973 amendment to the Eugene city charter, this charter has been repealed. At the court of appeals level, the majority opinion relied on the general grant of power in the 1976 revised city charter to explain the city's ability to levy taxes. "In those cases, it was held that a general grant of powers in a city charter, like that contained in the Eugene charter, carries with it the power to impose revenue taxes." 40 Or. App. 185, 198-99, 594 P.2d 1261 (1979).

^g *Beaverton v. International Assoc. of Firefighters*, 20 Or. App. 293, 531 P.2d 730 (1975).

^h *Davidson Baking Co. v. Jenkins*, 216 Or. 51, 337 P.2d 352 (1959).

ⁱ *City of Idanha v. Consumers Power, Inc.* 8 Or. App. 551, 495 P.2d 294 (1972), aff'd, 13 Or. App. 431 (1973).

^j *City of East Portland v. County of Multnomah*, 6 Or. 62, 64 (1876).

^k *Dunn v. Gray*, 238 Or. 71, 392 P.2d 1018 (1964); *City of Tigard v. Werner*, 15 Or. App. 335, 515 P.2d 934 (1973).

^l Cf. *Leathers v. City of Burns*, 251 Or. 206, 444 P.2d 1010 (1968).

^m See also, *City of East Portland v. County of Multnomah*, 6 Or. 62, 64 (1876).

ⁿ *City of Idanha v. Consumers Power, Inc.* 8 Or. App. 551, 495 P.2d 294 (1972), aff'd 13 Or. App. 431 (1973).

^o 33 Or. Op. Att'y Gen. 238 (1967).

^p *Paget v. City of Pendleton*, 219 Or. 253, 346 P.2d 1111 (1959).

^q *AT & T Communications v. City of Eugene*, 177 Or App 379 (2001), *rev den*, 334 Or 491 (2002). The court held that a general power charter gave the city power to impose registration and license fees. The court relied on *Multnomah Kennel Club v. Department of Revenue*, 295 Or 279 (1983), a case that involved a general power county home rule charter that provided authority to impose a business income tax.

^r *Sprint Spectrum v. City of Eugene*, 177 Or App 417 (2001), *rev den*, 334 Or 491 (2002). The court found that home rule authority includes the taxation of businesses that conduct business within city boundaries.

APPENDIX B
PROVISIONS NOT INCLUDED IN THE MODEL CHARTER

The 2004 Model Charter omits many provisions contained in city charters granted by the Oregon legislature prior to 1906, and charters adopted soon after the 1906 home rule amendments took effect. A general grant of powers replaced specific grants of authority. Subjects and procedures covered by state statutes are generally no longer included in charters. The model charter also omits provisions better left to adoption by ordinance.

Annexation Procedure

An Oregon city may not assume extramural power under its home rule charter unless authorized by state statute.⁵ City power under the home rule amendments is only intramural in character.¹ A city may only exercise the extramural power delegated by the legislature.^u A home rule charter may provide a procedure for the intramural aspects of annexation, such as the manner of acceptance of the annexation by the city. The model charter contains no provision relating to annexation of territory to a city because state statutes control annexation procedures in both its extramural and intramural aspects.

Elections

Elections in Oregon are generally under the control of the secretary of state. The conduct of elections is governed by ORS Chapter 254. Many duties relating to the conduct of elections are delegated to county clerks. Time of elections, wording of ballot titles, printing of ballots, and fixing of precinct boundaries are examples of matters governed by state law. City initiative and referendum requirements and process are found in ORS Chapter 250. Therefore, the model charter contains no sections relating to elections in general. Sections 26 and 28 do authorize the council to govern certain election matters by ordinance.

Subjects Covered by State Law

The 2004 Model Charter contains no provision on several other subjects covered by state law:

Budgeting	ORS 294.305 to 294.565
Public contracts.....	ORS Chapter 279
Assessment bonding and lien enforcement	ORS 223.205 to 223.295 and 223.505 to 223.670
Tort liability	ORS 30.260 to 30.300

⁵ *Thurber v. Henderson*, 63 Or 410, 415-416, 128 P 43 (1912); *State ex rel. Mullins v. Port of Astoria*, 79 Or 1, 19-20, 154 P 399 (1916).

¹ *Kiernan v. City of Portland*, 57 Or 454, 464, 111 P 379, 112 P 402 (1910); *State ex rel. Mullins v. Port of Astoria*, 79 Or 1, 18-19, 154 P 399 (1916); *Curtis v. Tillamook City*, 88 Or 443, 454-455, 171 P 574, 172 P 122 (1918).

^u *Couch v. Marvin*, 67 Or 341, 136 P 6 (1913); *McBee v. Town of Springfield*, 58 Or 459, 114 P 637 (1911); *Landess v. City of Cottage Grove*, 64 Or 155, 129 P 537 (1913).

Debt limitations.....	ORS 223.295 and 287.004
Ethics.....	ORS Chapter 244
Public meetings and records	ORS 192.410 to 192.710
Land use planning and regulation.....	ORS Chapters 92, 197, and 227
Street vacation.....	ORS 271.080 to 271.230
Condemnation.....	ORS Chapter 35; 223.005 to 223.105; 226.310 to 226.380; 227.300; 281.010; and 281.510 to 281.550
Collective bargaining	ORS 243.650 to 243.782
Public Employee’s Retirement System.....	ORS Chapter 238

Other Subjects


The model charter contains no provision on a number of other subjects that may be covered as well or better by ordinance. Such subjects include council rules, personnel rules, procedures for local improvements, levying and collecting special assessments, and city commissions and committees.

Municipal Judge as Ex Officio Justice of the Peace

Some Oregon charters enacted as special legislative acts prior to 1906 provide that the municipal judge has the jurisdiction and authority of an ex officio justice of the peace. The 2004 Model Charter contains no such provision. A home rule charter may not grant such authority to a municipal judge; such authority may only be granted by state statute.

The decision in *In re Application of Boalt*^v suggests that once a municipal judge is given the jurisdiction and authority of an ex officio justice of the peace by a special legislative act, it continues regardless of a subsequent home rule charter. It may be withdrawn by the legislature. A city in this situation may retain its charter provisions conferring jurisdiction and authority of an ex officio justice of the peace on its municipal judge by enacting its new charter as an amendment to its former legislative charter. A municipal judge may continue to exercise this authority under this Supreme Court decision.

^v 123 Or 1, 260 P 1004 (1927).



CURRENT CITY OF NEWBERG CHARTER

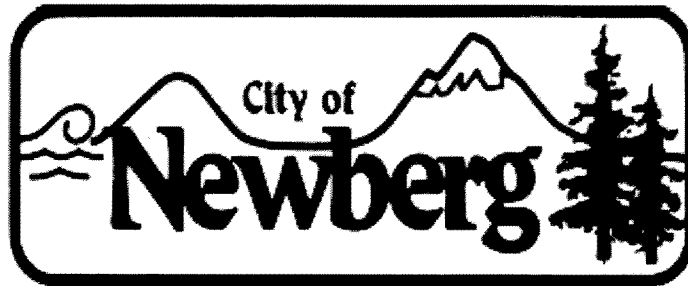
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**CITY OF
NEWBERG

CHARTER**

**Approved November 2, 1982
Amended and Approved May 21, 1996 and on November 3, 1998
by the Voters of the City of Newberg**



MAYOR
BOB STEWART

COUNCIL MEMBERS		
NAME	DISTRICT	EXPIRATION OF TERM
ROBERT SOPPE	1	12/31/08
ROGER CURRIER	2	12/31/08
MIKE BOYES	3	12/31/08
MIKE MCBRIDE	4	12/31/06
DAWN NELSON	5	12/31/06
BOB ANDREWS	6	12/31/06

HISTORY

An act incorporating the town of Newberg, in Yamhill County, State of Oregon, was filed with the Office of the Secretary of State on February 21, 1889. An act incorporating the City of Newberg and repealing the act incorporating the town of Newberg, Yamhill County, State of Oregon, was filed in the Office of the Secretary of State on February 10, 1893. The Newberg Charter of 1893 was revised in 1950. The Newberg Charter of 1893 was substantially revised in 1982 and was approved by the people in November 1982. The revision provided for the Mayor/Council /Manager form of government. It took effect on January 1, 1983. The Newberg Charter was amended by an initiative on May 21, 1996. It provided for a vote on all annexations and electing the City Council from districts.

CHAPTER I

Revision Clause; Name and Boundaries

Section 1. *Revision Clause.* The sections of the Charter have been revised as hereafter indicated.

Section 2. *Name.* The City of Newberg, Yamhill County, Oregon shall continue to be a municipal corporation with the name "Newberg".

Section 3. *Boundaries.* The corporate limits of the City of Newberg shall include all territory encompassed by its boundaries as they now exist or hereafter are modified by a majority of the voters. Unless mandated by State Law, annexation, delayed or otherwise, to the City of Newberg, may only be approved by a prior majority vote among the electorate. The City Recorder shall keep in the office at City Hall at least two copies of this Charter in each of which the City Recorder shall maintain an accurate, up-to-date description of the boundaries. The copies and descriptions shall be available for public inspection at any time during regular office hours of the City Recorder. (As amended by initiative measure voted on May 21, 1996)

CHAPTER II

Powers

Section 4. *Powers of the City.* The City shall have all the rights, powers, privileges and immunities which the constitutions, statutes, and common law of the United States and of this state expressly or implied grant or allow municipalities, including those rights, powers, privileges and immunities which a City can exercise upon specifically accepting them or upon being granted the power to exercise them by the people of the City or the legislature of the state, as fully as though this Charter expressly stated each of those rights, powers, privileges and immunities, and as though each of them had been specifically accepted by the City or granted to it by the people of the City or by the legislature of the State.

The following shall be deemed a part of the powers conferred upon the City by this Charter:

(1) *Property.* To acquire property within or without the corporate limits of the City for any City purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation; and to sell, lease, mortgage, hold, manage and control such property as the interests of the City require.

(2) *Indebtedness.* To borrow money within the limits prescribed by general laws.

(3) *Public services.* To purchase, hire, construct, own, maintain and operate or lease local public utilities as herein defined, but only after having first obtained the consent of a majority of the qualified electors of the City to do so; except as provided in Subdivisions A-G, of Section 49 of this Charter; to furnish all local public services, either within or without the corporate limits of the City; to provide for a public library; to acquire, by condemnation or otherwise, within or without the corporate limits, property necessary for any such purposes, subject to restrictions imposed by general laws for the protection of other communities; and to grant local public utility franchises, and to regulate the exercise of such franchises. The term "public utilities" as used in this Charter shall mean and include, but not be limited to, any plant, equipment or organization used or intended to be used to produce, transmit, deliver or furnish heat, light, water, power, transportation, communications, sewerage or sewage treatment or garbage services, or any or all of them, directly or indirectly, to or for the public.

(4) Bonds. To issue and sell bonds on the security, in whole or in part, of any excess property owned by the City or of any public utility owned by the City or of the revenues thereof, or of both; including, in the case of a public utility, as herein defined, if deemed desirable by the City, a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate the utility.

(5) Police, licensing and taxing power. To adopt and enforce within the corporate limits of the City local police, sanitary and other similar regulations not in conflict with the general laws; and to license, tax and regulate for the purpose of City revenue all such businesses, callings, occupations, trades, and employments as the City Council may require to be licensed or taxed, and as are not prohibited by the laws of Oregon, including taxation of admissions to places of entertainment or amusement.

Section 5. *Construction of Charter.* In this Charter no enumeration or reference to particular rights, powers, privileges or immunities shall be construed to be exclusive or to restrict the scope of the rights, powers, privileges or immunities which the City would have if the particular right, power, privilege or immunity was not mentioned. This Charter shall be liberally construed to the end that the City shall have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to the laws and to the municipal home-rule provisions of the constitution of the state.

Section 6. *Exercise of Power.* The manner in which the City shall exercise a right, power, privilege or immunity, where not prescribed by this Charter, shall be in the manner prescribed by ordinance; and where not prescribed by this Charter or by ordinance, then in the manner prescribed by the statutes of the State of Oregon.

CHAPTER III

Form of Government

Section 7. *Where Powers Vested.* Except as this Charter provides otherwise, all powers of the City shall be vested in the Council.

Section 8. *Council.* The Council shall be composed of six Council members nominated by districts within which they reside and elected by the City at large. (As amended by initiative measure voted on May 21, 1996)

Section 9. *Council members.* The terms of office of each Council member in office, when this Charter section is adopted shall continue for their full elected term. At each subsequent biennial general election, three Council members, one from each district, shall be elected, each for a term of four years. (As amended by initiative measure voted on May 21, 1996.)

Section 10. *Mayor.* At each biennial general election a Mayor shall be elected for a term of two years.

Section 11. *Tie Votes.* In the event of a tie in the vote cast for the candidates for an elective office under this Charter, the successful candidate shall be determined by drawing lots. The City Recorder or his or her designate shall prepare lots consisting of slips of paper each containing the name of one candidate involved in a tie vote. The Recorder or designate shall fold each slip separately and place the same in a receptacle and shall cause the City Chief of Police or his or her designate to draw therefrom one slip of paper. The candidate whose name is on that slip of paper shall be deemed elected.

Section 12. *Other Officers.* Additional officers of the City shall be a City Manager, and may be

Municipal Judge, City Attorney to provide or assist in providing legal advice and representation to the City, and other officers as the Council deems necessary. Each of these officers shall be appointed and may be removed by the Mayor with the consent of the Council. By resolution, the Council may combine any of these offices. By resolution, the Council may also provide that any person whom it designates may supervise any appointive officer, except the City Manager, City Attorney and the Municipal Judge in the exercise of the Municipal Judge's judicial functions.

Section 13. *Salaries.* The compensation for the services of each City officer and employee shall be whatever amount the Council fixes. No increase in the compensation of Council members, however, shall take effect until the first of the odd-numbered year immediately following the first biennial general election after the increase is ordered.

