

CITY OF NEWBERG  
CITY COUNCIL WORK SESSION

MONDAY, AUGUST 7, 1995

**6:00 P.M.**

**PROVIDENCE NEWBERG HOSPITAL**

THE CITY COUNCIL OF THE CITY OF NEWBERG WILL HOLD A WORK SESSION TO REVIEW THE AUGUST 7, 1995 COUNCIL AGENDA ITEMS. NO ACTION WILL BE TAKEN ON THE AGENDA ITEMS.

THE WORK SESSION WILL BE FOLLOWED BY THE CITY COUNCIL MEETING TO BE HELD AT NEWBERG PUBLIC LIBRARY, AT 7:00 P.M.

DATED THIS 24TH DAY OF JULY, 1995.

DUANE R. COLE  
CITY MANAGER

\WSNOTE

Council accepts comments on items during the meeting. Please fill out a blue card and identify the item you wish to speak on and hand this in to the Mayor prior to the meeting. (The exception is formal land use hearings which require a specific public hearing process. The agenda's items will be identified at the meeting.)

**CITY OF NEWBERG  
CITY COUNCIL AGENDA  
AUGUST 7, 1995  
7:00 P.M.**

**PROVIDENCE NEWBERG HOSPITAL  
CONFERENCE ROOMS 3, 4 & 5**

**I. CALL MEETING TO ORDER (*Pledge of Allegiance*)**

**II. ROLL CALL**

**III. CONSENT CALENDAR:**

1. Approve minutes from Regular Council meeting held on June 5, 1995; Special Council meeting held on June 26, 1995.

**IV. PUBLIC HEARING:**

1. Continue public hearing on a request of a vacation of a 10 foot in width utility easement located on the eastern property boundary of that portion of Tax Lot 3220AA-201 south of Hayes Street; and vacation of a 30 foot in width utility easement located on the eastern property boundary of Tax Lot 3220AA-200 south of Hayes Street.  
**Ordinance No. 95-2413** vacating the north-south utility easement on the eastern property boundary of Tax Lot 3220AA-200 and 3220AA-201 south of Hayes Street within the corporate city limits of Newberg, Oregon.

**V. COMMITTEE RECOMMENDATIONS:**

**VI. CONTINUED BUSINESS**

1. **Ordinance No. 95-2407** amending Ordinance No. 1593, Section 21 (3) reference to correct motor truck ORS definition number, adding truck tractor, and establishing a permit process to allow motor trucks and truck tractors to park in specified areas.

VII. NEW BUSINESS

1. Appointment of Library Board Member to replace Richard Gehrts:  
Hardie Rollins  
Linda Sartwell
2. Presentation of Award of Financial Reporting Achievement to Katherine Tri, Finance Director and Diane Padilla from the Government Finance Officers Association of the United States and Canada.
3. Presentation by Frank Douglas, Emergency Medical Services Coordinator on the status of the EMS Division in the City.
4. **Resolution No. 95-1920** approving a Financing Agreement whereby United States National Bank of Oregon provides the financing needed by the City to fund the acquisition of certain equipment for use by the City in its governmental operations; and authorizing the execution and delivery of the Financing Agreement and other matters pertaining thereto.
5. **Resolution No. 95-1921** authorizing the City Manager to sign amendments to the City of Newberg general employees retirement plan.
6. **Resolution No. 95-1922** resolving the Circuit Court Case, City of Newberg V. Daniel Scully, (Case No. CV 94-213), by accepting a general release, settlement agreement and covenants; authorizing the City Manager to sign the settlement agreement; and authorizing the City Attorney to obtain the final judgment in the case.
7. **Resolution No. 95-1923** authorizing the City to apply for a grant under the Petroleum Antitrust Settlement Grant Program.
8. **Resolution No. 95-1924** identifying the City's transportation projects which should be included in the State Transportation Improvement Plan (STIP).
9. **Ordinance No. 95-2414** amending Ordinance No. 1557 by broadening the definition of discarded vehicles and declaring it a public nuisance for the accumulation of discarded vehicles upon public property as well as private property.

**CITY COUNCIL AGENDA - AUGUST 7, 1995**

10. **Ordinance No. 95-2415** amending Ordinance No. 1593 by providing that the City may utilize the Oregon Revised Statute method of removing vehicles which are stored or abandoned on public right-of-way.
11. Endorse an agreement between STX, Oregon and appellant Sid Friedman regarding infrastructure and the provision of City services.
12. Motion to deny the request to initiate a vacation of a twelve (12) foot wide alley located in the center of the block bounded by Willamette Street, Chehalem Street, Eighth Street, and Ninth Street due to lack of property owner consent.
13. Motion to appoint up to two Council members to attend the National League of Cities Conference in Phoenix, Arizona.

**VIII. REPORTS FROM OTHER AGENCIES AND CITY MANAGER**

1. Report from the Chamber of Commerce Visitors Center.

**IX. COMMUNICATIONS FROM THE FLOOR:**

**X. EXECUTIVE SESSION:**

1. Executive Session pursuant to ORS 192.660(1)(a) Relating to personnel matters.

**XI. ADJOURNMENT TO NEXT MEETING**

**INDEX OF ORDINANCES ON THIS AGENDA FOR ACTION:**

**RESOLUTIONS:**

1. **Resolution No. 95-1920** approving a Financing Agreement whereby United States National Bank of Oregon provides the financing needed by the City to fund the acquisition of certain equipment for use by the City in its governmental operations; and authorizing the execution and delivery of the Financing Agreement and other matters pertaining thereto.
2. **Resolution No. 95-1921** authorizing the City Manager to sign amendments to the City of Newberg general employees retirement plan.

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4. **Resolution No. 95-1923** authorizing thee City to apply for a grant under the Petroleum Antitrust Settlement Grant Program.

5. **Resolution No. 95-1924** identifying the City's transportation projects which should be included in the State Transportation Improvement Plan (STIP).

**ORDINANCES**

1. **Ordinance No. 95-2407** amending Ordinance No. 1593, Section 21 (3) reference to correct motor truck ORS definition number, adding truck tractor, and establishing a permit process to allow motor trucks and truck tractors to park in specified areas.

2. **Ordinance No. 95-2413** vacating the north-south utility easement on the eastern property boundary of Tax Lot 3220AA-200 and 3220AA-201 south of Hayes Street within the corporate city limits of Newberg, Oregon.

3. **Ordinance No. 95-2414** amending Ordinance No. 1557 by broadening the definition of discarded vehicles and declaring it a public nuisance for the accumulation of discarded vehicles upon public property as well as private property.

4. **Ordinance No. 95-2415** amending Ordinance No. 1593 by providing that the City may utilize the Oregon Revised Statute method of removing vehicles which are stored or abandoned on public right-of-way.

**MINUTES OF THE NEWBERG CITY COUNCIL**

**JUNE 5, 1995**

**7:30 P.M.**

**PROVIDENCE NEWBERG HOSPITAL  
CONFERENCE ROOMS 3, 4, & 5**

**I. CALL MEETING TO ORDER:**

Mayor Proctor called the meeting to order

**II. ROLL CALL**

**Roger Currier (RC)  
Donna McCain (DM)  
Deborah Sumner (DS)  
T. Dan Wollam (TDW)**

**Alan Halstead (AH)  
Dave McMullen (DMc)  
F. Robert Weaver (RW)  
Don Wright (DW)**

**STAFF**

**PRESENT: Duane R. Cole, City Manager (DRC)  
Terrence D. Mahr, City Attorney (TDM)  
Robert Tardiff, Police Chief  
Peggy R. Hall, Assistant City Recorder  
Greg Scoles, Community Development Director  
Larry Anderson, Engineering Department  
John Knight, Planning Director**

**OTHERS**

**PRESENT: Pat Haight, Tony Pruitt (Video Imagery)  
Mike Rex, Mike Cook, Diane Nave, Mike Olberding, Tom Rickert, Jerry  
Brown, Mitchell Herrington, Jack Miller, Dale Schatz, Marc Willcuts,  
Roger Worrall, Johann F. May, Jim Morrison, Brett Boysen, Elvern Hall**

**III. CONSENT CALENDAR:**

1. Approve minutes from Work Session and Regular meeting held on May 15, 1995, and Joint meeting of County Commissioners and City Council held on May 16, 1995.
2. Proclamation declaring June 14, 1995 as National Flag Day.

**MOTION: AH/TDW to approve the consent calendar. (Unanimous). Motion carried.**

**IV. PUBLIC HEARING:**

1. Public hearing regarding annexation and zone change of a 50 ft. by 65 ft. parcel within the Urban Growth Boundary from a County LDR/6,750 to a City R-2 Medium Density Residential Zone and withdrawal from the Newberg Rural Fire Protection District. - **Ordinance No. 95-2409**  
File No. ANX-1-95  
Location: 1701 E. Eleventh St.

TDM stated that this would be a legislative hearing process. Anyone having objections to jurisdiction or any of the Council members hearing this issue, should speak now. Failure to raise this issue at this time may preclude you from raising the issue at the appellate court. The proponents should address the criteria. The Council members will review this information.

Mr. Greg Scoles, Community Development Director, stated that this is an annexation issue. Small parcel of 50 x 65 adjacent to Millview Subdivision (across from the Smurfit Mill). There are no dedications provided. The Planning Commission reviewed this matter and supports the Council's decision in approving the Ordinance. The City staff's recommendation is to follow the Planning Commission's recommendation and approve the annexation.

Mike Rex, 2933 Lane Court, McMinnville, stated that he was speaking on behalf of the proponent. They have met all requirements set by the City and he encouraged the Council to vote in favor of the annexation.

Mayor Proctor declared that there were no opponents present.

**MOTION:** AH/DW to close public hearing. (Unanimous). Motion carried.

**MOTION:** AH/DW to read **Ordinance No. 95-2409** by title only. (Unanimous). TDM read **Ordinance No. 95-2409** by title only with the corrections in adding the tax lots numbers to the Ordinance. (Unanimous).

2. Public hearing regarding annexation and zone change of a .75 acre parcel within the Urban Growth Boundary from a County VLDR1 to a City R-1 Low Density Residential/GH General Hazard Zone and withdrawal from the Newberg Rural Fire Protection District. - **Ordinance No. 95-2410**  
File No. ANX-2-95  
Location: 1970 N. Main St.

Mayor Proctor called for ex parte contacts, conflicts of interest, etc. There were none. TDM stated that this was a quasi-judicial hearing on an annexation and zone change. The development is for residential purposes. Any objections to jurisdiction should be made now or it could be waived at LUBA. No Council member has declared a conflict of interest and all intend to vote on the matter. The criteria should be limited to the annexation issues as

mentioned in the staff report. Mayor Proctor stated that no proponents or opponents were present.

Mr. Greg Scoles, Community Development Director, stated that the City's Comprehensive Plan has the designation for this parcel as low density residential and general hazard. The property is contributory to Chehalem Creek. There is a requirement for a dedication of an additional 30 feet along N. Main Street. The parcel encroaches along N. Main Street. The applicant has been advised of this dedication which must be done prior to annexation. The applicant has not at this time supplied the dedication so the Council could continue this issue to the next City Council meeting to consider approval or denial of the annexation. Councilor DW asked whether or not the Council could approve the annexation contingent upon the granting of the 30 feet dedication. Discussion was held on this issue. Councilor RW stated that it would be best to postpone to the next Council meeting.

Councilor DM stated that Crestview Drive continues to N. Main Street and Chehalem Drive. There is quite a bit of activity in that area. This property is at a dead end of Crestview Drive and it may be that the City may not choose to continue that street at some future time. Mr. Scoles agreed that it does not show an extension of Crestview at that location. There is no criteria at this time concerning the current policy. Councilor DS inquired about the protection of Chehalem Creek and the 20% slope rule. Discussion was held concerning restrictions, overlay and proposed changes. Councilor RC stated that the same situation is created on the west sign of N. Main Street. The County has property across from the park (Jaquith Park fields). Discussion was held concerning improving the roads, water mains and private water zones. Mr. Scoles noted that the subject property is currently within the city limits. All properties surrounding the subject property is low density residential (LDR). All are within the Urban Growth Boundary (UGB).

**MOTION:** DW/RW to table this matter to the next City Council meeting (June 19, 1995). (Unanimous). Motion carried.

Mr. Mike Cook, 13050 SW Walnut, Tigard, stated that he is an authorized representative of Mary Carlson. The property owners utilizes many city services (fire, police, schools, city streets, etc.) They would like to hook up to City services. If the City decides to wait for all property owners to come in before doing anything, it may take some time. Mr. Cook recommended that the City allow this property be taken into the City. This is 3/4 of an acre with a creek. The applicant has met all criteria and requirements.

Discussion was held concerning the 30 foot dedication (from center of street). Councilor DW asked TDM whether the Council could continue the matter and leave open the public testimony portion. TDM stated that the Council could close the public hearing which would be the most efficient and refer the matter back to staff for negotiating with the property owners.

Mayor Proctor closed the public hearing.

**MOTION:** DW/RW to table **Ordinance No. 95-2410** until the June 19th meeting.  
(Unanimous). Motion carried.

3. Consideration of a change in ownership to operate a package liquor store at 2113 Portland Road - Everybody's Market.

City Attorney TDM provided the staff report and background. Mr. Mahr noted that this was a new licensee application (Tobacco Everybody's Market) and that the prior licensee Everybody's Market is still being investigated through OLCC. The application is before the Council because the City recommended that the prior license not be renewed. In the meantime, the present owner of the business has entered into a sales agreement to sell the business. As part of that process, the new owners (Applicants) are asking for approval of their liquor license (beer and wine). The City Manager has indicated that he does not recommend approval. The City Council must consider a number of things: actions and events at the market, the qualifications of the new owners, the owners' likelihood of successful operation of the business, and other matters pertaining to the liquor license (improper or illegal activity). This is a public hearing and the Council can take in public testimony. The applicants have received the information that is before the Council. Discussion was held concerning the prior owners and the potential relationship that they may have with the applicants. Mr. Mahr also stated that two OLCC representatives were in attendance. Mr. Mahr stated that the applicants have requested a continuance of the hearing in order to address the questions or comments presented or to be presented at this meeting. This is not a quasi-judicial hearing wherein the Council members may have had some contact with the market or members of the public concerning this matter. The Council members have indicated that there is no conflict of interest. This is a legislative hearing.

Diane Nave, 905 Hulet, Newberg, Oregon, addressed her concerns which is a culmination from neighborhood watch meetings. It is the intent of the group to identify problems and issues involved in the market (safety, vandalism, crime, loitering, trashing the neighborhood with debris, etc.). As a result of these meetings, 17 families from the Hulet Street area have attended meetings and discussed other issues as well as Everybody's Market. Ms. Nave stated that the market appears to be a hang-out for teenagers. Minors have been able to purchase beer and tobacco at the market. They have noticed gang activity in front of the store. Ms. Nave related some instances concerning neighbors witnessing illegal activities going on in front of the market. Ms. Nave further stated that they wish not to put a business out of business, many families use the market to purchase milk, pop, etc., but the behavior should not be tolerated.

Mike Olberding, 23251 NE Fulquartz Landing Road, Dundee, stated this daughter purchase alcohol at the market. Mr. Olberding stated that he had concerns about how the market appears to be circumventing the rules of OLCC with the transfer of ownership. Mr. Olberding requested that the Council not recommend renewal or approval of the license.

Mr. Tom Rickert, 801 Pinehurst Drive, Newberg, stated that he used to go to the market. Mr. Rickert asked his son if he tried to buy beer at the market and was told that he

could not buy it. Mr. Rickert stated that the market or the owners should not be judged by the kid problems. Mr. Rickert also stated that he has observed kids asking adults to purchase beer for them. He did not see any successful attempts. The City should not blame the owners. It is a fine business. The City should let them try and get established in right order and let them get going.

Mayor Proctor asked for any further comments from the audience. There were none.

Mr. Mark Sherman, attorney for applicants (Fakeer Rahim and Habib Nasire), 2410 McDonald Lane, PO Box 483, McMinnville, Oregon 97128. Mr. Sherman stated that he got involved in the case at a late period (first obtained the materials before Memorial Day). He had not had an opportunity to respond and formulate written responses and would request that the hearing be continued in order for him to so respond. Mr. Sherman stated that it was the intent of the purchasers (applicants) to operate the business as a law abiding business. The applicants have no economic or other incentive to sell to minors or break the law.

Councilor DW stated that he had questions concerning the applicants. Councilor DM asked whether there was any relationship between Wahid Mahmood and Habib Nasire due to the name's being the same. Mr. Sherman stated that the names were Mahmood and Mohamad. Councilor McCain stated that she was concerned with Fakeer Rahim cited for selling beer to minors in 1990 and 1994. Mr. Sherman stated that the 1990 case has never gone to trial due to officer no longer with the City and the 1994 case Mr. Rahim was found not guilty.

Councilor RC stated that it was suggested to the previous owner to remove stickers, blinds and posters from the windows at the market. This has not been done. Mr. Sherman stated that the new owners would be willing to remove them.

Discussion was held concerning Wahid Mahmood and his affiliation with the applicants and what business arrangements were made for the transfer of the business (blood or marital relationship?) Councilor TDW further inquired about what business relationships they presently have or have in the past with the prior owner.

Mr. Sherman stated that he talked with Mr. Mahmood and that he would not have any future role in the ownership or management of the store. Mr. Sherman stated that he was unclear whether or not Mr. Mahmood would have any further role in the future of the store, or any other financial arrangement. He was not familiar with the case at this time and he would have to confer with his client(s).

Councilor RC stated that at page 116 through page 118 (OLCC application - financial statement) that the applicants list no liabilities. Do the applicants have any bills? Don't they owe anything anywhere? Discussion was held concerning clarification of the ownership and financial commitment the owner has to have to get a liquor license.

Ms. Judy Brejle, licensed investigator with OLCC, stated that OLCC requires that the

applicants show enough money to get into the business (down payment and licensing fees).

City Attorney Terrence D. Mahr asked the following questions:

1. The City has received a copy of the purchase agreement for the sale of the business - \$13,000 for equipment with only \$1,000 down. The seller is listed as Wahid Mahmood. What assurances does the City have that the purchasers will default and Wahid would take over the business against due to the applicant's little or no equity invested? The purchase price did not include inventory. What about the inventory? Wahid Mahmood's license had been cancelled and ordered off the premises. He came back into the business to take it over from his sister which is also represented by documents the City has in its possession. What assurances does the City have that the amount is paid off and Wahid Mahmood has no interest in the business? What documentation do you have?
2. Concerning financial statements, the applicants list no liability on the part of Tobacco Everybody's Market's trade name. The financial statements of Habib Nasire and Fakeer Rahim do not reflect their net worth in order to be liable for the business. It appears that the only remedy would be for Wahid Mahmood to go back into the business and take it over.
3. In the OLCC application, the work history for each person (in particular Habib Nasire) does not list any work experience at Everybody's Market. TDM stated that he spoke with Joyce (last name unknown) and she indicated that he had been working there for five years.
4. Concerning Fakeer Rahim, he has been involved in two alleged liquor violations some time ago (selling to minors and visibly intoxicated persons). Mr. Rahim was also not truthful with the police officer concerning these allegations. The second matter went to District Court. (The case was proved beyond the preponderance of the evidence, but no proof in the allegation). Can Fakeer Rahim be eliminated as a new owner? The City may have less concerns if that is the case.

Mr. Sherman stated that he welcomed the opportunity to respond in writing the City's questions.

5. On one of the applicants to the Department of Agriculture, Mr. Fakeer Rahim listed himself as the owner of Everybody's Market (04/94). Mr. Rahim did not apply for a change of ownership until 1995. Aren't there requirements that these should be disclosed to OLCC. It reflects some indication that there is hidden ownership (not receiving wages and not listed as employee - sweat equity?)

Mr. Sherman stated that both Rahim and Habib speak English and they could possibly clarify the questions and respond. The connection of the middle name of Mohamad and not Mahmood has been taken care of. Mr. Sherman stated that he wished to clarify the issues and have an opportunity respond.

Mr. Fakeer Rahim, 4125 NE 81st Avenue, Portland, Oregon 97218, says that the Market is in the business of selling cigarettes and alcohol (beer and wine). The parking lot debris has improved. The parking lot is a lot cleaner than some people's houses. He cannot take care of the daughter that attempted to purchase alcohol. They do ask for proof and check ID.

Councilor DW questioned that in the OLCC application, under the section pertaining to liquor industry, the question was "... presently or have you formally been in the liquor business?" The response was "no".

Mr. Habib Nisere, 15305 SE Electric, Beaverton, Oregon, stated that they have installed a video camera and the videos are available to view.

Councilor DW asked whether Mr. Nasire was presently working at the store and when did he start. Mr. Nasire stated that he does work at the store. Councilor DW stated that the application does not reflect him working at the store. Councilor DW further asked questions of Mr. Nasire concerning the application and financial responsibility, ability to speak English, problems in the past, previous owner problems, not fully understanding the liquor laws of the State of Oregon. Mr. Nasire stated "yes".

Councilor DW further asked questions concerning the verifiable financing for the business. Under assets listed, it appears that there are very little tangible assets. Questions arise whether there would be enough equity to not have them lose the business to the prior owner. Mr. Habib Nasire stated that he works for Papa Hayden and that they met at Portland Community College and formed a partnership. Both applicants stated "no" that they were not employed in the liquor business even though both have worked in the market.

Ms. Judy Brejle (OLCC) stated that most licensees would answer no because they may have worked in it, but did not own it. Ms. Brejle stated that they generally don't get too upset when this question is answered incorrectly.

Councilor RC stated that question number 17 relates to receiving warnings, notices or revocations, etc. Mr. Sherman stated that Mr. Rahim was found not guilty in 1994 and the 1990 case never went to trial.

Councilor DW stated that in previous testimony presented, the sales percentages for the sale of alcohol was small (around 15%). Mr. Sherman stated that he would check the records.

Councilor TDW asked whether \$13,000 was the total amount for the complete consideration and sale of the business. Mr. Sherman stated that yes it was.

Mr. Habib Nasire stated that he has a lot of work to do on the store, that he will remove the stickers, etc., take care of the problems. Mr. Nasire stated that he paid \$60,000 for the liquor license. TDM asked whether he already owns the inventory. Mr. Nasire stated that yes he already owns the inventory. Mr. Sherman asked Mr. Nasire whether there was anything else owed to Wahid Mahmood. Mr. Nasire said yes that he had to pay him more.

Councilor TDW asked whether he was paying anything more to anyone else or was the sales agreement the only document?

Mr. Tom Rickert stated that Mr. Nasire thought he only had to pay \$13,000 and also money for the liquor license to Wahid Mahmood. He was not sure whether or not he had to pay for it twice. That is what he meant. Mr. Sherman stated that he will address this in the written response.

Mayor Proctor declared a five minute recess at 8:54 p.m. The meeting convened at 9:00 p.m. Mayor Proctor asked Mr. Sherman if there were any more statements or comments. Mr. Sherman stated that he was not certain of the answers. He believes that they are paying Wahid Mahmood \$3,000 per month. They own the inventory. They are going to pay that amount for 1-1/2 years. Mr. Sherman further noted that he wished to further confer with his clients and prepare a written response to the City at a later time. TDM stated that it appears that there are things missing (documents). Mr. Sherman stated that he came onto the case quite late and he will make every effort to respond to the City's requests.

Councilor DW stated to the other Council members that it would be best to continue the oral testimony to the next meeting as well. Councilor TDW stated that he would prefer to set the matter over to the next meeting and it would give them an opportunity to think of more questions. There may be additional citizens that may have additional questions as well.

Mayor Proctor stated that the matter would be continued to the June 19th meeting.

**MOTION:** DW/AH to continue the matter to the June 19th meeting.

City Attorney TDM stated that it may difficult to have Mr. Sherman respond to the questions posed to them due to the publication of the Council agenda due Friday, June 9th. TDM noted that it would be best to continue the matter to the July 3rd meeting in order to allow Mr. Sherman to respond.

**ROLL CALL ON MOTION:** (6 Yes/2 No(DMc/RW). Motion carried.

#### **4. Everest Road/Second Street Local Improvement District**

Mayor Proctor stated that this would be a legislative hearing process. The Council will entertain a motion to authorize final design review and proceed with the bidding process. Those persons wishing to remonstrate should do so at this time. The City has received in its record remonstrances that have been filed previously. Council members will declare conflicts

of interest. Anyone objecting to the City's jurisdiction should so state.

DRC stated that this is a local improvement district (LID) for the area known as Everest and Second Street to provide public improvements. This LID would have everyone pay their fair share of the costs of the improvements. The Council received information in the packet concerning the approximate costs. The matter was noticed twice in the Newberg Graphic along with certified mail to the residents. The City has received waivers of remonstrance. They have waived the right to protest, but not to waive the cost of the assessment. The Council's action is to form the LID, modify the project as needed and send it back to staff. If the City cannot form a LID, the City would then reconsider other options. DRC further reviewed the process. DRC also noted that costs would be calculated and assessments would be based on the cost of the project (assessments may be more or less when the project is completed). Most LID costs are less than what is projected. The appeal process is directed to the Circuit Court. Property owners come into the City and sign up a bancroft loan, or pay the amount in full. 7% interest is charged on the bancroft loans. Another condition on lots is that if the lot is sold, the amount is due and payable. Payments are semi-annual with full amounts paid in full within ten years. DRC finally noted that Newberg generally does not have a history of LID development. In order to improve the City's transportation system, costs are incurred. There is no participation by Yamhill County on these types of projects.

Mr. Greg Scoles, Community Development Director, referred to this project as similar to the Emery Orchards Subdivision (1993). The project was approved and one of the prerequisites of the subdivision was that the developers initiate and ask that the LID be initiated to construct some of the street improvements. Subdivision requirements are that street improvements be constructed as part of LID. The first phase occurred in June, 1993 and subsequently more phases were done by June, 1994. A revision to the assessment district boundaries were initiated by the City Council which includes the project before the Council this evening. There are three phases of the project (Everest, Second and Third Streets). Second Street is under improved County road with some utilities. Larry Anderson has been involved in the project since the beginning and is more involved. The project consists of 66 parcels. There are concerns about the future residents dealing with these costs. The City has received waivers of remonstrance on approximately 65% of the project property owners. 60% remonstrance would kick the project out for six months. Mr. Anderson stated that he believed 7 or 8 percent have written remonstrance according to the value. The City may be receiving public testimony that may have recorded remonstrances already on the property. The City would be contributing about \$80,000 to the project. The Council would not be providing funding. A couple of other issues that have arisen at the public meetings has been concerning the engineer's report. The location of the properties that have provided waivers of remonstrance were indicated on overheads (properties along Everest, Hwy. 219 and Second Street). The project is limited on the south end of Second Street due to the need for a right-of-way. The project was stopped short of ending Phase IV. This project is beyond Phase IV.

Mr. Scoles stated that the project has been designed not to require additional dedication of street improvements. Sidewalks will not be constructed because of the lack of a right-of-

way at this time. They will be available at a later time. The mobile home park in that area has its own private road system. The loss of any frontage on Everest would be approximately a 28 foot section. There are right-of-way difficulties. There would be no parking on the east side of Everest. The narrower section would provide relief for the affected property owners.

Mr. Anderson also noted that the 28 foot section has been planned for right now. There may be problems with setbacks on the homes that are already there or will be constructed. There would also be front yard problems (24-28 feet - less of an impact on homes). Drainage improvements. They would be taking a big dip out of the roadway on the left side. There would be a natural draining course on the project. Discussion was further held concerning sewer and water lines. Mr. Scoles added that assuming that the LID would be formed, possible advertisement for bid openings would be for July and construction to run through September/October. The assessment Ordinance would also be at that time. It is projected that it would be around October, 1995.

Councilor RC stated that he did not think that the City should have done a LID. Sidewalks should be mandatory on all new construction. The contractor should be made to do them as normal rules and regulations have been done. Councilor RC also noted that these costs should be borne by the contractor and it is wrong that the City should make the property owners pay for something that a contractor is making money on the construction of the apartments. Mr. Scoles stated that the contractor is also included in the LID assessments. Most homeowners have been at the location for a number of years without having any problems. It is unfair that the City is trying to have those property owners pay for these improvements.

Councilor DW inquired about the underground utilities versus overhead utilities. Has the City looked at this problem? Mr. Scoles stated that the property owners would have to pay for the underground location. Mr. Anderson stated that the process is that PGE is paid for the depreciated value and to pay for replacement wires underground would be at the City's/property owner's cost. Under the City's franchise agreement with PGE, the City would have to pay for it. Discussion was held concerning PGE's rate increase and base.

Councilor DS stated that property owners along Second and Third Street have provided waivers of remonstrance. Mr. Scoles also noted that there is a concern about new owners have this waiver on the property that were not aware of it in the beginning. Mr. Anderson noted that it would be part of the notice at the time of the sale. The developer has side bar agreements with all property owners that participate that the developer agrees to cover the costs after the initial assessment (amounts over \$4,000) as payment on the LID.

Mr. Anderson stated that after the assessment amount is known (estimated \$6,000), the developer offered the buyers a \$4,000 assessment cap (he would pick up amounts over \$4,000). The lien would be on the property and not the developer. If the developer did not pay, it would be paid by the property owner.

Mr. Scoles noted that in the past the City has required numerous waivers of

remonstrance for projects. There has been some argument whether or not they are appropriate. Other agencies use deferred improvement agreements along with waivers of remonstrance in order not to have to go through this process in order to get the improvements done on the project. Councilor TDW asked whether or not there was a need for a future LID with the final phase of the development (another LID?), even though it is thought that there would not be an additional project. The improvements would be made with the project as it is developed.

Mr. Jerry Brown, attorney-at-law, PO Box 90, McMinnville, Oregon 97128 (472-2661), stated that he represented several people that file remonstrances against the LID (Fanger, Ewell, Schatz and Muellers). Mr. Brown stated that he understood that the City Council has no objection not to proceed with the LID based on the 60% objection filed. Mr. Brown stated that it was interesting to look at who is waiving remonstrances (people that have lived in the area for a number of years). These property owners will, as a result of this development, will have to remove shrubbery and landscaping. In addition, they are raising questions about the method of assessment. Mr. Brown reviewed the issues that have been raised: formation of LID done appropriate and fairly. It is a two year process that prejudices the property owners that have raised objections. Secondly, the assessment is being characterized as being for the benefit of all properties, including the properties on Everest. The LID being calculated on a frontage foot basis is unfair. The property owners did not ask for the development. These property owners will be hurt by this development and the LID. The staff report indicates that it would avoid condemnation. Street widening would cause some lots to be unbuildable. Landscaping will be ripped out. This project should be borne by the people that building on the property and not the ones that have lived there for years. Councilor DS asked what Mr. Brown's clients hoped would be done. Mr. Brown stated that they were concerned about the sidewalk along the east side of Everest. The existing pavement in on the landscaping for the houses. The pavement should be extended to the south. This project appears to encroach upon yards and landscaping. Mr. Brown stated that his clients wish the recommendation be that nothing happens west of the existing pavement.

Mayor Proctor called upon Mitchell Herrington. Mr. Herrington left the meeting prior to speaking.

Mr. Jack Miller, 3200 Crestview Drive, Newberg, stated that he had a few questions that he wished to be answered. Mr. Miller stated that he believes that the existing property owners did not ask that the project be placed there. Mr. Miller further stated that there was a question about noticing to the property owners. Some property owners may not have received notice. The property owners did not create the problem, why should they pay for it? Mr. Miller stated that he does not want to throw in \$11,000 of a debt for a curb going to the cemetery.

Mr. Dale Schatz, 301 Everest Street, Newberg, stated that the persons that generate the traffic should be the ones to pay for the improvements. Mr. Schatz stated that he has lived in the area for 11 years. Mr. Schatz stated that he would like to see the costs contained.

Mr. Marc Willcuts, 151 NW Cherry, Dundee, noted that he owns a home in Emery Orchard Subdivision. Coldwell Banker and the developer (NSP Development) were unable to be at the meeting but wanted to clarify that in the past meetings it was communicated that the City would pay for the costs of engineering services (overseeing the project). No more than 15% of the cost of the project. That would still be a part of the agreement.

Mayor Proctor closed the public testimony and asked for recommendations from staff. DRC stated that staff recommended the formation of the LID and authorize the receipt of bids for construction.

**MOTION:** RC/RW to approve the LID with the exclusion of the property owners on Everest Street.

Councilor RC stated that it should be part of the Emery Orchards Subdivision. Discussion was held concerning the reasonableness of the assessment and whether or not the adjacent property owners would be involved. The engineer's report indicated that the assessment would be made on a front footage basis. Mr. Scoles stated that there are a number of ways of assessing these types of projects. The City could eliminate portions of Everest Street and portions of Second and Third Streets as well. Second and Third Streets, however, are critical for this project. Councilor AH stated that the apartment complex going in south of Everest. Would the LID amendment proposal eliminate the apartment complex in that area? Councilor RC stated that the City should deal with Everest Street in a different way. Councilor AH agreed that it should be broken out as a separate entity. Discussion was held concerning increased costs due to the separation of the properties.

Councilor DM stated that in the past, it has been discussed that some streets are not wide enough for fire trucks to get through. The City needs to keep in mind this problem and be consistent throughout the City on its developments. The City should not encourage 1/2 or 3/4 streets. The motion needed to be clarified that it included the property owners that remonstrated against the LID.

Mr. Scoles noted that the projects include curbs and sidewalks. The City can modify the assessment according to the requirements needed. Discussion was held concerning the 24ft width requirement. Councilor DMc stated that he felt that it was adequate for fire vehicles.

**MOTION: (restated)** RC/ to approve the LID excluding the property owners on Everest that remonstrated on the project.

Discussion was held concerning who would be paying for the LID and the method of assessment. Councilor AH called for the question.

Discussion was held concerning issues relating to illegal assessment (not assessing some and assessing others). TDM stated that the City would pay for the balance not paid by the excluded property owners. Councilor RW stated that the developers should have to pay

for the additional costs, not the City.

Councilor RC stated that the point is that the property owners weren't correctly informed on the process and project. It appears that they were ramrodded through the process. The City screwed up by not forcing the developer to put in the streets.

Discussion was held concerning changing the boundaries on the assessment and eliminate from the district all the properties on the west side of Everest (stop the development at 3/4 down the street) along the frontage of Everest, everything west of Everest would be eliminated from the district. The apartment complex would be required to do the frontage at the time of the creation of the district. It would have a 24 foot wide pavement.

**MOTION:** DW/RC to amend the motion presented by Councilor RC to eliminate the property located on the west side of Everest, stop the development at Third Street. (Unanimous). Motion carried.

Councilor AH called for the question.

**RESTATED MOTION AS AMENDED:** (as read by TDM) Approve the formation of the Everest/Second Street LID, excluding the property on the west side of Everest, stopping at the development on Third Street, and including the apartment complex presently being constructed, pending the final engineering design review.

Discussion was held concerning the total amount for the four properties being eliminated. Mr. Scoles stated that it would be approximately \$37,000. 66 properties are involved.

**ROLL CALL ON MOTION:** (7 Yes/1 No (DMc)). Motion carried.

5. Public hearing on the proposed Development Code.

Mayor Proctor stated that the Council will not be discussing this issue at this time but that there were persons in the audience that wished to speak on the matter.

Mr. Roger Worrall, 215 N. Center Street, Newberg, a Planning Commission member, stated that he abstained from voting on the matter due to a conflict of interest, primarily because he is such a strong advocate. Mr. Worrall stated that the Development Code is vital and necessary for the community. Mr. Worrall stated that he feels that it is one of the best pieces of work done in the last three years. He urges the Council to support the adoption of the Development Code.

Mr. Johann May, 312 N. Edwards, Newberg, stated that the Council and the Planning Commission should get together and work out the problems with the Code. The City should have a moratorium on accelerated growth.

Mr. Jim Morrison, 717 E. Sheridan Street, Newberg, stated that he was concerned about the over-all development in Newberg (environmental issues). The key aspect of the comp plan is citizen involvement. The citizens want to maintain and improve the natural beauty and character of the City. They want to keep it separate from the Portland Metro area. Discussion was held concerning the City's Comprehensive Plan and visionary statement, types and procedures, quasi-judicial hearing processes, Planning Commission meetings and process, site designs, street plans, variances, adjustments, subdivisions, partitions, etc. Mr. Morrison stated that they all play an important role and have a big impact on the City of Newberg. Mr. Morrison stated that he recommends that the City Council and the Planning Commission sit down and discuss the details of the Comprehensive Plan so that both groups have a vision of where they want the City to go and grow in the next years. Public input should be allowed. Mayor Proctor indicated that the Planning Commission and the Council should get together

Pat Haight, 114 E. Hancock Street, Newberg, stated that at every City Council meeting she has seen new people being affected by hasty decisions made by the City Council. There are problems that need to be addressed. Ms. Haight stated that she had a few problems with the Development Code. Ms. Haight stated that City departments are not charging everyone the same amount. Ms. Haight noted that she had to pay \$12 for her copy of the Development Code with her friend Darla Baxter received a copy for free. Mr. John Knight indicated that he loaned Ms. Baxter his copy. This is causing problems in the community. Ms. Haight also indicated that the Fee Schedule for the Community Development Department is incorrect. It appears that there are different versions with different figures. Ms. Haight reviewed the various problems with the Development Code (grammatical, typographical and meanings).

Discussion was held concerning various meanings of the Code and home occupation permits. Additional discussion was held concerning the use of the word "Manager" being used throughout the Code. Confusion as to who was responsible. Mr. Knight clarified the Development Code copy issue. Mr. Knight indicated that there are copies to purchase, copies to be loaned out and also copies available at the Newberg Public Library.

Further discussion was held concerning the use of the word "manager", responsibilities and staff delegation.

Mayor Proctor indicated that this matter would be continued to the next City Council meeting.