Section 14. *Qualification of Officers, Districts and Conflicts of Interest.* (As amended by initiative measure voted on May 21, 1996.)

(a) *Qualifications of Officers.* No person shall be eligible to fill an elective office of the City unless at the time of the election such person is a qualified voter within the meaning of the state constitution and resided in the City for at least one year immediately preceding the election. For the purposes of this section, City shall mean any area included in the corporate limits as of the date of the election.

(b) *Districts.* The City shall be divided into six geographical areas representing as near as practical, the same number of electors. When this Charter section is adopted, the current six City precinct boundaries shall be the six district boundaries. The districts shall be reapportioned thereafter whenever the United States census is taken and within a reasonable time after the data is available, or when the City so orders. Whenever the districts are reapportioned, the Council member in office, shall not lose their qualification for office by reason of the boundary change for the remainder of their term, unless otherwise disqualified. In addition to the other qualifications, the Council member must have and maintain their residence in the district from which they were nominated during the term of their office, except as provided for in reapportionment.

(c) *Conflicts of Interest.* In order to avoid conflicts of interest and to provide a fully effective office holder, a person is ineligible to hold elective office of the City if employed by the City unless the employment is substantially volunteer in nature. The determination of whether employment is substantially volunteer shall be made by the Municipal Judge. For all other matters under this section the Council shall be final judge of the qualifications and election of its own members.

(Complete Section amended by initiative measure voted on May 21, 1996)

CHAPTER IV

Council

Section 15. *Meetings.* The Council shall hold a regular meeting at least once each month at a time and at a place in the City which it designates, and shall adopt rules for the government of its members and proceedings. The Mayor upon the Mayor's own motion may, or at the request of four members of the Council shall, by giving notice thereof to all members of the Council then in the City, call a special meeting of the Council for a time not earlier than three nor later than 48 hours after the notice is given.

Section 16. *Quorum.* A majority of the members of the Council shall constitute a quorum for it to do business, but a smaller number may meet and compel the attendance of absent members in a manner

provided by ordinance.

Section 17. *Journal.* The Council shall cause a journal of its proceedings to be kept. Upon the request of any of its members, the ayes and nays upon any question before it shall be taken and record of the vote entered in the journal.

Section 18. *Meetings to be Public.* No action by the Council shall have legal effect unless the motion for the action and the vote by which it is disposed of takes place at proceedings open to the public.

Section 19. *Mayor's Functions at Council Meetings.* The Mayor shall chair the Council and preside over its deliberations. The Mayor is not entitled to vote except in the case of a tie vote of the members of the Council present and voting. The Mayor shall have authority to preserve order, enforce the rules of the Council and determine the order of business under the rules of the Council.

Section 20. *President of the Council.* At its first meeting of each odd-numbered year, the Council shall elect a president from its membership. In the Mayor's absence from a Council meeting, the president shall preside over it. When the Mayor is unable, on account of absence, illness or other causes to perform the functions of the Mayor's office, the president of the Council shall act as Mayor.

Section 21. *Vote Required.* Except as this Charter otherwise provides, the concurrence of a majority of the members of the Council present at a Council meeting shall be necessary to decide any question before the Council.

CHAPTER V

Powers and Duties of Officers

Section 22. *Mayor.* The Mayor shall appoint the committees provided for under the rules of the Council. The Mayor shall sign all approved records and proceedings of the Council and countersign all orders on the treasury. The Mayor shall have no veto power and shall sign all ordinances passed by the Council within three days after their passage. Upon the approval of the Council, the Mayor shall endorse all bonds of officers of the City and all bonds for licenses, contracts and proposals.

Section 23. *City Manager.*

(a) *Qualifications.* The City Manager shall be the administrative head of the government of the City. The City Manager shall be chosen by the Council without regard to political considerations and solely with reference to executive and administrative qualifications. The Manager need not be a resident of the City or of the state at the time of appointment. Before taking office, the Manager shall give a bond in such amount or with such surety as may be approved by the Council. The premiums on such bond shall be paid by the City.

(b) *Term.* The Manager shall be appointed for an indefinite term and may be removed at the pleasure of the Council. Upon any vacancy occurring in the office of Manager after the first appointment pursuant to this Charter, the Council at its next meeting shall adopt a resolution of its intention to appoint another manager. Not later than six months after adopting the resolution, the Council shall appoint a manager to fill the vacancy.

(c) *Powers and Duties.* The powers and duties of the Manager shall be as follows:

(1) The Manager shall devote full-time to the discharge of the Manager's official duties, attend all meetings of the Council unless excused therefrom by the Council or the Mayor, keep the Council advised at all times of the affairs and needs of the City, and make reports annually, or more frequently if requested by the Council, of all affairs and departments of the City.

(2) The City Manager shall see that all ordinances are enforced and that the provisions of all franchises, leases, contracts, permits and privileges granted by the City are observed.

(3) The Manager shall designate a City Recorder and shall appoint and may remove appointive City officers and employees except as this Charter otherwise provides, and shall have general supervision and control over them and their work with power to transfer an employee from one department to another. The City Manager shall supervise the departments to the end of obtaining the utmost efficiency in each of them. The Manager shall have no control, however, over the Council, over the Mayor, over the City Attorney, or over the judicial activities of the Municipal Judge.

(4) The Manager shall act as purchasing agent for all departments of the City. All purchases shall be made by requisition signed by the Manager or his designate.

(5) The Manager shall be responsible for preparing and submitting to the Budget Committee the annual budget estimates and such reports as that body requests.

(6) The Manager shall supervise the operation of all public utilities owned and operated by the City and shall have general supervision over all City property.

(d) Seats at Council Meetings. The Manager and such other officers as the Council designates shall be entitled to sit with the Council but shall have no vote on questions before it. The Manager may take part in all Council discussions.

(e) Manager Pro Tem. Whenever the Manager is absent from the City, is temporarily disabled from acting as Manager, or whenever the office becomes vacant, the Council shall appoint a Manager pro tem, who shall possess the powers and duties of the Manager. No Manager pro tem, however, may appoint or remove a City officer or employee except with the approval of three-fourths of the members of the Council. No Manager pro tem shall hold the position as such for more than six months, and no appointment of a Manager pro tem shall be consecutively renewed.

(f) Ineligible Persons. Neither the Manager's spouse nor any person related to the Manager or the Manager's spouse by consanguinity or affinity within the third degree may hold any appointive office or employment with the City.

Section 24. *Municipal Judge.* The Municipal Judge, when appointed, shall be the judicial officer of the City and shall hold within the City a court known as the Municipal Court for the City of Newberg, Yamhill County, Oregon. Except on non-judicial days, the court shall be open for the transaction of judicial business. All areas within the City shall be within the territorial jurisdiction of the court. The Municipal Judge shall exercise original and exclusive jurisdiction of all crimes and offenses defined and made punishable by ordinances of the City, and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by an ordinance of the City. The Municipal Judge shall have authority to issue process for the arrest of any person accused of an offense against the ordinances of the City, to commit any such person to jail or admit to bail pending trial, to issue subpoenas to compel witnesses to appear and testify in court on the trial of any cause before the Judge, to compel obedience to such subpoenas, to issue any process necessary to carry into effect the judgments of the court, and to punish witnesses and others for contempt of the court. When not governed by ordinances or this Charter, all proceedings in the Municipal Court for the violation of a City ordinance shall be governed by the

applicable general laws of the state governing justices of the peace and justice courts, provided, however, that the rights to appeal from the decisions of said Municipal Court shall not be restricted by ordinance. Trials in the Municipal Court of cases for violation of City ordinances shall be had without juries.

Section 25. *City Recorder.* The City Recorder shall serve ex officio as clerk of the Council, attend all its meetings unless excused therefrom by the Mayor, keep an accurate record of its proceedings in a book provided for that purpose, and have authority to sign all orders on the treasury. In the Recorder's absence from the Council meeting, the Mayor shall appoint a clerk of the Council pro tem, who, while acting in that capacity, shall perform the duties of the Recorder.

CHAPTER VI

Elections

Section 26. *Regular Elections.* Regular City elections shall be held at the same times and places as biennial general state elections, in accordance with the applicable state election laws. The City Recorder shall give such notice to the county elections officer as required by the applicable state election laws.

Section 27. *Notice of Regular Elections.* The Recorder, pursuant to directions from the Council, shall give such notice as required by state law. The notice shall state the officers to be elected at, the ballot title of each measure to be voted upon, and the time and place of the election.

Section 28. *Special Elections.* The Council shall provide the times, manner and means for holding any special election. The Recorder shall give at least 10 days notice of each special election in the manner provided by the action of the Council ordering the election.

Section 29. *Regulation of Elections.* Except as this Charter provides otherwise and as the Council provides otherwise by ordinances relating to elections, the general laws of the state shall apply to the conduct of all City elections, recounts of the returns therefrom and contests thereof.

Section 30. *Canvass of Returns.* In all elections held in conjunction with state and county elections, the state laws governing the filing of returns by the county clerk shall apply. On or before noon of the second day following each special City election, the returns therefrom shall be filed with the Recorder; and not later than five days after the election, the Council shall meet and canvass the returns. The results of all elections shall be made a matter of record in the journal of the proceedings of the Council, which shall contain a statement of the total number of votes cast at each election, the votes cast for each person and for and against each proposition, the name of each person elected to office, the office to which he has been elected and a reference to each measure enacted and approved. Immediately after the canvass is completed, the Recorder shall make and sign a certificate of election of each person elected and deliver the certificate to him within one day after the canvass. A certificate so made and delivered shall be prima facie evidence of the truth of the statements contained in it, except that the Council shall be the final judge of the qualifications and election of its own members.

Section 31. *Commencement of Terms of Office.* The term of office of a person elected to an office at a regular City election shall commence on the first day of the year immediately following the election.

Section 32. *Oath of Office.* Before entering upon the duties of office, each officer shall take an oath supporting the constitution and laws of the United States and of Oregon and the ordinances of the City and promising faithfully to perform the duties of office.

Section 33. *Nominations.* The Council shall provide by ordinance the method for nominating elective officers.

CHAPTER VII

Vacancies in Office

Section 34. *Vacancy.* An office shall be deemed vacant upon the incumbent's death, incompetence, conviction of a felony, resignation or recall or upon the incumbent's ceasing to possess the qualifications necessary for the office; or upon the failure of the person elected or appointed to an office to qualify therefor within three days after the time for the term of office to commence; and in the case of Mayor or Councilman, upon the absence from meetings from the Council for 60 days or absence from the City for 30 days without consent of the Council; or in the case of an appointive officer, upon removal from office.

Section 35. *Filling of Vacancies.* Vacancies in elective offices of the City shall be filled by appointment by a majority of the entire membership of the Council. The appointee's term of office shall begin immediately upon appointment and shall continue throughout the unexpired term. During the temporary disability of any officer or during absence temporarily from the City for any cause, the office may be filled pro tem, in the manner provided for filling vacancies in office permanently.

CHAPTER VIII

Ordinances

Section 36. *Enacting Clause.* The enacting clause of all ordinances hereafter enacted by the Council shall be "The City of Newberg ordains as follows:".

Section 37. *Introduction, Reading and Passage.*

(A) Except as the second paragraph of this section provides to the contrary, every ordinance of the Council shall, before being put upon its final passage, be fully and distinctly read in open Council meeting.

(B) The reading may be by title only if no Council member present at the meeting requests to have the ordinance read in full or if a copy of the ordinance is provided for each Council member and three copies are provided for public inspection in the office of the City Recorder no later than one week before the reading of the ordinance and if notice of their availability is given forthwith upon the filing, by written notice posted at City Hall. An ordinance enacted after being read by title alone may have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading, unless each section incorporating such a difference is read fully and distinctly in open Council meeting as finally amended prior to being approved by the Council.

(C) Upon the final vote on an ordinance, the ayes and nays of the members shall be taken and entered in the record of proceedings. The concurrence of a majority of the entire membership of the Council shall be required for the passage of an ordinance; except, in the case of a tie vote of the entire membership of the Council, the Mayor shall vote upon an ordinance to break the tie, and the Mayor's vote shall be counted as the vote of a member in that case. (As amended by Council referral voted on November 3, 1998.)

(D) Upon enactment of an ordinance the Recorder shall sign it with the date of its passage and the Recorder's name and title of office, and within three days thereafter the Mayor shall sign it with the date of signature, name and title of office.

Section 38. *Effective Date of Ordinances.* An ordinance enacted by the Council shall take effect on the 30th day after its enactment. When the Council deems it advisable, however, an ordinance may provide a later time for it to take effect; and in case of an emergency, it may take effect immediately, or at any time therein specified.

CHAPTER IX

Public Improvements

Section 39. *Condemnation.* Any necessity of taking property for the City by condemnation shall be determined by the Council and declared by a resolution of the Council describing the property and stating the uses to which it is to be devoted.

Section 40. *Acquisition and Disposition of Property.* The City shall have power to acquire by purchase, gift, devise or condemnation any property either within or without its corporate boundaries for any municipal purpose, for the purpose of protecting, preserving or facilitating any improvement, for the purpose of bringing about such development of property along or in the vicinity of an improvement as will make the development harmonious with and adjusted to the improvement, or for any combination of such purposes. The City shall also have power to acquire by condemnation property in excess of that needed for the actual improvement, and to sell or lease the excess with such building and use restrictions and conditions as will tend to make its development harmonious with and adjusted to adjacent public improvements. The City shall have power to provide for the payment of any part or all of the cost of land or other property acquired for public use, of the cost of constructing, reconstructing, repairing, operating or maintaining any structure or work in the nature of a public facility or improvement, including a public utility, and of the cost of any other public work or service by levying and collecting assessments upon the property specially benefitted thereby.

Section 41. *Improvements.* The procedure for making street, sidewalk, sewer and other public improvements and for establishing, vacating, altering or abandoning streets and other public improvements shall be governed by ordinance or the applicable general laws of the state in the absence of ordinance.