#### V. COMMITTEE RECOMMENDATIONS:

1. **Ordinance No. 95-2407** amending Ordinance No. 1593, Section 21 (3) reference to correct motor truck ORS definition number, adding truck tractor, and establishing a permit process to allow motor trucks and truck tractors to park in specified areas.

TDM stated that Lt. Stan Newland stated that there have been problems. An example of a truck parking permit application was included in the Council's Friday packet. This

Ordinance deals with truck and tractor parking in areas adjacent to residential areas by a permit. Other areas in the City prohibit truck parking. The City could be able to revoke the permit upon complaints provided to the City. Discussion was held concerning what effect it would have upon the local area motels (Town & Country and Shilo). DRC stated that the real issue is that owners of trucks/tractors that reside in Newberg leave their truck/tractors parked along the streets in the residential areas. Discussion was also held concerning road improvements that would be needed due to the overload on the residential streets.

Pat Haight, 114 E. Hancock Street, Newberg, Oregon, stated that she feels that it would be additional paperwork for the City and that it should not be allowed within the City limits (residential areas). The Council needs to think about the cause and effects before passing the Ordinance. Discussion was held concerning the amount of fees to be charged for the permit. Councilor DM stated that the Ordinance came through the Traffic Safety Committee and there was no mention of a fee. TDM stated that this is not a revenue producing issue.

Lt. Stan Newland stated that the biggest problem is the trucks around Shilo. Some trailers have refrigeration units and neighbors have been complaining about this issue for a number of years. It is time consuming for the officers to continually answer these calls. It appears that some truck owners are willing to pay the parking citation rather than park at Jubitz. The City needs to address the problem as soon as possible. Lt. Newland further stated that most complaints are arising from trailers that are dropped and left for an undetermined amount of time. Councilor RW stated that it is unfair to the truck drivers themselves if the City does not provide this type of guidance. This Ordinance would help them find a location that will make everyone involved (neighbors and truck drivers/owners) happy.

DRC stated that the City of McMinnville has a similar situation. Discussion was held concerning starting with tractors only rather than tractors and trailers combined.

**MOTION:** TDW/AH to refer the Ordinance to the Ordinance/Legislative Committee for further research and input. (Unanimous). Motion carried.

**VI. CONTINUED BUSINESS:**

None.

**VII. NEW BUSINESS:**

1. **Resolution No. 95-1904** prohibiting the City from entering into any contracts or agreements for maintenance, sweeping, cleaning or doing other non-emergency work on private streets within subdivision of the City of Newberg.

Brett Boysen, 409 Lincoln Drive, Newberg, stated that in December, 1994, he contacted the City in reference to street issues (accumulation of leaves, keeping up the

appearance of the development, etc.). He discussed with Greg Scoles having the public works department of other service do the work. Mr. Boysen stated that he wished that the City would take charge and make sure the appearance is kept up.

Councilor RC stated that the problem is that they are not "public" streets and they are a planned unit development (PUD). The associations take care of maintenance, etc. Bringing up standard and code issues is another problem. Discussion was held concerning a private sweeping company come in and perform the service for \$65.00.

**MOTION: RW/RC to adopt Resolution No. 95-1904.**

Discussion was held concerning the authorization to enter into private property and perform the street sweeping work. There are budgetary constraints to be reviewed as well. Mr. Scoles stated that there have been problems from things left by the developer. Discussion was held concerning past problems that were corrected. Mr. Scoles stated that the City should not be in the business of cleaning or sweeping parking lots and not run against private enterprises.

Councilor DW called for the question.

**ROLL CALL ON MOTION: (2 Yes(RC/DW)/6 No). Motion failed.**

2. **Resolution No. 95-1913** recognizing and honoring Sandi Olmstead, recipient of the Oregon Library Association's Evelyn Sibley Lampman Award for outstanding contributions to Children's Library Service in Oregon.

**MOTION: AH/TDW to approve Resolution No. 95-1913. (Unanimous). Motion carried.**

3. **Resolution No. 95-1914** authorizing the City Manager to award the bid for the Eleventh Street water line replacement project to the lowest qualified bidder.

**MOTION: TDW/AH to approve Resolution No. 95-1914. Councilor DW stated that he withdrew his questions concerning the Resolution. (Unanimous). Motion carried.**

4. **Resolution No. 95-1915** accepting the canvas of votes for the May 16, 1995 Special Election for Fire, Library and Police levies.

**MOTION: TDW/AH to approve Resolution No. 95-1915. (Unanimous). Motion carried.**

5. **Resolution No. 95-1916** awarding the bid for the Fire Station Ambulance Bay addition to Powell Built Homes of Newberg, Oregon in the amount of \$261,706.00.

**MOTION: AH/RW to adopt Resolution No. 95-1916.**

Discussion was held concerning dropping the generator amount. Fire Chief Michael Sherman indicated that they tried to keep the obligation around \$200,000 or less in conformance with the original bids. There are several contractors involved (more competition). If the City does not get the generator through government surplus, the City would need to seek alternative funding. The bid amount would drop by \$23,000. If the City bought it outright, the cost should be around \$16-17,000.

**ROLL CALL ON MOTION:** (Unanimous). Motion carried.

**VIII. REPORTS FROM OTHER AGENCIES AND CITY MANAGER:**

1. Report from City Manager regarding the proposed speed limits along 99W between Vittoria Way and just west of Hulet Lane.

DRC stated that this matter would be set over to the July 3rd meeting.

**MOTION:** RC to table the matter to the July 3rd meeting.

DRC indicated that reduced speed would be to 5 mph between Hulet and Elliott. Mr. Scoles stated that he wanted to point out that the speed zone changed requested by the Police Chief had been reviewed by the Oregon Department of Transportation (ODOT). This is in conjunction with the HWY 99W project and how they will do the road.

**MOTION:** RW/DM to approve the recommendation. (6 Yes/2 NO(RC/DW)). Motion carried.

2. Third quarter report (January-March, 1995) for the Visitor Information Center.

Ms. Ann Pesola, Director, Newberg Area Chamber of Commerce, 115 N. Washington Street, Newberg, stated that there are quite a few activities coming in the next few months. The circus is coming to town June 20th. The Leadership Newberg seminar graduated 24 people in the two day event. City employees Bob Tardiff (Police Chief) and John Night (Planning Director) also attended.

**IX. COMMUNICATIONS FROM THE FLOOR:**

Elvern Hall, 2901 E. Second, Newberg, wanted to confirm (rumor or fact) a few things that the Mayor was doing. Mr. Hall stated that he was told that the Mayor has taken police citations to the Police Chief to have them "taken care of" for friends. Mayor Proctor stated that she does not do that but she has taken complaints from citizens to the Police Chief to investigate (police department complaints).

Mr. Hall also asked whether or not the Council (budget) approved the banners, flowers and benches, etc. that the Mayor has been buying. Did the Mayor go through the proper

channels to expend the money? Mayor Proctor stated that she discussed the beautification projects with the City Manager prior to ordering them. DRC stated that there are funds available for the beautification projects. The Public Works Department personnel are quite talented and have done a nice job on the benches and the various plantings around the City. Mr. Hall stated that the Charter appeared to not allow the Mayor to perform these tasks without Council (budget) approval. Mr. Hall finally stated that he knows what the Charter says. Mayor Proctor stated to Mr. Hall that if he had any questions or concerns he could ask her and she would be glad to discuss them. Councilor RC noted that the Mayor took on the beautification projects to get them done and beautify Newberg. She has done a nice job. Councilor RW further added that the Mayor should be commended for her work. The downtown area looks great and it is a positive move.

**MOTION:** RC/AH to adjourn at 11:43 p.m. (Unanimous). Motion carried.

Adopted by the Newberg City Council this \_\_ day of August, 1995.

\_\_\_\_\_  
Duane R. Cole, City Recorder

ATTESTED by the Mayor this \_\_ day of August, 1995.

\_\_\_\_\_  
Donna Proctor, Mayor

Monday, 7:00 p.m.

June 26, 1995

**MINUTES OF THE  
SPECIAL CITY COUNCIL MEETING**

Newberg Public Library

Newberg, OR

Mayor Donna Proctor called the meeting to order at 7:02 p.m.

In attendance were Mayor Proctor, Deborah Sumner, Robert Weaver, Alan Halstead, Dan Wollam, Roger Currier, Don Wright, Donna McCain. Absent: Dave McMullen. City staff present were City Manager Duane R. Cole, City Attorney Terrence Mahr and Gary Allen, Newberg Graphic.

Mayor Donna Proctor called the meeting into executive session pursuant to ORS 192.6601(I) activities elected officials.

The Mayor adjourned the executive session at 8:27 p.m.. The meeting was adjourned at 8:28 p.m..

cc\execmin.wpd

REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: July 19, 1995

X MOTION

RESOLUTION

DATE ACTION REQUESTED: August 7, 1995

X ORDINANCE

INFORMATION

SUBJECT:

Vacation of a 10 foot in width utility easement located on the eastern property boundary of that portion of Tax Lot 3220AA-201 south of Hayes Street; and vacation of a 30 foot in width utility easement located on the eastern property boundary of Tax Lot 3220AA-200 south of Hayes Street.

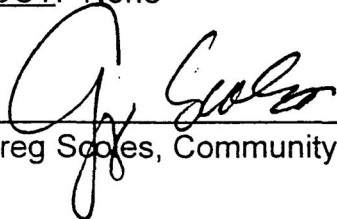
RECOMMENDATION:

Adopt ordinance 95-2413 vacating a utility easement south of Hayes Street.

BACKGROUND AND DISCUSSION:

The City has received an application requesting the vacation of the above mentioned City utility easement. On October 3, 1994, the City Council reduced the easement over Tax Lot 3220AA-201 from 30 ft. to 10 ft. The easement is unimproved and is not being used. The applicant is now requesting that the remaining 10 ft. be vacated. In May, the City Council initiated the vacation proceedings since consent was not available from all affected neighboring property owners. Since that time, SIMPCO Lands, the owner of Tax Lot 3220AA-200, has requested through Roger Veatch & Associates, Inc., their realtor, that the entire 30 ft. easement over Tax Lot 3220AA-200 also be vacated [see Map - Exhibit B]. Consent to vacate forms have been signed by all of the neighboring property owners (attached). Based on the consent to vacate forms, it appears that the neighboring property owners do not need the easement for utility purposes.

COST: None



Greg Scoles, Community Development Director



Duane Cole, City Manager

ORDINANCE NO. 95-2413

AN ORDINANCE VACATING THE NORTH-SOUTH UTILITY EASEMENT ON THE EASTERN PROPERTY BOUNDARY OF TAX LOTS 3220AA-200 and 3220AA-201 SOUTH OF HAYES STREET WITHIN THE CORPORATE CITY LIMITS OF NEWBERG, OREGON.

WHEREAS, The City Council of Newberg has initiated a vacation proceeding as authorized by ORS 271.130; and

WHEREAS, Notice was published in the Newberg Graphic Newspaper once a week for two consecutive weeks prior to the final public hearing of the City Council on August 7, 1995; and

WHEREAS, The Newberg City Council conducted a public hearing on August 7, 1995 to consider the vacation and any written objections or remonstrances; and

WHEREAS, The City Council considered whether or not the property value of the abutting properties would be substantially affected; and

WHEREAS, The City Council of the City of Newberg has considered whether the public interest will be prejudiced by the proposed vacation.

WHEREAS, The property owners have signed a consent to vacate form.

NOW, THEREFORE, THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

Section 1. The following described underground utility easement within the City of Newberg, County of Yamhill, State of Oregon, is hereby vacated:

A 10 ft. wide utility easement located on the eastern property boundary of that portion of Tax Lot 3220AA-201 south of Hayes Street.

A 30 ft. wide utility easement located on the eastern property boundary of Tax Lot 3220AA-200.

Section 2. The Findings of Fact for approval, marked as Exhibit "A" and attached to this ordinance, are hereby adopted and by this reference incorporated.

Section 3. Subject to the above provisions, the Recorder of the City of Newberg is hereby directed to file for recording with the County Clerk and Ex-Officio Recorder of Conveyances of the County of Yamhill, State of Oregon, a certified copy of this ordinance and a map of said underground utility easement (Exhibit "B") so vacated, and the Recorder is further directed to file a copy of this ordinance and a map with the Surveyor and the Assessor of said Yamhill County, Oregon, respectively.

Section 4. Title to the real property included within said rights-of-way hereby vacated shall attach to the property abutting said right-of-way, in accordance with the provisions of ORS 271.140.

Section 6. The public interest will not be prejudiced.

Section 7. The City Council has determined that no evidence was submitted into the record indicating that the property value of the abutting properties would be substantially affected.

PASSED by the Council of the City of Newberg this \_\_\_ day of \_\_\_\_\_, 1995 by the following votes:

AYES:

NAYS:

ABSENT:

\_\_\_\_\_  
Duane Cole, City Recorder

APPROVED by the Mayor this \_\_\_ of \_\_\_\_\_, 1995.

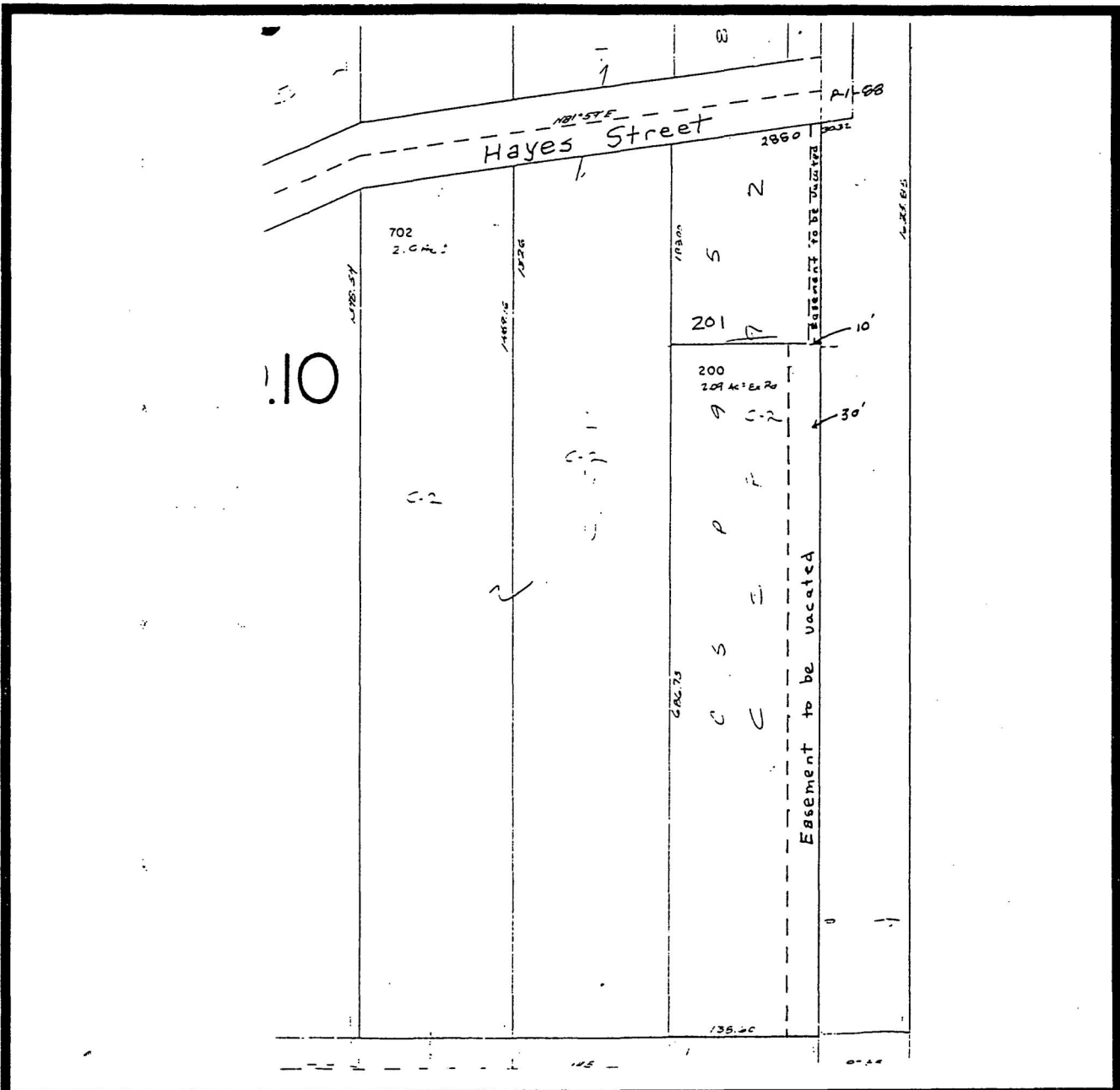
\_\_\_\_\_  
Donna Proctor, Mayor

**EXHIBIT A  
FINDINGS FOR APPROVAL  
OF AN EASEMENT VACATION**

The request satisfies the criteria of ORS 271.130 as follows:

- A. Notice has been provided in accordance with ORS 271.110. Notice was published in the Newberg Graphic for two consecutive weeks beginning July 22, 1995. In addition, notice has been posted near the site and in four public places.
- B. The abutting property owners are not affected by the proposed vacation. Written consent from the owners of the property affected have been received.
- C. The proposed vacation will not limit access to abutting properties at this time, or have a detrimental effect on their market value.

Based on the criteria, facts, and findings, the proposed vacation satisfies City standards and approval criteria.



**Description:**  
 easement vacation

**File:** VAC-1-95  
**Date:** 7-3-95

**RIGHT-OF-WAY MAP  
 EXHIBIT B**

**Tax Lot:** 3220AA-200 and  
 -201  
**Location:** On the east  
 property boundary of T.L.  
 3220AA-200 and -201  
 south of Hayes Street  
**Application By:**  
 Augustine Gonzales

CONSENT TO VACATE FORM

Printed Owner Name

Owner Signature

Address

Tax Lot

SIMPSCO LANDS

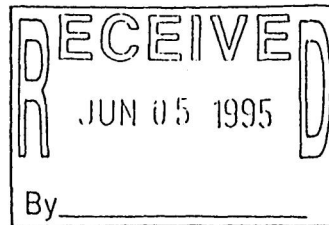
[Handwritten Signature]

2601 LAKE EARL DR  
Albion, Ca 95531

3220AA-200

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CONSENT TO VACATE FORM

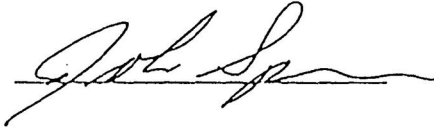
Printed Owner Name

Owner Signature

Address

Tax Lot

John Speucev



305 N. Springbrook Rd

3220-4A100

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RECEIVED  
JUN 05 1995  
By \_\_\_\_\_

Monday, July 17, 1995

Mr. J. Knight  
Planning Division Manager  
719 E. First Street  
Newberg, OR 97132

Dear Mr. Knight:

Please include my property for consideration of the vacancy of the easement over parcels 3220AA-202 and 3220AA-200 in the next City Council Meeting on August 7th, 1995. I hereby authorize you to initiate the vacancy proceedings for parcel 3220AA-200.

I understand that the procedure for vacancy is typically a two-step process. However, I was not properly noticed by the City the first time. I respectfully request that you expedite this procedure, approving of the vacancy at your August meeting.

I authorize Brett Veatch or his appointee to act as applicant in my behalf for these proceedings.

My Very Best,



Leland Simonsen  
for Simpco Lands,  
Property Owners

## REQUEST FOR COUNCIL ACTION

<b>DATE SUBMITTED:</b> July 26, 1995		<b>MOTION</b>
<b>DATE ACTION REQUESTED:</b> August 7, 1995		<b>RESOLUTION</b>
<b>SUBJECT:</b> Amendment of Ordinance No. 1593, Section 21(3)	<b>X</b>	<b>ORDINANCE</b>
		<b>INFORMATION</b>

### RECOMMENDATION:

The Council should make a policy decision. That decision is whether they wish to allow motor trucks, truck tractors and truck trailers to park on the City streets as long as the City receives no complaints. The other policy would be that the City is under no obligation to provide the public streets as a place to allow persons in the trucking business to park their equipment. Once the policy decision is made, the appropriate Ordinance amendment should be adopted.

### BACKGROUND:

1. This matter has been a subject of some discussion throughout the City. At present, our Ordinance prohibits motor trucks from parking between the hours of 9:00 p.m. and 7:00 a.m. on any street which is "in front of or adjacent to a residence, motel, apartment house, hotel or other sleeping accommodations."
2. This Ordinance has caused some problems with enforcement and complaints from residents as well as persons using trucks in their business. The last time this matter came before the Council was June 5, 1995. I have attached a copy of the Request for City Council Action to help refresh your memory. The Council referred the matter to the Ordinance/Legislative Committee for further research and input. The matter had originally been reviewed by the Traffic Safety Commission.
3. The matter was referred to the Ordinance/Legislative Committee which recommended that certain safeguards be placed in the permit process which provided for notification to permit holders if complaints were received. It also provided an appeal process to the City Council.
4. On July 10, 1995, the recommended changes were reported to the Traffic Safety Committee. The Traffic Safety Committee considered the matter, but recommends that the City enforce the provisions, disallowing truck parking in residential areas. Further, the Committee wished to prohibit truck trailers from being parked on City streets in residential areas. It was felt by the Committee that damage was done to our streets, some traffic dangers were created and it was inconvenient to residents to have this type of parking occur. The Committee further wished that the City would enforce the Ordinance and provide for escalating penalties. The Committee indicated that although last time it had been willing for a "trial run" of the permit system, they did not think that this was advisable. I am sending to the Chairman of the Traffic Safety Committee (Bob Andrews) a copy of this memo and I welcome his input.
5. I have prepared two Ordinance amendments for you to consider:
  - (a) Ordinance provides for the permit process as recommended by the Ordinance/Legislative Committee.
  - (b) Ordinance provides for the enforcement of the prohibition against parking and includes truck trailers as recommended by the Traffic Safety Committee.

I have referred both of these to the Police Department and asked them to give me any input about enforcement. I hope that input will be able to be to you in your August 4th update.

VI-1

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6. As I mentioned to the Traffic Safety Committee, the only recommendation that I would make is that whatever policy you decide, the City sticks with the policy through the enforcement phase. As I also indicated to the Traffic Safety Committee, we probably would need a "steady hand on the tiller". I am certain that no matter which policy you choose, some people will be disgruntled.

**FISCAL**

**IMPACT:** Not appropriate.

**STRATEGIC**

**ASSESSMENT:** This, of course, depends upon your view. If you eliminate the parking, it may make the residential area and town nicer. On the other hand, it doesn't accommodate some of our citizens who use trucks for a living.

*To*

\_\_\_\_\_  
Terrence D. Mahr, City Attorney

*Duane R. Cole*

\_\_\_\_\_  
Duane R. Cole, City Manager

VI-1

29

**"PROVIDES FOR TRUCK PARKING BY PERMIT"**

**ORDINANCE NO. 95-2407**

**AN ORDINANCE AMENDING ORDINANCE NO. 1593 WHICH CONTROLS VEHICULAR AND PEDESTRIAN TRAFFIC WITHIN THE CITY OF NEWBERG BY PROVIDING FOR A REVOCABLE PERMIT FOR PARKING OF A MOTOR TRUCK OR TRUCK TRACTOR IN CERTAIN AREAS OF THE CITY.**

**RECITALS:**

1. The City has received input from a number of citizens concerning the parking of motor trucks and truck tractors on public streets within the City.
2. The City has designated that on certain streets, motor truck and truck tractor parking is prohibited.
3. The City has designated that in certain areas of the City, the parking of motor trucks and truck tractors is prohibited.
4. The City wishes to allow a permit system by which motor trucks and truck-tractors can be parked in certain prohibited areas (but not on the streets that are specifically designated as no truck parking), as long as complaints are not received.

**NOW, THEREFORE,** The City of Newberg ordains as follows:

Section 1. That Section 21 (3) of Ordinance No. 1593 is hereby amended to read as follows:

"(3) A motor truck, as defined by ORS 801.355, or a truck tractor, as defined by ORS 801.575, on a street between the hours of nine (9) p.m. and seven (7) a.m. of the following day in front of or adjacent to a residence, motel, apartment house, hotel or other sleeping accommodation unless a revocable permit is obtained from the City Police Department. The permit application shall be approved by the City Manager. The permit shall be for a twelve-month period and may be renewed. In the event any complaint(s) is received from a resident or residents in the area of the parked truck, the City shall notify the permit holder of such complaints, give the permit holder a chance to respond to such complaints and after taking into consideration the complaints and response, the City Manager may revoke said permit. Such decision to revoke permit by the City Manager may be appealed within 10 days to the City Council. During such appeal the permit shall remain revoked."

Section 2. All other sections of Ordinance 1593 shall remain in full force and effect as amended.

PASSED by the City Council of Newberg this \_\_\_\_ day of August, 1995.

AYES:

NAYS:

ABSTAIN:

\_\_\_\_\_  
 Duane Cole - City Manager

ATTESTED TO by the Mayor this \_\_ day of August, 1995.

\_\_\_\_\_  
 Donna Proctor  
 Mayor

VI-1

30

**CITY OF NEWBERG  
APPLICATION FOR TRUCK PARKING PERMIT**

Applicant:		Permit No.	
Address:		Phone:	
Business Name:		Phone:	
Address:			
Vehicle	Type	License Number and State	Commercial Vehicle Yes/No
1.			
2.			

1. What is the principal use of the vehicle? \_\_\_\_\_
2. What is the primary occupation of the applicant? \_\_\_\_\_
3. If possible, give the time of the day and the location in which this vehicle will be parked in a residential area: \_\_\_\_\_

Read: City Ordinance 95-1593, Section 21, as follows:

Prohibited Parking or Standing. In addition to the State motor vehicle laws prohibiting parking, no person shall park or stand:

"(3) A motor truck, as defined by ORS 801.355, or a truck tractor, as defined by ORS 801.575, on a street between the hours of nine (9) p.m. and seven (7) a.m. of the following day in front of or adjacent to a residence, motel, apartment house, hotel or other sleeping accommodation unless a revocable permit is obtained from the City Police Department. The permit application shall be approved by the City Manager. The permit shall be for a twelve-month period and may be renewed. In the event any complaint(s) is received from a resident or residents in the area of the parked truck, the City shall notify the permit holder of such complaints, give the permit holder a chance to respond to such complaints and after taking into consideration the complaints and response, the City Manager may revoke said permit. Such decision to revoke permit by the City Manager may be appealed within 10 days to the City Council. During such appeal the permit shall remain revoked."

I certify that all information is true and correct, that I am the applicant, or if it is a business, I have the authority to sign on behalf of the business, and that I will discontinue any parking authorized under the permit if notified to do so by the city.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Name (Please Print)

Permit is:	<input type="checkbox"/> Granted <input type="checkbox"/> Denied	Chief of Police
Permit Effective Date:		Expiration Date:

**"PROHIBITS TRUCK PARKING AND TRAILER PARKING"  
PROVIDES FOR ADDITIONAL PENALTIES**

**ORDINANCE NO. 95-2407A**

**AN ORDINANCE AMENDING ORDINANCE NO. 1593 WHICH CONTROLS VEHICULAR AND PEDESTRIAN TRAFFIC WITHIN THE CITY OF NEWBERG BY FURTHER PROHIBITING TRUCK TRAILER PARKING IN CERTAIN AREAS OF THE CITY AND INCREASING THE PENALTIES FOR VIOLATION.**

**RECITALS:**

1. The City has received input from a number of citizens concerning the parking of motor trucks, truck tractors and truck trailers on public streets within the City.
2. The City has designated that on certain streets, motor truck and truck tractor parking is prohibited.
3. The City has designated that in certain areas of the City, the parking of motor trucks and truck tractors is prohibited.
4. The City wishes to further restrict the parking of truck trailers in certain areas of the City.
5. The City wishes to provide for escalating penalties for violation of the Ordinance.
6. At the July 10, 1995 Traffic Safety Committee meeting, the Committee made a recommendation to the Council that the Ordinance be amended to provide for prohibition against truck trailer parking and escalating penalties.

**NOW, THEREFORE,** The City of Newberg ordains as follows:

Section 1. That Section 21 (3) of Ordinance No. 1593 is hereby amended to read as follows:

"(3) A motor truck, as defined by ORS 801.355, or a truck tractor, as defined by ORS 801.575, or a truck trailer, as defined by ORS 801.580, on a street between the hours of nine (9) p.m. and seven (7) a.m. of the following day in front of or adjacent to a residence, motel, apartment house, hotel or other sleeping accommodation. Violation of this paragraph is subject to escalating penalties as provided in Section 44."

Section 2. That Section 44(3) of Ordinance no. 1593, dealing with penalties, is hereby amended to read as follows:

"(3) Violations of Sections 20-34, except for Section 21(3), is punishable by fine not to exceed \$50. Violations of Section 21(3) dealing with motor truck, truck tractor and truck trailer parking, shall be punishable by a fine not less than \$25, nor more than \$50 for the first offense, a fine not less than \$50, nor more than \$100 for the second offense, and a fine of not less than \$100, nor more than \$200 for the third and any subsequent offense."

Section 3. All other sections of Ordinance No. 1593 shall remain in full force and effect.

PASSED by the City Council of Newberg this \_\_\_\_ day of August, 1995.

AYES:

NAYS:

ABSTAIN:

\_\_\_\_\_  
Duane Cole - City Manager

ATTESTED TO by the Mayor this \_\_ day of August, 1995.

\_\_\_\_\_  
Donna Proctor, Mayor  
m:\legal\wp5files\Ordinance\ORD2407A.95

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**UPDATE  
AGENDA ITEM VI  
CONTINUED BUSINESS (1)  
TRUCK PARKING**

<b>REQUEST FOR COUNCIL ACTION</b>		
<b>DATE SUBMITTED:</b> August 4, 1995		<b>MOTION</b>
<b>DATE ACTION REQUESTED:</b> August 7, 1995		<b>RESOLUTION</b>
<b>SUBJECT:</b> Amendment concerning truck parking and recommendation		<b>ORDINANCE</b>
	<b>X</b>	<b>INFORMATION</b>

**RECOMMENDATION:**

The Council should make a policy decision. This new information is addressing the memo by Police Chief Bob Tardiff dated August 1, 1995 and providing you with some documents necessary to implement his request.

**BACKGROUND:**

1. In your regular packet you received Ordinance No. 95-2407 which implements a truck parking permit process for motor trucks and truck tractors. Attached was a permit that would be used.
2. The Council received in the same packet Ordinance No. 95-2407A which prohibits truck parking and provides for additional truck parking and trailer parking and for additional penalties. This is pursuant to the recommendation of the Traffic Safety Committee.
3. Police Chief Bob Tardiff wrote a memo which indicated that the Police Department was ready to implement the policy decision made by the Council. He also indicated that we should include trailers in our parking situation. I have enclosed Ordinance No. 95-2407 (with truck trailers) which implements the permit process with truck trailers included.
4. Questions and Answers:

**Question:** If the City prohibits truck and trailer parking with additional penalties (Ordinance No. 95-2407A) would that prohibit all truck and trailer parking within the City?

**Answer:** No, the Ordinance prohibits truck parking on streets between certain hours and adjacent to "a residence, motor, apartment house, hotel, or other sleeping accommodations". Therefore, the motor truck, truck tractor and trailer could be parked on other streets which were not adjacent to the above referenced areas, except for streets

specifically designed as "No truck trailer parking by other ordinances". These other streets which are specifically prohibited could and should be marked as no truck trailer parking. Of course, areas that say "no parking" prohibits all parking including motor vehicles. Yellow lines as well prohibit all parking including motor vehicles.

**Question: Under the permit system, would a driver of a truck, motor truck or truck tractor, have to have a permit to park anywhere in the City?**

**Answer:** No. The permit is only for parking in areas which are "adjacent to residences, motels, apartment houses, hotels and other sleeping accommodations". They would only apply between the hours of 9:00 p.m. and 7:00 a.m. The other areas that can presently be parked in, can still be parked in.

**Question: Does the passage of Ordinance No. 95-2407A which prohibits truck and tractor parking make it tougher on truck parking than it was before the change in the Ordinance?**

**Answer:** Yes. This Ordinance applies to truck trailers as well as motor trucks and truck tractors. It also provides for escalating penalties with minimum fine amounts. Further, once the Council clarifies this policy decision, it is the intention of the administration, through the Police Department, to enforce the policy.

**Question: Would the passage of either one of these Ordinances eliminate truck and trailer parking throughout the City?**

**Answer:** No. If the Council wishes to eliminate all truck or tractor parking on City streets, the Council would need to pass an Ordinance prohibiting all truck and trailer parking through the streets except during deliveries of specific sites. Further, the Council would have designate that it was prohibited during all times. The City should then place signs as you come into town indicating this. Similar to the indications that there are truck routes established.

#### **FISCAL**

**IMPACT:** Not known at this time.

#### **STRATEGIC**

**ASSESSMENT:** This has been addressed in the previous Request for Council Action. This would still depend upon the view the Council wishes to take.

*To*

\_\_\_\_\_  
Terrence D. Mahr, City Attorney

\_\_\_\_\_  
Duane R. Cole, City Manager



## Interoffice Memorandum

**To:** Terry Mahr, City Attorney  
**From:** Robert Tardiff, Chief of Police *RTA*  
**Subject:** Amendment of Ordinance No. 1593, Section 21(3)  
**Date:** August 1, 1995

I have reviewed the two proposals amending Ordinance No. 1593, Section 21(3). From a police department stand-point our desire would follow your comment made in section 6 of your memorandum to the City Council, that a policy decision be made regarding whether truck and/or trailers may be parked on city streets and once decided is supported by all involved, thus satisfying your reference to needing a "steady hand on the tiller."

Establishing a permit process, or an outright ban on parking such vehicles would be workable from our standpoint. If the permit process is chosen we would request that the issue of trailer parking be addressed at the same time. Most of our complaints have been regarding trailer parking, rather than commercial truck parking. The proposed permit process would still leave the policy issue regarding trailer parking unresolved and subject to change depending on whether a neighborhood or truck driver is complaining and to which city government body they are complaining (ie. Community Relations, Traffic Safety Commission, or City Council).

**Recommendation:** Amend Ordinance No. 1593, Section 21(3), establishing a clear policy on truck and trailer parking. Alternatives would include:

- a. establish a permit process for **both** truck and trailer parking on public streets
- b. prohibit truck and trailer parking as proposed
- c. prohibit truck and trailer parking, except on designated streets, as specifically established by ordinance

*from the desk of...*

**Robert I. Tardiff**  
Chief of Police  
Newberg Police Department  
414 E. First St.  
Newberg, Oregon 97132

537-1220  
Fax: 538-5393

*VI-1*

**"PROVIDES FOR TRUCK PARKING AND TRUCK TRAILER PARKING PERMIT"**

**ORDINANCE NO. 95-2407 - alternative truck trailer**

**AN ORDINANCE AMENDING ORDINANCE NO. 1593 WHICH CONTROLS VEHICULAR AND PEDESTRIAN TRAFFIC WITHIN THE CITY OF NEWBERG BY PROVIDING FOR A REVOCABLE PERMIT FOR PARKING OF A MOTOR TRUCK, TRUCK TRACTOR OR TRUCK TRAILER IN CERTAIN AREAS OF THE CITY.**

**RECITALS:**

1. The City has received input from a number of citizens concerning the parking of motor trucks, truck tractors and truck trailers on public streets within the City.
2. The City has designated that on certain streets, motor truck and truck tractor parking is prohibited.
3. The City has designated that in certain areas of the City, the parking of motor trucks and truck tractors is prohibited.
4. The City wishes to allow a permit system by which motor trucks, truck tractors and truck trailers can be parked in certain prohibited areas (but not on the streets that are specifically designated as no truck parking), as long as complaints are not received.

**NOW, THEREFORE,** The City of Newberg ordains as follows:

Section 1. That Section 21 (3) of Ordinance No. 1593 is hereby amended to read as follows:

"(3) A motor truck, as defined by ORS 801.355, or a truck tractor, as defined by ORS 801.575, or a truck trailer as defined by ORS 801.580, on a street between the hours of nine (9) p.m. and seven (7) a.m. of the following day in front of or adjacent to a residence, motel, apartment house, hotel or other sleeping accommodation unless a revocable permit is obtained from the City Police Department. The permit application shall be approved by the City Manager. The permit shall be for a twelve-month period and may be renewed. In the event any complaint(s) is received from a resident or residents in the area of the parked truck or tractor, the City shall notify the permit holder of such complaints, give the permit holder a chance to respond to such complaints and after taking into consideration the complaints and response, the City Manager may revoke said permit. Such decision to revoke permit by the City Manager may be appealed within 10 days to the City Council. During such appeal the permit shall remain revoked."

Section 2. All other sections of Ordinance 1593 shall remain in full force and effect as amended.

PASSED by the City Council of Newberg this \_\_\_\_ day of August, 1995.

AYES:

NAYS:

ABSTAIN:

\_\_\_\_\_  
Duane Cole - City Manager

ATTESTED TO by the Mayor this \_\_ day of August, 1995.

\_\_\_\_\_  
Donna Proctor  
Mayor

VI-1

**CITY OF NEWBERG  
APPLICATION FOR TRUCK OR TRAILER PARKING PERMIT**

Applicant:		Permit No.	
Address:		Phone:	
Business Name:		Phone:	
Address:			
Vehicle	Type	License Number and State	Commercial Vehicle Yes/No
1.			
2.			

1. What is the principal use of the vehicle or trailer?  
\_\_\_\_\_

2. What is the primary occupation of the applicant? \_\_\_\_\_

3. If possible, give the time of the day and the location in which this vehicle will be parked in a residential area: \_\_\_\_\_

Read: City Ordinance 95-1593, Section 21, as follows:

Prohibited Parking or Standing. In addition to the State motor vehicle laws prohibiting parking, no person shall park or stand:

"(3) A motor truck, as defined by ORS 801.355, or a truck tractor, as defined by ORS 801.575, or a truck trailer as defined by ORS 801.580, on a street between the hours of nine (9) p.m. and seven (7) a.m. of the following day in front of or adjacent to a residence, motel, apartment house, hotel or other sleeping accommodation unless a revocable permit is obtained from the City Police Department. The permit application shall be approved by the City Manager. The permit shall be for a twelve-month period and may be renewed. In the event any complaint(s) is received from a resident or residents in the area of the parked truck or tractor, the City shall notify the permit holder of such complaints, give the permit holder a chance to respond to such complaints and after taking into consideration the complaints and response, the City Manager may revoke said permit. Such decision to revoke permit by the City Manager may be appealed within 10 days to the City Council. During such appeal the permit shall remain revoked."

I certify that all information is true and correct, that I am the applicant, or if it is a business, I have the authority to sign on behalf of the business, and that I will discontinue any parking authorized under the permit if notified to do so by the city.

\_\_\_\_\_ Date

\_\_\_\_\_ Signature of Applicant

\_\_\_\_\_ Name (Please Print)

Permit is:	<input type="checkbox"/> Granted <input type="checkbox"/> Denied	Chief of Police
Permit Effective Date:	Expiration Date:	

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CITY OF NEWBERG

APPLICATION FOR CITY COMMISSIONS

NAME: Linda Sartwell

ADDRESS: 1339 NW Viewmont DR Dundee OR 97115

HOME PHONE: 538-6838 WORK PHONE: 538-8383 X2560

Are you a registered voter? Yes

Do you live within the City limits of Newberg? NO How long?

How long have you lived at the above address? 7 years

Previous Address? Salem, Ohio How long? 17 years

Occupation: Manager - Student Post Office Employer: George Fox College

Spouse's Name: Richard Sartwell

Spouse's Occupation: Pastor Employer: Newberg Friends Church

7-20-95 Date

Linda Sartwell Signature

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

As a former public school teacher, I'm still very interested in the education of all people. Since the library is an institution that is "common ground" to all ages, it is very important to keep services and resources current and available. I would like to be a part of this

PLEASE RETURN TO THE OFFICE OF THE CITY RECORDER

cc/lappl.

on going challenge.

I was a member of the Long Range Planning Committee for the Newberg Library in 1992-1993 and would again appreciate the opportunity to contribute to our Library. I would also represent the population who live outside the city limits.

Thank you!

FOR OFFICE USE

---

Position Appointed To: \_\_\_\_\_

Date of Appointment: \_\_\_\_\_ Term Ending: \_\_\_\_\_

Reappointed: \_\_\_\_\_ Term Ending: \_\_\_\_\_

Second Reappointment: \_\_\_\_\_ Term Ending: \_\_\_\_\_

Resignation or Maximum Term Date: \_\_\_\_\_

on going challenge.

I was a member of the Long Range Planning Committee for the Newberg Library in 1992-1993 and would again appreciate the opportunity to contribute to our Library. I would also represent the population who live outside the city limits.

Thank you!

FOR OFFICE USE

Position Appointed To: \_\_\_\_\_

Date of Appointment: \_\_\_\_\_ Term Ending: \_\_\_\_\_

Reappointed: \_\_\_\_\_ Term Ending: \_\_\_\_\_

Second Reappointment: \_\_\_\_\_ Term Ending: \_\_\_\_\_

Resignation or Maximum Term Date: \_\_\_\_\_

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**CITY OF NEWBERG**

LIBRARY BOARD

**APPLICATION FOR ~~CITY COMMISSIONS~~**

NAME: HARDIE R. ROLLINS

ADDRESS: 1110 S.E. CEDAR ST, DUNDEE, OR. 97115

HOME PHONE: 538-5730 WORK PHONE: 538-5500

Are you a registered voter? YES

Do you live within the City limits of Newberg? No (DUNDEE) How long?                     

How long have you lived at the above address? 24 YEARS

Previous Address? ROCK SPRINGS, WYOMING How long? APPROX. 25 YEARS

Occupation: POSTAL CLERK Employer: U.S. POST OFFICE

Spouse's Name: LORNA L. ROLLINS

Spouse's Occupation: HOMEMAKER Employer:                     

7-11-95  
Date

Hardie R. Rollins  
Signature

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

SEE ATTACHED SHEET

**PLEASE RETURN TO THE OFFICE OF THE CITY RECORDER**

cc\appl.

**FOR OFFICE USE**

\_\_\_\_\_

**Position Appointed To:** \_\_\_\_\_

**Date of Appointment:** \_\_\_\_\_ **Term Ending:** \_\_\_\_\_

**Reappointed:** \_\_\_\_\_ **Term Ending:** \_\_\_\_\_

**Second Reappointment:** \_\_\_\_\_ **Term Ending:** \_\_\_\_\_

**Resignation or Maximum Term Date:** \_\_\_\_\_

Hardie R. Rollins--Application for position on the City of Newberg Library Board.

Reasons for applying for position:

I have the highest regard for the Newberg City Library and its staff. I love to go there and avail myself of the wonderful opportunity to increase my knowledge through the reading of good books. I go there often, in fact, I spend my lunch hour at the library almost daily. The good folks who work there are so helpful and kind. What a pleasant place to have in our community. I would like to be a part of promoting and assisting in the planning and development of the Newberg Library. Our community deserves the very finest in library services. I feel that I would be willing to give my very best effort to providing those services to our community.

Thankyou for considering me for this appointment to the Library Board.

Sincerely,




Hardie R. Rollins

# Memo

Newberg Public Library 503 E. Hancock St. Newberg, OR 97132  
(503)537-1256 Fax (503)538-9720

*Agenda  
packet for  
August 17, 1995*

To: Duane R. Cole  
City Manager

From: Leah M. Griffith   
Library Director

Date: June 27, 1995

Re: Library Board Opening

We have an opening on the Library Board for a non-city resident. Richard Gehrts, who filled that position, has moved into the City and is not eligible for reappointment. The position runs to 6-30-99. I would like to announce the opening in both The Graphic and The News-Register. I also thought I would send a letter to the City of Dundee and Yamhill County announcing the opening and inviting them to recommend candidates to the City Council.

The deadline of July 21st would allow the appointment to be on the Council Agenda on August 7th. Some people may return their applications to the Library, so I will make sure they get to you by July 25th for the Council Packet that goes out the 28th. The Library Board won't be meeting in July due to vacation schedules so an August 7th appointment will work out fine.

If these press releases and letters are fine with you, give me a call and I'll send them out today. Thanks

enc. Press Release  
Letter to Mayor Cohen  
Letter to Commissioner Goecks

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GOVERNMENT FINANCE  
OFFICERS ASSOCIATION

180 North Michigan Avenue, Suite 800, Chicago, Illinois 60601  
312/977-9700 • Fax: 312/977-4806

June 23, 1995

Mr. Duane Cole  
City Manager  
City of Newberg  
414 E. First Street  
Newberg, OR 97132

Dear Mr. Cole:

We are pleased to notify you that your comprehensive annual financial report for the fiscal year ended June 30, 1994 qualifies for a Certificate of Achievement for Excellence in Financial Reporting. The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

When a Certificate of Achievement is awarded to a government, an Award of Financial Reporting Achievement is also presented to the individual designated by the government as primarily responsible for its having earned the certificate. Enclosed is an Award of Financial Reporting Achievement for: Diane Diehl Padilla, Assistant Finance Director.

The Certificate of Achievement plaque will be shipped under separate cover in about eight weeks. We hope that you will arrange for a formal presentation of the Certificate and Award of Financial Reporting Achievement, and that appropriate publicity will be given to this notable achievement. To assist with this, a sample news release and the 1994 Certificate Program results are enclosed.

We hope that your example will encourage other government officials in their efforts to achieve and maintain an appropriate standard of excellence in financial reporting.

Sincerely,

GOVERNMENT FINANCE OFFICERS ASSOCIATION

Stephen J. Gauthier  
Director/Technical Services Center

SJG/kas  
Enclosures

WASHINGTON OFFICE

1750 K Street, N.W., Suite 650, Washington, DC 20006  
202/429-2750 • Fax: 202/429-2755

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The Government Finance Officers Association  
of the United States and Canada

*presents this*

## **AWARD OF FINANCIAL REPORTING ACHIEVEMENT**

*to:*  
Katherine Tri  
Finance Director  
Diane Diehl Padilla  
Assistant Finance Director

City of Newberg, Oregon

*The Award of Financial Reporting Achievement is presented by the Government Finance Officers Association to those individuals who have been instrumental in their government unit achieving a Certificate of Achievement for Excellence in Financial Reporting. A Certificate of Achievement is presented to those government units whose annual financial reports are judged to adhere to program standards and represents the highest award in government financial reporting.*

Executive Director

Date

June 23, 1995

PRESENTATION OF THE CERTIFICATE OF ACHIEVEMENT  
FOR EXCELLENCE IN FINANCIAL REPORTING

The Certificate of Achievement for Excellence in Financial Reporting is the highest form of recognition for state and local governments. The Certificate program thereby advocates that recipients be formally recognized for their outstanding accomplishments. If you would like a formal presentation of the Certificate of Achievement plaques, you should contact your GFOA State Representative. Your representative's mailing address and phone number is as follows:

Kathy Tri  
Finance Director  
City of Newberg  
414 E. First Street  
Newberg, OR 97132

503/538-9421

40

**REQUEST FOR CITY COUNCIL ACTION**

DATE SUBMITTED: July 20, 1995

  X   Resolution

DATE ACTION REQUESTED: August 7, 1995

SUBJECT: Financing Fire Station Remodeling

RECOMMENDATION: Recommend Approval of Resolution No. 95-1920 , Financing Agreement for the Fire Station/Ambulance Remodeling

BACKGROUND: At the August 7 Council meeting the City Council will be asked to approve the financing of the Fire Station/Ambulance remodeling. The City is seeking private placement of \$195,000 through a new instrument passed by the 1995 Legislature, Financing Agreement. The Financing Agreement will save the City money and provide the needed funds in a quick and efficient manner. The agreement will be for 10 years and has been structured to fit in with projected EMS revenues.


The Finance Committee reviewed this matter at its July 25th meeting.

Fiscal Impact: The City will be borrowing \$195,000 plus financing costs through a private placement with U.S. Bank through a Financial Agreement. The average annual payment (principal and interest) will be approximately \$26,400. The agreement is for 10 years.



Duane R. Cole, City Manager

Submitted by:

  
\_\_\_\_\_  
Kathy Pi, Finance Director

\amb-fin

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# RESOLUTION No. 95-<sup>1920</sup>

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**RESOLUTION APPROVING A FORM OF FINANCING AGREEMENT WHEREBY UNITED STATES NATIONAL BANK OF OREGON PROVIDES THE FINANCING NEEDED BY THE CITY TO FUND THE ACQUISITION OF CERTAIN FIRST STATION IMPROVEMENTS FOR USE BY THE CITY IN ITS GOVERNMENTAL OPERATIONS; AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE FINANCING AGREEMENT AND OTHER MATTERS PERTAINING THERETO.**

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## **BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:**

**SECTION 1. FINDINGS.** The City Council of the City of Newberg, Oregon (the "City") hereby finds and determines the matters set forth below in this Section 1.

(A) Under ORS 271.390, as amended, the City is authorized to enter into financing agreements with financial institutions in order to obtain financing for any real or personal property that the governing body of the City determines is needed.

(B) The City needs to construct and install an addition to the existing City fire station and make various other improvements to the existing fire station building (collectively the "Improvements").

(C) The City has received a proposal from United States National Bank of Oregon (the "Bank") pursuant to which the Bank agrees to provide to the City the funds needed for the City to finance the construction and installation of the Improvements. The Bank will make such funds available to the City pursuant to a Financing Agreement under which the City will repay such moneys, together with interest thereon, over a ten year period by making financing payments to the Bank as provided in the Financing Agreement.

(D) The City desires to proceed with the acquisition of the Improvements and the financing thereof pursuant to the aforementioned Financing Agreement with the Bank.

**SECTION 2. ACCEPTANCE OF BANK PROPOSAL.** The Bank's proposal to provide financing to fund the City's construction and installation of the Improvements is hereby accepted and approved in all respect.

**SECTION 3. APPROVAL OF FINANCING AGREEMENT; AUTHORITY TO NEGOTIATE FINAL TERMS; NATURE OF CITY'S OBLIGATION TO MAKE PAYMENTS.** The form of Financing Agreement with the Bank that has been placed on file with the City Recorder in connection with the adoption of this Resolution (the "Financing Agreement") is hereby approved in substantially the form submitted. The Mayor of the City, the City Manager and the City Finance Director, and each of them acting individually, are each hereby authorized, empowered and directed to:

(a) execute and deliver, for and on behalf of City, the Financing Agreement in substantially the form approved but with such modifications, additions, deletions and other changes as, in their judgment, are necessary or appropriate and not in conflict with or violation of the requirements of law or the terms of this Resolution; and

(b) negotiate and determine the principal amount to be made available to the City under the Financing Agreement, the interest rate(s) and principal and interest repayment schedule to be applicable under the Financing Agreement, and the fee to be paid to the Bank for providing the financing; *provided that* in no event shall: (i) the true interest cost of the financing exceed 6.5%; (ii) the term of the financing exceed ten years; or (iii) the principal amount to be made available to the City exceed the amount necessary to finance the Improvements and pay the costs incurred in connection with the financing.

The obligation of the City to pay financing payments as provided in the Financing Agreement shall be an absolute obligation of the City payable from all lawfully available funds of the City, including but not limited to moneys credited to the City's general fund and any taxes authorized to be levied by the City within and subject to the limitations of Article XI, Sections 11 and 11b of the Oregon Constitution. The City hereby covenants and agrees to budget and appropriate in each fiscal year, in accordance with applicable law, sums sufficient to pay when due all amounts owing under the Financing Agreement.

**SECTION 4. FURTHER AUTHORITY.** The Mayor of the City, the City Manager and the City Finance Director, and each of them acting individually, are each hereby authorized and directed to take such action, expend such funds and execute and delivery such other documents, certificates and instruments as may be necessary or desirable to consummate the transactions contemplated by the Financing Agreement, to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of City with respect to the Financing Agreement.

**SECTION 5. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption by the City Council.

**ADOPTED BY THE CITY COUNCIL THIS 7th DAY OF AUGUST, 1995.**

---

**Duane R. Cole, City Recorder**

VII-4

49

**REQUEST FOR CITY COUNCIL ACTION**

DATE SUBMITTED: July 18, 1995

X Resolution

DATE ACTION REQUESTED: August 7, 1995

SUBJECT: Amendment to City Retirement Plans

RECOMMENDATION: Recommend adoption of Resolution No. 95-192<sup>1</sup> amending the City's General Employees Retirement Plan and Policemen and Firemen Retirement Plan


BACKGROUND: As of January 1, the City has been deducting 6% of employee wages in lieu of picking up the employee contribution for the retirement plans. In addition the deduction is on a pre-tax basis under Section 414 (h) of the Internal Revenue Code (Ordinance No. 94-2394). Even though Ballot Measure 8 is pending various legal challenges which won't be resolved until the Oregon Supreme Court makes a final determination, the City's intent is to continue the payroll deduction even if the courts' overrule Ballot Measure 8.

The attached resolution adopts amendments to the two City retirement plans to bring them into compliance with this policy.

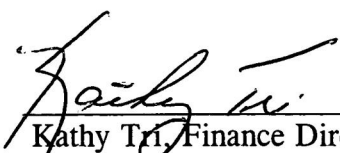
The Finance Committee recommended approval of the attached resolution at its July 25, 1995 meeting.

Fiscal Impact: The 1995-96 Budget reflects the change in the employee pick up.

In an related matter, the City has been notified by PERS that the employer rate for the City has decreased from 12% to 9.58% as of July 1, 1995. This was unanticipated due to the City being in PERS such a short time. PERS staff indicated to me that they were also surprised by the rate change. This will be a total savings of approximately \$48,000.

  
\_\_\_\_\_  
Duane R. Cole, City Manager

Submitted By:

  
\_\_\_\_\_  
Kathy Tri, Finance Director  
retire-1

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**RESOLUTION NO. 95-**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AMENDMENTS TO THE CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN**

**WHEREAS**, the City of Newberg General Employees Retirement Plan and Policemen and Firemen Plan were adopted on December 6, 1982;

**WHEREAS**, the voters of the State of Oregon adopted Ballot Measure 8 in November 1994;

**WHEREAS**, the City intends to amend the plans to comply with Ballot Measure 8;

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Newberg, that the City Manager is authorized to sign the following amendments:

- (1) Amendment No. 8 to the General Employees Retirement Plan, which is attached and made part of this resolution, and
- (2) Amendment No. 5 to the Policemen and Firemen Retirement Plan, which is attached and made part of this resolution.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 7th day of August, 1995.

\_\_\_\_\_  
Duane R. Cole, City Recorder

ATTEST:

\_\_\_\_\_  
Donna Proctor, Mayor

**CITY OF NEWBERG  
GENERAL EMPLOYEES  
RETIREMENT PLAN**

AMENDMENT NO. 8

**WHEREAS**, the CITY OF NEWBERG (the "Employer" ) restated the Plan effective July 1, 1982, to consolidate previous amendments to its Plan, to make additional changes to the Plan as to improve its general benefits and to make changes so as to comply with State of Oregon law; and

**WHEREAS**, the Employer desires to modify the Plan in such a manner as to apply IRS Code Section 414(h)(2) to pick-up mandatory employee contributions. Employees will not have the option of receiving the salary payment, and paying the employee contribution directly, and employees' reported salary on the W-2 form for purposes will be reduced by the amount of the employees' contributions.

**NOW THEREFORE**, effective on or after January 1, 1995, and in accordance with the provisions of the Plan pertaining to amendments thereof, the City of Newberg hereby amends the Plan as follows:

A new paragraph shall be added at the end of Section 3.02, the Required Participant Contributions Section on page 9 to read as follows:

Effective January 1, 1995, or as required by state law, the employer shall not make the required participant contributions for employees.

A new subsection 3.02a, Mandatory Employee Contributions, shall be added following Section 3.02 to read as follows:

Effective January 1, 1995, or as required by state law, the employer shall pick-up and pay on behalf of all employees a six percent (6%) mandatory contribution of Monthly Earnings. Such picked-up mandatory contributions shall be made pursuant to the provisions of the Internal Revenue Code, Section 414(h).

**IN WITNESS WHEREOF**, the Employer has caused this Plan to be executed by its duly appointed officers this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

**CITY OF NEWBERG, OREGON**

By: \_\_\_\_\_  
Title



**CITY OF NEWBERG  
POLICEMEN AND FIREMEN  
RETIREMENT PLAN**

**Amendment No. 5**

**WHEREAS**, the CITY OF NEWBERG (the "Employer" ) restated the Plan effective July 1, 1982, to consolidate previous amendments to its Plan, to make additional changes to the Plan as to improve its general benefits and to make changes so as to comply with State of Oregon law; and

**WHEREAS**, the Employer desires to modify the Plan in such a manner as to apply IRS Code Section 414(h)(2) to pick-up mandatory employee contributions. Employees will not have the option of receiving the salary payment, and paying the employee contribution directly, and employees' reported salary on the W-2 form for purposes will be reduced by the amount of the employees' contributions.

**NOW THEREFORE**, effective on or after January 1, 1995, and in accordance with the provisions of the Plan pertaining to amendments thereof, the City of Newberg hereby amends the Plan as follows:

A new paragraph shall be added at the end of Section 3.02, the Required Participant Contributions Section on page 9 to read as follows:

Effective January 1, 1995, or as required by state law, the employer shall not make the required participant contributions for employees.

A new subsection 3.02a, Mandatory Employee Contributions, shall be added following Section 3.02 to read as follows:

Effective January 1, 1995, or as required by state law, the employer shall pick-up and pay on behalf of all employees a six percent (6%) mandatory contribution of Monthly Earnings. Such picked-up mandatory contributions shall be made pursuant to the provisions of the Internal Revenue Code, Section 414(h).

**IN WITNESS WHEREOF**, the Employer has caused this Plan to be executed by its duly appointed officers this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

**CITY OF NEWBERG, OREGON**

By: \_\_\_\_\_  
Title

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<b>REQUEST FOR COUNCIL ACTION</b>		
<b>DATE SUBMITTED: July 24, 1995</b>		<b>MOTION</b>
<b>DATE ACTION REQUESTED: August 7, 1995</b>	<b>X</b>	<b>RESOLUTION</b>
<b>SUBJECT: Accepting the Settlement Agreement and Deed in Lieu of Foreclosure Re: Francis Theater Abatement (Daniel Scully)</b>		<b>ORDINANCE</b>
		<b>INFORMATION</b>

**RECOMMENDATION:**

The City Council should pass **Resolution No. 95-1922** which resolves the Yamhill County Circuit Court Case, City of Newberg v. Daniel Scully, (Case No. CV 94-213), by accepting a **GENERAL RELEASE, SETTLEMENT AGREEMENT AND COVENANTS**; authorizing the City Manager to sign the **SETTLEMENT AGREEMENT**; and authorizing the City Attorney to obtain the Final Judgment in the case.

**BACKGROUND:**

1. Property which is the subject of this abatement suit is commonly known as the Francis Theater and is located at 625 E. First Street, Newberg, Oregon. On March 25, 1993, an earthquake caused extensive damage to the theater. At that time, the building was owned by Francis Enterprises, Inc.
2. The owners did not wish to bear the cost of repairing the building. The owners sold the building to Daniel Scully for a nominal amount (I believe it was \$1.00). Mr. Scully's intention was to renovate the building, or demolish the building and retain the salvageable material. Mr. Scully was not able to bring his plans to fruition.
3. The City began an administrative abatement procedure against Mr. Scully. On July 7, 1994, the City of Newberg filed a complaint for abatement of a nuisance against the property owned by Mr. Scully. Subsequently, the City obtained a default judgment and an order to enter the building. The building was entered and inspected by an engineer who determined that the building needed to be completely demolished.
4. The City obtained four proposals for demolition of the building. After interviewing the contractors, S. Greg Payne Construction was contracted to demolish the building. Demolition was accomplished within the budgeted figures.
5. Mr. Scully indicated to the City that he did not wish to go further with the procedure, but wanted to deed the property to the City.

6. If the City accepts the Deed, the City would end up absorbing the cost of the demolition. Normally, the City's remedies are to place a lien upon the property and foreclose the lien. A situation where the lien is well above the value of the property, has not been faced by the City in the past. In talking with other jurisdictions, this is an unusual situation. The City needs to protect its downtown and be concerned with the safety of its citizens. To demolish the building seemed to be the only choice the City could have taken. To settle the matter in this fashion is an efficient way of ending the situation.

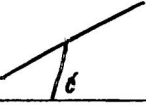
**Note:** The City Manager is writing a separate memo or making a report concerning the landscaping and future plans for the site.

**FISCAL**

**IMPACT:** \$60,000+ to the City of Newberg Economic Development Revolving Loan Fund.

**STRATEGIC**

**ASSESSMENT:** This project does continue to support the downtown by remedying a problem in the downtown area. The City wished to maintain its small town identity which would be hard to do if the downtown consisted of boarded up and half demolished buildings.

  
\_\_\_\_\_  
Terrence D. Mahr, City Attorney

  
\_\_\_\_\_  
Duane R. Cole, City Manager

**RESOLUTION NO. 95-1922**

**RESOLUTION OF THE NEWBERG CITY COUNCIL RESOLVING THE CIRCUIT COURT CASE, CITY OF NEWBERG V. DANIEL SCULLY, (CASE NO. CV 94-213), BY ACCEPTING A GENERAL RELEASE, SETTLEMENT AGREEMENT AND COVENANTS; AUTHORIZING THE CITY MANAGER TO SIGN THE SETTLEMENT AGREEMENT; AND AUTHORIZING THE CITY ATTORNEY TO OBTAIN THE FINAL JUDGMENT IN THE CASE.**

**RECITALS:**

1. On July 7, 1994, the City of Newberg filed a complaint for abatement of a nuisance against property owner Daniel Scully.
2. The property is commonly known as the Francis Theater located at 625 E. First Street, Newberg, Oregon. The complaint demanded that Scully abate the nuisance by demolishing the building and authorizing the City to place a lien against the property if the City had to abate the nuisance.
3. On August 30, 1994, the City obtained a Default Judgment and an Order of Entry for the purposes of inspecting the building and the premises.
4. On September 30, 1994, the City obtained a Supplemental Judgment which provided that demolition of the building was necessary to abate the nuisance, placing a lien on the building for \$700 which is the cost for an engineering report, and authorizing the City to place a lien against the property for all costs incurred in the demolition of the building.
5. On October 18, 1994, the City Council, by Resolution No. 94-1874, authorized the City Manager to move forward and obtain a bid for demolition work to be done on the building at 625 E. First Street, Newberg, Oregon (Francis Theater).
6. After advertising for proposals, the City received proposals from four contractors for the demolition of the building. The contractors were S. Greg Payne Construction; Northwest Demolition and Dismantling; Global, Inc.; and Stayton Construction, Inc.
7. After due consideration of all proposals, the City entered into a contract with S. Greg Payne Construction on December 30, 1994 for the demolition of the building. The total cost proposal for the demolition was estimated to be \$60,115.00.
8. On April 27, 1995, the City paid S. Greg Payne Construction Company \$60,115.00 for demolition of the building, and accepted the project as completed.
9. The Defendant Daniel Scully is the sole owner of the property and wishes to resolve the

matter and avoid any further foreclosure proceedings by entering into the Settlement Agreement.

**NOW, THEREFORE, THE NEWBERG CITY COUNCIL RESOLVES AS FOLLOWS: :**

1. The City accepts the **GENERAL RELEASE, SETTLEMENT AGREEMENT AND COVENANTS**, a copy of which is attached and hereby incorporated.
2. The City accepts the **DEED IN LIEU OF FORECLOSURE**, a copy of which is attached and hereby incorporated.
2. The City Manager is authorized to sign the **GENERAL RELEASE, SETTLEMENT AGREEMENT AND COVENANTS** on behalf of the City, and is authorized to accept the **DEED IN LIEU OF FORECLOSURE**.
3. The City Attorney is authorized to obtain the Final Judgment in the case of City of Newberg v. Daniel Scully, Yamhill County Circuit Court Case No. CV 94-213, and record the **DEED IN LIEU OF FORECLOSURE**.

**ADOPTED by the Newberg City Council this 7th day of August, 1995.**

---

**Duane R. Cole, City Recorder**

**ATTEST BY THE MAYOR this \_\_ day of August, 1995.**

---

**Donna Proctor, Mayor**

**DEED IN LIEU OF FORECLOSURE**

**DANIEL SCULLY**, Grantor, conveys to the **CITY OF NEWBERG**, Grantee, the following described real property:

All of Lot 8 in Block 13 in Deskins' Second addition to the Town (now City) of Newberg, according to the plat of said addition of record in the office of the County Clerk for said county and state, excepting therefrom 10 feet off of and from the South side of said lot, now used for street purposes; also for alley or other public uses.

This property is more commonly described as 625 E. First Street, Newberg, Oregon.

No warranties are made as to DANIEL SCULLY's rights or authorities to convey the real property described herein, or as to the boundaries, square footage or condition of the real property, which are transferred as is.

The true consideration for this conveyance is other value received and settlement of judgment in Yamhill County Circuit Court, City of Newberg v. Daniel Scully, Case No. CV 94-213.

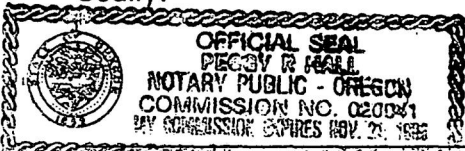
**THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.**

DATED this 21 day of July, 1995.

Daniel Scully  
Daniel Scully

STATE OF )  
County of Yamhill )ss

This instrument was acknowledged before me on the 21 day of July, 1995, by Daniel Scully.



Peggy R. Hall  
Notary Public for Oregon  
My Commission Expires: 11/21/96

**Grantee - After Recording,  
Return To / All Tax Statements:  
City of Newberg - Legal Department  
414 E. First Street  
Newberg, Oregon 97132**

# GENERAL RELEASE, SETTLEMENT AGREEMENT AND COVENANTS

## 1. Parties.

The parties to this General Release and Settlement Agreement are:

**City of Newberg,**  
a Municipal Corporation  
414 E. First Street  
Newberg, Oregon 97132

**Daniel Scully**  
P.O. Box 323  
Newberg, Oregon 97132

"City"

"Scully"

and their respective heirs, executors, representatives, assigns, elected officials, employees, insurers, agents, assigns or successors, and any and all other persons or entities connected with the City of Newberg and Daniel Scully who may be a party to this agreement.

## 2. Background and Purpose.

**2.1 Background.** The former structure on the property located at 625 E. First Street, Newberg, Oregon, had sustained earthquake damage from an earthquake on March 25, 1993. Because of the damage, the building was declared a dangerous building under the terms and provisions of the City's ordinances. The condition existed on January 24, 1994 when Mr. Scully was notified with a Notice and Order to Abate and also existed on February 22, 1994 when the hearing was held before the City Council and the building was declared to be a public nuisance. The City filed in Yamhill County Circuit Court a complaint for the abatement of that nuisance. The City obtained judgment against Daniel Scully on August 30, 1994, and a supplemental judgment on September 30, 1994.

**2.2 Purpose.** The purpose of this Agreement is to resolve, and the parties do hereby resolve, fully and finally, any and all City's claims against Scully arising from the Yamhill Circuit Court lawsuit City of Newberg v. Daniel Scully, Case No. CV 94-213.

## 3. Release.

**3.1 General Release.** City hereby releases Scully, and Scully hereby releases City, from any and all claims, demands, actions or causes of action, whether known or unknown, whether past or future, arising from Yamhill County Circuit Court lawsuit City of Newberg v. Daniel Scully, Case No. CV 94-213.

**3.2 Release Valid Regardless of Future Discovery of New or Different Facts.** Scully acknowledges and he is aware that City may discover facts different from or in addition to the facts that are known or believes to be known with respect to the nuisance

abatement which is the subject of this the lawsuit which is stated in this Agreement. The City and Scully do fully, finally, absolutely and forever settle any and all claims, disputes or actions that now exist or may exist between the parties as to the lawsuit. This Agreement shall operate as a full and complete general release of the parties.

**4. Consideration for Settlement.**

Upon execution of this Agreement, Scully shall execute and deliver to City a Deed in Lieu of Foreclosure, transfer and releasing the above referenced property to City. Scully authorizes the City to record said Deed. This transfer constitutes the settlement of all claims, demands or actions that may be asserted against Scully by City, and any and all claims, demands or actions that may be asserted against City by Scully, including, but not limited to, the release of any personal judgments against Daniel Scully. City and Scully jointly express and waive any claim for request for costs or attorney fees arising out the nuisance abatement lawsuit.

**5. Settlement Agreement - Legal Counsel.**

The City of Newberg at all times has ben represented by City Attorney Terrence D. Mahr. Scully has been aware that Terrence D. Mahr represented the City of Newberg at all times in his discussions with Scully.

Scully has not been represented by legal counsel. Scully has entered into a number of discussions with the City Attorney. Scully specifically acknowledges that he has received no legal advice from the City Attorney, is relying upon no representations as to legal advice or any other matter from the City Attorney, and has chosen not to employ his own legal counsel, although he has had every opportunity to do so. Scully enters into this Agreement in relying upon his own judgment to do so.

**6. Entire Agreement.**

This Agreement contains the entire agreement and understanding of the parties and supersedes and replaces all prior negotiations and proposed agreements, written or oral. The parties acknowledge that no other party, agent or attorney of any other parties, has made any promise, representation or warranty, express or implied, not contained in this Agreement concerning the subject matter of this Agreement, to induce this Agreement and the parties further acknowledge that they have not executed this Agreement in reliance upon any such promise, representation or warranty not contained in this Agreement.

7. Applicable Law.

This Agreement shall be construed in accordance and governed by the laws of the State of Oregon. Any disputes arising in connection with the execution or operation of this Agreement shall be governed and determined by the applicable laws of the State of Oregon.

Executed in duplicate this 21 day of July, 1995.

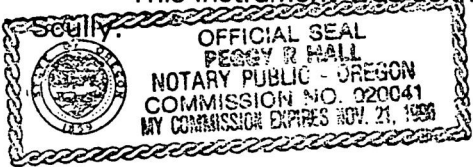
CITY OF NEWBERG,  
a Municipal Corporation

By: \_\_\_\_\_  
Duane R. Cole  
City Manager

Daniel Scully  
Daniel Scully

STATE OF OREGON            )  
  :SS  
County of Yamhill        )

This instrument was acknowledged before me on the 21 day of July, 1995, by Daniel



Peggy R. Hall  
Notary Public for Oregon  
My Commission Expires: 11/21/96

STATE OF OREGON            )  
  :SS  
County of Yamhill            )

This instrument was acknowledged before me on the    day of July, 1995, by Duane R. Cole, to me known to be the City Manager of the City of Newberg, who has the authority to sign on behalf of the City of Newberg.

\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_

APPROVED AS TO FORM  
AND CONTENT:

\_\_\_\_\_  
Terrence D. Mahr  
City Attorney

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## REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: July 25, 1995

Resolution

DATE ACTION REQUESTED: August 7, 1995

SUBJECT: Petroleum Antitrust Settlement GRANT PROGRAM

**RECOMMENDATION:** The City Manager recommends that the Council approve Resolution No. 95-~~923~~ authorizing the City to apply for a grant under the Petroleum Antitrust Settlement GRANT PROGRAM. The Manager also recommends that the priority for the applications is as follows:

Traffic Safety Officer	\$140,995
Transportation CVSCC	\$433,755

A program not funded would be considered for round 2 funding.

### BACKGROUND:

1. The Department of Justice has requested grant proposals pursuant to an order of United States District Judge A. Wallace Tashima in order to allocate money received from settlements with seven oil companies in the Petroleum Products Antitrust Litigation. The fundamental goal of the grant program is to benefit users of petroleum products throughout Oregon.

2. The grant program will provide \$7 million statewide. No project may receive more than \$1 million and the funds will be allocated in two cycles in 1995 and 1996.

3. The state and all local political subdivisions may apply for the funds. Grants are due by August 15, 1995 for the first round, and the second round will be accepted during the Spring of 1996.

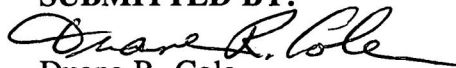
4. The grant information was distributed to Department Heads internally and to the Chehalem Valley Senior Citizens Council (CVSCC). **The CVSCC is not eligible to apply directly for the funds and the City may submit two applications but they must be prioritized.**

5. The City has prepared an application for a Traffic Safety Officer for \$140,995 over 3 years. The CVSCC proposals has submitted an application for additional transportation services. Copies of the grant guidelines and proposed grants are attached.

6. Both proposed grants would terminate at the end of 3 years. This may mean that the service would cease at that time or need to be absorbed by the City or CVSCC.

**FISCAL IMPACT:** This is new funding and would add services to the City.

### SUBMITTED BY:

  
Duane R. Cole  
City Manager

RESOLUTION NO. 95 -1923

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT GRANT APPLICATIONS UNDER THE PETROLEUM ANTITRUST SETTLEMENT GRANT PROGRAM

**RECITALS:**

1. The City of Newberg City Council is comprised of the officials elected to represent the City of Newberg which is a local government political subdivision of the State of Oregon.
2. Judge A. Wallace Tashima has ordered that funds received from the settlement of a lawsuit with seven oil companies in the Petroleum Antitrust Litigations be distributed to consumers of oil products.
3. The fundamental goal of this grant program is to benefit users of petroleum products throughout Oregon.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newberg, as follows:

1. The City of Newberg shall submit two proposals prioritized as follows:

Priority 1: Traffic Safety Officer

Priority 2: CVSCC transportation proposal

2. That programs not funded under this round of grants may be submitted, along with other grants proposed at that time, for funding during the second round scheduled for Spring 1996.

ADOPTED by the City Council of the City of Newberg, Oregon this 7th day of August, 1995.

\_\_\_\_\_  
Duane R. Cole - City Recorder

ATTEST:

\_\_\_\_\_  
Donna Proctor, Mayor

\rcagarb

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**DEPARTMENT OF JUSTICE**

CIVIL ENFORCEMENT DIVISION

1162 Court Street NE

Justice Building

Salem, Oregon 97310

Telephone: (503) 378-4732

FAX: (503) 373-7067

TDD: (503) 378-5938

**TO: Political Subdivisions in Oregon**

**RE: Petroleum Antitrust Settlement GRANT PROGRAM**

**I. PROGRAM DESCRIPTION**

**WHAT IS THE PUBLIC PURPOSE GRANT PROGRAM?**

The Public Purpose Grant Program is a discretionary grant program approved by order of United States District Judge A. Wallace Tashima as a way of allocating money received from settlements with seven oil companies in the Petroleum Products Antitrust Litigation, MDL 150 AWT.

Usually, settlement funds in such a case would be distributed directly to consumers of the products, but Judge Tashima has determined that is not feasible in this case. Therefore, this grant program has been established as an alternative method to benefit consumers of petroleum products in Oregon. The grant program will finance projects in the areas of transportation and transportation safety because these areas are most likely to benefit petroleum users. **The fundamental goal of this grant program is to benefit users of petroleum products throughout Oregon.**

**HOW MUCH MONEY WILL BE DISTRIBUTED UNDER THE  
PUBLIC PURPOSE GRANT PROGRAM?**

The Public Purpose Grant Program will distribute approximately \$7 million. Individual grants will be a minimum of \$25,000 and a maximum of \$1 million. No project can receive more than the \$1 million maximum. The funds will be allocated in two cycles, one in 1995 and one in 1996.