Section 42. *Special Assessments.* The procedure for determining the amounts of special assessments, their apportionment to various parcels of property and the property upon which they are to be levied; for giving notices to property owners and other interested parties; for hearings on and levy of the assessments; for creating and enforcing assessment liens; and for taking any other action relating to the assessments shall be governed by the applicable laws of the state relating to special assessments or by general ordinances enacted by the Council.

CHAPTER X

Hospitals, Infirmaries or Clinics

Section 43. The City of Newberg is authorized and empowered to own, acquire, complete, construct, improve, equip, supply, operate, maintain and repair, lease and rent any and all hospitals, infirmaries or clinics necessary or convenient for the care and housing, treatment, comfort and welfare of inhabitants of said City who are sick or injured or suffering from physical or mental ills or diseases, and to provide for the departments of obstetrics, pediatrics and geriatrics and such other departments and services as may be determined to be necessary for the prevention of ills and diseases and for training and instruction of persons in all matters appertaining to the foregoing. The City of Newberg is further hereby authorized to admit, care for and treat in any and all of the establishments and facilities in this section described persons who are not inhabitants of said City, when such establishments and facilities have available space that is not needed for the accommodation of inhabitants of said City.

Section 44. The City of Newberg is authorized and empowered to acquire, establish, construct, operate, maintain, manage or lease training schools and housing for nurses and other persons engaged in the operation of the establishments and facilities in this chapter described, and to provide for and conduct scientific studies, research and experiments relative to the prevention, care and treatment of diseases, injuries, illnesses and other mental and physical conditions hereinabove referred to, publishing and disseminating literature and information relative thereto. The City of Newberg is hereby authorized and empowered to provide generally for the comfort and welfare of all such nurses and other employees or trainees and to issue diplomas and certificates of proficiency evidencing the qualifications of such persons when appropriate.

Section 45. The City of Newberg is authorized and empowered to provide for the management and operation of all such hospitals, infirmaries and clinics or other establishments or facilities as are described in Section 43 of this chapter, either by it's officers, agents and employees or by leasing the same to other persons, firms or corporations or by agency or management contracts or in such other manner or manners as the Council of the City of Newberg shall see fit. The City of Newberg may also, for the purposes of carrying out the provisions of this section and this Charter, appoint a City Hospital Commission whose powers and duties shall be established by ordinance. The City of Newberg is authorized and empowered to contract with the United States, any state or states, any other governmental unit or municipal corporation, or with any private person, firm or corporation for the purposes in this chapter set forth.

Section 46. The City of Newberg is authorized and empowered to sell the services and related materials and conveniences described in Section 43 of this chapter; to fix rates and charges for the same and for any materials, supplies or other matters appertaining thereto or furnished therewith; and to charge and collect the same in any manner authorized by law. The Council of the City of Newberg is further authorized to provide for the payment of all expenses, costs and charges arising from any of the operations, activities and facilities in this chapter described, including maintenance, improvements and repairs and reserves therefor and for depreciation, either from the income therefrom or from the proceeds of any bond issue or other loan to said City or from any other funds of said City or from general taxation, and to borrow money or pledge the credit of said City for such purposes.

Section 47. The City of Newberg is authorized and empowered to receive and accept donations and gifts of money or property or both for the purposes in this chapter set forth.

Section 48. The City of Newberg is authorized and empowered to do any or all things necessary or convenient to carry out the provisions and purposes of this act.

CHAPTER XI

Miscellaneous Provisions

Section 49. *Energy Utilities.*

(a) The City of Newberg is authorized and empowered to own, acquire, develop, construct, equip, operate and maintain either within or without the statutory or corporate limits of said City, in whole or in part, any and all works, plants and systems necessary or pertinent to the generation and/or distribution of electrical energy for the use and benefit of the people of said City and vicinity thereof, and for profit.

(b) The City of Newberg is authorized and empowered to control, use, generate, transmit, distribute, sell and/or dispose of electrical energy.

(c) The City of Newberg is authorized and empowered or contract with the United States, with any state or states, or political subdivisions thereof, or with any political subdivision of this state, or with any private person or corporation for the purchase of electrical energy for use, transmission, distribution, sale and/or disposal thereof.

(d) The City of Newberg is authorized and empowered to acquire, construct, lease, maintain and/or operate, separately or in conjunction with the United States, with any state or states, or political subdivision thereof, or with any political subdivision of this state, or with any private person or corporation, transmission and distribution lines.

(e) The City of Newberg is authorized and empowered to fix rates and charges for the sale and/or disposal of electric energy.

(f) The City of Newberg is authorized and empowered to issue, sell and otherwise dispose of either public utility certificates, general obligation, limited obligation or self-liquidating bonds of said City, after approval thereof by a majority of the legal voters of said City voting thereon at any general or special election called for said purpose, in order to provide funds to carry out the provisions of this act.

(g) The City of Newberg is authorized and empowered to do any and all things necessary or convenient to carry out the provisions of this act.

Section 50. *Liability for Injury.* The City of Newberg shall not in any event be liable in damages to any person for any injury caused by any defect or dangerous place at or in any sidewalk, crosswalk, street or alley, bridges, public grounds, public buildings, sewer, drain, gutter or way, unless said City shall have had actual notice of such defect or dangerous place and had a reasonable time thereafter in which to repair or remove such defect or dangerous place before the happening of such accident or injury; and in no case shall more than \$500.00 be recovered as damages from the City for such accident or injury.

Section 51. *Business License Tax.* No person paying a license to the City of Newberg in order to carry on any business or a vocation within the City limits for which a license is required by this act or by any ordinance shall be required to pay a license tax to the county authorities of Yamhill County, Oregon for the same purpose; and the City shall have exclusive control of all licenses; and no part of the income derived therefrom shall go to said county.

Section 52. *Highways and Roads.* The City of Newberg as created by this act, shall have full power to lay out, open, work, change, and control all the highways and roads within the corporate limits thereof; and the power and authority given by the general laws of the State of Oregon to the County Court of

Yamhill County to divide said county into road districts, to appoint road supervisors, to lay out and work highways, and to levy a tax upon all taxable property of said county to be used in building and improving the public or county roads shall not apply or extend to the territory within the limits of said City of Newberg; but said territory and the inhabitants thereof are hereby excepted out of the jurisdiction of said court upon said subject.

Section 53. *Debt Limit.* Except by consent of the voters, the City's voluntary floating indebtedness shall not exceed a sum equal to 1 per cent of the current assessed valuation of taxable property within the corporate limits of the City. For purposes of calculating the limitation, however, the legally authorized debt of the City in existence at the time this Charter takes effect shall not be considered. All City officials and employees who create or officially approve any indebtedness in excess of this limitation shall be jointly and severally liable for the excess.

Section 54. *Use of Public Parks.* Notwithstanding any other provisions of this Charter, all areas now or hereafter dedicated to or used for public park purposes are reserved forever to the use of the public; and no such area shall be sold or otherwise disposed of, or used for other than public park and recreation purposes, without prior approval thereof by a majority of the votes cast thereon by the people of the City.

Section 55. *Continuation of Rights and Liabilities.* No right or liability of the City existing at the time this Charter takes effect shall be impaired or discharged by passage of this act, except as this act otherwise provides.

Section 56. *Outstanding Bond and Other Provisions of Prior Charter Retained.* All outstanding general obligation bonds of Newberg shall continue to be general obligations of Newberg, though not otherwise mentioned herein; and the Council shall, each year, at the time of making the annual tax levy for City purposes, include in such levy a sum sufficient to pay the interest due on such outstanding bonds and to retire the principal amounts thereof as the same mature. The following Subsections A through J and any subsections added in the future shall be automatically deleted from this Charter when the principal and interest of said bond issues are paid in full and the bonds retired.

A. *Water Reservoir Bonds.*

1. Bonds in the amount of \$491,000 were approved by special election held on February 20, 1960. These bonds were retired in their entirety on April 1, 1984.

B. *Sewage Treatment Plant Bonds.*

1. Bonds in the amount of \$262,000 were approved by special election held on February 20, 1960. These bonds were retired in their entirety on April 1, 1984.

C. *Swimming Pool Bonds.*

1. Bonds in the amount of \$38,000 were approved by special election held on February 20, 1960. These bonds were retired in their entirety on April 1, 1984.

D. *Newberg City Hall Bonds.*

1. Bonds in the amount of \$125,000 were approved by general election held on November 5, 1968. These bonds were retired in their entirety on May 1, 1983.

E. *Sewer Improvement Bonds.*

1. Bonds in the amount of \$700,000 were approved by special election held on December 9, 1969. These bonds were retired in their entirety on September 1, 1985.

F. *Water Improvement Bonds.*

1. Bonds in the amount of \$700,000 were approved by special election held on December 9, 1969. These bonds were retired in their entirety on September 1, 1985.

G. *Sewer Improvement Bonds.*

1. Bonds in the amount of \$900,000 were approved by special election held on February 20, 1960. These bonds were retired in their entirety on April 1, 1984.

H. *Hospital Improvement Bonds.*

1. Bonds in the amount of \$3,400,000 were approved by special election held on May 22, 1979. These bonds were retired in their entirety on June 30, 1994.

I. *Public Library of the City of Newberg Bonds.*

1. For the purpose of procuring funds in amount sufficient to provide and pay for the construction and installation of improvements, additions, and expansion of the public library of the City of Newberg, Oregon, and for all other purposes necessary or desirable in order to carry out the purposes above set forth, the Council of the City of Newberg is hereby authorized and empowered to issue and dispose of general obligation bonds of said City in the sum of \$967,428, in denominations of \$5,000 dollars each, bearing interest at the lawful rate per annum.

2. The purchaser or purchases of said bonds shall in no way be required to see to the proper application of the purchase money therefor.

3. The Council shall each year, at the time of making the annual tax levy for City purposes, make a special additional levy of a sum sufficient to pay interest on outstanding bonds of this issue and to retire the principal thereof at maturity.

4. The City of Newberg is hereby authorized and empowered to do any and all things necessary or convenient to carry out the provisions of this act.

(As added by special election held November 8, 1983.)

J. *Sewage Treatment Plant of the City of Newberg Bonds.*

1. For the purpose of procuring local funds in an amount sufficient to provide the local match to grant funds to pay for the construction and installation of a new sewage treatment plant and associated improvements, additions, conversion of existing plant to a flow equalization facility, placement of necessary mains, pump stations, gravity sewer, force mains and outfall relating to a new sewage treatment plant of the City of Newberg, Oregon, and for all other purposes necessary or desirable in order to carry out the purposes above set forth, the City Council is hereby authorized and empowered to issue and dispose of general obligation bonds of said City in the sum of \$9,100,000, in denominations of \$5,000 each bearing interest at the lawful rate per annum.

2. The purchaser or purchases of said bonds shall in no way be required to see to the proper application of the purchase money therefor.

3. The Council shall each year, at the time of making the annual tax levy for City purposes, make a special additional levy of a sum sufficient to pay interest on outstanding bonds of this issue and to retire the principal thereof at maturity.

4. The City of Newberg is hereby authorized and empowered to do any and all things necessary or convenient to carry out the provisions of this act.

(As added by general election held on May 15, 1985.)

Section 57. *Existing Ordinances Continued.* All ordinances of the City consistent with this Charter and in force when it takes effect shall remain in effect until amended or repealed.

Sections 58 through 69 (Reserved for Expansion.)

Section 70. *Time Charter Amendment Effective.* This act amending the Charter of Newberg of February 10, 1893, as amended, shall take effect on January 1, 1983.

(Further amended by the vote of the people on May 21, 1996).

Updated 10/5/99

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: 2006, February 6

Ordinance _____ No.	Resolution <u>XX</u> No. 2006-2617	Motion ____	Information
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<p style="text-align: center;">Date Submitted: January 25, 2006</p> <p>SUBJECT: Proposed commercial development and acquisition of downtown “gateway” property</p>	<p>Contact Person (Preparer) for this Resolution: David Beam, AICP</p> <hr/> <p>Dept.: Planning and Building</p> <hr/> <p>File No.: G-105-04 <i>(if applicable)</i></p>
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RECOMMENDATION:

Adopt **Resolution No. 2006-2617**, authorizing the City Manager to develop and enter into a purchase (from State of Oregon) and sale (to Jay Woodworth) agreement regarding the downtown “gateway” property located between First Street, Hancock Street and Center Street.

BACKGROUND:

1. The City Council has expressed interest in having a key downtown property developed with an attractive commercial development and a “Welcome to Historic Downtown Newberg” type of sign. The subject “gateway” property is surrounded by Hancock Street, First Street, and Center Street (Exhibit A.) The property is currently vacant.
2. On July 27, 2004, the Newberg Early Bird Rotary Foundation committed \$20,000 toward the construction of the “Welcome” sign on the subject property. On January 5, 2006, staff received an e-mail from the President of the Foundation (John Bridges) confirming that the grant funding for the welcome sign is still committed toward the project.
3. The State of Oregon has declared the subject property surplus. They have appraised the property at \$116,000. The City of Newberg currently has “first rights of refusal” in the purchase of this property.
4. On January 3, 2006, the City Council instructed staff to solicit interest from commercial developers on the development of the subject property. On January 5, 2006, staff sent an Request for Proposals (RFP) to five local commercial developers regarding the subject property. On January 7, 2006, staff placed an RFP ad in the *Newberg Graphic*. Staff received one proposal in response to the RFP by Jay Woodworth (Exhibit B).

FISCAL IMPACT: ODOT has appraised the property at \$116,000. Staff expects that Mr. Woodworth will place funds necessary for the City to purchase the property from the State in escrow. Once the City has possession of the property and has performed some administrative tasks (sign easement and lot line adjustment), the City will then deed the property over to Mr. Woodworth.