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**WHO MAY APPLY FOR GRANTS?**

The state and all of its local political subdivisions, either individually or in combination, may apply for grants. Private, non-profit, and charitable organizations are not eligible to apply. However, these non-governmental organizations may be involved in carrying out grants that are awarded to local governments or state agencies.

**HOW IS THIS GRANT PROGRAM CONNECTED TO OTHER TRANSPORTATION GRANT PROGRAMS?**

This grant program is not affiliated in any way with the programs created or funded by the Oregon Department of Transportation (ODOT) or any other federal or state agency.

**WHAT ARE THE TIMELINES FOR SUBMITTING PROPOSALS?**

Grant proposals are due by August 15, 1995 for the first year of the program. Proposals will be accepted again during the Spring of 1996. Proposals that are not received by August 15, 1995 will not be reviewed in 1995. These proposals may be re-submitted in 1996. All grant money will be obligated by the end of 1996.

**WHAT ARE THE TIMELINES FOR PROPOSAL REVIEW AND FUNDING?**

After initial screening for project eligibility and compliance with proposal instructions, proposals will be reviewed by a five-member advisory panel appointed by the Attorney General. The Attorney General will then make final funding decisions. The schedule for these reviews is as follows:

- |                          |   |
|--------------------------|---|
| August 15 - September 30 | Advisory Panel Reviews & Recommendations          |
| October 1 - November 15  | Attorney General Review & Final Funding Decisions |

The Advisory Panel may, at its discretion, request amendments to proposals of particular merit which are deemed deficient in some respect. In such a case, the timetable for resubmission and review will be adjusted as necessary.

Government entities whose proposals are funded will sign grant agreements with the Department of Justice and receive a warrant for funding the approved project. All project funds must be spent within three years of the date funds are obligated by the State.

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## WHAT ACTIVITIES OR PROJECTS ARE ELIGIBLE FOR FUNDING?

New projects or existing projects about to run out of funding are eligible. Projects may last up to three years, but, to be eligible for funding, projects must be in one or more of the following areas:

- a. Provide transportation to senior citizens, the elderly, and the disabled.
- b. Transportation of school children to school or to authorized, extra-curricular school-related functions.
- c. Transportation of disabled school children to school or to authorized, extra-curricular, school-related functions.
- d. Repair and reconstruct highways, roads, and bridges to prevent damage by future earthquakes or to repair damage caused by earthquakes.
- e. Repair and/or correct dangerous road or traffic conditions.
- f. Maintain and improve scenic highways and roads.
- g. Help reduce air quality problems due to motor vehicle emissions.
- h. Assist mass transit capital improvement programs for urban and rural areas.
- i. Aid law enforcement in deterring drug and alcohol related traffic accidents, injuries and deaths.
- j. Aid law enforcement for drug and alcohol recognition training.
- k. Facilitate junior high and high school traffic safety programs which emphasize drug and alcohol awareness.
- l. Fund or supplement funding of projects under the Special City Allotment Program, as long as the projects meet at least one of the criteria herein and otherwise serve the goals of this plan.
- m. Enhance the quality of motor vehicle fuel sold to Oregon citizens through a motor fuel quality testing and enforcement program to help ensure motor fuel specifications are being met.
- n. Assist in recovering and recycling used motor vehicle oil.

**HOW WILL THE ADVISORY PANEL AND THE ATTORNEY GENERAL  
DECIDE WHICH PROPOSALS TO FUND?**

With more than 1800 government entities eligible to submit proposals, we expect many more worthwhile proposals than \$7 million over two years can possibly fund. Furthermore, a traditional system of ranking or grading proposals is nearly impossible with such a wide variety of eligible activities. The Panel and the Attorney General will make every effort to identify the set of proposals that best fulfill the mandate of the court order.

Because the fundamental goal of this program is to approximate the results of a direct distribution to petroleum consumers throughout Oregon, geographic considerations will play a significant role in the selection process and may take precedence over other considerations. The intent of this court-approved plan is to ensure, first and foremost, that consumers in every part of the state are served by this grant program.

Six additional criteria will also be considered:

1. Benefits to petroleum consumers, both direct and indirect, are of major importance. The nature and extent of these benefits, their duration, and their geographic scope will be considered.
2. There must be a special need for the project and a special need for the money requested. Whenever possible, the grant money shall serve as the fund of last resort for a project.
3. This program shall not be used as a substitute for other local funds or to facilitate shifting other local funds to unrelated activities.
4. Subject to the restrictions in numbers 2 & 3, preference may be given to projects which are able to match the funds to some extent from other sources. This is intended to enhance the impact of the settlement funds whenever possible.
5. Preference may be given to projects which provide evidence of coordination with other transportation activities in the region (e.g., endorsements by or joint submissions with regional activities).
6. To insure that projects will be efficiently managed and the funds well spent, each project's budget and management plans will be carefully considered.

Criterion number 5 is meant to bring to the attention of the Advisory Panel and the Attorney General when a proposed grant project is part of a regional effort to coordinate public transportation projects. This criterion is not intended to give preference in every case to grant projects which are endorsed by private or other government entities.

Finally, the Oregon Department of Transportation (ODOT) has agreed to serve as a technical advisor if questions arise that require its expertise. ODOT will be consulted by the Department of Justice on a project-specific, as-needed basis for advice only. ODOT will not be involved directly in the decisions concerning the award of grants.

**WHAT RESPONSIBILITIES DOES A GRANT RECIPIENT HAVE AFTER  
A GRANT HAS BEEN ISSUED?**

Once grant money has been received, the grant recipient must submit annual reports to the Department of Administrative Services. The annual reports must state how the money was spent in the past year, and what, if any, remaining balance there is. If there is a remaining balance, annual report must state how and when that balance will be spent. The annual report must also demonstrate that the grant money was spent in the manner described in the grant application. All grant recipients will be provided an annual report form to assist them with this responsibility.

**WHO CAN I CALL IF I HAVE QUESTIONS?**

Questions regarding the grant program should be addressed to David Puryear (503) 378-4732 FAX (503) 373-7067

He can also be reached by mail at:

Oregon Department of Justice  
Civil Enforcement Division  
1162 Court Street NE  
Salem, OR 97310

**MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: COVER SHEET**

APPLICANT (GOVERNMENT ENTITY REQUESTING GRANT):

GOVT. NAME: City of Newberg

ADDRESS: 414 E. First Street  
Newberg, Oregon 97132

CONTACT PERSON(S): Robert Tardiff, Chief of Police  
PHONE: 503-537-1220  
COUNTY: Yamhill

PROJECT TITLE: TRAFFIC SAFETY OFFICER

AMOUNT REQUESTED: \$140,995.00

TOTAL PROJECT COST: \$140,995.00

SOURCE OF OTHER FUNDS: City of Newberg General Fund

RANK OF THIS PROPOSAL: I

CATEGORY FROM LIST OF ELIGIBLE ACTIVITIES ON PAGES 2 AND 3 OF SECTION I:

(Check the space or spaces that best fit your proposal. Please read the list of eligible activities in Section I carefully; the descriptions below are incomplete).

- |                          |                             |                                     |                             |
|--------------------------|-----------------------------|-------------------------------------|-----------------------------|
| <input type="checkbox"/> | a. Senior and Disabled      | <input type="checkbox"/>            | h. Mass Transit Capital     |
| <input type="checkbox"/> | b. School Children          | <input checked="" type="checkbox"/> | i. Drug & Alcohol Accidents |
| <input type="checkbox"/> | c. Disabled School Children | <input checked="" type="checkbox"/> | j. Drug & Alcohol Training  |
| <input type="checkbox"/> | d. Earthquakes              | <input checked="" type="checkbox"/> | k. School Traffic Safety    |
| <input type="checkbox"/> | e. Dangerous Conditions     | <input type="checkbox"/>            | l. Special Cities           |
| <input type="checkbox"/> | f. Scenic Highways          | <input type="checkbox"/>            | m. Fuel Quality Testing     |
| <input type="checkbox"/> | g. Air Quality/Environment  | <input type="checkbox"/>            | n. Oil Recycling            |

**MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: PROJECT SUMMARY**

(200 words or less!)

Hire a dedicated Traffic Enforcement Officer, who would have the following responsibilities:

1. Detect and apprehend those driving under the influence of intoxicants. This officer would receive training in D.U.I.I. recognition and investigation, and in Drug Recognition Expert (DRE) training.
2. Investigation of serious motor vehicle accidents. This officer would be assigned to the Yamhill County Multi-agency Traffic Team (MATT). The MATT team is responsible for investigating all fatal or potentially fatal motor vehicle accidents in Yamhill County. When available this officer will attend a comprehensive Accident Investigation and Reconstruction Training course.
3. Provide traffic safety presentations to community groups, including classes offered in local public and private schools. These classes will emphasize drug and alcohol awareness as they relate to operating a motor vehicle. The Newberg Police Department already has a comprehensive Drug Abuse Resistance Education (DARE) program. These presentations will be designed to compliment the DARE curriculum.

**LIST OTHER GOVT'S CO-SPONSORING THIS PROPOSAL:**

(Use additional page if necessary; include government name, contact person, and phone number. If applicant itself is multi-jurisdictional, do not list all member governments.)

1. None.
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_



**MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: PROPOSAL NARRATIVE**

A. PROJECT DESCRIPTION

Please do not use additional pages. Find a way to condense the most important features of the project on this page.

The Newberg Police Department will utilize the grant funds to hire and equip a dedicated Traffic Enforcement Officer, who would have the following responsibilities:

1. Detect and apprehend those driving under the influence of intoxicants. This officer would receive training in D.U.I.I. recognition and investigation, and in Drug Recognition Expert (DRE) training.
2. Investigation of serious motor vehicle accidents. This officer would be assigned to the Yamhill County Multi-agency Traffic Team (MATT). The MATT team is responsible for investigating all fatal or potentially fatal motor vehicle accidents in Yamhill County. When available this officer will attend a comprehensive Accident Investigation and Reconstruction Training course.

In addition to accident investigation the MATT team performs saturation patrols and provides traffic safety presentation throughout Yamhill County.

3. Provide traffic safety presentations to community groups, including classes offered in local public and private schools. These classes will emphasize drug and alcohol awareness as they relate to operating a motor vehicle. The Newberg Police Department already has a comprehensive Drug Abuse Resistance Education (DARE) program. These presentations will be designed to compliment the DARE curriculum.

**MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: PROPOSAL NARRATIVE**

**B. PROBLEM STATEMENT - What special need does this project meet?**

Highway 99W runs through the middle of Newberg's business community. To date the Oregon Department of Transportation has not been able to fund a by-pass and traffic traveling along this stretch of highway creates a number of unique problems for our community. One problem is that with the large volume of traffic traveling to and from the coast, we find persons driving under the influence of intoxicants traveling through Newberg. The recent opening of an Indian Gambling Casino in Lincoln City and another soon to open Casino in Grande Rhonde could potentially add to this problem.

In a recent community survey, the residents of Newberg identified traffic and traffic enforcement as two of their leading concerns. Their frustration with high traffic volumes along Highway 99W and a perceived need for more traffic enforcement was evident in their comments.

Newberg has experienced a 66.9% increase in Part I crime over the last 5 years. This increase in demand for service has affected our departments' resources available to dedicate to traffic enforcement. In 1994 our traffic unit was reduced from two motorcycle officers to just one. This position will allow us to again dedicate two officers to work traffic enforcement. It will also allow us to enhance our involvement in the Yamhill County Multi-agency Traffic Team (MATT).

**C. METHODOLOGY - How will you carry out this project and how will you manage it?**

**Hiring:** A patrol officer will be hired and trained, per the standard department practice.

**Deployment:** Upon hiring and training of a new officer, an experienced officer will be assigned to fill this new position.

**Project Plan:** Prior to hiring, a project plan will be developed outlining the training schedule, project goals, and project evaluation criteria.

**Project Evaluation:** This project will be evaluated quarterly to assess whether training schedules are being met and progress is being made toward attaining project goals.

**MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: PROPOSAL NARRATIVE**

**D. PROJECT GOALS -**

1. Describe the nature and scope of the project's benefits. Please indicate what population will be served, directly and indirectly, and what geographic area will be served.
  - a. The population of Newberg, 14,700, is that which would be served directly; and the population of Yamhill County, 72,800, would be served indirectly through the MATT team. Other populations served in-directly would be those motorist traveling Highway 99W from the Portland Metro and Coastal areas.
  - b. The assigned officer will attend an Accident Investigation and Reconstruction class during its next offering. In the interim, this training will be obtained on-the-job, working with other MATT team members. This officer will also receive additional training in D.U.I.I. recognition and apprehension and in Drug Recognition Expert (DRE) training.
  - c. It is anticipated that the assigned officer will dedicate 24 hours per month to MATT team activities. This may vary depending on the number of serious accident call-outs.
  - d. As a result of this project, we anticipate D.U.I.I. arrests will increase by at least 5% in year 1 and in years 2 and 3 arrests will remain equal to or greater than 10% over 1994 levels. The total number of traffic citations and warnings should increase by 5% in year 1 and in years 2 and 3 remain equal to or greater than 10% over 1994 levels. The ratio of alcohol related accidents to non-alcohol related accidents should decrease.
  - e. Traffic Safety presentation outlines will be developed and presentations will be presented in the Newberg High School on an annual basis and made available to other community groups and schools. This will heighten community awareness of the consequences of driving under the influence of intoxicants.
2. How long will the project's benefits last?

It is anticipate that the City of Newberg will continue funding for this project by including it in the next law enforcement levy. The police department currently has an operating levy which expires in June 1998. The effects of community and school education projects should be on-going.

3. What efforts have been made to coordinate with other organizations?

The Newberg Police Department, Oregon State Police, Yamhill County Sheriffs Office, McMinnville, and Dundee Police Departments have formed the Yamhill County Multi-Agency Traffic Team (MATT). The MATT team investigates all fatal or potentially fatal accidents, performs saturation patrols, and presents traffic safety presentations to schools and community groups.

**MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: BUDGET**

**A. EXPENSES**

1. Total Project Cost: \$ 140,995

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
a. Labor	<u>43,501</u>	<u>45,767</u>	<u>48,227</u>
b. Contract/Consulting	<u>          </u>	<u>          </u>	<u>          </u>
c. Capital Purchases	<u>          </u>	<u>          </u>	<u>          </u>
d. Other Materials	<u>2,500</u>	<u>500</u>	<u>500</u>
Annual Totals	<u>46,001</u>	<u>46,267</u>	<u>48,727</u>

**B. RESOURCES**

1. Total Needs: \$ 140,995

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
a. Grant Requested	<u>46,001</u>	<u>46,267</u>	<u>48,727</u>
b. Local/Other Resources	<u>          </u>	<u>          </u>	<u>          </u>
c. In-Kind Contribution	<u>          </u>	<u>          </u>	<u>          </u>
d. Other	<u>          </u>	<u>          </u>	<u>          </u>
Annual Totals	<u>46,001</u>	<u>46,267</u>	<u>48,727</u>

2. Will this project be carried out if this grant request is not funded? Yes/No

Please explain briefly.

Funding for this project is not included in our current police levy. The current levy will not be up for renewal until 1998.

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**MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: BUDGET**

B. RESOURCES [Continued]

3. Are other funding sources assured? Please identify them and explain.

No.

4. If this grant request is funded, will local funds be re-allocated to purposes outside this proposed project? If so, how much will be re-allocated? Please explain.

No.

5. Please describe plans, if appropriate, for long-term funding of the project activity. Projects with no operating costs beyond 3 years should skip this question.

This project will be included in our next Police Levy which will go to the voter in 1998.

6. Please identify the official who has fiscal responsibility for this project.

Name Robert I. Tardiff  
Title Chief of Police  
Phone (503) 537-1220

**MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: BUDGET**

**C. BUDGET NARRATIVE -**

Please describe relevant budget information that will help us to evaluate the need for various expenditures and the plans in place to manage the budget responsibly. Large line items in the budget should be justified and information on how they were determined should be included.

The majority of the grant funds will be applied towards the entry level officer salary and fringe benefits. The additional cost is \$3,500, which will be used to purchase the officer's personal equipment over the three years of the grant. This will include uniforms, weapon, ballistics vest, ticket book covers, etc.

All monies received will be handled by the City of Newberg Finance Department, who has the responsibility of payroll and deductions for the benefit package. All expenditures for other materials (uniforms) will be approved by the Lieutenant in charge of Operations.

MDL-150 PUBLIC PURPOSE GRANT PROGRAM: AFFIRMATIONS

Government Agency Requesting Grant: City of Newberg

Address: 414 E. First Street  
Newberg, OR 97132

Contact Person: Chief Robert I. Tardiff Phone: (503) 537-1220

Indicate with "yes" or "no" to the following:

- Yes 1. Proposed project and current and future needs of the service area are accurately portrayed in this proposal.
- Yes 2. If more than one proposal has been submitted, each proposal been ranked as to priority. No two proposals have the same rank.
- Yes 3. The government agency has thoroughly read this application packet and fully understands the intended use of the grant money.
- Yes 4. The government agency understands and accepts the obligation to submit annual reports on the progress of any funded projects.

I swear, under penalty of perjury, and under the laws of the State of Oregon that the information contained in this grant application is true and correct.

Robert I. Tardiff  
(signature)

STATE OF OREGON )  
County of Yamhill ) ss.

There appeared before me this 21st day of July, 1995, Robert I. Tardiff, who first being duly sworn on oath, stated, he/she was and is the Chief of Police of Newberg, Oregon, and is authorized and empowered to sign this MDL-150 Public Purpose Grant Application on behalf of the City of Newberg, Oregon, and bind same to the terms.

Mary E Newell  
(Notary Public Stamp)  
OFFICIAL SEAL  
MARY E NEWELL  
NOTARY PUBLIC - OREGON  
COMMISSION NO. 027943  
MY COMMISSION EXPIRES OCT. 20, 1997

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**MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: AFFIRMATIONS**

Government Agency  
Requesting Grant: City of Newberg

Address: 414 E. First Street  
Newberg, OR 97132

Contact Person: Chief Robert I. Tardiff Phone: (503) 537-1220

**Indicate with "yes" or "no" to the following:**

- Yes 1. Proposed project and current and future needs of the service area are accurately portrayed in this proposal.
- Yes 2. If more than one proposal has been submitted, each proposal been ranked as to priority. No two proposals have the same rank.
- Yes 3. The government agency has thoroughly read this application packet and fully understands the intended use of the grant money.
- Yes 4. The government agency understands and accepts the obligation to submit annual reports on the progress of any funded projects.

I swear, under penalty of perjury, and under the laws of the State of Oregon that the information contained in this grant application is true and correct.

\_\_\_\_\_  
(signature)

STATE OF OREGON            )  
  ) ss.  
County of \_\_\_\_\_ )

There appeared before me this \_\_\_\_ day of \_\_\_\_\_, 1995, \_\_\_\_\_  
\_\_\_\_\_, who first being duly sworn on oath, stated, he/she was and is the \_\_\_\_\_  
\_\_\_\_\_ of \_\_\_\_\_, and is authorized  
and empowered to sign this MDL-150 Public Purpose Grant Application on behalf of \_\_\_\_\_  
\_\_\_\_\_, and bind same to the terms.

\_\_\_\_\_  
(Notary Public Stamp)

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MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: COVER SHEET

APPLICANT (GOVERNMENT ENTITY REQUESTING GRANT):

GOVT. NAME City of Newberg/Chehalem Valley Sr. Citizen Council

ADDRESS 502 E. Second St.  
Newberg, Or. 97132

CONTACT PERSON(S) Barbara Brown

PHONE (503) 538 - 7433

COUNTY Yamhill

PROJECT TITLE: CVSCC - Commuter Link

AMOUNT REQUESTED: \$391,789

TOTAL PROJECT COST: \$499,542.

SOURCE OF OTHER FUNDS: Local Munciple Funds, &  
Farebox.

RANK OF THIS PROPOSAL: \_\_\_\_\_

(If you are submitting or co-sponsoring more than one proposal, you must rank them in order of your priority on Application Page 3. List the ranking for this proposal here as well as on Application Page 3.

CATEGORY FROM LIST OF ELIGIBLE ACTIVITIES ON PAGES 2 AND 3 OF SECTION I:

(Check the space or spaces that best fit your proposal. Please read the list of eligible activities in Section I carefully; the descriptions below are incomplete.)

- |           |                             |           |                             |
|-----------|-----------------------------|-----------|-----------------------------|
| <u>XX</u> | a. Senior and Disabled      | <u>XX</u> | h. Mass Transit Capital     |
| <u>XX</u> | b. School Children          | ___       | i. Drug & Alcohol Accidents |
| <u>XX</u> | c. Disabled School Children | ___       | j. Drug & Alcohol Training  |
| ___       | d. Earthquakes              | ___       | k. School Traffic Safety    |
| ___       | e. Dangerous Conditions     | ___       | l. Special Cities           |
| ___       | f. Scenic Highways          | ___       | m. Fuel Quality Testing     |
| ___       | g. Air Quality/Environment  | <u>XX</u> | n. Oil Recycling            |

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MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: PROJECT SUMMARY

(200 WORDS OR LESS!)

This grant will enable Chehalem Valley Senior Citizens Council (CVSCC) to operate an ongoing commuter bus link that was identified in the City of Newberg's Comprehensive Plan. The Comprehensive Plan and Transportation Plan address the need for commuter bus services for the elderly, disabled, & general public. This service will give people greater opportunities to get from Newberg and its rural area to our neighboring metropolitan municipalities. The service will open up opportunities for work, education, medical, and socialization that has not been attainable before. It will provide for adequate shelters, signs for rides convenience and information along with maintenance for the vehicles.

LIST OTHER GOVT'S CO-SPONSORING THIS PROPOSAL:

(Use additional page if necessary; include government name, contact person, and phone number. If applicant itself is multi-jurisdictional, do not list all member governments.)

1. City of Newberg, Duane Cole, City Mgr.
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

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MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: PROPOSAL RANKING SHEET

N/A

Is your government entity submitting or co-sponsoring more than one proposal? If so, complete this page.

Rank: \_\_\_\_\_ Applicant: \_\_\_\_\_  
Project Title: \_\_\_\_\_  
\_\_\_\_\_

Cost: \$ \_\_\_\_\_

Rank: \_\_\_\_\_ Applicant: \_\_\_\_\_  
Project Title: \_\_\_\_\_  
\_\_\_\_\_

Cost: \$ \_\_\_\_\_

Rank: \_\_\_\_\_ Applicant: \_\_\_\_\_  
Project Title: \_\_\_\_\_  
\_\_\_\_\_

Cost: \$ \_\_\_\_\_

Rank: \_\_\_\_\_ Applicant: \_\_\_\_\_  
Project Title: \_\_\_\_\_  
\_\_\_\_\_

Cost: \$ \_\_\_\_\_

Rank: \_\_\_\_\_ Applicant: \_\_\_\_\_  
Project Title: \_\_\_\_\_  
\_\_\_\_\_

Cost: \$ \_\_\_\_\_

PLEASE COPY THIS PAGE IF ADDITIONAL RANKING SHEETS ARE NEEDED.

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MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: PROPOSAL NARRATIVE

A. PROJECT DESCRIPTION

Please do not use additional pages. Find a way to condense the most important features of the project on this page.

This project would consist of commuter bus services between: 1.) Newberg and Tri-Met in Forest Grove connecting 3 times daily, 5 days a week. 2.) Newberg and Salem connecting with Chariots, 3 times daily, 5 days a week; and, 3.) extending our existing McMinnville to Newberg Link Route to Sherwood mid-morning & mid afternoon, 5 days a week. These commuter bus services would enable our elderly, disabled, and general public population the opportunity to get from our rural and urban areas to the neighboring metropolitan municipalities. This transportation system would establish an important foundation for work, education, medical, and socialization needs. Bus Shelters and Signs would be put in strategic locations for riders convenience and information. To guarantee that these buses are maintained efficiently and consistently, for our riders safety, environmental concerns, and for Federal Emergency Management, a half time mechanic and shop space would need to be secured. This would be put into place in conjunction with the existing, City of Newberg Public Works Department. This shop will include equipment for the recycling of oil.

This entire project would bring Newberg more closely aligned with State Goals for Transportation, (12); Energy Conservation, (13); FEMA (7); & Public Facilities & Services (11). The project will also help implement the City of Newberg Comprehensive Plan , and the adopted Transportation & System Plan of 1994.

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MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: PROPOSAL NARRATIVE

B. PROBLEM STATEMENT - What special need does this project meet?

This project addresses the special needs of our elderly, and disabled citizens. To provided opportunity to maintain their dignity, desire for independence and self reliance in securing jobs and education. It provides for our goal of conserving energy resources, maintaining a good quality of air, safety and reducing congestion by eliminating vehicles from the roads.

C. METHODOLOGY - How will you carry out this project and how will you manage it?

Chehalem Valley Senior Citizens Council would act as a pass through agent for distribution of funds. Transportation will be cooperatively provided by Chehalem Valley Senior Citizens Council (CVSCC), Wheels, and YAMCO (YCAP). The routes would be a follows: 1). Newberg to Forest Grove, provided by CVSCC. 2). Newberg to Salem, provided by CVSCC and Wheels; and, 3). extend existing McMinnville to Newberg to include Sherwood, mid morning and afternoon, provided by CVSCC & YAMCO. The bus shelters & signs will be purchased by the City of Newberg. The signs will be installed by the City of Newberg or cooperatively placed by the city in which the shelters & signs are to be located. The existing city shop area would be expanded with an additional bay space and the city would hire a half time mechanic. The Department of Public Works Shop and Mechanic comply with drug and alcohol testing requirements..

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MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: PROPOSAL NARRATIVE

D. PROJECT GOALS -

1. Describe the nature and scope of the project's benefits. Please indicate what population will be served, directly and indirectly, and what geographic area will be served.

This would benefit over half of Yamhill County (about 35,000 + people), from the rural and urban area around Newberg, and parts of Marion and Washington Counties. Persons in the McMinnville area would use the 99W Link to connect into this proposed service thus giving them greater access also.

2. How long will the project's benefits last?

We would want this to be an ongoing and growing asset for this area.

3. What efforts have been made to coordinate with other organizations?

The City of Newberg, is willing to work with CVSCC and any other organizations to allow this service to succeed.

CVSCC currently coordinates with the following agencies in providing services within our local area:

YCAP,  
Mid-Valley,  
Yamhill County Health Dept.,  
Abacus,  
Newberg School District,

NED's Elderly Day Care,  
Elderly Housing Facilities,  
Providence Newberg Hospital,  
Newberg Senior Groups,

LINK Program  
Work site Clients  
Health Related Clients  
Clients  
Assisting disabled  
students to job sites and  
outside school activities  
Senior & Disabled  
Senior & Disabled  
Senior & Disabled  
Health & Special Trips

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**MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: BUDGET**

**A. EXPENSES**

1. Total Project Cost: \$ 499,542.

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
a. Labor	<u>75,400</u>	<u>79,923</u>	<u>84,719</u>
b. Contract/Consulting	<u>          </u>	<u>          </u>	<u>          </u>
c. Capital Purchases	<u>146,500</u>	<u>          </u>	<u>          </u>
d. Other Materials	<u>35,000.</u>	<u>38,000</u>	<u>40,000</u>
Annual Totals	<u>256,900</u>	<u>117,923</u>	<u>124,719</u>

**B. RESOURCES**

1. Total Needs: \$ 391,789.

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
a. Grant Requested	<u>235,924.</u>	<u>85,447</u>	<u>70,418</u>
b. Local/Other Resources	<u>          </u>	<u>1,500</u>	<u>13,125</u>
c. In-Kind Contribution	<u>          </u>	<u>          </u>	<u>          </u>
d. Other	<u>20,976</u>	<u>30,976</u>	<u>40,976</u>
Annual Totals	<u>256,900</u>	<u>117,923</u>	<u>124,719</u>

2. Will this project be carried out if this grant request is not funded? Yes/No No

Please explain briefly.

No. Not at this time. This project will require additional revenues which are currently not available. Long term funding could be obtained as part of a 3 year county levy request in March of 1998.

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MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: BUDGET

B. RESOURCES [Continued]

3. Are other funding sources assured? Please identify them and explain.

No, our funds are not assured. The identified resources represent fare box recovery and support from communities along the route.

4. If this grant request is funded, will local funds be re-allocated to purposes outside this proposed project? If so, how much will be re-allocated? Please explain.

No. Local funds will not be used outside this project.

5. Please describe plans, if appropriate, for long-term funding of the project activity. Projects with no operating costs beyond 3 years should skip this question.

In order to provide this service in an ongoing fashion, we will need to include this in our (CVSCC) next three year county levy request in a March, 1998.

6. Please identify the official who has fiscal responsibility for this project.

Name Barbara Brown - Chehalem Valley Sr. Citizens Council

Title Director of Administration

Phone (503) 538 - 7433

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MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: BUDGET

C. BUDGET NARRATIVE

Please describe relevant budget information that will help us to evaluate the need for various expenditures and the plans in place to manage the budget responsibly. Large line items in the budget should be justified and information on how they were determined should be included.

The budget reflect the expenses of labor Aa. drivers (2.5 fte), mechanic (.5 fte) and part time office (.5 fte) personnel needed to operate the program with a yearly increase. The capital purchase Ac. of two (2) 16 passenger 2 wheel chair station buses. Bay space and oil recovery equipment. 10 Shelters and 11 signs. Ad. Other Materials consists of fuel, maintenance, insurance, advertising and office needs.

The revenue reflected items are of course grant requested Ba., local/other resources Bb. of local towns contributing a portion to keep this working for their benefit. The revenue Bd. others refers to fare box recovery.

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MDL-150 PUBLIC PURPOSE GRANT  
PROGRAM: AFFIRMATIONS

Government Agency  
Requesting Grant: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Indicate with "yes" or "no" to the following:

- \_\_\_\_\_ 1. Proposed project and current and future needs of the service area are accurately portrayed in this proposal.
- \_\_\_\_\_ 2. If more than one proposal has been submitted, each proposal been ranked as to priority. No two proposals have the same rank.
- \_\_\_\_\_ 3. The government agency has thoroughly read this application packet and fully understands the intended use of the grant money.
- \_\_\_\_\_ 4. The government agency understands and accepts the obligation to submit annual reports on the progress of any funded projects.

I swear, under penalty of perjury, and under the laws of the State of Oregon that the information contained in this grant application is true and correct.

\_\_\_\_\_  
(signature)

STATE OF OREGON                    )  
  ) ss  
County of \_\_\_\_\_ )

There appeared before me this \_\_\_\_\_ day of \_\_\_\_\_, 1995, \_\_\_\_\_, who first being duly sworn on oath, stated he/she was and is the \_\_\_\_\_ of \_\_\_\_\_, and is authorized and empowered to sign this MDL-150 Public Purpose Grant Application on behalf of \_\_\_\_\_, and bind same to the terms.

\_\_\_\_\_  
(Notary Public Stamp)

DP:kgl/EWF04800

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REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: July 24, 1995  
 DATE ACTION REQUESTED: August 7, 1995

X RESOLUTION

SUBJECT: Statewide Transportation Plan -- 1995-98

RECOMMENDATION: The City Manager recommends that the City Council adopt Resolution No. 95- 1924 identifying the City's transportation projects which should be included in the State Transportation Improvement Plan (STIP).

BACKGROUND: The City of Newberg has participated in the State Transportation Planning process for many years. Projects must be included in the STIP if they are to be constructed. This is the city's opportunity to formally communicate with ODOT regarding State projects in Newberg. The following projects which are located in Newberg are included in the STIP:

TABLE 1  
 PRELIMINARY  
 Statewide Transportation Improvement Program (STIP)  
 1996-1998  
 Newberg Projects

<u>Project Description</u>	<u>Project Cost</u>	<u>Year</u>
> East Fork Chehalem Creek Bridge 240 Yamhill Newberg Replace structure, slight realignment	\$2,067,000	1996
> Everest St. - Main St. 99W Pacific Highway West. Construct a left turn lane and additional southbound land and reconstruct signals	\$6,485,000	1998
> Brutscher St. - Everest St. 99W Pacific Highway West. Surface preservation and overlay.	\$2,000,000	1998
> Newberg Area Transportation EIS 99W Pacific Highway West. Look at improvements to existing highways, City streets, County roads, and by-pass routes	\$116,173,000(1)	2000

(1) Environmental Document in 2000.

The City has a list of projects that were prioritized as part of the Transportation Plan and the adoption of the Transportation System Development charges. Most of these projects in the original plan did not include State funding. Since the plan was developed, however, the State has

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indicated that they may be interested in funding 'off system' projects that improve traffic or conditions on State highways. (The Northside East/West minor arterial may be this type of project.) Table 2 outlines the city's existing priority list of street improvements which were included in the adoption of the Transportation System Development charges.

TABLE 2  
SYSTEM DEVELOPMENT CHARGES - RELATED PROJECTS  
(Cost in Millions)

<u>Schedule</u>	<u>SDC</u>	Adj. Land	<u>ODOT</u>	<u>Total</u>
		<u>Uses</u>		
<u>1-5 Years</u>				
College St. (Between Fulton & Bell)	1.6	.5	1.6	3.7
Main St. (Between Illinois & Mountainview)	1.1	.2		1.3
Fulton St. (Between College & Meridian)	.5			.5
Crestview Dr. (Between Meridian & Villa)	.5	.1		.6
Hwy 99/Elliott Signal	.15			.15
<u>6-10 Years</u>				
Mountainview/Crestview (between Villa & Hwy 99W)	.30	1.7		2.0
Springbrook (between Hwy 99 & Hwy 219)	1.40	1.0		2.4
Mountainview/Aspen Signal	.15			.15
Highway 219/Mountainview Signal	.15			.15

The City Manager and Community Development Director have discussed in some detail the projects that the Council may want to prioritize and attempt to get included in the STIP. The following projects are the staff recommendations for including in the STIP:

TABLE 3  
STAFF RECOMMENDED STIP PROJECTS

<u>Schedule</u>	<u>SDC</u>	Adj. Land	<u>ODOT</u>	<u>Total</u>
		<u>Uses</u>		
College St. (Between Fulton & Bell)	\$1,600,000	\$ 500,000	\$1,600,000	\$3,700,000
Mntview/Crestview (99W to Villa)	\$ 300,000	\$ 300,000	\$1,400,000	\$2,000,000
Mntview/Crestview (Villa to 219)	\$ 240,000	\$ 240,000	\$ 480,000	\$ 960,000
Subtotal	\$2,140,000	\$1,040,000	\$3,480,000	\$6,660,000
Intersection improvements at Hwy. 219 & Second Streets			No estimate	
Springbrook Road, Wilsonville Road and Hwy. 219 Intersection Improvements			No estimate	

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There may be other projects the Council may want to include in the STIP document or advise the State that they are related to their highways and should be addressed.


STRATEGIC IMPACT: Transportation has consistently been the number one priority for funding in Newberg. The problem that this community shares with other communities is that the transportation problems are mostly on or along State Highways, and, the State has little money to impact their system. The STIP process is the vehicle for prioritizing the projects.

FISCAL IMPACT: The fiscal impact of these projects is listed above. The City currently has \$875,654 in the Street SDC fund. The breakdown of this source is defined in Table 4.

TABLE 4  
STREET SDC FUND

REVENUES	<u>91/92</u>	<u>92/93</u>	<u>93/94</u>	<u>94/95</u>
Beginning Cash		333,670	348,713	516,522
SDC			152,749	377,546
FED \$\$	326,382			
Interest	<u>7,288</u>	<u>15,043</u>	<u>15,060</u>	<u>38,554</u>
Total	333,670	348,713	516,522	932,622
EXPENSES				
Transfers	0	0	0	56,968
BALANCE	333,670	348,713	516,522	875,654

PREPARED BY:

  
Duane R. Cole  
City Manager

REVIEWED BY:

Greg Scoles  
Community Development Director

cc\rcatran.wpd

RESOLUTION NO. 95 -

A RESOLUTION ADOPTING PROJECTS TO BE RECOMMENDED TO THE OREGON DEPARTMENT OF TRANSPORTATION TO BE INCLUDED IN THE STATEWIDE TRANSPORTATION IMPROVEMENT PLAN FOR THE YEARS 1996-98

RECITALS:

- 1. The Oregon Department of Transportation has distributed and requested input on the Preliminary Statewide Transportation Improvement Program 1996-98.
2. The City of Newberg is traversed by three State Highways including State Highway 99W, State Highway 219, and State Highway 240.
3. The City residents have been surveyed every two years since 1989 and each year the results of the survey indicate that the highest priority of the residents is traffic and transportation.
4. The City Council has a goal to continue to address Newberg's transportation needs.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Newberg hereby recommends to the Oregon Department of Transportation that the following projects are to be included in the Preliminary State Transportation Improvement Plan for the Years 1996-98.

RECOMMENDED STIP PROJECTS

Table with 5 columns: Schedule, SDC, Adj. Land Uses, ODOT, Total. Rows include College St., Mntview/Crestview (99W to Villa), Mntview/Crestview (Villa to 219), and Subtotal.

Intersection improvements at Hwy. 219 & Second Streets No estimate
Springbrook Road, Wilsonville Road and Hwy. 219 Intersection Improvements No estimate

ADOPTED by the City Council of the City of Newberg this \_\_\_ day of \_\_\_, 1995.

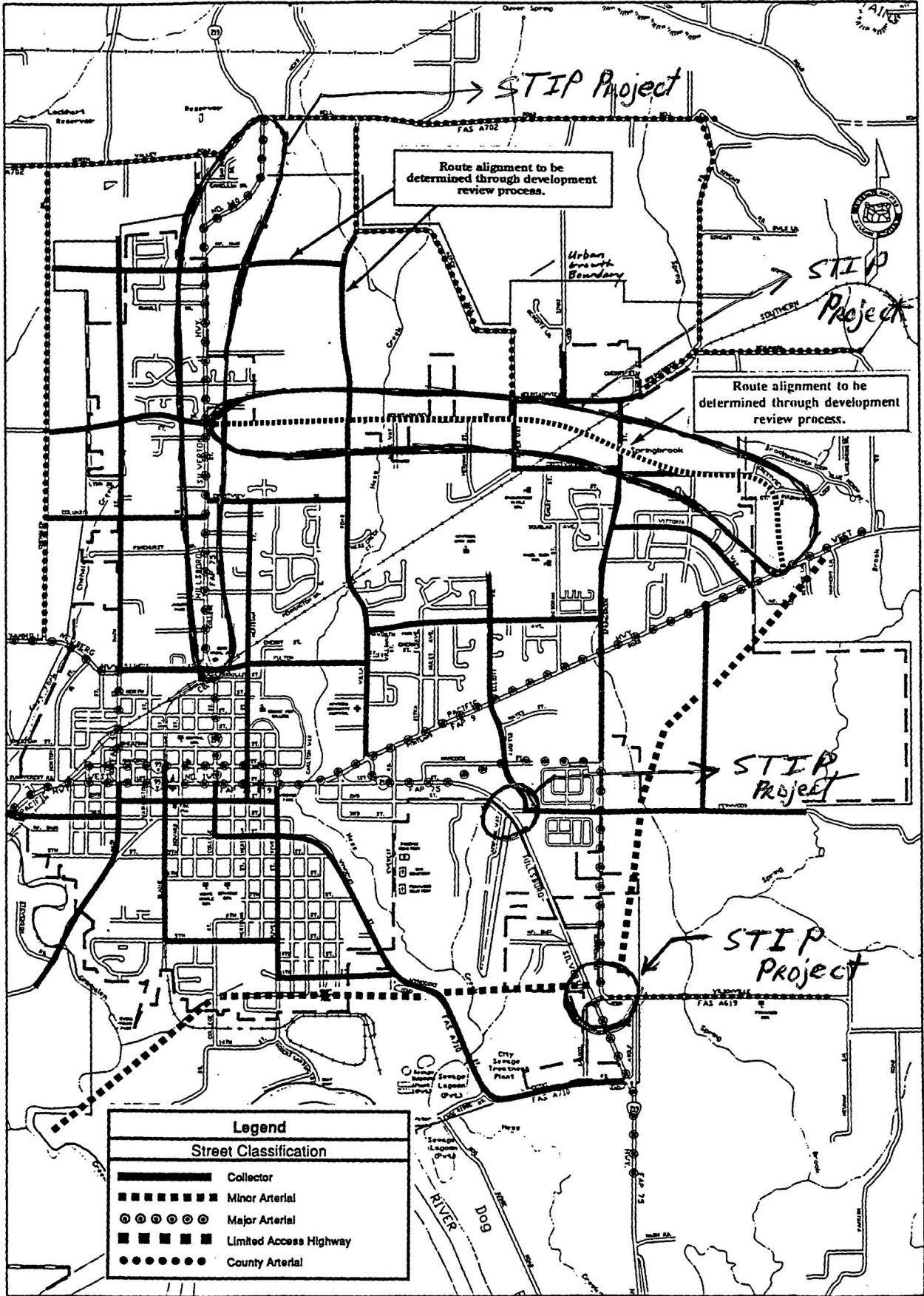
Duane R. Cole, City Recorder

Donna Proctor, Mayor

cc:rcatran.wpd

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Legend	
Street Classification	
	Collector
	Minor Arterial
	Major Arterial
	Limited Access Highway
	County Arterial

RECOMMENDED  
TRANSPORTATION SYSTEM PLAN

CITY OF NEWBERG  
TRANSPORTATION SYSTEM PLAN  
DECEMBER 1992

FIGURE

4-1



<b>REQUEST FOR COUNCIL ACTION</b>		
<b>DATE SUBMITTED:</b> July 26, 1995		<b>MOTION</b>
<b>DATE ACTION REQUESTED:</b> August 7, 1995		<b>RESOLUTION</b>
<b>SUBJECT:</b> Abandoned Vehicles - Amend Ordinance No. 1557 to meet the City's need and intent of the Ordinance. Towing Ordinance and Certain State Statutes.	<b>X</b>	<b>ORDINANCE</b>
		<b>INFORMATION</b>

**RECOMMENDATION:**

Amend Ordinance No. 1557 to meet the City's need and intent of the Ordinance by indicating that a discarded vehicle includes any vehicle which has an expired license plate, or no license plate. Further, to make it clear that the prohibitive action is storing vehicles on both private and public property. Further action is needed to clarify Ordinance No. 1593, Section 22A which indicates that motor vehicles are not permitted to be stored on public streets in excess of 72 hours. Whereas State law indicates that a motor vehicle that has not been moved for a period of 24 hours, can be believed to be abandoned.

**BACKGROUND:**

1. The City is attempting to clean up some of the discarded vehicles throughout the City. Ordinance No. 1557 was passed some time ago to deal with this matter. When defining "discarded", it indicates that it is a vehicle that does not have a lawfully affixed and expired license plate. Some abandoned vehicles do have a license plate which is expired. These vehicles should be able to be considered discarded. Further, the Ordinance in Section 3 indicates that the prohibitive action is storing vehicles on private property. The public nuisance section declares both storing on public land and private land which would broaden this section to make it more clear to the police in order for them to function appropriately.
2. State statutes provide a method by which the City can take into custody abandoned vehicles. The problem is that abandoned vehicles on public property are presumed to be abandoned if they are disabled or abandoned for 24 hours. As mentioned above, the City's Ordinance seems to give them 72 hours. Thus, there becomes a conflict. In addition, abandoned vehicles on private property are those that the owner or the person in lawful possession can request removal, are vehicles left parked or standing without the express consent of the owner. This would not include discarded vehicles that are left there with the consent of the owner.
3. In order to resolve these issues, the City does need to have an Ordinance which provides for a public nuisance being discarded vehicles on private property and public property. The further problem would be to change the Ordinance allowing for the storage of the motor vehicle on streets, by either shortening the time to 24 hours to comply with State statutes, or specifically authorizing notice and towing after the 72 hours.

4. The Ordinance presented provides for the correction of the discarded vehicles section. An Ordinance can be prepared which would provide for the shortening of the 72 hours.

**FISCAL**

**IMPACT:** None.

**STRATEGIC**

**ASSESSMENT:** As the City grows, there are some need to take care of discarded vehicles and vehicles left in the public right of way. The police, in order to do this, needs some enforcement tools. This will help in the nuisance abatement area.

To  
Terrence D. Mahr, City Attorney

**ORDINANCE NO. 95-2414**

**ORDINANCE AMENDING ORDINANCE NO. 1557 BY BROADENING THE DEFINITION OF DISCARDED VEHICLES AND DECLARING IT A PUBLIC NUISANCE FOR THE ACCUMULATION OF DISCARDED VEHICLES UPON PUBLIC PROPERTY AS WELL AS PRIVATE PROPERTY.**

**RECITALS:**

1. The City is attempting to clean up discarded vehicles throughout the City.
2. The City needs a better definition of discarded vehicles in order to continue with the project of cleaning up the City.
3. The City also has some discarded vehicles on public property and that be clearly defined as a nuisance as well.

**NOW, THEREFORE**, the City of Newberg, Oregon, ordains as follows:

**Section 1.** That Section 1(3) of Ordinance No. 1557 providing for defining discarded vehicles is amended to read as follows:

"'Discarded' shall mean any vehicle which does not have lawfully affixed thereto a license plate or has affixed to it an expired license plate, and is in one or more of the following conditions:

- (a) Inoperative
- (b) Wrecked
- (c) Dismantled
- (d) Partially Dismantled
- (e) Abandoned
- (f) Junked"

**Section 2.** That Section 3 of Ordinance No. 1557 is hereby amended to read as follows:

"Prohibited Action. It shall be unlawful to store or permit the storing of a discarded vehicle upon any public property within the City. It shall be unlawful to store, or permit the storing of a discarded vehicle upon any private property within the City, unless the vehicle is completely enclosed within a building, or unless it is in connection with a business enterprise dealing in junked vehicles lawfully conducted within the City."

All other terms and conditions of Ordinance No. 1557 shall remain in full force and effect.

PASSED by the City Council of Newberg this \_\_\_\_ day of August, 1995.

AYES:

NAYS:

ABSTAIN:

\_\_\_\_\_  
Duane Cole - City Manager

ATTESTED TO by the Mayor this \_\_ day of August, 1995.

\_\_\_\_\_  
Donna Proctor, Mayor

ORDINANCE NO. 95-2415

ORDINANCE AMENDING ORDINANCE NO. 1593 BY PROVIDING THAT THE CITY MAY UTILIZE THE OREGON REVISED STATUTE METHOD OF REMOVING VEHICLES WHICH ARE STORED OR ABANDONED ON PUBLIC RIGHT OF WAY.

RECITALS:

- 1. The City is in need of a method of removing vehicles which are stored or abandoned on public right of way.
- 2. The City needs to clarify that vehicles that are in this condition can be towed and removed.
- 3. The City wishes to give the Police Department another tool to work with when dealing with the complaints of citizens concerning these vehicles.

NOW, THEREFORE, the City of Newberg, Oregon, ordains as follows:

Section 1. Section 22A of Ordinance No. 1593 is hereby amended to read as follows:

"Storage of Motor Vehicles on Streets. No person shall store or permit to be stored on a street or other public property without the permission of the Council, a motor vehicle or personal property for a period in excess of 72 hours. It shall constitute prima facie evidence of storage and abandonment of a motor vehicle if the same is not moved for a period of 72 hours. In addition to the citation for an Ordinance violation, the City may use the provisions of ORS 819.100 in following the procedure to remove a vehicle after due notice as provided in statute when a vehicle is in violation of this section."

Section 2. Other provisions of Ordinance No. 1593 shall remain in full force and effect.

PASSED by the City Council of Newberg this \_\_\_\_ day of August, 1995.

AYES:

NAYS:

ABSTAIN:

\_\_\_\_\_  
Duane Cole - City Manager

ATTESTED TO by the Mayor this \_\_ day of August, 1995.

\_\_\_\_\_  
Donna Proctor, Mayor

**UPDATE  
AGENDA ITEM VII  
NEW BUSINESS (10)  
ABANDONED VEHICLES  
PAGE 98**

<b>REQUEST FOR COUNCIL ACTION</b>		
<b>DATE SUBMITTED:</b> August 4, 1995		<b>MOTION</b>
<b>DATE ACTION REQUESTED:</b> August 7, 1995		<b>RESOLUTION</b>
<b>SUBJECT:</b> Abandoned Vehicle Ordinance and Recommendation		<b>ORDINANCE</b>
	<b>X</b>	<b>INFORMATION</b>

**RECOMMENDATION:**

Submitted some additional language for discussion in the Ordinance along with an updated Ordinance if accepted. New Ordinance would provide that vehicles in certain conditions could be removed even if it had affixed to it an unexpired license plate.

**BACKGROUND:**

1. In the initial packet to the Council, there was submitted an Ordinance to update the present City Ordinances dealing with discarded vehicles. This was done by clarifying definitions. In reviewing this matter further, the Police Chief brought to my attention that other cities treat vehicles somewhat different and allow removal of vehicle with unexpired license plates if they are in certain conditions. Further, even if the vehicle is "good condition", if it has an expired license plate it can be removed. If the City wishes to proceed with this "higher" standard, I have presented some Ordinance language that would do this. This is an additional Ordinance which is attached.

2. **Questions and Answers:**

**(a) Question:** Under the proposed Ordinance No. 95-2414, could a person take an antique car and restore it in one's driveway?

**Answer:** It depends. If the antique car had attached to it an unexpired license plate, by this it is meant that the license plate has up-to-date tags on it, then the person could probably work on it outside. They could also work on it under an enclosure such as a car port. If, however, the antique car had expired license plates or no license plates, then it could not be worked on, but could be considered discarded vehicle. Of course, it could be worked on if it was enclosed in a garage.

**(b) Question:** What would happen if a car had problems and the person was a "do-it-

o **yourself" mechanic, could that person repair their car in their driveway?**

**Answer:** The answer to this is yes. This is assuming that the car had attached to it an unexpired up-to-date license plate. In which case, the person could work on it and repair it in their driveway. If the City wishes to prohibit this kind of activity, then they can adopt the second Ordinance which provides that inoperative or dismantled cars cannot be stored or worked on outside, even if they have an up-to-date license on it.

**(c) Question: What if a person has a perfectly good car, but they are holding it for some reason such as until their child gets old enough to drive, or they just don't feel like paying for "new tags", can the person store it in their driveway?**

**Answer:** The answer to this probably yes. Even if the car has no license plate attached to it or an expired license plate, it still has to be in one of the following conditions listed in the Ordinance. If, however, the City decides to go with the stricter standard of revised Ordinance, then merely the fact that it has an expired license plate would mean that it is considered discarded and could not be stored in the driveway.

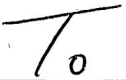
3. In talking with the Police Department, most of the problems are centered around vehicles with expired plates that are in the inoperative or wrecked and obviously dismantled (junked) condition. Of course, the police officer would exercise some discretion as to how the Ordinance should be enforced.
4. I am attaching to for your review the notice that is placed on a vehicle when it is being stored on public right-of-way. Note that our Ordinance allows a 72-hour period where the State's statute mentions a 24-hour period. The process would be that the vehicle is stored longer than 72 hours. The person could receive an Ordinance violation, plus the notice. After a 24 hour period without any further movement of the car, then it could be towed.

**FISCAL**

**IMPACT:** None.

**STRATEGIC**

**ASSESSMENT:** This has already been presented.

  
\_\_\_\_\_  
Terrence D. Mahr, City Attorney

\_\_\_\_\_  
Duane R. Cole, City Manager

**ALTERNATIVE ORDINANCE PROVIDING  
FOR DISCARDED VEHICLE - DUE TO NO PLATES OR EXPIRED PLATE**

**ORDINANCE NO. 95-2414-Alternate**

**ORDINANCE AMENDING ORDINANCE NO. 1557 BY BROADENING THE DEFINITION OF DISCARDED VEHICLES AND DECLARING IT A PUBLIC NUISANCE FOR THE ACCUMULATION OF DISCARDED VEHICLES UPON PUBLIC PROPERTY AS WELL AS PRIVATE PROPERTY.**

**RECITALS:**

1. The City is attempting to clean up discarded vehicles throughout the City.
2. The City needs a better definition of discarded vehicles in order to continue with the project of cleaning up the City.
3. The City also has some discarded vehicles on public property and that be clearly defined as a nuisance as well.

**NOW, THEREFORE,** the City of Newberg, Oregon, ordains as follows:

**Section 1.** That Section 1(3) of Ordinance No. 1557 providing for defining discarded vehicles is amended to read as follows:

"Discarded' vehicle shall mean any vehicle which is in one or more of the following conditions:

- (a) Inoperative
- (b) Wrecked
- (c) Dismantled
- (d) Partially Dismantled
- (e) Abandoned
- (f) Junked
- (g) Does not have lawfully affixed thereto a license plate or has affixed to it an expired license plate."

**Section 2.** That Section 3 of Ordinance No. 1557 is hereby amended to read as follows:

"Prohibited Action. It shall be unlawful to store or permit the storing of a discarded vehicle upon any public property within the City. It shall be unlawful to store, or permit the storing of a discarded vehicle upon any private property within the City, unless the vehicle is completely enclosed within a building, or unless it is in connection with a business enterprise dealing in junked vehicles lawfully conducted within the City."

All other terms and conditions of Ordinance No. 1557 shall remain in full force and effect.

PASSED by the City Council of Newberg this \_\_\_\_ day of August, 1995.

AYES:

NAYS:

ABSTAIN:

ATTESTED TO by the Mayor this \_\_ day of August, 1995.

\_\_\_\_\_  
Duane Cole - City Manager

\_\_\_\_\_  
Donna Proctor, Mayor

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REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: July 27, 1995

X MOTION

DATE ACTION REQUESTED: August 7, 1995

SUBJECT: Agreement between STX, Oregon and Appellant

RECOMMENDATION: The City Manager recommends that the Council consider authorizing the City Manager to sign an agreement between STX, Oregon and appellant Sid Friedman regarding infrastructure and the provision of City services.

BACKGROUND:

The City of Newberg staff has encouraged STX, Oregon to meet with and resolve issues the appellant Sid Friedman has on this project. This is a standard practice for the City staff to encourage developers to meet with appellants on projects to see if the issues can be resolved prior to a hearing. As of the Council agenda deadline, City staff has been advised that the applicant and appellant have apparently agreed, in principle, to many of the issues and are in the final stages of agreeing with the appellant to withdraw the appeal. Part of the agreement includes an endorsement by the City of the terms and conditions specified in the agreement.

Unfortunately, the agreement is not available to distribute prior to the agenda deadline and the supporting documentation including copies of the agreement will need to follow next week as soon as they are developed and received by City staff. It is staff's understanding that the agreement would incorporate many of the items included in the Infrastructure Agreement originally signed by the City Manager.

FISCAL IMPACT: Phase I of this project is a \$450 million dollar development and there has been plenty written on fiscal impact of this development on the community.

PREPARED BY:



Duane R. Cole  
City Manager

cc\rca.stx

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# AGENDA ITEM VII - NEW BUSINESS (12)

## PAGE 100

<b>REQUEST FOR COUNCIL ACTION</b>		
<b>DATE SUBMITTED:</b> August 3, 1995		<b>MOTION</b>
<b>DATE ACTION REQUESTED:</b> August 7, 1995		<b>RESOLUTION</b>
<b>SUBJECT:</b> Vacation of 12 foot wide alley located in the center of Block bounded by Willamette Street, Chehalem Street, Eighth Street and Ninth Street.		<b>ORDINANCE</b>
	<b>X</b>	<b>INFORMATION</b>

### RECOMMENDATION:

The applicant has submitted this additional information for the Council to consider because one of the abutting owners has not consented to the vacation. The information indicates that the applicant would be willing to pay for any damages resulting to the abutting owner if the alley is vacated. I related to the applicant that the City could take this into consideration. I have related this to the Community Development Director and the City Manager. They will be at the meeting to address the issue.

### BACKGROUND:

If the City vacates an alley without an abutting owner's consent and it substantially affects the property value of that piece of property, the City is responsible for damages. This addresses that issue.

### FISCAL .

**IMPACT:** Not known at this time.

### STRATEGIC

**ASSESSMENT:** N/A

\_\_\_\_\_  
Terrence D. Mahr, City Attorney

\_\_\_\_\_  
Duane R. Cole, City Manager

## MEMO

**TO:** Mr. David Kunze  
Applicant

**FROM:** Terrence D. Mahr  
City Attorney

*DM*  
August 2<sup>nd</sup>, 1995

Dear Mr. Kunze:

You have asked me whether the City would be willing to consider your offer to defend and indemnify them against any damages if they vacate the alley over the objection of an abutting property owner. You have also asked me what kind of language would need to be there. I would give you the following outline of the type of information we need and tell you that if the Council wishes to accept this offer, I would draft a more formal document for you to sign. The information we would need is:

1. That you would be willing to pay any damages that would result from a determination by the City that the market value of the property of the non-consenting owner is substantially affected and the amount of the damages. Of course, if the City makes this determination, you would need to know the amount prior to consenting, but that could be a condition of the vacation.
2. If the City determines that the vacation has no substantial affect upon the market value of the property and this is appealed, you will defend and indemnify the City from any damages in such an appeal. You will pay for attorney's fees, court costs, and any damages the court may award the property owner to be paid by the City.
3. You will provide us with proof that you have the ability to pay such damages and some type of security will be provided.

You should submit a letter indicating this by Thursday of this week so I could include it in any mailing Friday. Thanks very much.

19550 NE Calkins Lane  
Newberg, Oregon 97132  
PHONE (503) 537-0657  
3 August 1995

Members of the City Council  
CITY OF NEWBERG  
414 E First Street  
Newberg, Oregon 97132

Dear Council Members,

This letter regards the Application to Vacate an Alley, reference File Number: VAC-3-95, and is an offer on my behalf to defend and indemnify the City of Newberg against any damages if they approve vacation of the alley over the objection of an abutting property owner.

As set forth in a MEMO (enclosed) from City of Newberg, City Attorney Terrence D. Mahr, I would agree to the terms and conditions requested and sign a formal document to this effect should the Council accept this offer. Those terms and conditions include:

1. That I would be willing to pay any damages that would result from a determination by the City that the market value of the property of the nonconsenting owner is substantially affected and the amount of the damages. Approval of the vacation and the amount of the damages would be determined prior to consent.
2. If the City determines that the vacation has no substantial affect upon the market value of the property and this is appealed, I will defend and indemnify the City from any damages in such an appeal. I will pay for attorney's fees, court costs, and any damages the court may award the property owner to be paid by the City.
3. I will provide the City with proof I have the ability to pay such damages and provide some sort of security.

Please consider this proposal as a sincere offer on my part to satisfy the concerns of the City as they regard the vacation of this alley.

Sincerely,



David H. Kunze

REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: July 21, 1995

X MOTION

RESOLUTION

DATE ACTION REQUESTED: August 7, 1995

ORDINANCE

INFORMATION

SUBJECT:

Vacation of a twelve (12) foot wide alley located in the center of the block bounded by Willamette Street, Chehalem Street, Eighth Street, and Ninth Street (see Attachment A).

RECOMMENDATION:

Deny the request to initiate a vacation of the alley due to lack of property owner consent.

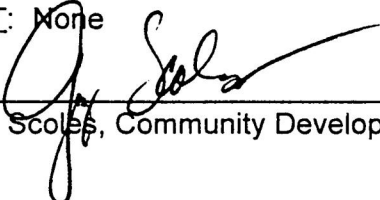
BACKGROUND AND DISCUSSION:

The City has received an application requesting the vacation of the above mentioned City alley. One of the property owners has not signed the consent to vacate form and has submitted a letter opposing the vacation (Attachment B). The applicant, David Kunze, has provided a letter indicating how the vacation could be done without the property owner's consent (Attachment C). The City does have the ability to initiate a vacation without 100% property owner consent under the Oregon Revised Statutes. However, it has been the City's policy not to support the vacation without 100% consent.

State Law. The request to vacate the property is not a unanimous request of the property owners. ORS 271.080(2) provides that "consent of the owners of all abutting property and of not less than two-thirds in the area of the real property affected thereby" must be provided as a basis for granting the vacation. All of the property owners have not consented to the vacation, therefore, the Council has the option to provide for vacation on the Council's own motion. ORS 271.131(1) provides that the City governing body may initiate vacation proceedings and make such vacation without a petition or consent of property owners. It also states that any street area vacated without the consent of the owners of the abutting property shall not be granted if the vacation substantially effects the market value of the abutting property owners unless the City governing body provides for paying damages.

This vacation would be on the Council's own motion. The question that the City will need to answer is whether there is a "substantial effect" on the value of the abutting property.

COST: None



Greg Scoles, Community Development Director



Duane Cole, City Manager

Attachments:

A: application and map; B: opposition letter;  
F:\PLANNING\WP5FILES\FILES.VAC\VAC-3-95.CC

C: applicant's letter

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VII-12



RECEIVED  
JUN 22 1995  
By \_\_\_\_\_

"A"

VACATION APPLICATION  
FILE NO. VAC-3-95  
FEE: \$500.00  
DATE: 6-22-95  
RECEIPT NO: 13359

APPLICANT: David H. Kunze PHONE: (503) 537-0657  
ADDRESS: 19550 NE Calkins Lane, Newberg, Oregon 97132  
OWNER(S): same as above PHONE: \_\_\_\_\_  
(If different from above)  
ADDRESS: \_\_\_\_\_

GENERAL INFORMATION:

VACATION TYPE: EASEMENT \_\_\_\_\_ ALLEY X STREET \_\_\_\_\_

LOCATION: Block 53, Edwards Adt'n, Newberg, OR ZONE: R-2

STATE WHY THE VACATION SHOULD BE APPROVED: To achieve conformance with City of Newberg single-family residential minimum lot size requirements.

TOPOGRAPHY: Flat/level

SURROUNDING USES: NORTH: residential SOUTH: residential  
EAST: residential WEST: residential

The application must include a site plan and a current title report for each property. All property owners abutting the proposed vacation site must sign a CONSENT TO VACATE form which is attached to this application. ←\*

Abutting Owner	Address	Tax Lot Number
<u>David H. Kunze</u>	<u>19550 NE Calkins Ln, Newberg</u>	<u>3220CB-6500</u>
<u>Oleva Fugate Life Estate; (heirs) Corrie Rogers; Peggy Crete and Daniel Fugate</u>	<u>1215 E. 9th St, Newberg</u>	<u>3220CB-6600</u>
<u>Jason Spon</u>	<u>812 S Chehalem, Newberg</u>	<u>3220CB-6702</u>
<u>Frank &amp; Elizabeth Wallace</u>	<u>808 S Chehalem, Newberg</u>	<u>3220CB-6801</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____


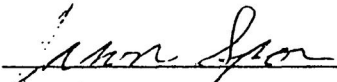
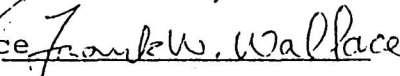
The above statements and information herein contained are in all respects true, complete and correct to the best of my knowledge and belief.

David H. Kunze  
Applicant/Title Holder/Contract Purchaser

June 22, 1995  
Date

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CONSENT TO VACATE FORM

Printed Owner Name	Owner Signature	Address	Tax Lot
<u>Davod H. Kunze</u>		<u>19550 NE Calkins Ln. Newberg, OR</u>	<u>3220CB-6500</u>
<u>Oleva Fugate Life Estate Peggy Crete &amp; Connie Rogers &amp; Daniel Fugate</u>		<u>1215 E. 9th St. Newberg, OR</u>	<u>3220CB-6600</u>
<u>Jason Spon</u>		<u>812 Chehalem St. Newberg, OR</u>	<u>3220CB-6702</u>
<u>Frank &amp; Elizabeth Wallace</u>		<u>808 S. Chehalem St. Newberg, OR</u>	<u>3220CB-6801</u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>
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XIII-12

102

RECEIVED  
JUN 22 1995  
BY

10
11
12

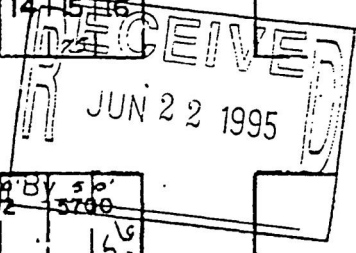
1800
13 14 15
75

1200	1100	1001
9 10 11 12	13 14 15 16	
100	100	

500	400
9 10 11 12 13	14 15 16
125	125

29

ST.



1	4500
2	
3	
4	4400
5	13 17 16
6	
7	4300
8	
9	4200
10	
11	13 14 15
12	

100	100
4600	5000
64	144
4700	
8 7 6 5	4 3 2 1
60	
4800	4900
744	144
9 10 11 12	13 14 15 16
100	100

100	50' BY 50'	50'
5100	5702	5700
72		56'
5200		56'
8 7 6 5	4 3 2 1	56'
72		56'
5300	5800	
72		72
5400	5601	5500
9 10 11 12	13 14 15 16	72
100	100	

VIA RATED 257-86  
CROWNSHIRE 261-1087

ST.

1	5900
2	
3	
4	
5	7000
6	
7	7101
8	
9	
10	7100
11	
12	13 14 15
	75

100	100	
6800	6500	
74	144	
6901		
8 7 6 5	4 3 2 1	144
100		144
6701	6700	6600
74		72
9 10 11 12	13 14 15 16	72
50	50	75

1307	1316	1311
100	50	50
6400	5800	5900
144		144
8 7 6 5	4 3 2 1	
72		72
6300	6100	6000
72		72
6200		
9 10 11	12 13 14 15 16	
100	70	50

CHEHALEM

WILLAMETTE

COLUMBIA

ST.

SEE MAP 3 2 20CC

This sketch is furnished to help you locate the property. It is not a survey and the company assumes no liability for errors.

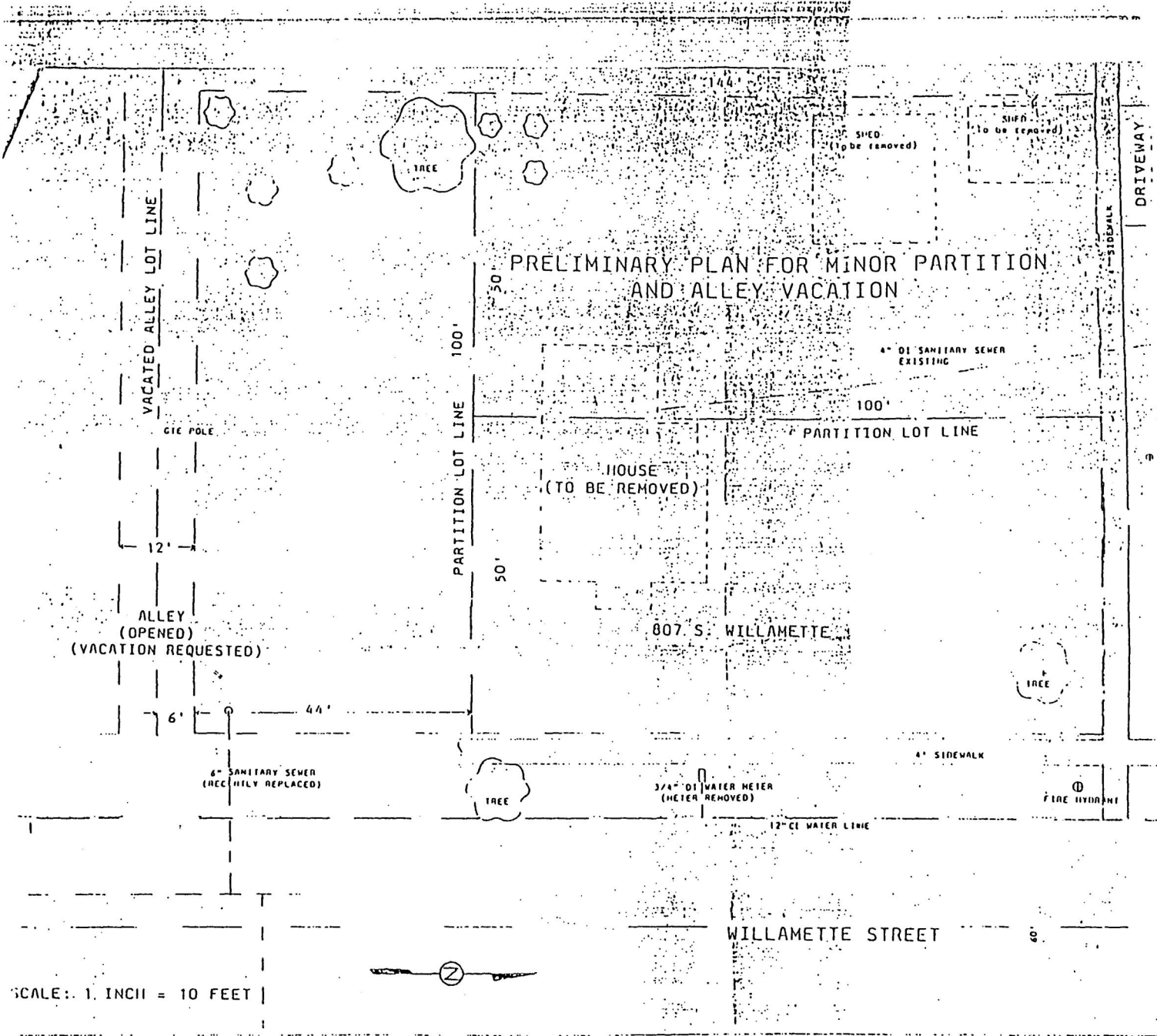
Northwest Title Company.  
472-4627 538-7361



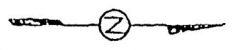
103 3 2

SEE MAP 3 2 20CA

21-III



SCALE: 1. INCH = 10 FEET



104

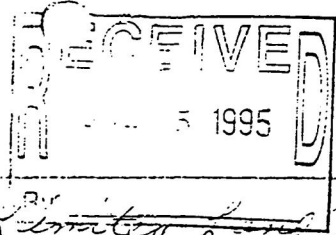
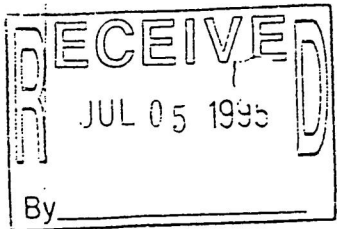
PGE POLE

SURVEYOR: MATT DUNCKEL & ASSOCIATES  
 ADDRESS: 19010 NW BAKER CREEK ROAD  
 MCMINNVILLE, OREGON 97120

OWNERS/APPLICANTS: NOLA & DAVID H. KUNZE  
 ADDRESS: 19550 NE CALKINS LANE  
 NEWBERG, OREGON 97132

TELEPHONE: (503) 537-0657

MORTGAGE: NONE



"b"

Reply to Notice of a ~~Proposed~~ ~~Land Use~~ Action  
July-5, 1995 File Number P-13-95

We have told Mr. Kurnge several times we will not sign a release for location of the alley on Millomette Street.

The alley is necessary for access to our property at 815 S. Millomette -

We also feel that three homes on the property is too many.

The alley has been there for many years and we prefer to leave it that way. It provides access for emergency vehicles & utility vehicles -

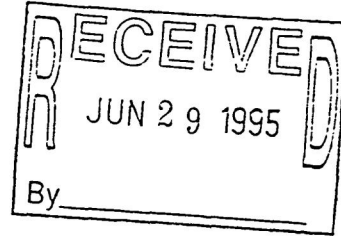
We hope the city will refuse this application.

Cornie Rodgers	Oliver Fugate
815 S Millomette	1215 E. 9 Street
Newberg, Ore. 97132	Newberg Oregon

Peggy Coate	Marion E. Fugate
513 East 2. Street	14311 Clear Creek Rd. N. 26.
Newberg, Ore. 97132	Silverdale, Wa 98383

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19550 NE Calkins Lane  
Newberg, Oregon 97132  
29 June 1995



John Knight, Planning Manager  
Department of Community Development  
719 E. First Street  
Newberg, Oregon 97132

Dear Mr. Knight:

The purpose of this letter is to provide the information necessary to support the vacation of the alley between Chehalem and Willamette Streets, south of 8th Street in the City of Newberg. As an owner of property abutting the alley, located at 807 S. Willamette Street, and with the support of the majority of the other owners abutting the alley (three of four) I have initiated this action.

Your action is requested to achieve the highest and best use of the land available in this neighborhood. Vacation of the alley would provide conformance to City requirements permitting the partition of my property into lots for the new construction of single family residences. This use is compatible with surrounding uses, would provide socially and economically stimulating activity needed in developing communities and older areas of the City. The City does not maintain this alley and has supported alley vacations in the past. This action would be to the City's advantage by removing unwanted property and its inherent risks from the public arena. The resulting business activity, development fees and increase in tax revenues from the construction of new homes would benefit everyone. The creation and use of infill lots must also be encouraged since it does not require the new construction or extension of City services.

The vacation of the alley has been embraced by all owners of abutting properties with the exception of the Fugate Life Estate who fear the loss of the alley for use as their driveway. The other owners favoring the vacation feel the alley as it exists threatens their home security and safety. Equal access to the alley and its use as an approach to their own properties is often prohibited by vehicles belonging to the Fugates blocking it. They see the vacation as enhancing to their sense of well-being and to the value of their properties.

To address the concern of the Fugate family, I have had frequent conversations with all interested family members and have offered reciprocating easements for the purpose of ingress and egress over the vacated alley as a solution. The easements I had prepared, presented the Fugates, and submit to you provide for continued use of the vacated alley as their driveway over my portion and their portion of the property vacated. This would satisfy the City and State statutory requirements which prohibit the vacation of the alley if it would "substantially effect the market value of the abutting property owners

unless the City governing body provides for paying damages". The easements would provide the Fugates with property deeded to them specifically for their use. This private driveway must be an improvement over the route of public access they currently use and the value of their property would accordingly be enhanced. No damaging effect could be perceived.

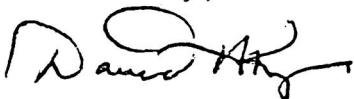
In addition, the utility companies (phone and cable) would require an easement up the alley to access and service the transmission line entering from Willamette Street.

Your consideration and support of this action is requested in that it would appear to benefit all concerned as summarized below.

- A. The City gains the highest and best use of the property, disposes of unwanted property and its' risks, increases tax base, stimulates social and economic growth and the easements satisfy the statutory requirements and eliminate any claims of damages by the City.
- B. Three of four abutting property owners favor the vacation and see it as enhancing the value of their properties and their sense of security.
- C. The Fugate Life Estate gains a driveway created especially for their use, increased property value and security.
- D. My property satisfies the Citys' requirements for partitioning, permits improvement to its' highest and best use, stimulates economic activity, and enhances an area of the community where it is needed.

Thank you for your assistance and consideration. I look forward to discussing this further with you at the scheduled council meeting.

Sincerely,



David H. Kunze

enclosures

19550 NE Calkins Lane  
Newberg, Oregon 97132  
1 June 1995

Mr. Daniel Fugate  
14289 Clear Creek Road NW  
Silverdale, Washington 98383

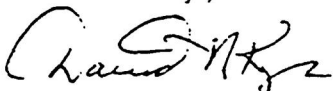
Dear Mr. Fugate,

As we have discussed, your signature is required on the application to vacate the alley shared by my property at 807 S Willamette Street in Newberg. I seek the vacation in order to conform with City of Newberg lot size requirements to build new single family homes. To provide continued use of the alley as a driveway I have had reciprocating easements prepared and included.

Please sign where indicated the three applications before a public notary, available at Title companies, legal offices and most banks and return them to me in the envelope provided within 15 days. When all the signed forms are returned the application will be submitted to the city for approval and recording.

Your consideration of this request is greatly appreciated.  
Thank you.