Other cost associated with this project would include: (1) staff time and transaction costs associated with the acquisition of the property; (2) staff time for the design and construction of sign: and, (3) and long-term maintenance of welcome sign easement area.

STRATEGIC ASSESSMENT: The proposed gateway project is an excellent example of a public/private partnership that should prove to be a good investment in the long-term health of our Central Business District. This demonstration of civic pride also will improve visual aesthetics to our eastern downtown entrance and provide an additional attractive commercial space. Overall, the project will help attract customers to downtown businesses and increase their economic competitiveness.

SUBMITTED BY:


Barton Brierley, AICP
Planning and Building Director

APPROVED BY:


James H. Bennett
City Manager



RESOLUTION No. 2006-2617

A RESOLUTION AUTHORIZING THE CITY MANAGER TO DEVELOP AND ENTER INTO A PURCHASE (FROM STATE OF OREGON) AND SALE (TO JAY WOODWORTH) AGREEMENT REGARDING THE DOWNTOWN "GATEWAY" PROPERTY LOCATED BETWEEN FIRST STREET, HANCOCK STREET AND CENTER STREET.

RECITALS:

1. The City Council has expressed interest in having a key downtown property developed with an attractive commercial development and a "Welcome to Historic Downtown Newberg" type of sign. The subject "gateway" property is surrounded by Hancock Street, First Street, and Center Street (Exhibit A.) The property is currently vacant.
2. On July 27, 2004, the Newberg Early Bird Rotary Foundation committed \$20,000 toward the construction of the "Welcome" sign on the subject property. On January 5, 2006, staff received an e-mail from the President of the Foundation (John Bridges) confirming that the grant funding for the welcome sign is still committed toward the project.
3. The State of Oregon has declared the subject property surplus. They have appraised the property at \$116,000. The City of Newberg currently has "first rights of refusal" in the purchase of this property.
4. On January 3, 2006, the City Council instructed staff to solicit interest from commercial developers on the development of the subject property. On January 5, 2006, staff sent an Request for Proposals (RFP) to five local commercial developers regarding the subject property. On January 7, 2006, staff placed an RFP ad in the *Newberg Graphic*. Staff received one proposal in response to the RFP by Jay Woodworth (Exhibit B).

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Manager is authorized to develop and enter into a purchase (from State of Oregon) and sale (to Jay Woodworth) agreement regarding the downtown "gateway" property located between First Street, Hancock Street and Center Street.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: February 7, 2006.

ADOPTED by the City Council of the City of Newberg, Oregon, this 6th day of February, 2006.

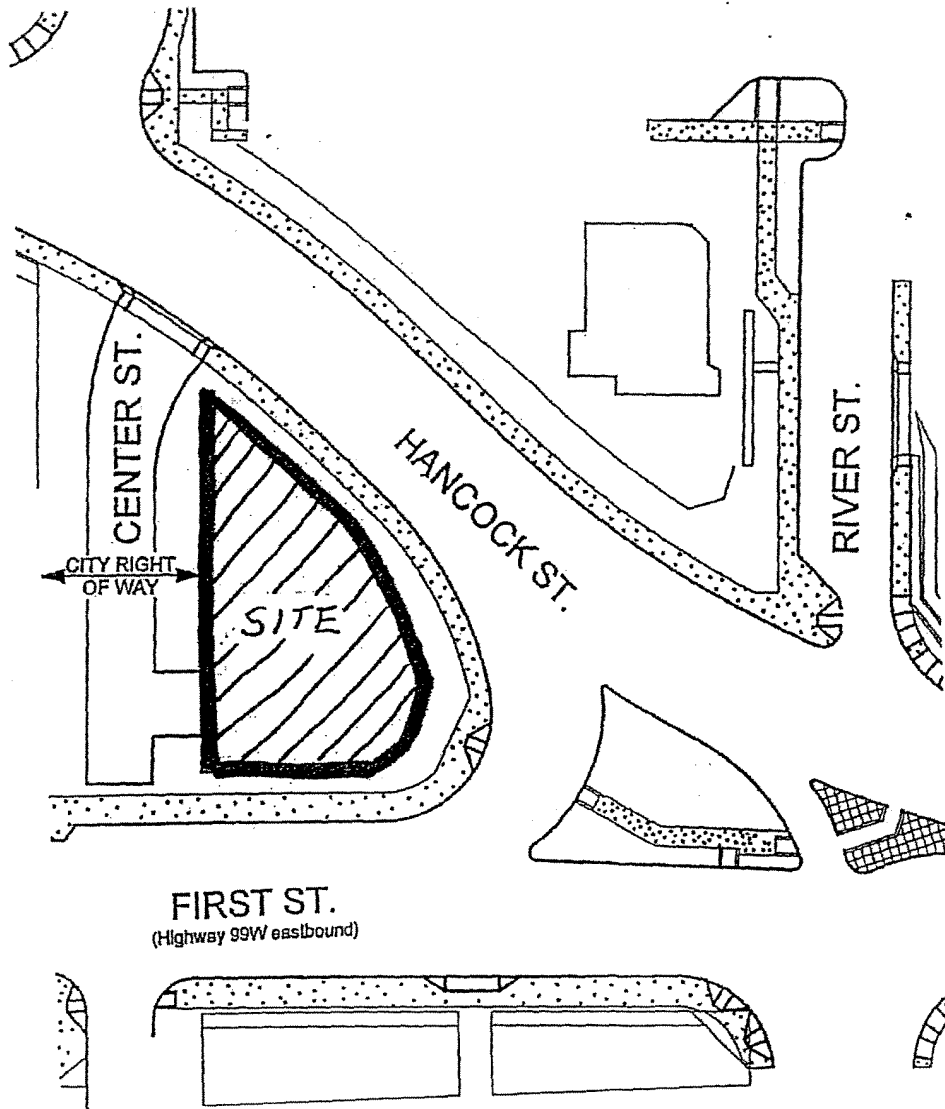
James H. Bennett, City Recorder

ATTEST by the Mayor this 8th day of February, 2006.

Bob Stewart, Mayor

LEGISLATIVE HISTORY

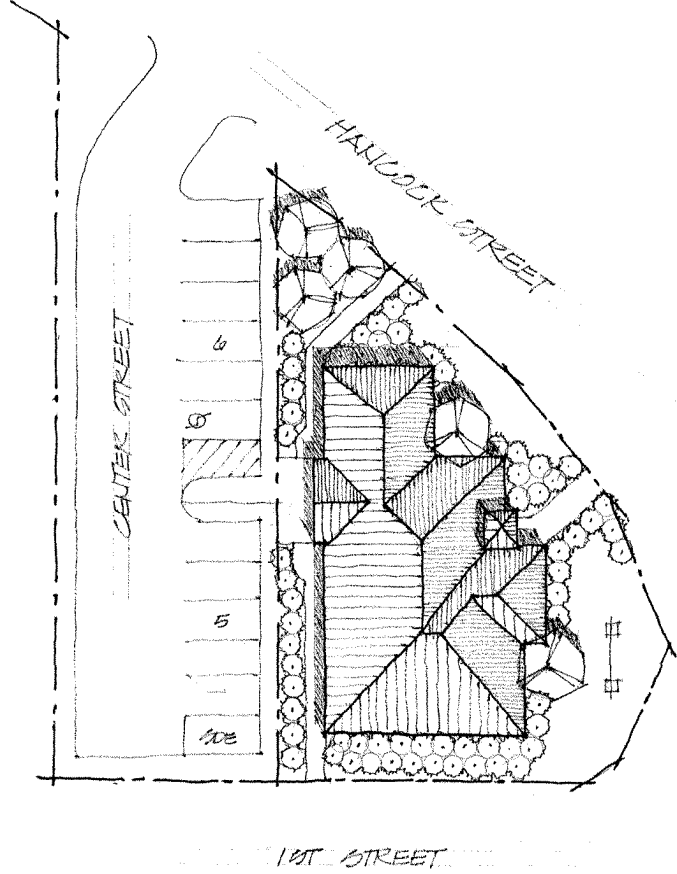
By and through _____ Committee at ____ / ____ /2006 meeting. Or, X None.
(committee name) *(date)* *(check if applicable)*



PRELIMINARY SITE PLAN NEWBERG OFFICE



1" = 20'-0"
TOTALY @ 5,380 SQ. FT.



S1

SHEET *

REVISIONS	DATE

NEWBERG OFFICE

FOR

JAY WOODWORTH



PLAZA WEST SUITE 230
 8800 SW OAK
 PORTLAND, OR 97223
 TEL 503-452-8003
 FAX 503-452-8043
 www.alphacommunity.com

Staff Design
NS Support Services, Inc.
 8021 SW Viola Street
 Tigard, Oregon 97224
 Ph: 503 639 8046 Fax: 504 1614

REAL ESTATE SOLUTIONS

PROPOSED OFFICE BUILDING

By

Jay Woodworth
Real Estate Solutions
2090 Ridge Point Drive
Lake Oswego, Oregon 97034

DESIGN TEAM

Engineer of record:

Steve Entenman, P.E.
Alpha Community Development
501 N.E. Hood Ave. Suite 310
Gresham, Oregon 97030

Consultant:

Ron Naff
Naff Design Support Services, Inc.
8021 SW. Viola Street
Tigard, Oregon 97224

PROPOSAL:

The proposed office building site is bounded by First Street, Hancock Street and Center Street and is approximately 12,000 square feet in area.

The proposed building is two stories in height and contains approximately 5,880 square feet office space and common areas. The exterior of the building as proposed will consist of standing seam steel roofing, brick veneer and prefinished metal panels between windows. The east façade of the building is provided with five different wall plans to take advantage of the curve like lot line at the intersection of 1st and Hancock Streets producing an interesting and welcoming elevation facing residents and visitors to Newberg's historic downtown. The clock tower that faces east is a prominent feature marking the gateway to downtown.

Access to the building is provided in two locations. A ground level entrance will be provided on the east side and forms the base of the clock tower. A second access is provided on the west side adjacent to the parking that is being proposed on Center Street. Access from Center Street will be provided by a bridge connecting the buildings 2nd floor to the public right of way. The bridge will be large enough to accommodate several benches for the enjoyment of the tenants and visitors to space. Access around the building is provided by the existing public sidewalk on 1st Street to Hancock Street. An additional onsite sidewalk will connect 1st Street and Hancock Street at the ground floor level along the west side of the building.

An enclosed outdoor play area in the landscape area on the north side of the building is under consideration.

The interior of the building, in addition to the office space, will include lobbies, restrooms, corridors and maintenance areas as necessary. In addition an elevator will be provided for the convenience of tenants and their guests.

Even though parking for this use is not required by City standards parking is being proposed on the Center Street right of way to the west of the site to meet the needs of the projected tenants of the office space. The number of spaces proposed is eleven including one accessible space. Parking for other comparable office space in the City of Newberg in other districts would be approximately 15 spaces.

A landscape space will be set aside along the east side of the site for Newberg's welcoming sign. The design of this sign is to be determined.

Currently the site is vacant and is landscaped with lawn and pine trees. The existing pine trees that are in or near the footprint of the proposed structure will be relocated, if possible, with a tree spade

Your consideration of this proposal is appreciated and we look forward to working with the City Council and City staff on the project as it goes forward.

Sincerely,

Jay Woodworth
Real Estate Solutions

From the Office of..... **Jay Woodworth**
2090 Ridge Pointe Drive, Lake Oswego, OR 97034
Office: (503) 638-2517 Fax: (503) 638-2519 Cell: (503) 708-7177

To: DAVID BEAM:AICP Date: Jan. 23, 2006

Fax #: 537-1272(503) # of pages: 1

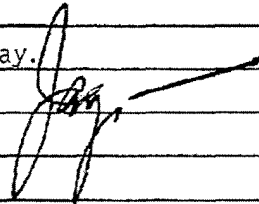
RE: OFFICE BUILDING CONSTRUCTION IN NEWBERG

David, Our projections for the purchase and construction of the Office Building in Newberg are as follows;

1. Close the purchase of the land in 30-45 days after the purchase offer is approved by the City of Newberg, and placed in Escrow.
2. Apply for Design Review within 30 days from the close of escrow.
3. ?Design Review and approval by the City; 45-60 days ?
4. 45-60 days for the plans and 30-45 days for the issue of permits?
5. Aprox. 6 months for the construction and Occupancy Permit so that the tenants can move into their space. This could vary because of the tenant improvements could be installed at different times as the rental of the space is completed.

Dave, these obviously as estimates and we would hope that we could shorten the time, if all the issues are resolved by the city, construction co. lender, prospective tenants, and unforeseen events. Hope this helps.

Jay.



From the Office of..... **Jay Woodworth**
2090 Ridge Pointe Drive, Lake Oswego, OR 97034
Office: (503) 638-2517 Fax: (503) 638-2519 Cell: (503) 708-7177

To: David Beam Date: Jan. 25, 2006

Fax #: 537-1272 # of pages: _____

RE: Purchase of the "triangle" site in Newberg

David; My understanding of the purchase of the site is as follows;

1. Within 1 week of the approval by the state and the City of Newberg for the sale of the property, the documents will be placed in an escrow account with instructions.

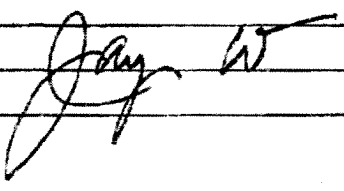
a. The State will deed to the city, the city will deed to Woodworth (or a LLC entity) ~~the site~~ with a survey and title report.

b. Woodworth will place the purchase funds into escrow within 30 days of the opening of escrow.

c. When all the documents and the purchase price in escrow the closing can occur. If all the liens, restrictions, easements, and other matters on the title report can be satisfied the closing can occur within the 30 days.

2. Of course, the accumulation of the information can start to occur when the city council approved the sale, and perhaps the time can be shortened.

Hope this is satisfactory, if not please prepare a statement that more closely adheres to your understanding and we can co-ordinate the time lines and understanding of the transaction.