Sincerely,



David H. Kunze

cc: C. Rodgers  
P. Crete

VII-12

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NB



AGREEMENT FOR EASEMENT

THIS AGREEMENT, Made and entered into this 26th day of May, 1995, by and between PEGGY CRETE, CONIE ROGERS & DANIEL E. FUGATE, hereinafter called the first party, and DAVID H. KUNZE AND NOLA ZETTER KUNZE, hereinafter called the second party;

WITNESSETH:

WHEREAS: The first party is the record owner of the following described real estate in Yamhill County, State of Oregon, to-wit:

Lots 13,14,15 & 16 Block 53 in Edwards Addition to the Town (now City) of Newberg, in Yamhill County, Oregon.

TOGETHER WITH that portion of vacated alley incurring thereto

and has the unrestricted right to grant the easement hereinafter described relative to the real estate;

NOW, THEREFORE, in view of the premises and in consideration of One Dollar (\$1) by the second party to the first party paid and other valuable considerations, the receipt of all of which hereby is acknowledged by the first party, they agree as follows:

The first party does hereby grant, assign and set over to the second party an easement for ingress and egress

(Insert here a full description of the nature and type of the easement granted to the second party.)

The second party shall have all rights of ingress and egress to and from the real estate (including the right from time to time, except as hereinafter provided, to cut, trim and remove trees, brush, overhanging branches and other obstructions) necessary for the second party's use, enjoyment, operation and maintenance of the easement hereby granted and all rights and privileges incident thereto.

Except as to the rights herein granted, the first party shall have the full use and control of the above described real estate.

The second party hereby agrees to hold and save the first party harmless from any and all claims of third parties arising from second party's use of the rights herein granted.

The easement described above shall continue for a period of continual, always subject, however, to the following specific conditions, restrictions and considerations:

109

If this easement is for right of way over or across the real estate the center line of the easement is described as follows:

That portion of vacated alley incurring to Lots 1,2,3, and 4, Block 53 in EDWARDS ADDITION to the Town (now City) of Newberg, Yamhill County, Oregon.

~~and second party or both parties shall be made with the center line and easement shall be recorded on the side of the road~~

During the existence of this easement, maintenance of the easement and costs of repair of the easement damaged by natural disasters or other events for which all holders of an interest in the easement are blameless shall be the responsibility of (check one):  the first party;  the second party;  both parties, share and share alike;  both parties, with the first party being responsible for .....% and the second party being responsible for .....%. (If the last alternative is selected, the percentages allocated to each party should total 100.)

During the existence of this easement, those holders of an interest in the easement that are responsible for damage to the easement because of negligence or abnormal use shall repair the damage at their sole expense.

This agreement shall bind and inure to the benefit of, as the circumstances may require, not only the immediate parties hereto but also their respective heirs, executors, administrators and successors in interest.

In construing this agreement, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this agreement shall apply equally to individuals and to corporations. If the undersigned is a corporation, it has caused its name to be signed and its seal (if any) affixed by an officer or other person duly authorized to do so by its board of directors.

IN WITNESS WHEREOF, the parties hereto have executed this easement in duplicate.

Dated .... May ....., 19..95..

..... See Signature Page .....

FIRST PARTY

SECOND PARTY

STATE OF OREGON, County of ..... ) ss.

This instrument was acknowledged before me on ....., 19....., by .....

This instrument was acknowledged before me on ....., 19....., by .....

as ..... of .....

Notary Public for Oregon

My commission expires .....

AGREEMENT FOR EASEMENT BETWEEN

AND

AFTER RECORDING RETURN TO

SPACE RESERVED FOR RECORDER'S USE

STATE OF OREGON, County of ..... ) ss.

I certify that the within instrument was received for record on the ..... day of ....., 19....., at ..... o'clock .....M., and recorded in book/reel/volume No..... on page ..... or as fee/tile/instrument/microfilm/reception No. ...., Record of ..... of said County.

Witness my hand and seal of County affixed.

By ..... Deputy

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\_\_\_\_\_  
PEGGY CRETE

State of Oregon

County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_ Day of \_\_\_\_\_, 1995  
by Peggy Crete.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

-----  
\_\_\_\_\_  
CONIE ROGERS

State of Oregon

County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_ Day of \_\_\_\_\_, 1995  
by Conie Rogers

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires \_\_\_\_\_

-----  
\_\_\_\_\_  
DANIEL E. FUGATE

State of Oregon

County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_ Day of \_\_\_\_\_, 1995  
by Daniel E. Fugate

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires \_\_\_\_\_

VII-12

111

AGREEMENT FOR EASEMENT

RECORDS PORTLAND, OR 97204  
111

THIS AGREEMENT, Made and entered into this 10th day of May, 1995,  
by and between DAVID H. KUNZE & NOLA ZETTER KUNZE  
hereinafter called the first party, and PEGGY CRETE, CONIE ROGERS & DANIEL E. FUGATE  
hereinafter called the second party;

WITNESSETH:

WHEREAS: The first party is the record owner of the following described real estate in Yamhill County, State of Oregon, to-wit:

Lots 1, 2, 3 & 4 Block 53, in EDWARDS ADDITION to the Town (now City) of Newberg, in Yamhill County, Oregon.

TOGETHER WITH THAT portion of vacated alley incurring thereto

and has the unrestricted right to grant the easement hereinafter described relative to the real estate;

NOW, THEREFORE, in view of the premises and in consideration of One Dollar (\$1) by the second party to the first party paid and other valuable considerations, the receipt of all of which hereby is acknowledged by the first party, they agree as follows:

The first party does hereby grant, assign and set over to the second party an easement for ingress and egress

(Insert here a full description of the nature and type of the easement granted to the second party.)

The second party shall have all rights of ingress and egress to and from the real estate (including the right from time to time, except as hereinafter provided, to cut, trim and remove trees, brush, overhanging branches and other obstructions) necessary for the second party's use, enjoyment, operation and maintenance of the easement hereby granted and all rights and privileges incident thereto.

Except as to the rights herein granted, the first party shall have the full use and control of the above described real estate.

The second party hereby agrees to hold and save the first party harmless from any and all claims of third parties arising from second party's use of the rights herein granted.

The easement described above shall continue for a period of continual, always subject, however, to the following specific conditions, restrictions and considerations:



REQUEST FOR COUNCIL ACTION

DATE SUBMITTED: July 24, 1995

X MOTION

DATE ACTION REQUESTED: August 7, 1995

SUBJECT: National League of Cities Conference - Phoenix, Arizona  
November 29-December 3, 1995

RECOMMENDATION: The City Manager recommends that the Council identify up to two Council members that will attend the National League of Cities Conference.

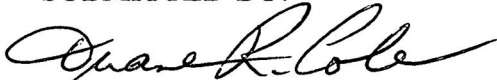
BACKGROUND:

Last year, Don Wright attended the National League of Cities Conference in Minnesota. He provided a detailed report to the City Council when he returned.

The City budget provides funds for two Council members to attend National League of Cities functions during the 95-96 fiscal year. These funds would cover the cost of the trip to Phoenix as well as the March conference in Washington, D.C. It is not required that the City send representatives to the National League of Cities conference, however, there is always a debate regarding the value of these networking and educational opportunities. This decision needs to be made soon so that the City can take full advantage of early registration opportunities and price breaks.

FISCAL IMPACT: The City Council's budget includes \$4,000 for travel and training opportunities. It is estimated that the cost of attending this conference will be approximately \$1,800 per Council member.

SUBMITTED BY:



Duane R. Cole  
City Manager

cc\rcanloc

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# NEWBERG AREA CHAMBER OF COMMERCE

115 N. Washington

Newberg, OR 97132

(503) 538-2014

July 27, 1995

Duane Cole  
City Manager  
City of Newberg  
414 East First Street  
Newberg, OR 97132

Dear Duane:

The Newberg Area Chamber of Commerce is pleased to submit the Fourth Quarter Report (April-June, 1995) for the Visitor Information Center.

The statistical data on visitor usage and a financial report for this quarter is enclosed. Furthermore, the Chamber has met or exceeded the services and objectives itemized in the City-Chamber Agreement.

Also, I've enclosed an article on "Demographic Trends Affecting Tourism Development", some interesting, but not surprising, information.

I will attend the August 7th City Council meeting to answer any questions the councilors may have. I understand a presentation covering the information is not necessary.

Yours truly,

Ann Pesola  
Executive Director

Enclosures

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# NEWBERG VISITOR INFORMATION CENTER

1994 - 1995

## Fourth Quarter Report (April-May-June, 1995)

### REVENUE

Source	4th Q	To Date	Budget
City of Newberg	\$ 5,000	\$ 20,000	\$ 20,000
Chamber of Commerce	\$ 1,093	\$ 7,221	\$ 7,388

<b>TOTAL REVENUES</b>	<b>\$ 6,093</b>	<b>\$ 27,221</b>	<b>\$ 27,388</b>
-----------------------	-----------------	------------------	------------------

### EXPENSES

Category	4th Q	To Date	Budget
Personnel	\$ 3,806	\$ 17,936	\$ 16,602
Dues	\$ 0	\$ 285	\$ 460
Equipment and Supplies	\$ 531	\$ 2,430	\$ 1,969
Printing & Advertising	\$ 0	\$ 136	\$ 350
Overhead/Utilities, etc.	\$ 1,856	\$ 6,434	\$ 8,007

<b>TOTAL EXPENSES</b>	<b>\$ 6,093</b>	<b>\$ 27,221</b>	<b>\$ 27,388</b>
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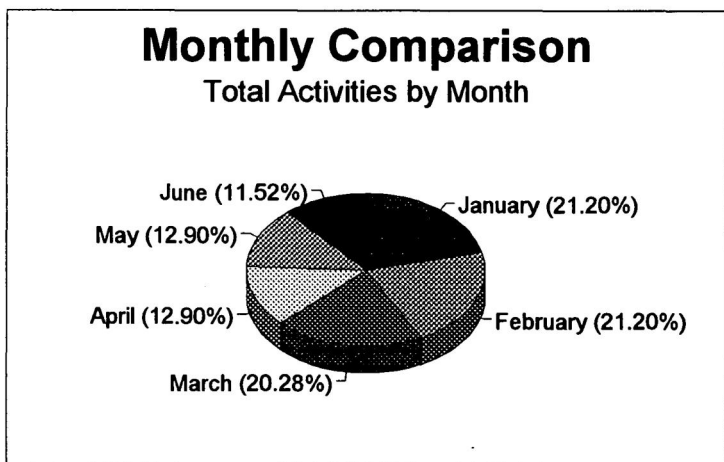
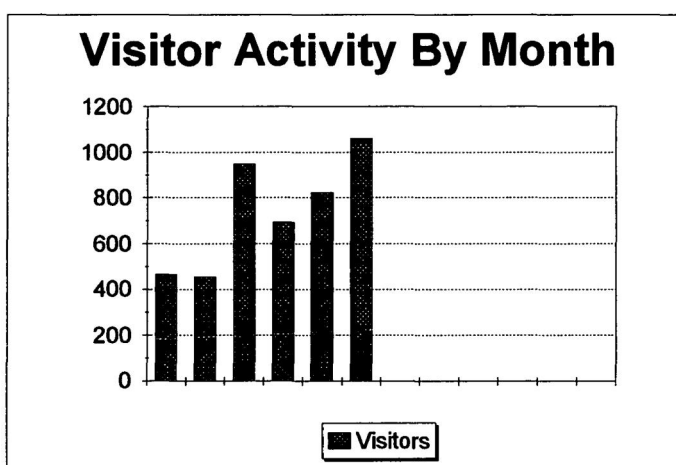
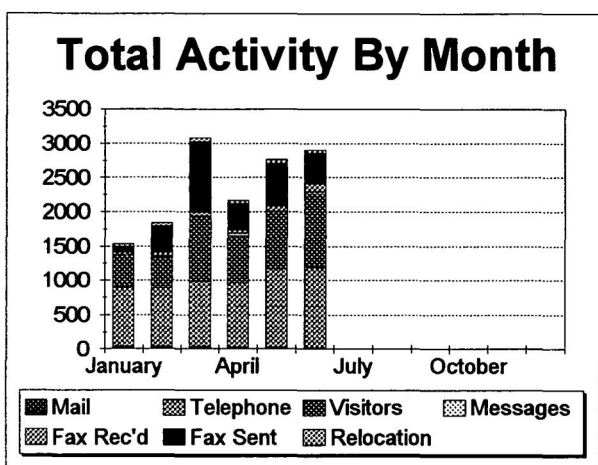
116

# Newberg Visitor Information Center

July 1, 1995

## 1995 Visitor Information Area Service Record and Six Month Report

	Mail	Telephone	Visitors	Messages	Fax Rec'd	Fax Sent	Relocation	Brochures
January	46	856	464	18	27	81	41	2784
February	46	840	455	17	53	386	48	2730
March	44	943	948	8	47	1039	51	5688
April	28	938	693	35	51	378	45	4158
May	28	1144	824	12	91	609	56	4944
June	25	1176	1060	29	120	451	48	6360
July								0
August								0
September								0
October								0
November								0
December								0
<b>Total:</b>	<b>217</b>	<b>5897</b>	<b>4444</b>	<b>119</b>	<b>389</b>	<b>2944</b>	<b>289</b>	<b>26664</b>



The number of brochures distributed is an estimate based on the awareness that the average visitor leaves the Chamber with 6 or more pieces of literature. Some leave with many more. The estimate is six times the number of visitors each month.

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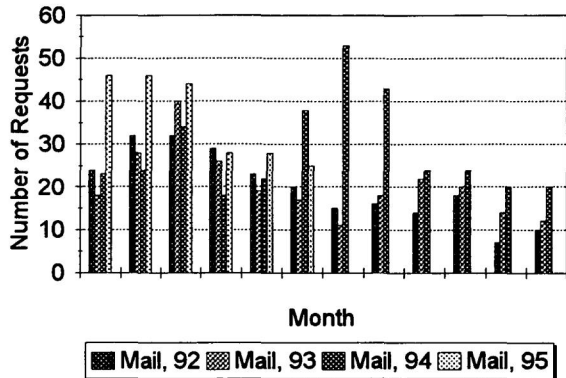
# Newberg Visitor Information Center

July 1, 1995

## 1995 Visitor Information/Relocation/Communications Report

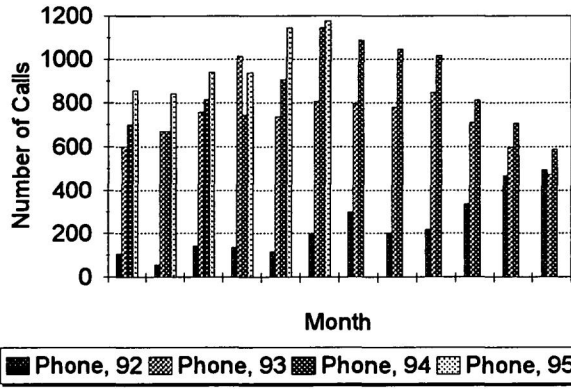
Comparison Between 1992, 1993, 1994 and 1995

### Mail Requests, 1992-1995



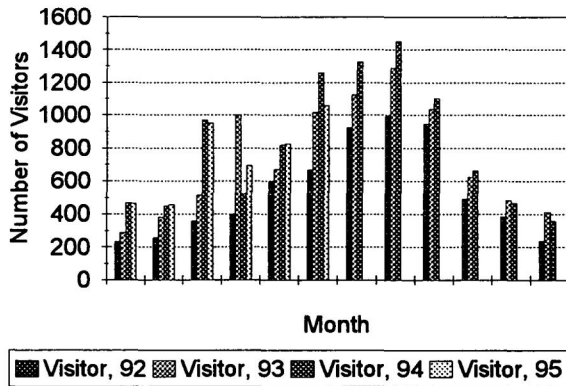
1992 Total: 240      1993 Total: 245  
 1994 Total: 343      1995 Total to Date 217

### Phone Calls, 1992-1995



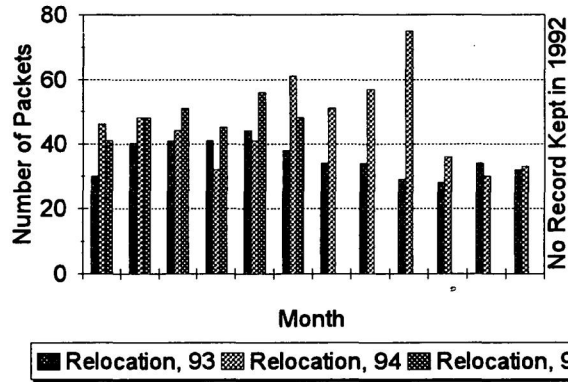
1992 Total: 2,764      1993 Total: 8,763  
 1994 Total: 10,240      1995 Total to Date 5897

### Visitors, 1992-1995



1992 Total: 6,481      1993 Total: 8,833  
 1994 Total: 9,848      1995 Total to Date 4444

### Relocation, 1992-1995



1992 No record      1993 Total: 425  
 1994 Total: 554      1995 Total to Date 289

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## Demographic Trends Affecting Tourism Development

Here are a few trends having an impact on Oregon Tourism:

- The population is getting older and households smaller; fewer families with fewer children means *more discretionary income per capita*.
- Travel in the 1990's is on the increase, and *family vacations are perceived as an important aspect of being a family*.
- There is an *increase in travel* among persons 40-65 years of age, and *more business travel*, especially among women.
- Middle market travel options are more popular than high or low end markets. Travel choices are *adapted to moderate lifestyles* and are *value based*.
- Travelers maintain an interest in *trusted locations* and *familiar estinations* that are perceived as quick and easy to reach, and as guaranteeing a pleasurable experience without hidden problems of surprises.
- Tourists make choices based on a perception of "*sensible travel*." They want value packages, low fares, cost-effective accommodations, and locations close to home.
- Many more Americans are choosing to *travel by car*.

VIII-1

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**ORDINANCE/RESOLUTION ROLL CALL**

**COMMITTEE:** NEWBERG CITY COUNCIL MEETING

**MEETING DATE:** 8-7-95

Council Member

*Hayes vacated*  
Ord/Res No. 95-2413  
 Yes/No

*mfruct*  
Ord/Res No. 95-2407  
 Yes/No

*Discarded vehicle*  
Ord/Res No. 95-241X  
 Yes/No

CURRIER, Roger

yes

*Refer to CA taking*

NO

HALSTEAD, Alan

yes

yes

McMULLEN, Dave

yes

yes

McCAIN, Donna

yes

yes

~~PROCTOR, Donna~~

~~\_\_\_\_\_~~

Back

~~\_\_\_\_\_~~

SUMNER, Deborah

yes

NO

WEAVER, Robert

yes

yes

WOLLAM, T. Dan

yes

yes

WRIGHT, Don

yes

yes

          
 Total

Yes -  
 No -

Yes -  
 No -

Yes - 6  
 No - RC, DS

Submitted By: Peggy Hall

**NOTE:** Please complete an attendance sheet for all meetings involving City Council members and return to the Legal Department. If the regularly scheduled meeting is canceled for any reason, it should be noted on an attendance sheet and sent to the Legal Department.

Original minutes, signed by the secretary or chairman, should be prepared and sent to the Legal Department for filing as the official record of the meeting.

**ORDINANCE/RESOLUTION ROLL CALL**

**COMMITTEE: NEWBERG CITY COUNCIL MEETING**

**MEETING DATE:** 8-7-95

Council Member	Ord/Res No.	Ord/Res No.	Ord/Res No.
	Yes/No	Yes/No	Yes/No
CURRIER, Roger	<u>yes</u>	_____	_____
HALSTEAD, Alan	<u>yes</u>	_____	_____
McMULLEN, Dave	<u>yes</u>	_____	_____
McCAIN, Donna	<u>yes</u>	_____	_____
PROCTOR, Donna	_____	_____	_____
SUMNER, Deborah	<u>yes</u>	_____	_____
WEAVER, Robert	<u>yes</u>	_____	_____
WOLLAM, T. Dan	<u>yes</u>	_____	_____
WRIGHT, Don	<u>yes</u>	_____	_____
_____	<u>Yes 11/11</u>	Yes -	Yes -
<b>Total</b>	No -	No -	No -

Submitted By: Peggy Kline

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1st draft

Council accepts comments on items during the meeting. Please fill out a blue card and identify the item you wish to speak on and hand this in to the Mayor prior to the meeting. (The exception is formal land use hearings which require a specific public hearing process. The agenda's items will be identified at the meeting.)

**CITY OF NEWBERG  
CITY COUNCIL AGENDA  
AUGUST 7, 1995  
7:00 P.M.  
PROVIDENCE NEWBERG HOSPITAL  
CONFERENCE ROOMS 3, 4 & 5**

**I. CALL MEETING TO ORDER (*Pledge of Allegiance*)**  
**OMITTED**

**II. ROLL CALL**

**Roger Currier (RC)  
Donna McCain (DM)  
Deborah Sumner (DS)  
T. Dan Wollam (TDW)**

**Alan Halstead (AH)  
Dave McMullen (DMc)  
F. Robert Weaver (RW)  
Don Wright (DW)**

**STAFF**

**PRESENT: Duane R. Cole, City Manager (DRC)  
Terrence D. Mahr, City Attorney (TDM)  
Robert Tardiff, Police Chief  
Peggy R. Hall, Assistant City Recorder  
Greg Scoles, Community Development Director**

**OTHERS**

**PRESENT:**



**Fiv minue time limit -**

**TDM - public announcement - ublic registratin - omment card - cannot speak unless filled out - limited to subject matter on the card - communications from floor - should abide by council rules - 5 minute time limit - do not submit card - won't be allowed to be continually submitted - won't accept any more cards - any chance - give card - gives address and notify decisions - on camera and stte name and address - speak from uphea - camera - official record of m eeting -**

### III. CONSENT CALENDAR:

1. Approve minutes from Regular Council meeting held on June 5, 1995; Special Council meeting held on June 26, 1995.

MOTION: AH/RC to adopt - unanimous.

Freank Douglas - dale mount - ffparamedic with nch - greg wong - paid paramedic from NCH - resigned - PDX fire bureau -

Frank - the fire department - review of transaction - between fire department - good year financially - not alot of istorial information - \$85,000 start - up costs - revenue to allow to operate for months - underspending budget - staffing - 6 career paramedias and 6 part time - - planning on senind 4 more people to paramedic school - report to max 16 including volunteers - areas of weakness to improve - vehicles and equipment - semi automatic defibulator - getting pulse back - awareness of firemed - quality control progam - staying on top of medical standards and stae laws and ordinances - physcian advisor - referred to 21 year olf GFC female - no pulse - 12 yr. Old female - onset of respiratory illness - lived outside city - trained fire fighters -

rc - charitable organization - donated 40,000 mbulance - - report states 95,000 - pledged - has not receied all of it yet -

dale mount - ffparamedic - with nfd - been with ambulance 10 years - started with volunteer 13 years ago - constantly changing - last year full of changes - frank brings out potential in people - been able to staff third out ambulance - number one priority is life safety - training for depth of servic -

VII - 2 - financie award - kt and diane padilla -

KT - diane on vacation - third award - asked dp'sname to be puton award - does most of work on annual financial report - proud of this award - highest award for gov. Acctg. One of 93 in the state of oregon - annual report is reviewed by panel of persons not in the area -

### IV. PUBLIC HEARING:

1. Continue public hearing on a request of a vacation of a 10 foot in width utility easement located on the eastern property boundary of that portion of Tax Lot 3220AA-201 south of Hayes Street; and vacation of a 30 foot in width utility easement located on the eastern property boundary of Tax Lot 3220AA-200 south of Hayes Street.  
**Ordinance No. 95-2413** vacating the north-south utility easement on the eastern property boundary of Tax Lot 3220AA-200 and 3220AA-201 south of Hayes Street within the corporate city limits of Newberg, Oregon.

DP - improper posting - declare conflicts - none -

Greg - staff report - one correction to make - rca - 07/19.95 - one continui easement on two propertyies - 20 foot last year - 30 feet width on separate piece of porperty - ordinance - numberng proplem - pg 21 (paragrpha eliminated - section 4 - relates to rights of way - reverting to abutting property owners - adopting would vacate easement before you.

Auggie Gonzales - 2880 Hayes Street, Nbg. - tnak mayor and councilandstaffy to share information on this - principal owners apologize for taking time - hope that the pd work together to get mutual agreement - delayed bulding by six monh - medical servid alatenrative-reuest cc consider approve of the vacation last 10 feet on eastern property of tax lot - 3220-AA-201 - secured consent signaturs of adjoining property owners - they support reuest - pd also reust approval -

In addition ask that since this iscontuniation of original easement that the cc waive application fee paid a second time since this is a cotnituantion of same easement -

MOTION: DW/AH to read with corrections - Unanimous. DP read ordinance by title only - tdm read amendments - section 4 is eokminated - section no. 6 is renumber to be 4 and 7 is remunumberd to be no. 5 - unanimous.

DMC - request application fee - to Greg - this request was tied into one with hayes street last year- distinction -

Greg - orogianl reqeust was to vacaeentire piece - cc vacated all but 10 fet of easement - they have now reapplied to revacate last10 feet and the abutting property owners have also asked for vacation of easement - 10 feet was part of original application - part of original request - dmc - cc's decision not to include it

RC - staff recommenction to retain for easement rights - not needed for easement pruposes - held them up for time for posting-

Greg - pulled off for original ten feet - vacate a portion - with caveats - appeared most reasonable solution - not sure what deborah would be along that ara - since that itme - if debroah extended- this would not be through this property - not for street purposes -

MTOION; Dmc/RC- approved applic request to return applicant's fee -

AH - did abutting p/owner submit another application - did pay a fee - did not reuest vacation - each party submitted separate application -

DRC - this bulding was not placed in sport - placed over easement - not picked up in title search - to say that we should be refunding money - to start with it was diseaster - the building was here- should have been moved over - title search did not pick up easement - title search did pick up - original design did not look at title search close enough - important information -

TDM - put bldg. Where original design was - secure long range financing - mtge company picked up easement - encroachment on easement - or vacate easement - vacated 20 feet of 30 foot easement - need 10ft esement for sign - have come back to request additioanl ten feet -

RC - did we sign permit to build for placement - did he come in with plan s- bldg. Permitt issued

RC - called for the qustion -

DM - discussion about whether paid or not paid - postpone

Yes - rc, rw and dw and DMC -

No - AH, DM, TDW and DS

DP - refund back - broke tie

## V. COMMITTEE RECOMMENDATIONS:

## VI. CONTINUED BUSINESS

1. **Ordinance No. 95-2407** amending Ordinance No. 1593, Section 21 (3) reference to correct motor truck ORS definition number, adding truck tractor, and establishing a permit process to allow motor trucks and truck tractors to park in specified areas.

TDM - cc has a number of maters before them - permit process -

**Present ordinance prohibits parking in specirid areas** - other areas in city - allowed - areas specifically posted- not adacent to these types of laces -

The Policechief- recommended - provide permit for trucks and trailers as well - policy decision - issue permit policy - choices -

Pat Haight - 114 E. Hancock Street -information on through process - see how many trucks and tractor parking on city streets - went up and down - 4 trucks and tractors - monumental job ahead - if require permit process - hard time etting message to truck drivers - dverse attitude toward city - than good will - ordinance that hasn[t been enforced - arent placingfair with ordinance system - amend for one or two complaints - also speak on vehicles -

AH called for point of order - **DP** stated taht she would need to speak at a later time -

Pat - legitiatme complaint - take care of noie - issue ticket - feel strong abou and should really give though about process of permits - which dept. Will administer permits - enforce? Officerneeds more thought - asking to do tonite -

DM - prohibiti parking 9:00 7:00 a.m. - washin truck between

DS - tabled matter - what would happen - the originace would prohibit 9:00 p.m. and 7:00 on

residential area -

ds - enforcing it - haven't been uniformly enforcing it - handling this -  
Bob Tardiff - pd point of view - truck and trailer issue - been dealt with by cr and tsc -  
mentioned in memorandum - pd would be happy to carry out policy - need uniform -  
enforcement - do enforce upon complaint - don't go out looking for trucks - not a high priority -  
issue is trucks and trailers in residential - conflicting ordinances -  
TDW - whether the problems that we have are really over trucks themselves or the trailer -  
more trailers more than an issue - regarding trailers - chased around town - have an area  
where park - resent ordinances does not address trailer -

RC - cost for permit? DRC no - Bob Tardiff - not talking about large numbers of permits -

mechanism if bothering

DM - decision was to what dept. They would be disbursed from - if pd - open 24 hours a day -  
permit going to be problem with truckers - than solving our problem - bob - issued out of pd -  
ds - time for this - not talking about a log of permits -

RC - did not see provision about someone pulls in late at night - take tractor home - not able to  
park provision to allow him 24 grace period - same process -

bob - not out looking for citation -

AH - impression is that - someone that lives in newberg - keep truck in driveway - or in front  
of house - et permit or he's going to have permit -

RW - longevity of permit - 12 months -

DW - a lot more time discussing it than it would take

TDM - ruck trailers in residential areas - permit prohibit motor truck - provide revokable  
permit - not for truck trailers - - need additional - biggest parking issue - is trailer parking -

TDM - issue permits for mt and truck tractors - and not truck trailers - police chief does not  
resolve issues - truck trailers could not park in any residential areas as specific and other areas  
in city as posted - prohibitive - other areas strictly industrial they could park there -

DW - drafting motion that keeps trailers off residential and adjacent streets - only permits  
tractors - cc decision on policy - keep trailers off streets and permit tractors -

rc - what has been input from drivers and owners in relationship to complaints?

drc - process for permit - from call that person drives truck - parking illegally - met with  
mcminnville - same process with mac - still

AH - ordinance - 2407B - re-write? Clear -

DM - indicating that in past has not been a problem - problem has been trailers - need to give direction in what trailers have been involved - refer to demand what don't say - spending a lot of time -  
TDM - truck tractors and truck

DM - ~~not convenient to city or trucker~~ - refine that handles the trailers - - do not have permit process - start enforcing own ordinances -

DP - tsc did not want permit -

DW -

RW - MOTION - to table instruct attorney - clear, concise - and act on this - /RC second - (7 yes - 1 no - AH) passed for sept. 5th cc meeting - not sure - prohibit - permit trucks and tractors in residential districts - not trailers -

**VII. NEW BUSINESS**

1. Appointment of Library Board Member to replace Richard Gehrts:  
Hardie Rollins  
Linda Sartwell

not present in audience - Leah Griffith - left -  
DRC - out of city member - serves until 1999 - cc pleasure -

MOTION; RC/AH to nominate both of them -

DMC - real pleasure to have two applicants - one not selected - elp library  
Hardie - - rC  
Sartwell - 7

Linda Sartwell - appointee on library board.

2. Presentation of Award of Financial Reporting Achievement to Katherine Tri, Finance Director and Diane Padilla from the Government Finance Officers Association of the United States and Canada.
3. Presentation by Frank Douglas, Emergency Medical Services Coordinator  
on the status of the EMS Division in the City.

4. **Resolution No. 95-1920** approving a Financing Agreement whereby United States National Bank of Oregon provides the financing needed by the City to fund the acquisition of certain equipment for use by the City

in its governmental operations; and authorizing the execution and delivery of the Financing Agreement and other matters pertaining thereto.

Went to backs - KT - short term financing project - bond counsel - drafting documents - looking at 10 year agreement - if not enough funds - would fall back on general fund - ambulance funds should pay for expense - when sale occurred - provided funds for expansion of bus - \$125,000 - reorted - bought equipment - temp. Housing facility - mobile home - expenses - garage to house ambulances - used money to get through with all other issues resolve - \$80,000 existing funds to pay expense - need \$182,000 to finish project - pay bond counsel and bank - change orders -

start of 445,000 - nch gave - start up ambulance service - purchase three ambulances at 80,000 each - they are now 95,000 each - needed to preface three - used some funds to purchase equipment - upgrade -

rc - charitable organization - commit 95,000 - build up capital reserve fund - 1989 newest ambulance - replacing two with funds upfront - will replace third ambulance -

DS - temp. Ambulance - spent 3600.00 - funds are in purchase orders and expense - also bought beds - sleeping quarters -

KT - last legislative session - new laws - lease purchase financing - this is not lease purchase - financial agreement - recommended that this was best approach to do -

RC - this amount will be paid for third ambulance - -

Michael Sherman - capital preplacement fund - ambulance gets replaced every 8 *years* years -

MOTION: AH/RW to approve (1920 - ) unanimous.

~~yes~~ -

5. **Resolution No. 95-1921** authorizing the City Manager to sign amendments to the City of Newberg general employees retirement plan.

DP - housekeeping amendment - drc - brings in-house retirement plans into consistent language - re: measure

MOTION: RW/AH to adopt -(7 yes/1 No - = RC) passed

6. **Resolution No. 95-1922** resolving the Circuit Court Case, City of Newberg V. Daniel Scully, (Case No. CV 94-213), by accepting a general release, settlement agreement and covenants; authorizing the City Manager to sign the settlement agreement; and authorizing the City Attorney to obtain the final judgment in the case.

Former Francis Theater - Mr. Scully has signed a deal and agreement - now waiting for cc

authorziation to do this - settle - city padi \$60,000 demotiliotn - will not recovery money - right would be to placelien and foreclosure - noofficial appraisal - property isnot worth 60,000 - Mr. Scully is the owner - he would give to city - end case and city would  
MOTION: AH/RW to approve - unanimous.

7. **Resolution No. 95-1923** authorizing the City to apply for a grant under the Petroleum Antitrust Settlement Grant Program.

DP - city has number 1 and 2 priority - tsafety officor - transp. For chev. sr. Center- two

DRC - approachingcounty to support thie projects if they support ours - money is distributed statewide on per capita basis -

DP - ODOT #1 priority - is for light rail - Eugene to Portland -

MOTION: AH/TDW - unanious.

8. **Resolution No. 95-1924** identifying the City's transportation projects which should be included in the State Transportation Improvement Plan (STIP).

DRC -staff report is complete - east fork of chehalem creek briedge - in additional briedge street to main street in 1998 - bypass issues- tollways - transp. Planning projects - state's attention - go to hearingon 08.15.95 and talk with state in stip - off system projects - if decreases use on state system - College street- Mountainview to Crestvew - bring to atention - relieve alot of inhouse traffic - southern entrance to Newberg (Wilsovnlle road - hwy 217 and corner of villa road and second street - - need to retain direction thatthey have - move forwad

MOTION: RW/AH to adopt - unanimous.

9. **Ordinance No. 95-2414** amending Ordinance No. 1557 by broadening the definition of discarded vehicles and declaring it a public nuisance for the accumulation of discarded vehicles upon public property as well as private property.

TDM - come fore cc - need policy direction - present - 1557 - declars nuisance discrded vehicles on public property or private right-of-way - reviewed staff report - prohibitive action - nuisance as public property - just private property - did two things with original amendment - tightened up def. Of abanadoned vehicles - store on public property - more tight orinance that indicated that a vehicle , not affixed to it a license plate or expired license plate - pass - first one tightesn up ordiancne - or pass - alternative - tighter policies -

storing vehicles on public right-of-way ± (left over 24 horus) unless authorized by localordnacne - 72 hours - making clear here - after 72 hours - we can leave anotice on windshield and have it towed - probhits from people - better than leaving a ticket on vehicle - enenfocment issues - policiy decisions - give direction and follow through -

RC - what we have in place deals with private and public area - deals with abandoned cars on street - need to be dealt with - don't think that we need to go to extreme to add new ordinances in place or attempt to go into place dealing with private land in this manner - issue - point of antique car - collector car - - if don't have money - work for a couple of years - not everyone has money to building or land in lack of - rent storage - illegal repair shops - jeopardizing people's rights - respect and trespassing on property to inspect vehicle - if adopt any of these ordinances - just something more that we are sticking out neck out if need to -

DS - with only including - under discarded - including - wreck, dismantled abandoned and junked -

TDM - problems with current ordinance - 95-2414 fine tunes current ordinance - does not change policy - just fine tunes -

Bob - revision would do is in addition - expired plate affixed and one of those things - no plate or expired -

no change - - real issue - vehicles on public property - state statute and city ordinance - nuisance on public property - going through abatement process - failures to discuss the public property area - dealing with state law - 24 hours - this is talking about 72 hours - how to handle on public property - same as private property -

RW - does present ordinance address 819.100 abandoned vehicle on road for over 24 hours - present one does not address - not in compliance with state - city ordinance does not have removal process -

RC - reason why - addendum to 1557 adding "public property" adding expired license plate - adding "public property would solve the problem"

TDM - amendment adding "or no license plate"

TDW - amendment is appropriate - whether plate or not plate expired or no license plate is on - still problem -

MOTION: to adopt Ordinance -

Virginia Youngweth - 410 S > School - car parked in front of mothers - broken windows - beer cans - take off private property - infringing upon

TDM - towing company - towing company would hold - notify registered owner - take over title -

Pat Haight - 114 E. Hancock - crime - before getting on - take time before all of these ordinances - take a look at whole entire picture -

AH - 1557 - amended - chief

MOTION: DW/ very minor alteration - by title only (AH) (RC - no)

TDM - read 6 yes - 2 no (RC/DS) - motion passed

Storage vehicles ~~Resolution~~ *Ord 2415*  
MOTION: AH/DW to read by title only - dp read - Unanimous.

Five minute recess - 9:05 pm..

10. **Ordinance No. 95-2415** amending Ordinance No. 1593 by providing that the City may utilize the Oregon Revised Statute method of removing vehicles which are stored or abandoned on public right-of-way.

- 
11. **Resolution No. 95-1925** affirming the infrastructure agreement between the City, STX of Oregon, Inc. and the Economic Development Department of the State of Oregon, clarifying certain provisions of said agreement and providing for notice of clarification to parties.

DP called the meeting to order at 9:15 p.m.

DW - called for point of order - being withdrawn from agenda -

DW - if withdrawn - would not like to hear - could be appealed back to pc -

dw - take off agenda -

DRC - stx should come forward and tell if withdrawing -

DW - may hear again under appeal -

DS - agreement with DW - could hear pro-arguments - rest of public - setting up for great fall and criticism -

DRC - ask that asking it to be postponed - to september 5th cc meeting -

rc - did not receive

MOTION: DW AH to continue to first meeting of september - (RC - no ) passed

RW - need to get message out - act

TDW - sometimes you don't know in advance - something to be added and something to be removed -

AH request to move on to next cc item -

RC -

12. **Resolution No. 95-1926** affirming the Cooperation Agreement between the City, STX of Oregon, Inc. and Sid Friedman, and clarifying certain provisions of the agreement.
13. Motion to deny the request to initiate a vacation of a twelve (12) foot wide alley located in the center of the block bounded by Willamette Street, Chehalem Street, Eighth Street, and Ninth Street due to lack of property owner consent.

**TDM - letters provided** - copy of the person requesting the Cc to consider the vacation - statement - if cc did go forward and vacate the alley - would be willing to be responsible for any damages incurred from lessening of market value for the non-consenting owner - cc must vacate pursuant to its own motion - abutting property owners consent - by moving forward on cc own's motion with consent of abutting property owners - affected p/o must object and come forward - if property is diminished - city must provide for paying damages - staff recommendation is to deny request for initiation of vacation due to p/ow consent - merely to set a hearing -

DW - 16 parcels - all but one agreed to vacation -

TDM- 4 abutting parcels - 3 of 4 has agreed - one has not -

David Kunze - 19550 NE Calkins lane - vacation - initiated as effort to gain a partition from property - minimum lot size adjustments - objection- using alley for private driveway for number of years - to satisfy concerning- offered - reciprocating easement over vacated alley - still willing to give easement- - utility phone and cable wire - always remain - utility easement for alley - other property owners - very much in favor of vacation for security reasons - conversion of public street into private street - can nothing but improve property value - ors calls for majority - does not call for unanimous consent -

DW - utility pole is in his quarter of alley - - vacate half alley way -

TDM - you can vacate portion - can retain easements - statute states you can do anything -

Lot 6500 - 14,400 sq. Feet - has partitioned to get 5,000 sq. Need 6 ft. By 100 feet of alley - property owner is 6600 - south of it - -

DRC - take on own motion - not here to decide to vacate or to deny -

MOTION: DW/TDW to set hearing date - September 5, 1995. - Greg said okay -

TDM - goes to cc -

14. Motion to appoint up to two Council members to attend the National League of Cities Conference in Phoenix, Arizona.

DM - authorize two people to go - on November 29 and December 3rd (TDW)  
(RC - opposed ) passed -

DW said he would like to go -

RW - dmnot interested n going - -

RC -

AH interesed -

TDW not sure if he could get away -

### **VIII. REPORTS FROM OTHER AGENCIES AND CITY MANAGER**

1. Report from the Chamber of Commerce Visitors Center.

DP called for any questions -

DRC -

1. Old fashioned festival - diagram - intersting to lok at -

2, City county dinner- noice 0907/95 - McMinnville -

3. Talk bout dev. code review - Aug. 21st- put brief agenda - get oghet and talk aobut dev. code and work on issues -

RC - postpone to 21st and start on it -

Dmc - start at 6:00 to give more time - get our earlier - - need to get through it - 6:00 - 9:00 -

Not the 15th

### **IX. COMMUNICATIONS FROM THE FLOOR:**

Pat Haight, 114

DW called point of order -

speaking on behalf of - not dp's fault aoutsumitomo not -

Pat - city audit -

read over statements on few of pages -

pg 6 "appointed finance committee)

changes to pages -

verexpended budge - - personal services - \$781,000 - that amount not budgeed -

pg 26 - ICMA - several - deferrd comp savings - posted in books -  
pg 29 - moivae to take tie off -  
DRC - did study - that look at sick leave -  
pg 31 - transfers water fund - net loss - 54,000

ept of revenue -  
bail fund - no set procedures- comm. Service s-  
DM - bail bond - mistake -

TDM - bail fund - judge may refund or forfeiture - all money is accounted - money goes into general fund -

Comm. Service program - mo voluneer coordnator - he does for county and contCTED BY COUNTY on numerous occasions - Mr. O is goo in aea considered - citizens pursuant to court orders or agreements - instead of county - Mr. O does on own time - do have agreements andmethod report backon this and overseen by judge who approves these agreemnet s- highly compliment who does it - howthye got to pariipte in program - never said not to discuss this - comm. Program - welcome to look at bail fund - accunt for all money - don;t balance is mess is false -

Pat - when aperson has to do community servie - has to be eligible - in order for him to be eligible - has to pay \$50 - peopl at county - they go out and find own comm. Service and brig papers -  
TDM - alcohol div. Fees - money goes into court funds - just like any other portion of funds - do e hav systemin place the statistics - no - we don't have reporting system -  
Mike Olberding - quite often don't use form - complted commuity ervice completion - flphone call that they have completed - ution of how many people do comm service in liey of fines -  
DW - called for point of order -

dp -  
TDM - work with ol commitee - with more rports - will not respond repots -

MOTION: move to adjourn -

RC - communications from the floor - 9th street property - took out trees - last thanksgiving - right-of-way vacant -

greg will look nt o this - 10:05 p.m.

Onja haugen - she was tired of the chamber

## **X. EXECUTIVE SESSION:**

1. Executive Session pursuant to ORS 192.660(1)(a) Relating to personnel

matters.

## **XI. ADJOURNMENT TO NEXT MEETING**

### **INDEX OF ORDINANCES ON THIS AGENDA FOR ACTION:**

#### **RESOLUTIONS:**

1. **Resolution No. 95-1920** approving a Financing Agreement whereby United States National Bank of Oregon provides the financing needed by the City to fund the acquisition of certain equipment for use by the City in its governmental operations; and authorizing the execution and delivery of the Financing Agreement and other matters pertaining thereto.
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5. **Resolution No. 95-1924** identifying the City's transportation projects which should be included in the State Transportation Improvement Plan (STIP).
6. **Resolution No. 95-1925** affirming the infrastructure agreement between the City, STX of Oregon, Inc. and the Economic Development Department of the State of Oregon, clarifying certain provisions of said agreement and providing for notice of clarification to parties.
7. **Resolution No. 95-1926** affirming the Cooperation Agreement between the City, STX of Oregon, Inc. and Sid Friedman, and clarifying certain provisions of the agreement.

#### **ORDINANCES**

1. **Ordinance No. 95-2407** amending Ordinance No. 1593, Section 21 (3) reference to correct motor truck ORS definition number, adding truck tractor, and establishing a permit process to allow motor trucks and truck tractors to park in specified areas.
2. **Ordinance No. 95-2413** vacating the north-south utility easement on the eastern property boundary of Tax Lot 3220AA-200 and 3220AA-201 south of Hayes Street within the corporate city limits of Newberg, Oregon.
3. **Ordinance No. 95-2414** amending Ordinance No. 1557 by broadening the definition of

discarded vehicles and declaring it a public nuisance for the accumulation of discarded vehicles upon public property as well as private property.

4. **Ordinance No. 95-2415** amending Ordinance No. 1593 by providing that the City may utilize the Oregon Revised Statute method of removing vehicles which are stored or abandoned on public right-of-way.

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**ADDITIONAL  
INFORMATION  
FOR CITY  
COUNCIL MEETING  
MONDAY,  
AUGUST 7, 1995  
PROVIDENCE  
NEWBERG HOSPITAL**

**UPDATE  
AGENDA ITEM VI  
CONTINUED BUSINESS (1)  
TRUCK PARKING**

<b>REQUEST FOR COUNCIL ACTION</b>		
<b>DATE SUBMITTED:</b> August 4, 1995		<b>MOTION</b>
<b>DATE ACTION REQUESTED:</b> August 7, 1995		<b>RESOLUTION</b>
<b>SUBJECT:</b> Amendment concerning truck parking and recommendation		<b>ORDINANCE</b>
	<b>X</b>	<b>INFORMATION</b>

**RECOMMENDATION:**

The Council should make a policy decision. This new information is addressing the memo by Police Chief Bob Tardiff dated August 1, 1995 and providing you with some documents necessary to implement his request.

**BACKGROUND:**

1. In your regular packet you received Ordinance No. 95-2407 which implements a truck parking permit process for motor trucks and truck tractors. Attached was a permit that would be used.
2. The Council received in the same packet Ordinance No. 95-2407A which prohibits truck parking and provides for additional truck parking and trailer parking and for additional penalties. This is pursuant to the recommendation of the Traffic Safety Committee.
3. Police Chief Bob Tardiff wrote a memo which indicated that the Police Department was ready to implement the policy decision made by the Council. He also indicated that we should include trailers in our parking situation. I have enclosed Ordinance No. 95-2407 (with truck trailers) which implements the permit process with truck trailers included.
4. Questions and Answers:

**Question:** If the City prohibits truck and trailer parking with additional penalties (Ordinance No. 95-2407A) would that prohibit all truck and trailer parking within the City?

**Answer:** No, the Ordinance prohibits truck parking on streets between certain hours and adjacent to "a residence, motor, apartment house, hotel, or other sleeping accommodations". Therefore, the motor truck, truck tractor and trailer could be parked on other streets which were not adjacent to the above referenced areas, except for streets

specifically designed as "No truck trailer parking by other ordinances". These other streets which are specifically prohibited could and should be marked as no truck trailer parking. Of course, areas that say "no parking" prohibits all parking including motor vehicles. Yellow lines as well prohibit all parking including motor vehicles.

**Question:** Under the permit system, would a driver of a truck, motor truck or truck tractor, have to have a permit to park anywhere in the City?

**Answer:** No. The permit is only for parking in areas which are "adjacent to residences, motels, apartment houses, hotels and other sleeping accommodations". They would only apply between the hours of 9:00 p.m. and 7:00 a.m. The other areas that can presently be parked in, can still be parked in.

**Question:** Does the passage of Ordinance No. 95-2407A which prohibits truck and tractor parking make it tougher on truck parking than it was before the change in the Ordinance?

**Answer:** Yes. This Ordinance applies to truck trailers as well as motor trucks and truck tractors. It also provides for escalating penalties with minimum fine amounts. Further, once the Council clarifies this policy decision, it is the intention of the administration, through the Police Department, to enforce the policy.

**Question:** Would the passage of either one of these Ordinances eliminate truck and trailer parking throughout the City?

**Answer:** No. If the Council wishes to eliminate all truck or tractor parking on City streets, the Council would need to pass an Ordinance prohibiting all truck and trailer parking through the streets except during deliveries of specific sites. Further, the Council would have designate that it was prohibited during all times. The City should then place signs as you come into town indicating this. Similar to the indications that there are truck routes established.

**FISCAL**

**IMPACT:** Not known at this time.

**STRATEGIC**

**ASSESSMENT:** This has been addressed in the previous Request for Council Action. This would still depend upon the view the Council wishes to take.

To

Terrence D. Mahr, City Attorney

Duane R. Cole, City Manager

VI-1



## Interoffice Memorandum

**To:** Terry Mahr, City Attorney  
**From:** Robert Tardiff, Chief of Police *RT*  
**Subject:** Amendment of Ordinance No. 1593, Section 21(3)  
**Date:** August 1, 1995

I have reviewed the two proposals amending Ordinance No. 1593, Section 21(3). From a police department stand-point our desire would follow your comment made in section 6 of your memorandum to the City Council, that a policy decision be made regarding whether truck and/or trailers may be parked on city streets and once decided is supported by all involved, thus satisfying your reference to needing a "steady hand on the tiller."

Establishing a permit process, or an outright ban on parking such vehicles would be workable from our standpoint. If the permit process is chosen we would request that the issue of trailer parking be addressed at the same time. Most of our complaints have been regarding trailer parking, rather than commercial truck parking. The proposed permit process would still leave the policy issue regarding trailer parking unresolved and subject to change depending on whether a neighborhood or truck driver is complaining and to which city government body they are complaining (ie. Community Relations, Traffic Safety Commission, or City Council).

**Recommendation:** Amend Ordinance No. 1593, Section 21(3), establishing a clear policy on truck and trailer parking. Alternatives would include:

- a. establish a permit process for **both** truck and trailer parking on public streets
- b. prohibit truck and trailer parking as proposed
- c. prohibit truck and trailer parking, except on designated streets, as specifically established by ordinance

*from the desk of..*

**Robert I. Tardiff**  
Chief of Police  
Newberg Police Department  
414 E. First St.  
Newberg, Oregon 97132

537-1220  
Fax: 538-5393

*VI-1*

**"PROVIDES FOR TRUCK PARKING AND TRUCK TRAILER PARKING PERMIT"**

**ORDINANCE NO. 95-2407 - alternative truck trailer**

**AN ORDINANCE AMENDING ORDINANCE NO. 1593 WHICH CONTROLS VEHICULAR AND PEDESTRIAN TRAFFIC WITHIN THE CITY OF NEWBERG BY PROVIDING FOR A REVOCABLE PERMIT FOR PARKING OF A MOTOR TRUCK, TRUCK TRACTOR OR TRUCK TRAILER IN CERTAIN AREAS OF THE CITY.**

**RECITALS:**

1. The City has received input from a number of citizens concerning the parking of motor trucks, truck tractors and truck trailers on public streets within the City.
2. The City has designated that on certain streets, motor truck and truck tractor parking is prohibited.
3. The City has designated that in certain areas of the City, the parking of motor trucks and truck tractors is prohibited.
4. The City wishes to allow a permit system by which motor trucks, truck tractors and truck trailers can be parked in certain prohibited areas (but not on the streets that are specifically designated as no truck parking), as long as complaints are not received.

**NOW, THEREFORE,** The City of Newberg ordains as follows:

Section 1. That Section 21 (3) of Ordinance No. 1593 is hereby amended to read as follows:

"(3) A motor truck, as defined by ORS 801.355, or a truck tractor, as defined by ORS 801.575, or a truck trailer as defined by ORS 801.580, on a street between the hours of nine (9) p.m. and seven (7) a.m. of the following day in front of or adjacent to a residence, motel, apartment house, hotel or other sleeping accommodation unless a revocable permit is obtained from the City Police Department. The permit application shall be approved by the City Manager. The permit shall be for a twelve-month period and may be renewed. In the event any complaint(s) is received from a resident or residents in the area of the parked truck or tractor, the City shall notify the permit holder of such complaints, give the permit holder a chance to respond to such complaints and after taking into consideration the complaints and response, the City Manager may revoke said permit. Such decision to revoke permit by the City Manager may be appealed within 10 days to the City Council. During such appeal the permit shall remain revoked."

Section 2. All other sections of Ordinance 1593 shall remain in full force and effect as amended.

PASSED by the City Council of Newberg this \_\_\_\_ day of August, 1995.

AYES:

NAYS:

ABSTAIN:

\_\_\_\_\_  
Duane Cole - City Manager

ATTESTED TO by the Mayor this \_\_ day of August, 1995.

\_\_\_\_\_  
Donna Proctor  
Mayor

VI-1

**CITY OF NEWBERG  
APPLICATION FOR TRUCK OR TRAILER PARKING PERMIT**

Applicant:		Permit No.	
Address:		Phone:	
Business Name:		Phone:	
Address:			
Vehicle	Type	License Number and State	Commercial Vehicle Yes/No
1.			
2.			

1. What is the principal use of the vehicle or trailer?

---

2. What is the primary occupation of the applicant?

---

3. If possible, give the time of the day and the location in which this vehicle will be parked in a residential area:

---

Read: City Ordinance 95-1593, Section 21, as follows:

**Prohibited Parking or Standing.** In addition to the State motor vehicle laws prohibiting parking, no person shall park or stand:

"(3) A motor truck, as defined by ORS 801.355, or a truck tractor, as defined by ORS 801.575, or a truck trailer as defined by ORS 801.580, on a street between the hours of nine (9) p.m. and seven (7) a.m. of the following day in front of or adjacent to a residence, motel, apartment house, hotel or other sleeping accommodation unless a revocable permit is obtained from the City Police Department. The permit application shall be approved by the City Manager. The permit shall be for a twelve-month period and may be renewed. In the event any complaint(s) is received from a resident or residents in the area of the parked truck or tractor, the City shall notify the permit holder of such complaints, give the permit holder a chance to respond to such complaints and after taking into consideration the complaints and response, the City Manager may revoke said permit. Such decision to revoke permit by the City Manager may be appealed within 10 days to the City Council. During such appeal the permit shall remain revoked."

I certify that all information is true and correct, that I am the applicant, or if it is a business, I have the authority to sign on behalf of the business, and that I will discontinue any parking authorized under the permit if notified to do so by the city.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Name (Please Print)

Permit is:	<input type="checkbox"/> Granted <input type="checkbox"/> Denied	Chief of Police
Permit Effective Date:		Expiration Date:

VI.1

**UPDATE  
AGENDA ITEM VII  
NEW BUSINESS (10)  
ABANDONED VEHICLES  
PAGE 98**

<b>REQUEST FOR COUNCIL ACTION</b>		
<b>DATE SUBMITTED:</b> August 4, 1995		<b>MOTION</b>
<b>DATE ACTION REQUESTED:</b> August 7, 1995		<b>RESOLUTION</b>
<b>SUBJECT:</b> Abandoned Vehicle Ordinance and Recommendation		<b>ORDINANCE</b>
	<b>X</b>	<b>INFORMATION</b>

**RECOMMENDATION:**

Submitted some additional language for discussion in the Ordinance along with an updated Ordinance if accepted. New Ordinance would provide that vehicles in certain conditions could be removed even if it had affixed to it an unexpired license plate.

**BACKGROUND:**

1. In the initial packet to the Council, there was submitted an Ordinance to update the present City Ordinances dealing with discarded vehicles. This was done by clarifying definitions. In reviewing this matter further, the Police Chief brought to my attention that other cities treat vehicles somewhat different and allow removal of vehicle with unexpired license plates if they are in certain conditions. Further, even if the vehicle is "good condition", if it has an expired license plate it can be removed. If the City wishes to proceed with this "higher" standard, I have presented some Ordinance language that would do this. This is an additional Ordinance which is attached.

2. **Questions and Answers:**

**(a) Question:** Under the proposed Ordinance No. 95-2414, could a person take an antique car and restore it in one's driveway?

**Answer:** It depends. If the antique car had attached to it an unexpired license plate, by this it is meant that the license plate has up-to-date tags on it, then the person could probably work on it outside. They could also work on it under an enclosure such as a car port. If, however, the antique car had expired license plates or no license plates, then it could not be worked on, but could be considered discarded vehicle. Of course, it could be worked on if it was enclosed in a garage.

**(b) Question:** What would happen if a car had problems and the person was a "do-it-

**yourself" mechanic, could that person repair their car in their driveway?**

**Answer:** The answer to this is yes. This is assuming that the car had attached to it an unexpired up-to-date license plate. In which case, the person could work on it and repair it in their driveway. If the City wishes to prohibit this kind of activity, then they can adopt the second Ordinance which provides that inoperative or dismantled cars cannot be stored or worked on outside, even if they have an up-to-date license on it.

**(c) Question: What if a person has a perfectly good car, but they are holding it for some reason such as until their child gets old enough to drive, or they just don't feel like paying for "new tags", can the person store it in their driveway?**

**Answer:** The answer to this probably yes. Even if the car has no license plate attached to it or an expired license plate, it still has to be in one of the following conditions listed in the Ordinance. If, however, the City decides to go with the stricter standard of revised Ordinance, then merely the fact that it has an expired license plate would mean that it is considered discarded and could not be stored in the driveway.

3. In talking with the Police Department, most of the problems are centered around vehicles with expired plates that are in the inoperative or wrecked and obviously dismantled (junked) condition. Of course, the police officer would exercise some discretion as to how the Ordinance should be enforced.
4. I am attaching to for your review the notice that is placed on a vehicle when it is being stored on public right-of-way. Note that our Ordinance allows a 72-hour period where the State's statute mentions a 24-hour period. The process would be that the vehicle is stored longer than 72 hours. The person could receive an Ordinance violation, plus the notice. After a 24 hour period without any further movement of the car, then it could be towed.

**FISCAL**

**IMPACT:** None.

**STRATEGIC**

**ASSESSMENT:** This has already been presented.

*T*  
*o*

\_\_\_\_\_  
Terrence D. Mahr, City Attorney

\_\_\_\_\_  
Duane R. Cole, City Manager

**ALTERNATIVE ORDINANCE PROVIDING  
FOR DISCARDED VEHICLE - DUE TO NO PLATES OR EXPIRED PLATE**

**ORDINANCE NO. 95-2414-Alternate**

**ORDINANCE AMENDING ORDINANCE NO. 1557 BY BROADENING THE DEFINITION OF DISCARDED VEHICLES AND DECLARING IT A PUBLIC NUISANCE FOR THE ACCUMULATION OF DISCARDED VEHICLES UPON PUBLIC PROPERTY AS WELL AS PRIVATE PROPERTY.**

**RECITALS:**

1. The City is attempting to clean up discarded vehicles throughout the City.
2. The City needs a better definition of discarded vehicles in order to continue with the project of cleaning up the City.
3. The City also has some discarded vehicles on public property and that be clearly defined as a nuisance as well.

**NOW, THEREFORE,** the City of Newberg, Oregon, ordains as follows:

**Section 1.** That Section 1(3) of Ordinance No. 1557 providing for defining discarded vehicles is amended to read as follows:

"'Discarded' vehicle shall mean any vehicle which is in one or more of the following conditions:

- (a) Inoperative
- (b) Wrecked
- (c) Dismantled
- (d) Partially Dismantled
- (e) Abandoned
- (f) Junked
- (g) Does not have lawfully affixed thereto a license plate or has affixed to it an expired license plate."

**Section 2.** That Section 3 of Ordinance No. 1557 is hereby amended to read as follows:

"Prohibited Action. It shall be unlawful to store or permit the storing of a discarded vehicle upon any public property within the City. It shall be unlawful to store, or permit the storing of a discarded vehicle upon any private property within the City, unless the vehicle is completely enclosed within a building, or unless it is in connection with a business enterprise dealing in junked vehicles lawfully conducted within the City."

All other terms and conditions of Ordinance No. 1557 shall remain in full force and effect.

PASSED by the City Council of Newberg this \_\_\_\_ day of August, 1995.

AYES:

NAYS:

ABSTAIN:

\_\_\_\_\_  
Duane Cole - City Manager

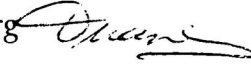
ATTESTED TO by the Mayor this \_\_ day of August, 1995.

\_\_\_\_\_  
Donna Proctor, Mayor

VII-10

# Memorandum

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**To:** Mayor and City Council  
**CC:** Terrence Mahr, City Attorney  
Greg Scoles, Community Development Director  
**From:** Duane R. Cole, City Manager, Newberg   
**Date:** August 1, 1995  
**Subject:** Cooperation Agreement

---

Enclosed with this memo is the letter signed by Sid Friedman, Appellant, and David Bowden, Applicant. This letter requests that the Planning Commission hearing scheduled for August 3rd be continued to a date later than August 10th. Based on this letter, the Chair of the Planning Commission with my concurrence, has cancelled the hearing scheduled for August 3rd. The reason for this action is that if the Appellant and Applicant have resolved their issues, the hearing is not necessary.

The Cooperative Agreement is attached along with the Infrastructure Agreement. City staff has what we believe to be are minor concerns with the Cooperative Agreement. We are attempting to address these minor concerns either through another agreement which would incorporate the Cooperative Agreement language, or with the appellant and applicant themselves. We should have this resolved for distribution with the Friday information.

The Council's action on Monday night would be to endorse the Cooperative Agreement. The Infrastructure Agreement is included and may be an Exhibit with the Cooperative Agreement. Finally, in order to accomodate what may be a large crowd on Monday night, we, the Mayor and I, have agreed to move the Council meeting to the Hospital.

RECEIVED JUL 28 1995

4:15 pm

Sid Friedman  
31909 NE Corral Crk. Rd.  
Newberg, Or. 97132

David Bowden  
Obayashi Corporation  
13810 SE Eastgate Way, Suite 300  
Bellvue, Washington, 98005

July, 28, 1995

Greg Scoles, Community Development Director  
City Of Newberg  
414 E. First St.  
Newberg, Or. 97132

Dear Greg:

By mutual agreement, we respectfully request that the scheduled Planning Commission hearing of the appeal of Design Review decision DR-18-95 be continued from August 3rd to a date later than August 10th. Thank you.



David Bowden  
Obayashi Corporation

  
Sid Friedman

VII

## COOPERATION AGREEMENT

This Agreement is made this 7th day of August, 1995, by and between STX of Oregon, Inc., an Oregon corporation (the "Company"), the City of Newberg, a municipal corporation (the "City") and Mr. Sid Friedman ("Mr. Friedman").

WHEREAS, the Company has submitted an application to the City for design review approval for a silicon water manufacturing facility (DR-18-95) and said application has been approved by the Design Review Board as in compliance with applicable regulatory provisions;

WHEREAS, Mr. Friedman has sought review of such approval by the Planning Commission for the City of Newberg based upon concerns including, but not limited to, traffic impact, water consumption and conservation, hazardous material handling, air quality and wastewater treatment processes;

WHEREAS, it is understood by the parties that the Company agrees to be responsible for its fair share of the costs of public services provided by the City and other governmental bodies to accommodate the manufacturing facility and to not impose such costs on the City or its residents; and

WHEREAS, the parties desire to resolve the concerns expressed by Mr. Friedman in a manner which allows the decision of the Design Review Board (DR-18-95 decision) dated June 22, 1995 to become final and the pending appeal to the Planning Commission to be withdrawn.

NOW, THEREFORE, in consideration of the mutual promises and stipulations herein, it is agreed between the parties as follows:

A. Water Usage.

1. The documents submitted for design review indicate a facility designed for a maximum daily water usage of 990,750 gallons of potable City water per day. At no time shall daily usage exceed that figure. Any usage exceeding 1,000,000 gallons per day will be considered a new usage requiring a new or modified application to be submitted for design review. For purposes of subsections 1-4 of this section, the term "potable City water" includes water from any City source except for recycled water from the City wastewater treatment facility and any flows required for fire or other emergency needs.

2. Operation of the proposed facility will result in a substantial and immediate increase in usage of potable City water, requiring substantially accelerated withdrawals from the City's aquifers. Within 15 days of receipt of written notice of a condition of aquifer depletion as determined by a qualified State of Oregon registered hydrologist, the City shall notify the Company of such condition and the Company (or its successor), within 45 days thereafter, shall reduce all manufacturing processes requiring potable City water or develop alternate sources independent of potable City sources, to address depletions attributable to its operations. Such reductions shall be adequate to halt any further depletion of potable City water resources and proportional to any projected shortfalls in water supply. For purposes of this section, aquifer depletion shall be determined by conditions existing during a reasonable period of City withdrawal based upon customary state agency practice and not by single events or circumstances of limited duration.

3. In the event that the City must institute mandatory water rationing measures to address water supply shortages regardless of cause, the Company shall, within 45 days from written notice from the City, institute measures to reduce its consumption of potable City water to a degree commensurate with its proportionate share of City-wide potable water consumption, notwithstanding prior City obligations to the contrary. Additionally, the Company (or its successor) agree to abide by additional water conservation measures the City may deem necessary to reasonably address the identified water supply shortage.

4. The Company (or its successor) agree to hold the City harmless for any restrictions in water supply described in sections 1, 2 and 3 upon a demonstration by the City of good faith and reasonable efforts to provide the Company with the amount of water proposed to be used by it in Phase I: a maximum of 990,750 gallons of potable City water per day.

**B. Traffic.**

1. The proposed signalization and other improvements to the intersection of Springbrook and Fernwood/2nd Street shall be designed to discourage east-west cross traffic across Springbrook Road. Possible design strategies include signalization requiring right or left turns (north or south on Springbrook), free right turn lanes allowing unsignalized right turns, and/or signal cycle times designed to discourage cross traffic.

2. The Company shall execute a nonremonstrance agreement for LID improvements on Springbrook Road south of 99W. Within any portion of a Springbrook LID south of Highway 99W, payment of any LID charges assessed to properties currently in single family residential use shall be deferred until such time as residential usage converts to the designated zone usage.

3. The Company and the City shall cooperate in efforts to acquire adequate right-of-way along the north side of Fernwood, west of Company property and east of Springbrook Road. It is the intention of the Company and the City that half street improvements to full collector road standards be completed along this portion of Fernwood prior to any development on the Sumitomo site beyond Phase I as depicted on the master plan as submitted to the City. Absent such road improvements, all traffic generated by future additional development shall access the site through the Brutscher/99W access. This condition shall survive changes in ownership for all or any portion of the property identified as Parcel 2 in File No. P-8-95.

4. The Company and the City recognize that site access from Brutscher Road, utilizing the existing signal at Highway 99W, is necessary to minimize traffic impacts to the community. Therefore, the Company shall provide and implement a traffic management plan which includes the following measures:

- a. All construction traffic, trucks, worker's vehicles, deliveries, equipment, etc., shall enter and exit the Company's site from 99W and the Brutscher Street extension, except initially during construction of the access road and in an emergency, in which cases access will be from Fernwood Road via Springbrook Road. Construction of the access road will

occur as quickly as possible after the date of start of on-site construction.

- b. After operations commence, all truck traffic and all deliveries and shipments shall enter and exit the Company's site from the Brutscher Street/99W access.
- c. All vendors, including subcontracted employees, such as security guards, groundkeepers, cafeteria workers, etc., shall enter and exit the Company's site from the Brutscher Street/99W access.
- d. The "main" entrance for the Company's facility will be from Fernwood Road via Springbrook Road. Vehicles will be directed to enter and exit the facility to and from the west along Fernwood Road through driveway design and signs. Company employees may, at their individual discretion, choose to utilize either the Fernwood Road access or the Brutscher/99W access.

C. Manufacturing Processes and Plant Design.

1. The documents submitted for design review indicate a facility designed for specific manufacturing processes as described in the application. The described plant design and processes do not include the addition of an epitaxial layer to the wafers. Any substantial change in processes in operations as approved by the Design Review Board (DR-18-95), including - but not limited to, the addition of an epitaxial layer to the wafers shall require a new or modified application to the City.

D. Hazardous Materials.

1. Because the City will rely on Tualatin Valley Fire and Rescue for responses to Haz. Mat. incidents associated with the plant as well as for oversight functions relating to access, storage, safe handling procedures, etc., the Company (or its successor) shall fully reimburse the City for any and all costs associated with providing any such services attributable to Company operations.

E. Wastewater.

1. All wastewaters other than stormwater are proposed to be accommodated by the City's sanitary sewage collection and treatment system. At no time whatsoever shall the Company (or its successor) discharge any effluent to the City system containing heavy metals or other toxic materials at levels requiring any further treatment by the City prior to discharge from the City's treatment system.

2. The Company (or its successor) shall fully reimburse the City for all costs to the City associated with bacterial kills or any other damage to the treatment system resulting from any accidental or intentional discharges from the Company, whether routine or extraordinary, provided the City makes reasonable efforts to mitigate such costs and related damages. These charges shall be levied without regard to any other fines assessed by the City, including any fines based upon evidence of a willful, negligent or repeated violation, or any other agency and shall not be contested by the Company.

F. Air Quality.

1. The Newberg airshed is currently in attainment for all pollutants; however, there is a carbon monoxide non-attainment area 12 miles northeast. If at any time during the life of this facility or any other facilities constructed in subsequent phases, the local airshed ceases to be in attainment for carbon monoxide and/or DEQ rewrites the State Implementation Plan for our airshed, the Company (or its successor) shall continue good faith efforts to minimize emissions of carbon monoxide.

2. The Newberg airshed is currently in attainment for all pollutants; however, there is an ozone non-attainment area 7 miles north. If at any time during the life of this facility or any other facilities constructed in subsequent phases, the local airshed ceases to be in attainment for ozone and/or DEQ rewrites the State Implementation Plan for our airshed, the Company (or its successor) shall continue good faith efforts to minimize emissions of nitrous oxide.

G. Pending Appeal.

1. Mr. Friedman shall withdraw his appeal to the Planning Commission of the decision of the Design Review Board in case file DR-18-95 (Obayashi Corporation) within one business day from the execution of this Agreement by the parties. If the forgoing condition is not satisfied, this Agreement shall terminate and all obligations of the parties under this Agreement will thereafter cease.

H. Default.

1. If any party defaults under this Agreement the other party shall be entitled to such remedies for breach of contract that may be available under applicable law including without limitation the remedy of specific performance.

I. Miscellaneous Provisions.

1. In the event suit or action is instituted to interpret or enforce this Agreement, all parties shall be responsible for their respective attorneys' fees and other costs or charges.

2. Time is of the essence of each and every provision of this Agreement.

3. Notices under this Agreement shall be in writing and shall be effective when personally delivered, or if mailed, upon deposit as certified mail, postage prepaid, directed to the other party at the address shown below. Either party may change its address for notices by written notice to the other.

Company: STX of Oregon, Inc.  
Attention: Mr. Nobuhiro Aoshima  
Director and Executive Vice President  
c/o Davis Wright Tremaine  
1300 SW Fifth Avenue, Suite 2300  
Portland, Oregon 97201

City: City of Newberg  
Attention: Mr. Terrence Mahr  
414 E First Street  
Newberg, OR 97132

Mr. Friedman: Mr. Sid Friedman  
31909 NE Corral Creek Rd.  
Newberg, OR 97132

4. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

5. This Agreement and any of its terms may only be changed, waived, discharged or terminated by a written instrument signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

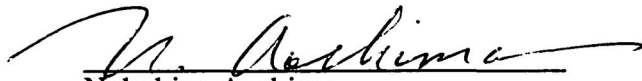
6. The persons who have executed this Agreement have been duly authorized to do so by the party. The party has a good and legal right to enter into this Agreement and to perform all covenants of the party contained in this Agreement in accordance with its terms.

7. This Agreement is based upon conditions and circumstances in the City as of the date of this Agreement, and any substantial change in such conditions or circumstances in the City, including but not limited to potable water consumption by the Company in excess of 1,000,000 gallons per day during phase 1, major new water users, substantial traffic congestion or similar circumstances, shall allow any party to initiate discussions for purposes of evaluation and potential revision of this Agreement.

8. This Agreement shall terminate upon the future execution of a partnership agreement or similar agreement between the Company and the City which is agreed to by the parties to this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate this as of the day and year first above written.

Sumitomo: STX OF OREGON, INC.,  
an Oregon corporation

  
Nobuhiro Aoshima  
Director and Executive Vice President

City: CITY OF NEWBERG,  
a municipal corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Sid Friedman:

  
Sid Friedman

## INFRASTRUCTURE AGREEMENT

The purpose of this Infrastructure Agreement (the "Agreement") is to specify the manner in which the City of Newberg (the "City"), the State of Oregon acting by and through its Economic Development Department (the "State") and STX of Oregon, Inc. (the "Company") (sometimes collectively referred to as the "Parties") propose to design, construct, maintain and finance infrastructure improvements relating to a wafer fab facility that the Company proposes to develop in the City of Newberg (the "Project"). The Parties agree as follows:

### 1. BACKGROUND FACTS AND COMMON UNDERSTANDING

a. On April 14, 1995, the Company submitted its site plan and related drawings to the City to initiate its design review process.

b. The Parties have discussed the Company's requirement to begin construction of the Project by mid July of 1995. To accommodate this requirement, the City has hired additional consultants at the Company's cost according to the terms of a Memorandum of Understanding dated April 25, 1995 between the City and the Company. The City has agreed to expedite the design review process (including without limitation delivering notices dated June 7, 1995) to issue permits, subject to legal requirements, and construct improvements to facilitate the Company's schedule.

c. The Parties desire to establish the scope of infrastructure improvements required for the entire Project and the relative responsibilities of the Parties. If the Company is unable or decides to not develop the Project in Newberg, this Agreement will be of no effect.

### 2. POTABLE WATER

The City will provide the quantity and quality of potable water reasonably necessary for the Project, as those requirements are specified in the attached Exhibit A (water requirements). The City will design and construct a new water main along Fernwood Road to a new reservoir

to be built by the City. Stub-outs to serve the Project and the property of the adjoining landowner (Werth Family) will be provided by the City at mutually agreed upon points.

### 3. IRRIGATION WATER

The City will provide the quantity and quality of irrigation water that will be reasonably necessary to serve the needs of the Project. The City will design and construct a water main for irrigation water, separate from the potable water main, and which starts at the City's water plant and proceeds along Fernwood Road to a point to be mutually agreed.

### 4. WASTE WATER

*missing?*

The City will provide for waste water treatment of the Company's discharged waste water in the amounts specified in Exhibit A. The City will design and construct separate mains and pumping stations for (1) the Company's domestic sewage and (2) the Company's processed water which emanates from the Project. The domestic sewage pumping station and main will be designed and constructed to accommodate both the Project and the neighboring property to the east of the Project retained by the Werth family. Waste water connections will be provided by the City to the property line of the Project at a point to be mutually agreed.

### 5. ROADS AND INTERSECTIONS

a. Fernwood. The City will design and construct improvements to Fernwood Road from the western property line of the Project to a point just east of the entrance to the driveway of the Project. A modified collector design (lesser width) may be authorized by the City to allow for two lanes of travel, two bicycle lanes and appropriate turns at intersections. The Company will sign a nonremonstrance agreement and a deferred improvement agreement to participate in the construction of Fernwood Road improvements along the balance of the property, subject to a reimbursement agreement concerning benefitted properties. The Company will also dedicate the necessary right-of-way along Fernwood Road; however, the Company will not be required to purchase any property outside the Project site for such dedication.

b. Springbrook. No immediate improvements are planned to Springbrook Road, except at the intersections of Springbrook Road and Fernwood Road, as described herein. The City, however, is willing to initiate the formation of a Local Improvement District for improvements to Springbrook Road which may be proposed in the future.

c. Future Collector Route.