Thanks, 

From the Office of..... **Jay Woodworth**
2090 Ridge Pointe Drive, Lake Oswego, OR 97034
Office: (503) 638-2517 Fax: (503) 638-2519 Cell: (503) 708-7177

To: DAVID BEAM NEWBERG Date: JAN. 25, 2006

Fax #: 537-1272 # of pages: 1

RE: Purchase of site at 1st and Hancock and Center;Newberg

Barton; I understand that the Purchase Price of the site is to be \$116,000
which will be placed in escrow by me before the close of escrow for
the finalization of the transaction.

Jay Woodworth

Gateway Property Aerial Photo



0 10 20 30 40 50 60 70 80 Feet

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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: 2006, February 6

Ordinance _____ No.	Resolution <u>XX</u> No. 2006- 2618	Motion ____	Information
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Date Submitted: January 20, 2006

SUBJECT: A Resolution Initiating An Amendment To The Newberg Development Code Regarding Signs For Institutions

**Contact Person (Preparer) for this Resolution: Barton Brierley, AICP
Planning and Building Director**

Dept.: Planning and Building

File No.: DCA-06-001
(if applicable)

RECOMMENDATION:

Adopt **Resolution No. 2006-2618**, initiating an amendment to the Newberg Development Code that would potentially allow additional freestanding signs for institutions.

BACKGROUND:

1. The Newberg School District would like to place signs at various schools to inform parents and students of activities and events.
2. The Newberg Development Code allows only one freestanding sign along each street frontage, regardless of the amount of street frontage. Since most schools already have one freestanding sign, the precludes having additional freestanding signs at the schools.
3. Schools and other institutions generally occupy considerably larger frontages than other uses. A potential amendment to the Development Code would be to allow additional signage based on total street frontage.
4. The School District has requested an amendment to the Development Code that potentially would allow additional freestanding signs for institutions.

FISCAL IMPACT:

The estimated cost of preparing the amendment, noticing, and holding hearings is approximately \$2,000, largely in staff time.

STRATEGIC ASSESSMENT:

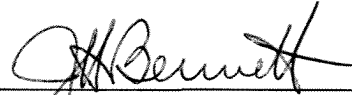
The City did a major overhaul of its sign ordinance approximately six years ago. Overall, the code has been very successful in contributing to the attractiveness of the community. This amendment would be a minor adjustment that would help the sign code work effectively to allow communication, yet not overwhelm the streetscape with excessive signage.

SUBMITTED BY:



Barton Brierley, AICP
Planning and Building Director

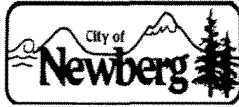
APPROVED BY:



James H. Bennett
City Manager

Attachments:

Resolution 2006-2618
Letter from Paula Radich



RESOLUTION No. 2006-2618

A RESOLUTION INITIATING AN AMENDMENT TO THE NEWBERG DEVELOPMENT CODE REGARDING SIGNS FOR INSTITUTIONS

RECITALS:

1. The Newberg School District would like to place signs at various schools to inform parents and students of activities and events.
2. The Newberg Development Code allows only one freestanding sign along each street frontage, regardless of the amount of street frontage.
3. Schools and other institutions generally occupy considerably larger frontages than other uses. A potential amendment to the Development Code would be to allow additional signage based on total street frontage.
4. The City Council would like to consider a potential amendment to allow additional freestanding signs for institutions.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City initiates an amendment to the Newberg Development Code that could potentially allow more than one freestanding sign on institutional properties.
2. By initiating this amendment, the Council does not commit to take any particular action on the amendment. It only wishes to consider potential amendments through a public hearing process.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: February 7, 2006.

ADOPTED by the City Council of the City of Newberg, Oregon, this 6th day of February, 2006.

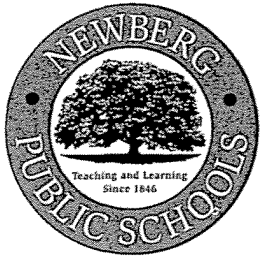
James H. Bennett, City Recorder

ATTEST by the Mayor this 9th day of February, 2006.

Bob Stewart, Mayor

LEGISLATIVE HISTORY

By and through _____ Committee at ____/____/2006 meeting. Or, None.
(committee name) (date) (check if applicable)



NEWBERG PUBLIC SCHOOLS

Paula Radich, Ed.D., Superintendent

RECEIVED
DEC 27 2005

December 20, 2005

BY:.....

Barton Brierly, Planner
City of Newberg
414 East First Street
Newberg, Oregon 97132

Re: Newberg School District Signage Code Request

Dear Barton:

On November 4, 2005, Anne Wylie, Principal of Antonia Crater Elementary School, Antonia Crater Elementary parents and I met with Newberg Assistant Planner, Steve Olsen, to discuss the District's request to place readerboards at the entrance of our schools.

Mr. Olsen shared provisions of the *Sign Requirements Handout* (excerpted from the City of Newberg Code of Ordinances). We specifically discussed provision 151.594 (sections (A) and (B) (1) of the Signage Code) that permits only one major freestanding sign on any street frontage.

Section (A) states: *Number. Not more than one major freestanding sign shall be located on any one street frontage.*

Section (B) (1) states: *Residential Zones: No major freestanding sign shall be larger than 0.2 square foot per foot of street frontage, up to a maximum of 30 square feet. At least six square feet of signage will be allowed. Major freestanding signs are not allowed on lots containing only one single family dwelling or duplex.*

Schools have a responsibility to maintain communication with parents and community members. One such visible communication tool is a school readerboard that can be seen by parents and visitors to the school. School readerboards inform parents of current and future school activities and are a daily reminder of events for many district families.

Schools occupy a significantly greater portion of street frontage than single family dwellings and, as such, should be permitted this additional signage.

Newberg School District 29J hereby requests a change in the Signage Code that specifically addresses "institutional signs" and permits the Newberg Public Schools to erect readerboards, in addition to freestanding school signs, on school frontage roads.

Sincerely,

Paula A. Radich, Ed.D.
Superintendent

Cc: Principals
Newberg School District Board of Directors

**ATTACHED IS AN AGENDA AND
ADDITIONAL INFORMATION
FOR FEBRUARY 6, 2006
CITY COUNCIL MEETING.**

**PLEASE INCLUDE THIS IN
YOUR PACKETS:**

**ITEM VIII-3
Worksession Presentation
Add to Packet**

**ITEM VIII-3
Resolution No. 2006-2626
Add to Packet**

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Council accepts comments on agenda items during the meeting. Please fill out a form and identify the items you wish to speak on and hand this to the Recording Secretary prior to the meeting, if possible. Otherwise, please fill out the form prior to the agenda item you wish to speak on and turn it in to the Recording Secretary. (The exception is formal land use hearings, which requires a specific public hearing process. The agenda items will be identified at the meeting.)

CITY OF NEWBERG
UPDATED - COUNCIL AGENDA
FEBRUARY 6, 2006
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING - TRAINING ROOM

I. CALL MEETING TO ORDER*

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. CITY MANAGER'S REPORT

PUBLIC MEETING SECTION

V. PUBLIC COMMENTS

(30 minutes maximum which may be extended at the Mayor or President's discretion; an opportunity to speak for 3 minutes but no more than 5 minutes per speaker allowed)

VI. CONSENT CALENDAR

1. Motion to consider approving City Council Regular Session Minutes for January 3, 2006.
2. Motion to consider appointing two citizens to the Citizen Rate Review Committee.
Mike Gougler Michael Sylvester

VII. PUBLIC HEARING

1. Public Hearing to review the City Charter decision.
Legislative Hearing

*The Mayor reserves the right to change the order of items to be considered by the Council at their meeting.

BUSINESS MEETING SECTION

VIII. NEW BUSINESS

1. Consider adopting **Resolution No. 2006-2617** authorizing the city Manager to develop and enter into an agreement for the purchase and sale of the “gateway” property.
2. Consider adopting **Resolution No. 2006-2618** initiating an amendment to the Newberg Development Code regarding signs for institutions.
3. *Consider adopting **Resolution No. 2006-2626** transferring jurisdiction of portions of Mountainview Drive, Aspen Way, Zimri Drive, Crestview Drive, and Springbrook Road from Yamhill County to the City of Newberg.*

IX. CONTINUED BUSINESS

X. EXECUTIVE SESSION

XI. ADJOURNMENT

INDEX OF RESOLUTIONS AND ORDINANCES:

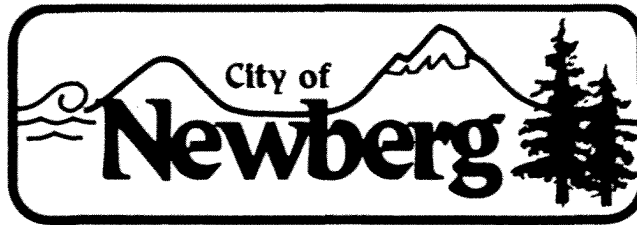
RESOLUTIONS:

1. **Resolution No. 2006-2617** authorizing the City Manager to develop and enter into a purchase (from State of Oregon) and sale (to Jay Woodworth) agreement regarding the downtown “gateway” property located between First Street, Hancock Street and Center Street.
2. **Resolution No. 2006-2618** initiating an amendment to the Newberg Development Code regarding signs for institutions.
3. ***Resolution No. 2006-2626** accepting jurisdiction of portions of Mountainview Drive, Aspen Way, Zimri Drive, Crestview Drive, and Springbrook Road from Yamhill County.*

ORDINANCES:

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Manager’s office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact Norma Alley, Deputy City Recorder, at (503) 537-1283.

*The Mayor reserves the right to change the order of items to be considered by the Council at their meeting.



Planning and Building Department

P.O. Box 970 • 414 E. First Street • Newberg, Oregon 97132 • (503) 537-1240 •
Fax (503) 537-1272

Date: January 31, 2006
To: Mayor Stewart, Newberg City Councilors
Cc: James Bennett, City Manager, Terry Mahr, City Attorney
From: Barton Brierley, AICP *BB*
Planning and Building Director
RE: Annexation Criteria

The Newberg Development Code lists criteria necessary for approval of an annexation. These criteria are designed to ensure that the necessary services will be in place when the property is annexed and developed. One criterion is that, "An adequate level of urban services must be available, or made available, within three years time of annexation."

This criterion is appropriate in most cases where the annexation is a precursor to development of the property. However, there are some cases where the City may wish to annex property despite the lack of immediate availability of urban services. These may include:

- Where the annexation is intended to allow connection of existing development to sewer or water service, and where other services are not immediately available.
- Where the annexation is intended to address legal issues, such as Measure 37 or RLUIPA (Religious Land Uses and Institutionalized Persons Act). In these cases, the City may be required to annex a property to provide one service or another, or annexation may simply be a better option than allowing uncontrolled development at the edge of the city.
- Where the annexation is intended to allow master planning of land uses and utilities in an area over a period of time longer than three years.

Also, the annexation criteria and procedures are based on the presumption that all annexations are a result of the application of a property owner. In some cases, the City may be the one initiating the annexation, such as for island annexations, annexations relating to local improvement districts, or annexations to address legal issues. In these cases, the procedures do not fit very well.

This memo is intended to explore possible amendments to the Development Code that might modify the criteria to better address situations such as those above. We anticipate bringing a formal amendment to the Council for consideration at your February 21 meeting.

Current criteria

Newberg Development Code § 151.262 lists the criteria necessary for an annexation. It states:

The following criteria shall apply to all annexation requests:

(A) The proposed use for the site complies with the Newberg comprehensive plan and with the designation on the Newberg comprehensive plan map. If a redesignation of the plan map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the Newberg comprehensive plan.

(B) An adequate level of urban services must be available, or made available, within three years time of annexation. An adequate level of urban services shall be defined as:

(1) Municipal sanitary sewer and water service meeting the requirements enumerated in the Newberg comprehensive plan for provision of these services.

(2) Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three-year time period, the city shall note requirements such as dedication of right-of-way, waiver of remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The city shall also consider public costs for improvement and the ability of the city to provide for those costs.

(C) Findings documenting the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.

(D) The burden for providing the findings for divisions (A), (B) and (C) of this section is placed upon the applicant.

Possible Changes

Some possible changes could be made to the annexation standards to address the situations noted above. One suggestion would be to create exceptions for certain annexations where the Council has a legislative purpose for annexing the property. These annexation would not be subject to the standard criteria for most development related annexations. Instead, annexation would be at the discretion of the City Council. If services were not immediately available to the property, then the Council could place an interim zoning on the property, such as a limited use overlay, that would limit the amount of development that could occur on the property until full services are available. A suggested amendment is attached.

Attachments

Possible new standards

Existing annexation standards

POTENTIAL CHANGES TO ANNEXATION CRITERIA
Draft 1/31/06

New Text is shown in double underline
Deleted text is shown in ~~strikeout~~

§ 151.262 QUASI-JUDICIAL ANNEXATION CRITERIA

The following criteria shall apply to all annexation requests, except for legislative annexations under §151.264.1.:

(A) The proposed use for the site complies with the Newberg comprehensive plan and with the designation on the Newberg comprehensive plan map. If a redesignation of the plan map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the Newberg comprehensive plan.

(B) An adequate level of urban services must be available, or made available, within three years time of annexation. An adequate level of urban services shall be defined as:

(1) Municipal sanitary sewer and water service meeting the requirements enumerated in the Newberg comprehensive plan for provision of these services.

(2) Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three-year time period, the city shall note requirements such as dedication of right-of-way, waiver of remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The city shall also consider public costs for improvement and the ability of the city to provide for those costs.

(C) Findings documenting the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.

(D) The burden for providing the findings for divisions (A), (B) and (C) of this section is placed upon the applicant.

§151.264.1 LEGISLATIVE ANNEXATIONS

(A) The City Council may, at its discretion, annex properties under a legislative process without meeting the criteria under §151.261(A) and §151.262. These exceptions may include health hazard annexations, island annexations, annexations needed to address sewer or water connection issues for existing development, annexations needed to address specific legal or contract issues, annexations where timing and provision of adequate services in relation to development is addressed through legislatively adopted specific area plans, or other situations determined by the Council.

(B) Such annexations need not, but may, be referred to the Newberg Planning Commission for a recommendation. They shall be subject to the public vote requirements where required in the Newberg Charter.

(C) Where an adequate level of urban services is not available, the Council may apply an interim zone, such as a limited-use overlay, that would limit development of the property until such time as the services become available.

Existing Annexation Standards

ANNEXATIONS

§ 151.260 STATEMENT OF PURPOSE.

The city finds that annexation is the first step to converting future urbanizable lands to urbanizable land within the Newberg Urban Growth Boundary, and that as such it is an important part of the process of providing timely and orderly urban development. The city also recognizes that the development of lands at an urban density must include the provision of an adequate level of required urban services such as

sewer, water, and roads. Policies and procedures adopted in this code are intended to carry out the directives of the citizens of Newberg and the Newberg comprehensive plan, and to insure that annexation of lands to the city is incorporated into the process of providing a timely and orderly conversion of lands to urban uses. The City Charter requires that, unless otherwise mandated by state law, annexation may only be approved by a majority of those voting.
(Ord. 96-2451, passed 12-2-96)

§ 151.261 CONDITIONS FOR ANNEXATION.

The following conditions must be met prior to or concurrent with city processing of any annexation request:

(A) The subject site must be located within the Newberg Urban Growth Boundary or Newberg Urban Reserve Areas.

(B) The subject site must be contiguous to the existing city limits.
(Ord. 96-2451, passed 12-2-96)

§ 151.262 CRITERIA.

The following criteria shall apply to all annexation requests:

(A) The proposed use for the site complies with the Newberg comprehensive plan and with the designation on the Newberg comprehensive plan map. If a redesignation of the plan map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the Newberg comprehensive plan.

(B) An adequate level of urban services must be available, or made available, within three years time of annexation. An adequate level of urban services shall be defined as:

(1) Municipal sanitary sewer and water service meeting the requirements enumerated in the

Newberg comprehensive plan for provision of these services.

(2) Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three-year time period, the city shall note requirements such as dedication of right-of-way, waiver of remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The city shall also consider public costs for improvement and the ability of the city to provide for those costs.

(C) Findings documenting the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.

(D) The burden for providing the findings for divisions (A), (B) and (C) of this section is placed upon the applicant.
(Ord. 96-2451, passed 12-2-96)

§ 151.263 ANNEXATION PROCEDURES.

All annexation requests approved by the City Council shall be referred to the voters in accordance with the requirements of this code and O.R.S. 222.

(A) Annexation elections are normally scheduled for the biennial primary or general elections which are held in May and November of even numbered years. Applications for annexation shall be filed with the Planning Division before 5:00 p.m. on October 1 for a primary ballot election in May and before 5:00 p.m. on April 1 for a general ballot election in November. An applicant may request that the Council schedule an annexation ballot measure for a special election date. Applications proposed for review at a special election must be filed with the city eight months prior to the proposed special election date. Filing of an annexation application and having the application

deemed complete does not obligate the city to place the annexation question before the voters at any particular election. This division does not obligate the city to process an annexation application within any time frame not required by ordinance or state statute.

(B) The application shall be processed in accordance with the Type III processing procedures outlined in this code. Once the Director receives a completed application for annexation, he/she shall schedule a recommendation hearing before the Planning Commission. The Planning Commission shall make a recommendation to the City Council as to whether or not the application meets the criteria contained in § 151.262. This decision shall be a quasi-judicial determination and not a legislative determination. The Planning Commission may also recommend denial of an application based upon a legislative perception of the request even though the findings support and would allow annexation. A decision to recommend denial of an annexation, even though the findings support the request, shall be specifically stated in the record and noted as a legislative recommendation separate and apart from the quasi-judicial recommendation.

(C) Following the Planning Commission hearing, the Director shall schedule a City Council hearing to consider the request. The City Council shall conduct a quasi-judicial hearing and determine whether or not the application meets the criteria contained in § 151.262. The hearing at the City Council shall be considered a new hearing. If additional testimony is submitted, the Council may, at its own discretion, return the application to the Planning Commission for further review and recommendation. The City Council may also deny an application based upon a legislative perception of the request even though the findings support and would allow annexation. A decision to deny an annexation, even though the findings support the request, shall be specifically stated in the record and noted as a legislative recommendation separate and apart from the quasi-judicial recommendation.

(D) If the City Council approves the annexation request, the proposal may, at the City Council's sole

discretion, be placed before the voters of the city as follows:

(1) The biennial primary or general elections which are held in May and November of even numbered years, or

(2) An available special election.

(E) If the city schedules the annexation election for an election other than the biennial primary or general election, the agreement of the applicant or owner of the property must be obtained. All costs associated with placing the matter on the ballot shall be paid for by the applicant or owner of the property being annexed.

(F) The city shall place a notice of the annexation election shall be published in a newspaper of general circulation in the city not more than 30 days nor less than 20 days prior to the date of the election. Such notice shall take the form of a minimum one-quarter page layout, which includes a map of the property to be annexed and unbiased information regarding the annexation.

(G) The city shall cause the property under consideration for annexation to be posted with a minimum of one sign not less than 16 square feet in size. The sign shall provide notice of the annexation election, a map of the subject property, and unbiased information regarding the annexation. The sign shall be removed by the applicant within ten days following the election day.

(H) In addition to the regular annexation fee, the applicant shall pay for all of the costs associated with the election, the ad in the newspaper, and posting of the notice. The city shall inform the applicant of the costs necessary for the newspaper ad and property posting and of the deadline for payment of these costs.

(I) Should this annexation request be approved by a majority vote of the electorate of the city at the election date as identified by resolution of the City Council, the property shall be annexed and the following events shall occur:

(1) The property shall be ordered and declared annexed and withdrawn from the Newberg Rural Fire Protection District.

(2) The territory will be changed from a county zone to a city zoning designation as indicated in § 151.268. The "Newberg, Oregon Zoning Map" shall be amended to indicate this change.

(3) The Recorder of the city is directed to make and submit to the Secretary of State, the Department of Revenue, the Yamhill County Elections Officer, and the Assessor of Yamhill County, a certified copy of the following documents:

(a) A copy of the approved ordinance.

(b) A map identifying the location of said territory.
(Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2501, passed 12-7-98)

§ 151.264 APPLICATION REQUIREMENTS.

Applications for annexation shall be made on forms provided by the Planning Division and include the following material:

(A) Written consent to the annexation signed by the requisite number of affected property owners, electors, or both to conduct an election within the area to be annexed, as provided by state law. The consent shall include a waiver stating that the owner will not file any demand against the city under Measure 37, approved November 2, 2004, that amended O.R.S. Chapter 197.

(B) Legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.

(C) Vicinity map and map of the area to be annexed including adjacent city territory.

(D) General land use plan indicating types and intensities of proposed development, transportation

corridors (including pedestrian and vehicular corridors), watercourses, significant natural features, open space, significant stands of mature trees, wildlife travel corridors, and adjoining development.

(E) Statement of overall development concept and methods by which physical and related social environment of the site, surrounding area, and community will be enhanced.

(F) Annexation fees, as set by City Council resolution.

(G) Statement outlining method and source of financing to provide additional public facilities.

(H) Comprehensive narrative of potential positive and negative physical, aesthetic, and related social effects of the proposed development on the community as a whole and on the smaller sub-community or neighborhood of which it will become a part and proposed actions to mitigate such effects.

(I) Concurrent with application for annexation, the property may be assigned one of the following methods for development plan review:

(1) A planned unit development approved through a Type III procedure.

(2) A development agreement approved by the City Council.

(3) A contract annexation as provided for in the state statutes. Development plans must be approved and an annexation contract must be signed by the City Council in order to use the contract annexation process.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2004-2612, passed 12-6-04)

§ 151.265 HEALTH HAZARD ANNEXATION.

The city shall annex those areas constituting a health hazard in accordance with Oregon Revised Statutes, taking into consideration the ability of the

city to provide necessary services. Annexation of areas constituting a health hazard are not subject to voter approval. (Ord. 96-2451, passed 12-2-96)

comprehensive plan map designation. The corresponding designations are shown in the table below. The procedures and criteria of § 151.122 shall not be required.

§ 151.266 ISLAND ANNEXATION.

The following policies are adopted for island annexations:

(A) The city shall attempt to not create islands of unincorporated territory within the corporate limits of the city. If such an island is created, the City Council may set a time for a public hearing for the purpose of determining if the annexation should be submitted to the voters. The hearing shall be conducted in accordance with the policies and procedures contained in this code.

(B) Written notice to property owners will be made prior to annexation to allow for property owner responses. Failure to receive notice shall not in any way invalidate the annexation procedure that may be subsequently undertaken by the city.

(C) Annexation of an island shall be by ordinance, subject to approval by the voting majority. (Ord. 96-2451, passed 12-2-96)

Comprehensive Plan Classification

Appropriate Zoning Classification

OS	Any zoning classification
LDR	R-1
MDR	R-2
HDR	R-3
COM	C-1, C-2, or C-3 as determined by the Director
MIX	C-2, M-1, or M-2 as determined by the Director
IND	M-1, M-2, or M-3
PQ	Any zoning classification
P/PP	Any zoning classification

(C) If a zoning classification is requested by the applicant for other than that described in division (B) of this section, the criteria of § 151.122 shall apply. This application shall be submitted concurrently with the annexation application.

(D) In the event that the annexation request is denied, the zone change request shall also be denied. (Ord. 96-2451, passed 12-2-96)

§ 151.267 COMPREHENSIVE PLAN AND ZONING DESIGNATIONS.

(A) The comprehensive plan map designation of the property at the time of annexation shall be used as a criterion to determine whether or not the proposed request complies with the Newberg comprehensive plan. A redesignation of the comprehensive plan map may be requested concurrent with annexation. The proposed redesignation shall then be used to determine compliance with the Newberg comprehensive plan.

(B) Upon annexation, the area annexed shall be automatically zoned to the corresponding land use zoning classification which implements the Newberg

§ 151.268 COORDINATION.

Annexation requests shall be coordinated with affected public and private agencies, including, but not limited to, Yamhill County, Newberg School District, Northwest Natural Gas, Portland General Electric, and, where appropriate, various state agencies. Coordination shall be made by referral of annexation request to these bodies sufficiently in advance of final city action to allow for reviews and recommendations to be incorporated into the city records.

(Ord. 96-2451, passed 12-2-96)

**§ 151.269 ANNEXATION OF
NON-CONFORMING USES.**

When a non-conforming use, as described in §§ 151.140 through 151.149 is annexed into the city, the applicant shall provide a schedule for the removal of the non-conforming use for the Planning Commission and City Council. At time of approval of the annexation, the City Council may add conditions to ensure the removal of the non-conforming use during a reasonable time period. The time period may vary from one year to ten years at the discretion of the City Council.

(Ord. 96-2451, passed 12-2-96)

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REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: 2006, February 6	
Ordinance _____	Resolution <u>XX</u>
No. _____	No. 2006-2626
Motion _____ Information	
<p style="text-align: center;">Date Submitted: February 3, 2006</p> <p>SUBJECT: Transfer of Jurisdiction of Portions of Mountainview Drive, Aspen Way, Zimri Drive, Crestview Drive, and Springbrook Road from Yamhill County to the City of Newberg.</p>	<p>Contact Person (Preparer) for this Resolution: Daniel Danicic, PE, Public Works Director</p> <hr/> <p>Dept.: Public Works Department</p> <hr/> <p>File No.: <i>(if applicable)</i></p>

RECOMMENDATION: Adopt **Resolution No. 2006-2626**, accepting jurisdiction over the portions of Mountainview Drive, Aspen Way, Zimri Drive, Crestview Drive, and Springbrook Road listed below in item 2, subject to the conditions enumerated therein.

BACKGROUND:

1. On October 17, 2005 the City Manager requested the Yamhill County Board of Commissioners to surrender jurisdiction to the City over portions of County roads located within the city limits known as Mountainview Drive, Aspen Way, Zimri Drive, Crestview Drive, and Springbrook Road. These road segments are illustrated in Exhibit "A."

2. Thereafter, on October 26, 2005 the County adopted Board Order 05-901 to initiate proceedings to transfer jurisdiction over portions of the roads identified above. On December 7, 2005 the Yamhill County Board of Commissioners held a duly noticed public hearing to consider the requested transfer. Thereafter, the hearing was continued to January 25, 2006 then February 1, 2006. In a unanimous vote on February 1, 2006, the Board determined a transfer of jurisdiction to be in the best interests of the citizens of Yamhill County. A formal offer to transfer was adopted by the Board on February 1, 2006 by Board Order 06-070. A copy of the Board Order is attached as Exhibit "B." The operative part of the Board Order provides as follows:

A. Subject to the conditions stated in numbered paragraph 2, below, Yamhill County hereby offers to surrender jurisdiction over the following portions of Mountainview Drive, Aspen Way, Zimri Drive, Crestview Drive and Springbrook Road to the City of Newberg, Oregon:

- MOUNTAINVIEW DRIVE. That portion of Mountainview Drive from a point three-hundred, ten (310.00) feet west of the southerly centerline intersection of Mountainview Drive with Aspen Way easterly to that centerline intersection, plus the entire length of Mountainview Drive from the northerly centerline intersection of Mountainview Drive with Aspen Way to the centerline intersection of Mountainview Drive with Springbrook Road,
- ASPEN WAY. That portion of Aspen Way from its centerline intersection with Crestview Drive northerly to a point four-hundred, thirty-five and 22/100 (435.22) feet north of that intersection and on the centerline of Aspen Way,
- ZIMRI DRIVE. That southerly portion of Zimri drive from its centerline intersection with Mountainview Drive northerly to a point one-hundred, fifteen (115.00) feet north of that intersection and on the centerline of Zimri Drive,
- CRESTVIEW DRIVE. That portion of Crestview Drive from its centerline intersection with Aspen Way easterly to its northerly centerline intersection with Springbrook Road, and
- SPRINGBROOK ROAD. That portion of Springbrook Road beginning at a point on the Willamette and Pacific Railroad at its intersection with the centerline of Springbrook Road (a point described as the beginning point of a transfer of jurisdiction over a portion of Springbrook Road from Yamhill County to the City of Newberg memorialized in Board Order 76-96, May 5, 1976 and City of Newberg Resolution 76-615, June 7, 1976) northerly to its centerline intersection with Mountainview Drive, and from that point northeasterly two-hundred sixty and 57/100 (260.57) feet measured along the centerline of Springbrook Road.