(1) The City and the Company acknowledge that a collector route from Brutscher Street to Fernwood Road is identified in the City's Comprehensive Plan. The City and the Company also acknowledge that the plan for such collector route anticipated multiple commercial users within the subject Project site. The City and the Company agree that, in connection with the future design review of the eastern portion of the property (as shown on Exhibit B), the City and Company will cooperatively meet and confer concerning the placement and necessity of such collector route. If such collector route is deemed necessary by the City, its placement will be considerate of the planned use of the remainder of the property by the Company. The Company will not be assessed any costs associated with the collector route unless there are Company benefits associated with such improvement, and then only in proportion to such benefit. If such collector route is required, the Company will dedicate the necessary right-of-way for the collector route.

(2) The Company will provide for a right-of-way continuing Brutscher Street through Yamhill County Tax Lot No. 3216-2002.

d. Intersection of Springbrook and Fernwood. The City will improve the intersection of Springbrook Road and Fernwood Road to include (1) a left turn lane on southbound Springbrook Road and (2) a right turn lane on westbound Fernwood Road. Further improvement north of said intersection may be the subject of a Local Improvement District improvement.

e. Bicycle/Jogging Path. The Company will dedicate a right-of-way, the width of which will comply with state bikeway standards for multiple use bikeways. The bicycle/jogging path will connect from Brutscher Street and proceed east to approximately the eastern boundary

of the Project site, then south along the eastern boundary, then along Fernwood Road to the western boundary of the Project site. The bicycle/jogging path is shown on Exhibit B.

**6. DESIGN AND CONSTRUCTION RESPONSIBILITIES**

The City will design and construct all improvements specified in paragraphs 2 through 5 above, and will coordinate the completion of construction of improvements with the Company.

**7. MAINTENANCE**

The City will be responsible for maintaining the improvements described in paragraphs 2 through 5 above.

**8. FINANCIAL RESPONSIBILITY**

The City will be responsible for the costs associated with the design and construction of all public utility and road improvements referred to in this Agreement, subject to the contributions and bond financing referred to in paragraph 9 below. Notwithstanding the foregoing, the City will not be responsible to contribute more than \$237,000 as provided in paragraph 9(b).

**9. FINANCIAL CONTRIBUTIONS**

a. The State will use its best efforts to cause the Oregon Transportation Commission to contribute \$500,000 in Immediate Opportunity Funds toward road improvements. In addition, the State will provide \$500,000 in the form of a grant from the Special Works Fund to be used by the City as a loan reserve or to write down the amount to be bonded under subparagraph (d) of this paragraph.

b. The City will contribute \$237,000 to eligible projects which will be comprised of (1) \$157,000 in systems development charges paid by the Company and (2) \$80,000 from the City's transportation SDC fund.

VII

c. The Company will contribute a maximum of \$157,000 as system development charges (included in City's contribution above). In addition, the Company will contribute \$50,000 for the bicycle/jogging path.

d. The balance of the cost for road improvements, if any, and the public utility improvements will be paid for by and through the issuance of revenue bonds under ORS 285.740 through 285.750.

10. FINANCING VEHICLES

The State agrees to initiate processes necessary to issue revenue bonds in an amount equal to the costs associated with the public utility improvements and road improvements, plus any fees, costs and contingencies, less contributions specified in paragraph 9(a) through (c) above. The City will be the obligor under the revenue bonds referred to above.

11. UTILITY RATES

The Company will pay usage rates for water and sewer at the same unit rates as other industrial users in Newberg. The Company will enter into a separate use agreement to ensure minimum revenues to the City.

This Agreement is executed by all Parties on June 7, 1995.

STX OF OREGON, INC.

By: \_\_\_\_\_  
Title: \_\_\_\_\_

CITY OF NEWBERG

By: David R. Cole  
Title: City Manager

STATE OF OREGON

By: \_\_\_\_\_  
Title: \_\_\_\_\_

VII 11

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This Agreement is executed by all Parties on June 7, 1995.

STX OF OREGON, INC.

By: M. Nagashima  
Title: \_\_\_\_\_

CITY OF NEWBERG

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF OREGON

By: \_\_\_\_\_  
Title: \_\_\_\_\_

VII-11

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This Agreement is executed by all Parties on June 7, 1995.

STX OF OREGON, INC.

By: \_\_\_\_\_  
Title: \_\_\_\_\_

CITY OF NEWBERG

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF OREGON, acting by and through its Economic Development Department

By: DMC Stott  
Title: \_\_\_\_\_

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Exhibit "A"

# INTEROFFICE MEMORANDUM

To: Chuck Liebert, Utility Manager ✓  
CC: Duane Cole, City Manager  
From: Greg Scoles, Community Development Director  
Date: March 24, 1995  
Subject: Project Titan Utility Requirements

STX NEWBERG

The Following table represents the projected requirements of the new wafer manufacturer. This information was provided by the company at a meeting on March 22, 1995. Please review and lets discuss our service capabilities next week.

## PROJECT TITAN

		WATER			WASTE WATER	
		Avg/Day (gal)	Max/Day (gal)	Max Required/Day	Avg/Day (gal)	Max Required/Day
Phase I	1997	428,004	475,560	475,560	343,460	343,460
	1998	581,240	634,080	634,080	501,980	501,980
	1999	692,204	739,760	739,760	607,660	607,660
	2000	745,044	792,600	792,600	660,500	660,500
	Final Stage	937,910	990,750	990,750	819,020	819,020
Phase II	Second Plant	937,910	990,750	1,981,500	819,020	1,638,040
	Third Plant	245,706	264,200	2,245,700	211,360	1,849,400
	Fourth Plant	124,174	132,100	2,377,800	105,680	1,955,080

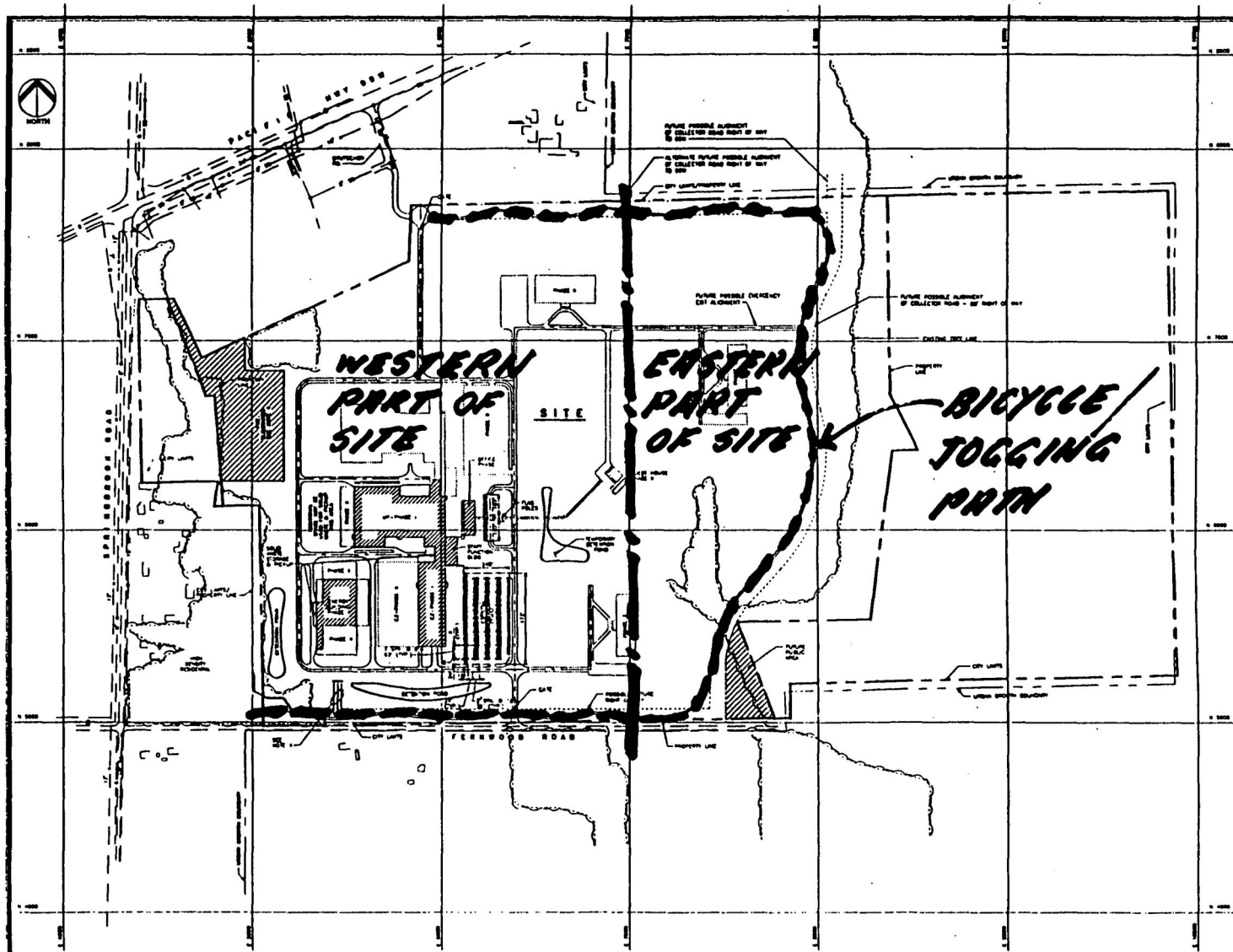
### FROM THE DESK OF...

GREG SCOLES  
COMMUNITY DEVELOPMENT DIRECTOR  
CITY OF NEWBERG  
719 EAST FIRST STREET  
NEWBERG, OR 97132

537-1210  
Fax: 537-1272

VII-11

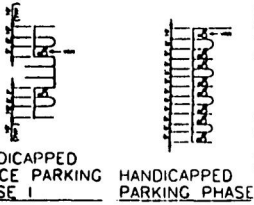
EXHIBIT B



**LEGEND**

---	WATER SERVICE BUILDING
---	SEWER SERVICE BUILDING
---	GAS SERVICE BUILDING
---	ELECTRIC SERVICE BUILDING
---	EXISTING ROAD / NOT PROPOSED
---	EXISTING SIDE
---	EXISTING SIDEWALK / DRIVE WAY

- GENERAL NOTES**
1. THE SITE IS DIVIDED INTO WESTERN AND EASTERN PARTS BY THE BICYCLE JOGGING PATH.
  2. THE BICYCLE JOGGING PATH IS TO BE CONSTRUCTED AS SHOWN AND IS TO BE MAINTAINED AS SUCH.
  3. THE WESTERN PART OF THE SITE IS TO BE DEVELOPED AS SHOWN AND IS TO BE MAINTAINED AS SUCH.
  4. THE EASTERN PART OF THE SITE IS TO BE DEVELOPED AS SHOWN AND IS TO BE MAINTAINED AS SUCH.
  5. THE SITE IS TO BE DEVELOPED AS SHOWN AND IS TO BE MAINTAINED AS SUCH.
  6. THE SITE IS TO BE DEVELOPED AS SHOWN AND IS TO BE MAINTAINED AS SUCH.
  7. THE SITE IS TO BE DEVELOPED AS SHOWN AND IS TO BE MAINTAINED AS SUCH.
  8. THE SITE IS TO BE DEVELOPED AS SHOWN AND IS TO BE MAINTAINED AS SUCH.



**CROSS SQUARE FOOTAGE OF BUILDINGS**

BUILDING DESCRIPTION	SQ. FT.
MP BUILDING	288,867.87
CE BUILDING	132,243.87
CENTRAL 1st FLOOR BUILDING	53,188.87
OFFICE BUILDING	25,188.87
START FUNCTION BUILDING	18,188.87
TOTAL DEVELOPMENT	517,678.35

<b>REQUEST FOR COUNCIL ACTION</b>		
<b>DATE SUBMITTED:</b> August 4, 1995		<b>MOTION</b>
<b>DATE ACTION REQUESTED:</b> August 7, 1995	<b>X</b>	<b>RESOLUTION</b>
<b>SUBJECT:</b> STX Corporation (Sumitomo) Silicon Wafer Manufacturing Facility Within the City of Newberg.		<b>ORDINANCE</b>
		<b>INFORMATION</b>

**RECOMMENDATION:**

1. Approve Resolution 95-1925 - affirming the INFRASTRUCTURE AGREEMENT entered into on or about June 7, 1995, between STX Corporation, the City and the State with points of clarification to resolve some concerns that have been expressed.
2. Approve Resolution number 95-1926- acknowledging the COOPERATION AGREEMENT between STX Corporation and Sid Friedman which results in the withdrawal of the appeal of the site review decision of June 22, 1995, provides for some matters related to water usage, traffic, manufacturing process and plant design, hazardous material, wastewater and air quality.

**BACKGROUND:**

This memo will give in chronological order some of the recent developments in this matter. In addition, some documents will be attached to this request which you have already received, however, you must remember that this request and the accompanying documents become part of the record on which you are basing your decision. I indicate this because although the packet may appear thick, I am certain you are familiar with some of the material in it.

1. STX of Oregon, Inc., an Oregon Corporation sometimes known as Sumitomo, herein after referred to as "Company", desires to build a silicon wafer manufacturing facility within the City of Newberg.
2. The location chosen by the company to construct the facility is Tax Lot Nos. 3216-2001 and 3221-100, located approximately 1,000 feet east of Springbrook Road, between US Hwy. 99W and Fernwood Road, Newberg, Oregon, commonly referred to as "the Werth Property". The property is properly planned and zoned for such use.
3. On April 14, 1995, Company submitted its site plans and related drawings to the City to initiate application for building permits and the design/review process.
4. On or about June 7, 1995, in order to reach an understanding as to the infrastructure that

would be available to Company and the financing of said infrastructure, an INFRASTRUCTURE AGREEMENT was reached between the Company, City and the Economic Development Department of the State of Oregon, hereinafter referred to as "State".

5. On June 22, 1995, the City issued the decision of the design/review board in DR-18-95 which approved with conditions the application of Obayashi Corporation, the engineering firm representing Company. The design/review was for the development plans for a 520,177± sq. ft. industrial silicon wafer manufacturing facility to be located on the above indicated site.
6. On July 6, 1995, Sid Friedman, herein after referred to as "Mr. Friedman", who had received notice of application, made written comment concerning application and had received notice of said decision, filed an appeal of said decision requesting a public hearing before the Planning Commission of the City of Newberg.
7. No other timely appeals were filed to the decision issued on June 22, 1995 in DR-18-95.
8. On July 13, 1995, the Planning Commission of the City scheduled a special hearing to hear the appeal. Such hearing was scheduled for August 3, 1995 at 7:30 p.m. at Heathcock Commons, George Fox College, Newberg, Oregon. Copy of notice of hearing is hereby attached.
9. On July 28, 1995, Mr. Friedman and Applicant requested that the hearing of the Planning Commission scheduled for August 3, 1995 be postponed. Due to the fact that was the only business on the agenda for the Planning Commission, the Planning Commission Chairman, with the consent of the City Manager, cancelled said meeting pursuant to the authority granted to them by Ordinance No. 94-2374, and the request. Copy of the Request for Postponement is attached along with the Announcement of Cancellation and the Certificate of Posting, as well as the ordinance providing for the authority to cancel the meeting.
10. On or about July 31, 1995, Mr. Friedman and Company submitted to the City a COOPERATION AGREEMENT, which, addressed water usage, traffic, manufacturing process and plant design, hazardous materials, waste water and air quality. It further provided that upon execution of this agreement, Mr. Friedman would withdraw his appeal from the Planning Commission decision thus allowing the decision of June 22, 1995, to become the final decision.
11. Company and Mr. Friedman request that the City approve and enter into the COOPERATION AGREEMENT which obligates the Company to do certain matters that are beyond the requirements of the City Ordinance and the design/review approval in DR-18-95.

12. The Company wishes to settle the appeal of the design/review decision of June 22, 1995, and voluntarily agrees to be bound by the terms and conditions of the COOPERATION AGREEMENT. The Company fully acknowledges that some of the requirements in the COOPERATION AGREEMENT could not be required by the City without the Company voluntarily agreeing to be bound.
13. Mr. Friedman wishes to withdraw his appeal of the design/review decision, thus allowing it to become the final decision based on the agreement of the Company to be bound by the additional requirements set out in the COOPERATION AGREEMENT.
14. Each party understands that the COOPERATION AGREEMENT does not relieve the Company from the obligation to abide by all State, Federal and City regulations now and at any time in the future. Further, if the City later adopts standards and regulations which exceed requirements spelled out in the design/review or COOPERATION AGREEMENT, the Company is lawfully bound to abide by those standards and regulations regardless of the COOPERATION AGREEMENT.
15. The COOPERATION AGREEMENT was negotiated between the Company and Mr. Friedman. Certain provisions of the COOPERATION AGREEMENT need clarification. The resolutions clarify those provisions. The COOPERATION AGREEMENT does not alter the design/review decision of June 22, 1995.
16. The adoption of the COOPERATION AGREEMENT should not be construed as a land use decision. The City has met the public meeting notice requirements concerning this meeting and pursuant to the open meeting law is authorized to take action concerning these matters.
17. The COOPERATION AGREEMENT provides for a non-remonstrations agreement to be provided by the Company concerning future improvements on Springbrook Road. Although the participation by the Company may be and probably would be beneficial to the Local Improvement District, the execution of the non-remonstrations agreement does not bind the City (or future Councils) to form an LID or to assess payments in accordance with the conditions set forth in the non-remonstrations agreement. The binding of future Councils cannot be accomplished. However, this does open to the City a method by which the Company would participate in the LID and the family residential users could defer their portion of any payment.
18. The COOPERATION AGREEMENT envisions that another AGREEMENT would be entered into that would be between the Company and the City. This is set out in Section 8, page 5. The City and the Company can put forth their best efforts to immediately move forward with the next AGREEMENT which would be between these two parties. All parties would be negotiating in good faith and would come to a reasonable AGREEMENT. This is provided for in the resolution.

19. The INFRASTRUCTURE AGREEMENT has previously been entered into by the Company, the State and the City. Some questions arose concerning the INFRASTRUCTURE AGREEMENT. A clarification of those provisions is before the Council along with a reaffirming of the INFRASTRUCTURE AGREEMENT.
20. The INFRASTRUCTURE AGREEMENT provides for the City furnishing "the quantity and quality of potable water reasonably necessary for the project". It is clarified that the parties by stating this did not intend to guarantee the Company the quantity and quality of water needed, but was indicating that the water would be available in accordance with the provisions of the City regulations.
21. The City has not made the decision whether to apply for issuance of revenue bonds. That decision will be made at a later public hearing. The resolution clarifies this fact.
22. The passage of these resolutions results in the design/review decision being final. The necessary permits could be issued to the Company to begin construction on their silicon wafer manufacturing facility. This would end the "land use process" for the Company and the Company would begin the construction phase.

**PHYSICAL IMPACT:** The INFRASTRUCTURE AGREEMENT would provide for certain expenditures, the financing of which is provided for in the revenue.

**STRATEGIC ASSESSMENT:** The facilitating of the location of this industry in the City of Newberg has been the subject of much discussion. It has been stated that it provides additional job base for the City of Newberg which has been part of Newberg's Chehalem Future Focus Plans, both in Focus I and the updating meetings. The City has taken the position that this Company's location in the City would meet the goals established in the Chehalem Future Focus by providing for jobs within the City of Newberg to make Newberg a separate entity from the City of Portland. It would also decrease the probability that the City would become solely a bedroom community of Portland.

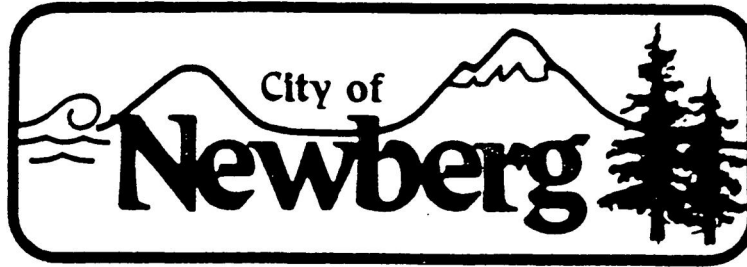
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**Terrence D. Mahr, City Attorney**

---

**Duane R. Cole, City Manager**

TERRY  
7/17/95



City Manager  
(503) 538-9421

City Attorney  
(503) 537-1208

414 E. First St.  
Newberg, Oregon 97132

City FAX  
(503) 538-5393

**CITY OF NEWBERG NOTICE OF PUBLIC HEARING**

**Appeal of Design Review Approval of a Limited Land Use Application For a Site Approximately 1,000 Feet East of Springbrook Road, Between U.S. Highway 99W and Fernwood Road**

**NOTICE IS HEREBY GIVEN** that a public hearing will be held before the City of Newberg Planning Commission at 7:30 p.m. on Thursday, August 3, 1995 at Klages Dining Hall/ Heacock Commons on the George Fox College Campus, Newberg, Oregon 97132. The Planning Commission will consider an appeal of a limited land use decision by the City of Newberg approving the request by Obayashi Corporation (the "Applicant") for design review approval of a 520,177± square foot industrial silicon wafer manufacturing facility. The appeal will be processed as a limited land use decision under ORS 197.195. The site of the proposed development is approximately 1,000 feet east of Springbrook Road between State Highway 99W and Fernwood Road in Newberg, Oregon. The property is more specifically identified as Yamhill County tax lot numbers 3216-2001 and 3221-100.

The Comprehensive Plan designates this site as Industrial, Medium Density Residential and Open Space. The zoning map designates the site as Industrial (M-1), Medium Density Residential (R-2) and General Hazard Zone (GH).

The applicable criteria used to make the decision on this application for design review approval are found in Newberg's Zoning Ordinance Sections 618, 620, 622, 372-376, 472-504 and 512-516 and the Newberg Comprehensive Plan policies as follows: Agricultural Lands Policy 1; Wooded Areas Policies 1 and 2; Air, Water and Land Resource Quality Policies 1, 2, 3, 4, 5 and 7; Areas Subject to Natural Disasters and Hazards, Policy 3; Open Space, Scenic, Natural, Historic and Recreational Resources Policies 1(a) and 1(e); Economy Policies 1(b), 1(c), 1(d), 1(e), 1(g), 2(a) and 2(b); Urban Design Policies 1(e), 1(f), 1(g), 1(h), 1(i), 1(j), 1(k), 1(l), 1(n), 1(o), 1(p); Transportation Policies 2(a), 4(a), 5(a), 5(b), 5(c), 5(d), 6(b), 7(e), 7(i), and

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Building: 537-1240 • Community Development: 537-1210 • Finance: 537-1201 • Fire: 537-1230  
Library: 538-7323 • Municipal Court: 537-1203 • Police: 538-8321 • Public Works: 537-1214 • Utilities: 537-1205  
Municipal Court Fax: 537-1277 • Community Development Fax: 537-1272 • Library Fax: 538-9720

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

8(c)(1); Public Facilities and Services Policies 1(a), 1(b), 1(c), 1(d), 2(a), 2(c), and 3(a); Energy Policy 1(a); and Urbanization Policies 1(a), 1(c), and 3(a).

Copies of the case file, the evidence relied upon by the City and the applicable review criteria are available for review at the Newberg Community Development Department, 414 East First Street, Newberg, Oregon 97132, and copies can be obtained at cost. The local government contact person is Greg Scoles, Community Development Director, (503) 537-1210, or other staff within the Community Development Department, Planning Division.

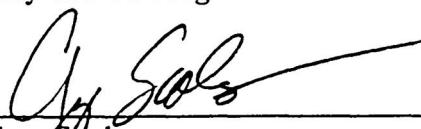
A copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing date and a copy will be provided at reasonable cost.

All interested persons are invited to attend this public hearing and will be given an opportunity to be heard. Oral testimony will be taken in the following order: applicant; other proponents; appellant; other opponents; and applicant's rebuttal. Oral testimony should avoid repetition of issues and should be based on the approval criteria listed above or other approval criteria believed to be applicable. If you are unable to attend the hearing, you may submit a written statement to the planning commission on or before the hearing date. Telephone conversations will not be accepted as testimony.

Failure to raise an issue in the appeal hearing in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeal on that issue.

Sincerely,

City of Newberg

  
\_\_\_\_\_  
Greg Scoles  
Community Development Director

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7/31/95

RECEIVED JUL 28 1995

4:15pm

Sid Friedman  
31909 NE Corral Crk. Rd.  
Newberg, Or. 97132

David Bowden  
Obayashi Corporation  
13810 SE Eastgate Way, Suite 300  
Bellvue, Washington, 98005

July, 28, 1995

Greg Scoles, Community Development Director  
City Of Newberg  
414 E. First St.  
Newberg, Or. 97132

Dear Greg:

By mutual agreement, we respectfully request that the scheduled Planning Commission hearing of the appeal of Design Review decision DR-18-95 be continued from August 3rd to a date later than August 10th. Thank you.

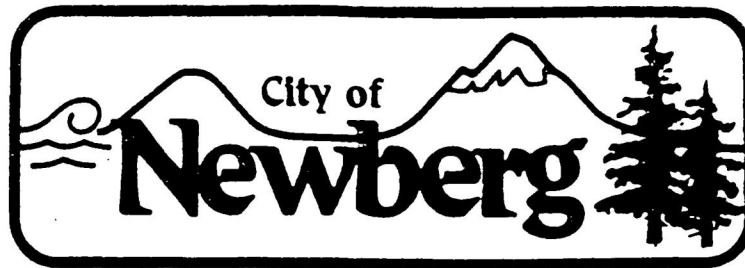


David Bowden  
Obayashi Corporation



Sid Friedman

VII



City Manager  
(503) 538-9421

City Attorney  
(503) 537-1208

## ANNOUNCEMENT

414 E. First St.  
Newberg, Oregon 97132

City FAX  
(503) 538-5393

### CANCELLATION OF PLANNING COMMISSION MEETING

SET FOR AUGUST 3, 1995

A special Planning Commission meeting has been set for Thursday, August 3, 1995 to hear the appeal of the design review decision DR-18-95.

By letter dated July 25, 1995, both the appellant (Sid Friedman) and the applicant, through its representative David Bowden of Obayashi Corporation, have requested that the scheduled Planning Commission hearing be continued. Since that was the only business scheduled for that meeting, the meeting is hereby cancelled. This is done with the authority granted to the Planning Commission Chairman by Ordinance No. 1718, Section 7, as amended by Ordinance No.94-2374.

**DATED** this 1st day of August, 1995.

    /s/ Jack Kriz      
Jack Kriz, Chairman  
Planning Commission

**WITH THE CONSENT OF THE  
CITY MANAGER:**

    /s/ Duane R. Cole      
Duane R. Cole, City Manager

Date of Posting: August 1, 1995

**ORIGINAL ON FILE AT CITY HALL OFFICES**

**MEETING PLACE: GEORGE FOX COLLEGE  
HEATHCOCK COMMONS  
7:30 P.M. - AUGUST 3, 1995**

Building: 537-1240 • Community Development: 537-1210 • Finance: 537-1201 • Fire: 537-1230  
Library: 538-7323 • Municipal Court: 537-1203 • Police: 538-8321 • Public Works: 537-1214 • Utilities: 537-1205  
Municipal Court Fax: 537-1277 • Community Development Fax: 537-1272 • Library Fax: 538-9720

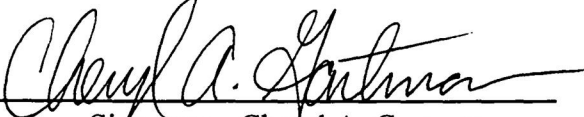
**"Working Together For A Better Community-Serious About Service"**

**CERTIFICATION OF POSTING**

August 1, 1995

I, Cheryl A. Gartman do hereby certify that I posted the document, Announcement of Cancellation of Planning Meeting at the following locations:

1. City of Newberg Fire Department
2. City of Newberg Administration
3. City of Newberg Community Development
4. Newberg Graphic Publishing Company
5. City of Newberg Library

  
\_\_\_\_\_  
Signature - Cheryl A. Gartman

  
\_\_\_\_\_  
Date

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ORDINANCE NO. 94-2374

ORDINANCE REVISING ORDINANCE NO. 1718 FROM NINE (9) MEMBERS ON THE PLANNING COMMISSION TO SEVEN (7) MEMBERS.

RECITALS:

1. The City of Newberg Planning Commission has considered the matter and has no objections to changing the number of members on the Planning Commission from nine (9) to seven (7).
2. The City of Newberg Ordinance/Legislative Committee has reviewed the matter and recommended that the Ordinance No. 1718 be revised.

NOW, THEREFORE, be it ordained by the Newberg City Council as follows:

1. Ordinance No. 1718, Section 2, passed by the Newberg City Council on January 8, 1974, be amended as follows:

**Section 2. Membership.**

- (1) The Commission shall consist of seven (7) members who are not officials or employees of the City of Newberg and an ex-officio non-voting member who shall be the Mayor.
  - (2) Six (6) of the seven (7) members shall have their principal place of residency inside the City limits. One (1) member may live within one mile of the urban growth boundary of the City of Newberg at the time of their appointment and during the term that they serve on the Planning Commission.
  - (3) No more than one (1) voting member of the Commission may engage in the buying, selling or the developing of real estate for profit as individuals or be members of any partnership or officers of any corporation that engages principally in the buying, selling or developing of real estate for profit. No more than two members shall engaging the same kind of occupation, business trade or profession.
2. Ordinance No. 1718, Section 7, passed by the Newberg City Council on January 8, 1974, be amended as follows:

**Section 7. Meetings.**


- (1) Meetings. A majority of the voting members of the Planning Commission shall constitute a quorum. The Commission shall meet at least once a month unless business does not require such a meeting. In which case, the Chairman, with the consent of the City Manager, or his/her designee, may cancel such meeting. Meetings of the Commission shall be open to the public and subject to the open meetings law. Meetings other than the regularly scheduled times may be announced at a prior meeting and thereby be made a part of the meeting records.


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3. Two of the Planning Commission positions are presently vacant. These positions will remain vacant and are eliminated.
4. The remainder of Ordinance No. 1718, passed by the Newberg City Council on January 8, 1974 and revised by Ordinance No. 92-2325 on April 6, 1992 will remain in full force and effect.

ADOPTED by the Newberg City Council this 4<sup>th</sup> day of April, 1994.

5 Yes      1 No(RC)      -0- Abstain      2 Absent (DM/ES)

  
Donna Proctor  
Mayor

  
Duane R. Cole  
City Recorder

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**WITHDRAWAL OF THE**  
**APPEAL OF DESIGN/REVIEW APPROVAL**  
**FILE NO. DR-18-95**

**DATE OF APPROVAL APPEALED - JUNE 22, 1995**

**APPLICANT: OBYASHI CORPORATION**

**APPELLANT: SID FRIEDMAN**

**I am the appellant in the above-entitled matter. I wish to withdraw my appeal, which was filed on July 6, 1995. I understand that withdrawal of my appeal will result in the decision made on June 22, 1995 becoming the final decision in this design/review application process. I make this withdrawal freely and voluntarily and request that the City accept my withdrawal of appeal.**

**DATED THIS \_\_\_\_\_ DAY OF AUGUST, 1995.**

**APPELLANT: \_\_\_\_\_**  
**Sid Friedman**

**On behalf of the City of Newberg and by the authority of the Newberg City Council, the City accepts the withdrawal of the appeal and declares that no further appeal is pending in this matter. The time for appeal having expired and no other appeals being received, the decision of June 22, 1995 is the final decision in the design/review pursuant to file number DR-18-95.**

**DATED THIS \_\_\_\_\_ DAY OF AUGUST, 1995.**

**CITY BY: \_\_\_\_\_**  
**Duane R. Cole, City Manager**

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**RESOLUTION NO. 95-1925**

**RESOLUTION AFFIRMING INFRASTRUCTURE AGREEMENT BETWEEN THE CITY, STX OF OREGON, INC. AND THE ECONOMIC DEVELOPMENT DEPARTMENT OF THE STATE OF OREGON, CLARIFYING CERTAIN PROVISIONS OF SAID AGREEMENT AND PROVIDING FOR NOTICE OF CLARIFICATION TO PARTIES.**

**RECITALS:**

1. STX of Oregon, Inc., an Oregon Corporation, sometimes known as Sumitomo, hereinafter referred to as "Company", desires to build a silicon wafer manufacturing facility within the City of Newberg.
2. The location chosen by the Company to construct the facility is Tax Lot Nos. 3216-2001 and 3221-100, located approximately 1,000 feet east of Springbrook Road, between US Hwy. 99W and Fernwood Road, Newberg, Oregon, commonly referred to as "the Werth Property" and the property is properly planned and zoned for such use.
3. On or about June 7, 1995, in order to reach an agreement as to the infrastructure that would be available to Company and the financing of said infrastructure, an INFRASTRUCTURE AGREEMENT was reached between Company, City and the Economic Development Department of the State of Oregon, herein after referred to as "State".
4. The parties to the agreement wish to clarify certain provisions in the agreement.

**NOW, THEREFORE, THE NEWBERG CITY COUNCIL RESOLVES AS FOLLOWS: :**

1. The City, the State and Company entered into an INFRASTRUCTURE AGREEMENT on or about June 7, 1995. A copy of said AGREEMENT is attached and hereby incorporated by this reference. The City Manager of the City of Newberg, Duane R. Cole, executed the INFRASTRUCTURE AGREEMENT on behalf of the City of Newberg and the City Council affirms his authority to execute the AGREEMENT on behalf of the City.
2. The following clarifications are made to the INFRASTRUCTURE AGREEMENT :
  - A. Section 2. POTABLE WATER, page one.

The City will provide the potable water necessary for the requirements pursuant to the City's ordinances and regulations. The City will use its best efforts to provide the quality and quantity of potable water necessary for the project. The Company is not guaranteed that the quantity and quality of potable water available to them is that necessary for the project. The Company will be able to receive water from City in accordance with the regulations of the water system of City and does not have, by this INFRASTRUCTURE AGREEMENT preference over any other user of

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the City. The Company has reviewed the City's Master Water Plan with updates and studies and relies upon the information presented. The City is obligated to use its best efforts to secure water in accordance with its Master Water Plan.

B. Section 8. FINANCIAL RESPONSIBILITY, page four.

The City shall use its best efforts to secure financing for costs associated with the design and construction of all public utilities and road improvements referred to in AGREEMENT. The decision to issue revenue bonds to finance improvements shall be made at a later date at a public meeting. The City is not under an obligation to issue revenue bonds for financing purposes pursuant to this AGREEMENT.

C. Section 10. FINANCING VEHICLES.

The State agrees to initiate process to issue revenue bonds and if revenue bonds are issued, the City will be the obligor under said revenue bonds. The Company will enter into the necessary agreements to ensure revenue through utility rates to the City to support said revenue bonds and enter into any additional agreement that may be necessary to guarantee the obligation under the revenue bonds if issued.

D. Section 11. UTILITY RATES, page five.

The AGREEMENT indicates that the Company will pay the same rates as other industrial users within the City. The City will not enter into separate negotiations with Company for the purpose of Company receiving preferential rates for water and sewer use from the City.

3. A copy of this resolution clarifying certain portions of the INFRASTRUCTURE AGREEMENT shall be sent to each party. Each party will be put on notice that if it does not agree with the clarifications, it should notify the City within ten days of receipt. Further, the confirmation of the INFRASTRUCTURE AGREEMENT is conditioned upon consent to the clarifications.

**ADOPTED by the Newberg City Council this \_\_\_\_\_ day of August, 1995.**

\_\_\_\_\_  
**Duane R. Cole, City Recorder**

**ATTEST BY THE MAYOR this \_\_\_\_\_ day of August, 1995.**

\_\_\_\_\_  
**Donna Proctor, Mayor**

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**RESOLUTION NO. 95-1926**

**RESOLUTION AFFIRMING COOPERATION AGREEMENT BETWEEN THE CITY, STX OF OREGON, INC. AND SID FRIEDMAN, AND CLARIFYING CERTAIN PROVISIONS OF THE AGREEMENT.**

**RECITALS:**

**WHEREAS**, the City of Newberg, an Oregon municipal corporation, (the "City"), STX of Oregon, Inc., an Oregon corporation (the "Company"), and Mr. Sid Friedman ("Mr. Friedman") desire to enter into a Cooperation Agreement; and

**WHEREAS**, the City Council desires to clarify what the Cooperation Agreement means,

**NOW, THEREFORE**, the City Council hereby resolves as follows:

1. It is understood by all parties that the Company shall be required to meet all city, state and federal current and future regulations involving the subjects contained in the Cooperation Agreement. The City Council interprets the Cooperation Agreement as not waiving any regulations applicable to the Company's development.
2. The Company will be responsible for deferred costs as provided for in paragraph B(2) of the Cooperation Agreement subject to the understanding that such costs incurred by the Company shall be the subject of reimbursement by the owners of properties receiving such deferral through a reimbursement agreement or similar mechanism.
3. The Cooperation Agreement does not modify or amend the City decision DR-18-95.
4. The Company and the City agree to work cooperatively toward the execution of a second agreement as envisioned in paragraph I(8) of the Cooperation Agreement. That second agreement will be solely between the City and the Company.
5. The Cooperation Agreement shall terminate upon the execution by the City and the Company of the partnering agreement or other similar agreement, pursuant to paragraph I(8) of the Cooperation Agreement, which successfully incorporates the terms and provisions of the Cooperation Agreement.
6. The City Council interprets the Cooperation Agreement as not constituting a development agreement under ORS 92.504 et seq.
7. The City Council authorizes the City Manager to sign the Cooperation Agreement on the City's behalf.

ADOPTED by the City Council of the City of Newberg this \_\_ day of August.

\_\_\_\_\_  
Duane R. Cole, City Recorder

ATTESTED by the Mayor this \_\_ day of August, 1995.

\_\_\_\_\_  
Donna Proctor, Mayor

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