B. The offer to transfer jurisdiction contained in this order is expressly subject to the following conditions:

- The City of Newberg shall not cause to be constructed a roundabout on Springbrook Road until the Board adopts an order consenting to the construction. The Board will not adopt such an order until the completion of a transportation consultant's location study for the Newberg Northern Arterial running from Highway 99W to the West. The Board's consideration of an order consenting to construction will be accomplished expeditiously following the City's request for consideration.
- The City of Newberg agrees that it will require best practices for storm water containment and aquifer recharge in connection with construction of the City's Mountainview Drive "S" curve project.

3. The conditions of Board Order 06-070 are satisfactory to the City of Newberg. It is now necessary and proper that Board Order 06-070 and the offer contained therein be accepted by appropriate legislation of this Council as the governing body of the City of Newberg.

FISCAL IMPACT: As part of the City's planned Mountainview Springbrook "S" Curve project, these small portions of roads will be improved to City standards where they interface with the new road. The costs of these improvements will be incidental to the total project cost. Thereafter, the City will be responsible for maintenance of these small road segments, as well as the new road.


STRATEGIC ASSESSMENT: It is appropriate that roads within the City limits of the City of Newberg be under the jurisdiction of the City. This will assure that, as the roads are improved, the improvements will be up to City standards.

SUBMITTED BY:

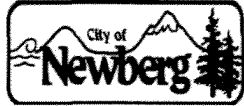


Daniel Danicic, PE
Public Works Director

APPROVED BY:



James Bennett
City Manager



RESOLUTION No. 2006-2626

**A RESOLUTION ACCEPTING JURISDICTION OF PORTIONS OF
MOUNTAINVIEW DRIVE, ASPEN WAY, ZIMRI DRIVE, CRESTVIEW DRIVE,
AND SPRINGBROOK ROAD FROM YAMHILL COUNTY.**

RECITALS:

1. On October 17, 2005 the City Manager requested the Yamhill County Board of Commissioners to surrender jurisdiction to the City over portions of County roads located within the City limits known as Mountainview Drive, Aspen Way, Zimri Drive, Crestview Drive, and Springbrook Road. These road segments are illustrated in Exhibit A.
2. Thereafter, on October 26, 2005 the County adopted Board Order 05-901 to initiate proceedings to transfer jurisdiction over portions of the roads identified above. On December 7, 2005 the Yamhill County Board of Commissioners held a duly noticed public hearing to consider the requested transfer. Thereafter, the hearing was continued to January 25, 2006 then February 1, 2006. In a unanimous vote on February 1, 2006, the Board determined a transfer of jurisdiction to be in the best interests of the citizens of Yamhill County. A formal offer to transfer was adopted by the Board on February 1, 2006 by Board Order 06-070. A copy of the Board Order is attached as Exhibit B. The operative part of the Board Order provides as follows:

A. Subject to the conditions stated in numbered paragraph 2, below, Yamhill County hereby offers to surrender jurisdiction over the following portions of Mountainview Drive, Aspen Way, Zimri Drive, Crestview Drive and Springbrook Road to the City of Newberg, Oregon:

- **MOUNTAINVIEW DRIVE.** That portion of Mountainview Drive from a point three-hundred, ten (310.00) feet west of the southerly centerline intersection of Mountainview Drive with Aspen Way easterly to that centerline intersection, plus the entire length of Mountainview Drive from the northerly centerline intersection of Mountainview Drive with Aspen Way to the centerline intersection of Mountainview Drive with Springbrook Road,
- **ASPEN WAY.** That portion of Aspen Way from its centerline intersection with Crestview Drive northerly to a point four-hundred, thirty-five and 22/100 (435.22) feet north of that intersection and on the centerline of Aspen Way,

- ZIMRI DRIVE. That southerly portion of Zimri drive from its centerline intersection with Mountainview Drive northerly to a point one-hundred, fifteen (115.00) feet north of that intersection and on the centerline of Zimri Drive,
- CRESTVIEW DRIVE. That portion of Crestview Drive from its centerline intersection with Aspen Way easterly to its northerly centerline intersection with Springbrook Road, and
- SPRINGBROOK ROAD. That portion of Springbrook Road beginning at a point on the Willamette and Pacific Railroad at its intersection with the centerline of Springbrook Road (a point described as the beginning point of a transfer of jurisdiction over a portion of Springbrook Road from Yamhill County to the City of Newberg memorialized in Board Order 76-96, May 5, 1976 and City of Newberg Resolution 76-615, June 7, 1976) northerly to its centerline intersection with Mountainview Drive, and from that point northeasterly two-hundred sixty and 57/100 (260.57) feet measured along the centerline of Springbrook Road.

B. The offer to transfer jurisdiction contained in this order is expressly subject to the following conditions:

- The City of Newberg shall not cause to be constructed a roundabout on Springbrook Road until the Board adopts an order consenting to the construction. The Board will not adopt such an order until the completion of a transportation consultant's location study for the Newberg Northern Arterial running from Highway 99W to the west. The Board's consideration of an order consenting to construction will be accomplished expeditiously following the City's request for consideration.
- The City of Newberg agrees that it will require best practices for storm water containment and aquifer recharge in connection with construction of the City's Mountainview Drive "S" Curve Project.

3. The conditions of Board Order 06-070 are satisfactory to the City of Newberg. It is now necessary and proper that Board Order 06-070 and the offer contained therein be accepted by appropriate legislation of this Council as the governing body of the City of Newberg.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. That the offer of Yamhill County, Oregon, as contained in Board Order 06-070 dated February 1, 2006 to surrender jurisdiction to the City of Newberg over the following described portions of Mountainview Drive, Aspen Way, Zimri Drive, Crestview Drive and Springbrook Road is hereby accepted:

a. MOUNTAINVIEW DRIVE. That portion of Mountainview Drive from a point three-hundred ten (310.00) feet west of the southerly centerline intersection of Mountainview Drive with Aspen Way easterly to that centerline intersection, plus the entire length of Mountainview Drive from the northerly centerline intersection of Mountainview Drive with Aspen Way to the centerline intersection of Mountainview Drive with Springbrook Road.

b. ASPEN WAY. That portion of Aspen Way from its centerline intersection with Crestview Drive northerly to a point four-hundred thirty-five and 22/100 (435.22) feet north of the southerly centerline intersection of Mountainview Drive with Aspen Way and on the centerline of Aspen way.

c. ZIMRI DRIVE. That southerly portion of Zimri Drive from its centerline intersection with Mountainview Drive northerly to a point one-hundred fifteen (115.00) feet north of that intersection and on the centerline of Zimri Drive.

d. CRESTVIEW DRIVE. That portion of Crestview Drive from its centerline intersection with Aspen Way easterly to its northerly centerline intersection with Springbrook Road.

e. SPRINGBROOK ROAD. That portion of Springbrook Road beginning at a point on the Willamette and Pacific Railroad at its intersection with the centerline of Springbrook Road (a point described as the beginning point of a transfer of jurisdiction over a portion of Springbrook Road from Yamhill County to the City of Newberg memorialized in Board Order 76-96, May 5, 1976 and City of Newberg Resolution 76-615, June 7, 1976) northerly to its centerline intersection with Mountainview Drive, and from that point northeasterly two-hundred sixty and 57/100 (260.57) feet measured along the centerline of Springbrook Road.

2. That the City of Newberg acknowledges and accepts the conditions stated in numbered paragraph 2 of the operative part of Board Order 06-070.
3. That this Resolution shall constitute notice to all persons concerned from the date of this Resolution that the jurisdiction of Yamhill County over the portions of the roads described above shall cease and desist. This Resolution shall further constitute notice that the full and absolute jurisdiction over the road segments shall vest in the City of Newberg, Oregon for all purposes of repair, construction, improvement, and levying and collection of assessments therefor.
4. That a true copy of this Resolution certified to be such by the City Recorder of the City of Newberg be forwarded to the Yamhill County Board of Commissioners.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: February 7, 2006.
ADOPTED by the City Council of the City of Newberg, Oregon, on this 6th day of February, 2006.

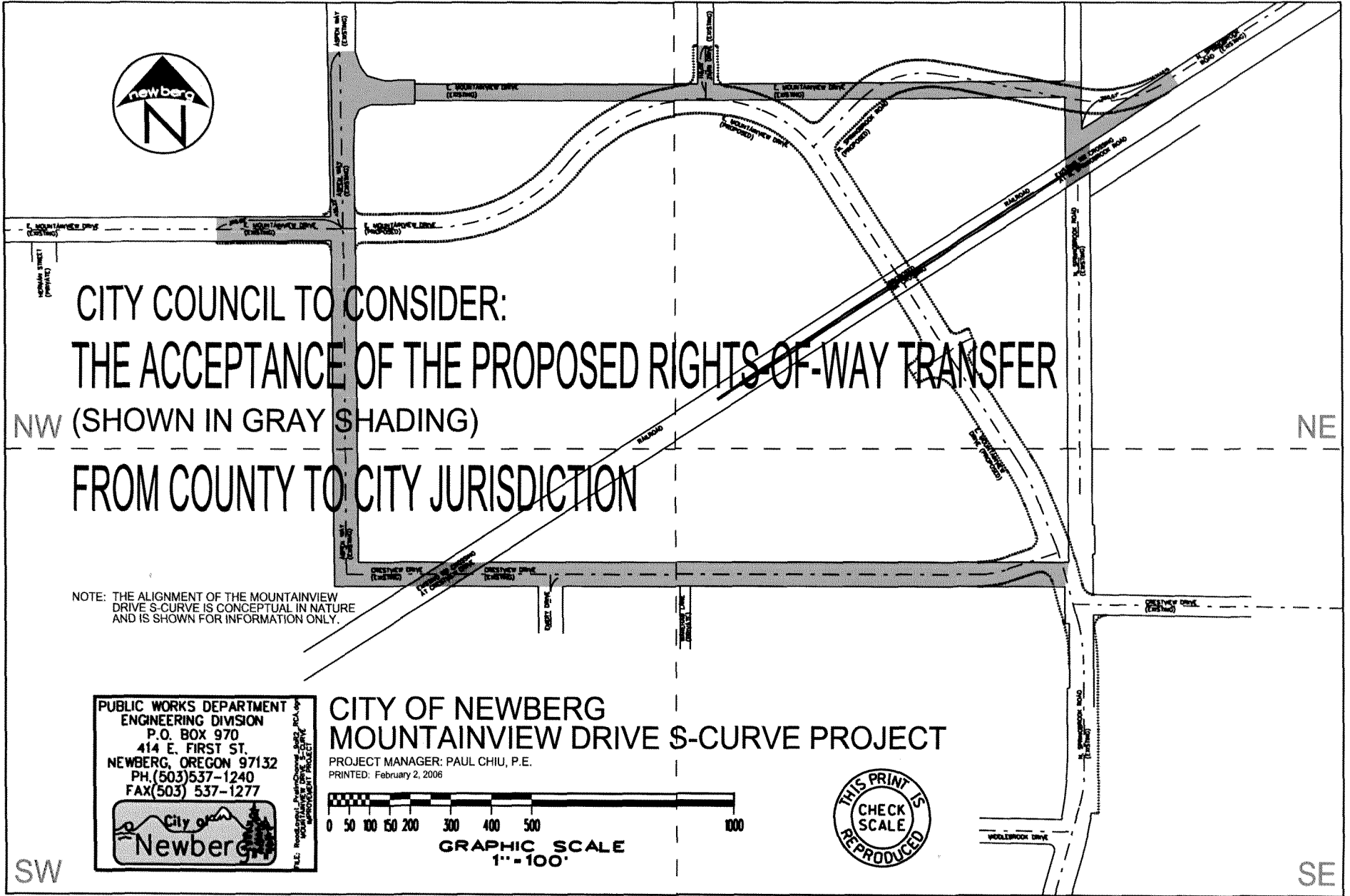
James H. Bennett, City Recorder

ATTEST by the Mayor this 9th day of February, 2006.

Bob Stewart, Mayor

LEGISLATIVE HISTORY

By and through _____ Committee at ____ / ____ /2006 meeting. Or, XX None.
(committee name) (date) (check if applicable)



IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of the Adoption of an Order offering)	
to Surrender Jurisdiction to the City of Newberg)	
over Portions of Mountainview Drive, Aspen Way,)	BOARD ORDER 06-70
Zimri Drive, Crestview Drive and Springbrook Road;)	
Subject to a Condition Stated in this Order.)	

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in formal session on February 1, 2006 commissioners Leslie Lewis and Kathy George being present. Commissioner Mary P. Stern was excused.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. ORS 373.270 governs the transfer of jurisdiction over county roads within cities. The City of Newberg requested the county to initiate a process to surrender jurisdiction over portions of Mountainview Drive, Aspen Way, Zimri Drive, Crestview Drive and Springbrook Road. A copy of the city's request is attached to Board Order 05-901. Board Order 05-901 was adopted to initiate a process to surrender jurisdiction over portions of the roads identified above to the City of Newberg. The subject portions of the roads are described in the operative part of this Board Order. A public hearing was set for December 7, 2005 to consider the proposed transfer. Public notice of the hearing was given in accordance with ORS 373.270(2). On December 7, 2005 the public hearing was held in Room 32 of the Yamhill County Courthouse on the proposed transfer of jurisdiction. The question before the Board was whether a transfer of jurisdiction over the subject roads was necessary, expedient or in the best interest of the county. While the city and some county residents requested the Board to go forward with the proposed transfer, other county residents opposed action by the Board. The Board continued the matter to January 25, 2006 to allow discussions by the affected parties.

B. On January 25, 2006 the Board reopened the hearing. After hearing testimony by several parties, the Board continued the matter to February 1, 2006.

C. Based upon the record of the public hearing and the request of the City of Newberg, the Board finds that a transfer of jurisdiction over portions of the roads identified in paragraph (A) is in the best interest of the county, subject to the condition stated in the operative part of this order.

D. The Board recognizes that the City of Newberg currently requires best practices for storm water containment and aquifer recharge in connection with development adjacent to the aquifer supplying the Oxberg Lakes water system. The Board respectfully conveys its expectation that the City it will continue to do so in the future. NOW, THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

1. Subject to the conditions stated in numbered paragraph 2, below, Yamhill County hereby offers to surrender jurisdiction over the following portion of Mountainview Drive, Aspen Way, Zimri Drive, Crestview Drive and Springbrook Road to the City of Newberg, Oregon:

a. **MOUNTAINVIEW DRIVE.** That portion of Mountainview Drive from a point three-hundred ten (310.00) feet west of the southerly centerline intersection of Mountainview Drive with Aspen Way easterly to that centerline intersection, plus the entire length of Mountainview Drive from the northerly centerline intersection of Mountainview Drive with Aspen Way to the centerline intersection of Mountainview Drive with Springbrook Road.

b. **ASPEN WAY.** That portion of Aspen Way from its centerline intersection with Crestview Drive northerly to a point four-hundred thirty-five and 22/100 (435.22) feet north of the southerly centerline intersection of Mountainview Drive with Aspen Way and on the centerline of Aspen way.

c. **ZIMRI DRIVE.** That southerly portion of Zimri Drive from its centerline intersection with Mountainview Drive northerly to a point one-hundred fifteen (115.00) feet north of that intersection and on the centerline of Zimri Drive.

d. **CRESTVIEW DRIVE.** That portion of Crestview Drive from its centerline intersection with Aspen Way easterly to its northerly centerline intersection with Springbrook Road.

e. **SPRINGBROOK ROAD.** That portion of Springbrook Road beginning at a point on the Willamette and Pacific Railroad at its intersection with the centerline of Springbrook Road (a point described as the beginning point of a transfer of jurisdiction over a portion of Springbrook Road from Yamhill County to the City of Newberg memorialized in Board Order 76-96, May 5, 1976 and City of Newberg Resolution 76-615, June 7, 1976) northerly to its centerline intersection with Mountainview Drive, and from that point northeasterly two-hundred sixty and 57/100 (260.57) feet measured along the centerline of Springbrook Road.

2. The offer to transfer jurisdiction contained in this order is expressly subject to the following conditions:

a. The City of Newberg shall not cause to be constructed a roundabout on Springbrook Road until the Board adopts an order consenting to the construction. The Board will not adopt such an order until the completion of a transportation consultant's location study for the Newberg Northern Arterial running from Highway 99W to the West. The Board's consideration of an order consenting to construction will be accomplished expeditiously following the City's request for consideration.

EXHIBIT B

- b. The City of Newberg agrees that it will require best practices for storm water containment and aquifer recharge in connection with construction of the City's Mountainview Drive "S" curve project.
3. Upon the City of Newberg's enactment of appropriate municipal legislation accepting the county's offer to surrender jurisdiction, including acceptance of the condition stated in numbered paragraph 2, above, and in accordance with ORS 373.270(7) (2003 replacement part), the offer shall be deemed accepted with the following effect:
- a. The jurisdiction of the county over the subject roads or for their improvement, construction or repair shall cease.
 - b. The full and absolute jurisdiction over the subject roads for all purposes of repair, construction, improvement and the levying and collection of assessments therefor shall vest in the City of Newberg.
 - c. The City of Newberg shall have the same jurisdiction over the subject roads as by its charter and the laws of the state are given or granted it over any of the public streets and alleys of the city.

DONE at McMinnville, Oregon on February 1, 2006.

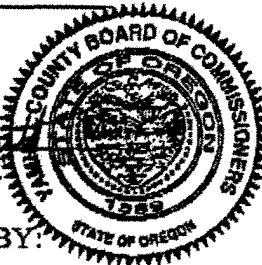
ATTEST

YAMHILL COUNTY
BOARD OF COMMISSIONERS

IAN COLEMAN
County Clerk

Leslie A. Lewis
Chair LESLIE LEWIS

By: Anne Britton
Deputy ANNE BRITTON



Kathy George
Commissioner KATHY GEORGE

FORM APPROVED BY:

John M. Gray Jr.
JOHN M. GRAY, JR.
Yamhill County Legal Counsel

Unavailable for signature
Mary P. Stern
Commissioner MARY P. STERN

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NEWBERG CITY COUNCIL MEETING INFORMATION

Kathleen Bocharz

DATE of Meeting: *2.6.06.*

Prepared by:

Councilors	Roll Call	Res/Ord # <u>Consent</u> Topic:	Res/Ord. # <u>reconsider</u> Topic:	Res/Ord # <u>Add Sec 54</u> Topic:	Res/Ord # <u>amend</u> Topic:	Res/Ord # <u>Amend</u> Topic:	Res/Ord # <u>2617</u> Topic:	Res/Ord # <u>tavde</u> Topic:	Res/Ord # <u>2618</u> Topic:	Res/Ord # <u>Amend</u> Topic:
STEWART, Bob, Mayor	✓					failed	no			
ANDREWS, Bob	✓	yes	yes 2	yes 1	yes	due	Vote	yes	NO	NO
BOYES, Mike	✓	NO	yes	yes	yes	to	was	yes	yes 2	NO
CURRIER, Roger	✓	yes 1	yes	yes	yes 1	back	taken	NO	yes 1	NO
NELSON, Dawn	✓	yes	yes	yes	yes	of		NO	NO	NO
McBRIDE, Mike	✓	yes 2	yes 1	yes 2	yes 2	second.		yes 2	yes	yes 2
SOPPE, Robert	✓	yes	yes	yes	yes			yes 1	yes	yes 1
ROLL CALL VOTES		YES: <u>5</u> NO: <u>1</u> Absent: <u>0</u> Abstain: <u>0</u>	YES: <u>56</u> NO: <u>0</u> Absent: <u>0</u> Abstain: <u>0</u>	YES: <u>56</u> NO: <u>0</u> Absent: <u>0</u> Abstain: <u>0</u>	YES: <u>56</u> NO: <u>0</u> Absent: <u>0</u> Abstain: <u>0</u>	YES: <u> </u> NO: <u> </u> Absent: <u> </u> Abstain: <u> </u>	YES: <u> </u> NO: <u> </u> Absent: <u> </u> Abstain: <u> </u>	YES: <u>4</u> NO: <u>2</u> Absent: <u>0</u> Abstain: <u>0</u>	YES: <u>4</u> NO: <u>2</u> Absent: <u>0</u> Abstain: <u>0</u>	YES: <u>2</u> NO: <u>4</u> Absent: <u> </u> Abstain: <u> </u>
Department:		Admin	legal	legal	legal	legal	Planning & Building	Planning & Building	Building & Planning	Building & Planning
CHANGES: (Yes/No)		Yes to mins.	yes	no	NO	—	—	yes	NO	NO

RECORDING SECRETARY:

- Route COPY of this completed sheet to applicable departments for processing of Res. & Ord. and to Accounting Clerk.
- Route COPIES of Public Comment Registration Sheets to respective Departments for noticing/their file.
- Route materials/overheads received at meeting: (1) Original(s) to Deputy City Recorder for packet; (2) Copy of applicable materials to Dept. for their file.
- Route labeled Audio tape(s) to Library (ATTN: Sandi Schmidt) except Executive Session tapes gets routed to the Deputy City Recorder.

CITY DEPARTMENTS: WITHIN 48 HOURS - Route to City Mgr. for Signature (verify changes, if any):

- IF ANY CHANGES, CORRECTIONS ARE TO BE MADE BY DEPARTMENT ORIGINATING DOCUMENT.
- Regardless of prior path/file name from your Department, **Rename Document:** (Sample: Ord2471.doc) or (Res2039.doc).
- E-mail FINAL Res. & Ord. (including RCA and Attachments) to the Deputy City Recorder as an attachment.
- Print final Resolutions/Ordinances and attachments on bond paper (excluding RCA).
- IF NOT ADOPTED, route hard copy and e-mail to Deputy City Recorder w/ following notation PRINTED ON TOP - "FAILED TO PASS (DATE)".
- Route to Deputy City Recorder for collection of signatures.

DEPUTY CITY RECORDER: * Route signed copies of documents to respective departments; * Place originals of Res. & Ord. in City Vault & Index appropriately; * Transfer FINAL Res./Ord. into appropriate City Recorder Computer Directory.

NEWBERG CITY COUNCIL MEETING INFORMATION

Kathleen Bochar
Prepared by:

DATE of Meeting: *11/26/00*

Councilors	Roll Call	Res/Ord # Topic:	Res/Ord # Topic:	Res/Ord # Topic:	Res/Ord # Topic:	Res/Ord # Topic:	Res/Ord # Topic:	Res/Ord # Topic:	Res/Ord # Topic:	Res/Ord # Topic:
STEWART, Bob, Mayor	✓	<i>jurisdiction</i>								
ANDREWS, Bob	✓	<i>YES 1</i>								
BOYES, Mike	✓	<i>YES</i>								
CURRIER, Roger	✓	<i>YES</i>								
NELSON, Dawn	✓	<i>YES</i>								
McBRIDE, Mike	✓	<i>YES</i>								
SOPPE, Robert	✓	<i>YES 2</i>								
ROLL CALL VOTES		YES: <u>6</u> NO: <u>0</u> Absent: <u>0</u> Abstain: <u>0</u>	YES: <u> </u> NO: <u> </u> Absent: <u> </u> Abstain: <u> </u>	YES: <u> </u> NO: <u> </u> Absent: <u> </u> Abstain: <u> </u>	YES: <u> </u> NO: <u> </u> Absent: <u> </u> Abstain: <u> </u>	YES: <u> </u> NO: <u> </u> Absent: <u> </u> Abstain: <u> </u>	YES: <u> </u> NO: <u> </u> Absent: <u> </u> Abstain: <u> </u>	YES: <u> </u> NO: <u> </u> Absent: <u> </u> Abstain: <u> </u>	YES: <u> </u> NO: <u> </u> Absent: <u> </u> Abstain: <u> </u>	YES: <u> </u> NO: <u> </u> Absent: <u> </u> Abstain: <u> </u>
Department:		<i>Public Works</i>								
CHANGES: (Yes/No)		<i>NO</i>								

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COPPERGOLD
INC.

COPPERGOLD REAL ESTATE ★ COPPERGOLD HOMES ★ COPPERGOLD DEVELOPMENT

February 6, 2006

Newberg City Council
City of Newberg
414 E. First Street
Newberg, OR 97132

City Council Meeting

Date: 2/6/2006

Re: Res. 2006-2617

No: _____

Dear Mayor and Council:

I am writing to ask that you extend the time period set for receiving Requests for Proposals regarding the downtown "gateway" property.

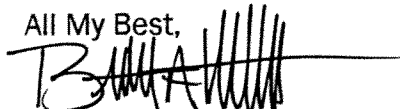
As long-time citizens of Newberg and deeply rooted in the community, we have a special attachment to downtown. We own other commercial property in the Central Business District and would like the opportunity to submit a proposal for this site.

We've seen downtown evolve as Newberg has grown and changed. These unique experiences allow us a different perspective on creating a vision for how this site—the entrance to our Central Business District—might effectively transition from the more urban development East of River Street to the "historic flavor" that downtown presents.

While we realize that the Economic Development coordinator had contacted a few developers and on previous occasions advertised in *The Newberg Graphic* noticing the RFP, we were not individually contacted. We were also out-of-town at the time of noticing. Unfortunately, we did not learn of the RFP until the notice of this evenings meeting, with its large map, was advertised.

We are not unsympathetic to the fact that extending the RFP time-frame will cause inconvenience to the parties. However, in light of the limited response, it seems that it would be in the best interests of the City and its citizens to accommodate the submission of another proposal. The City has but few opportunities to help guide and involve itself in important downtown projects. This may be an instance where taking the time to ensure that all available options have been considered is worthy of the effort.

All My Best,



Brett A. Veatch





City Council Meeting

Date: 2/6/2006

Re: Res. 2006-2617

No: _____

COPPERGOLD REAL ESTATE ★ COPPERGOLD HOMES ★ COPPERGOLD DEVELOPMENT

BACKGROUND INFORMATION

The shareholders that make up CopperGold, Inc. have nearly fifty years combined experience in real estate brokerage and development—much of that here in Newberg first as owners of Coldwell Banker Roger Veatch & Associates, then Coldwell Banker Professional Group.

We first participated in developments right here in Newberg, later actively developing in Central Oregon and other locations.

CopperGold Homes, the construction arm of CopperGold, Inc., has operated since the mid 1990's. Many projects involved large custom homes, although we have also managed commercial projects and residential & commercial renovations, throughout Newberg, Sherwood, the greater Metro area & Central Oregon.

The skills and abilities to successfully orchestrate a project worthy of the GateWay site are present and so is our team of local professionals, sub-trades and materials suppliers which we depend upon.

The funds for acquisition of the site are available, set-aside in an account that can be deposited in escrow immediately, should CopperGold, Inc. be awarded this opportunity.