

ADJOURNED CITY COUNCIL MEETING
AGENDA
COUNCIL CHAMBERS
MAY 10, 1982
7:30 P.M.

- I. CALL MEETING TO ORDER
- II. ROLL CALL
- III. PROCLAMATION:
 - 1. Proclamation recognizing the athletic accomplishments of Kathy Hayes.
- IV. REQUESTS FROM FLOOR AND COMMUNICATIONS:
- V. PUBLIC HEARING:
 - 1. Public hearing on 1982-83 City Budget.
- VI. REPORTS FROM CITY ADMINISTRATOR:
 - 1. Report on Plumbing Inspections
- VII. OLD BUSINESS:
 - 1. Verbal report from Representative of Yamhill County
RE: Tautfest Property.
 - 2. Report on Francis Theatre
- VIII. NEW BUSINESS:
 - 1. Initiation of an alley vacation by the City Council located within Block 54 of Edwards Addition Subdivision which abuts lots 1, 2, 3 and 4, between Eighth and Ninth Streets River and Chehalem Streets.
- IX. RESOLUTIONS:
 - 1. Resolution endorsing Ballot Measure No.4 and encouraging all citizens and businesses to support of the measure.
 - 2. Resolution authorizing transfer of funds from the General Fund, Sewer Fund, Water Fund, Capital Improvement Fund, Contingency Accounts of funds to numerous designated personal service and materials accounts and capital improvement accounts.

PROCLAMATION

A PROCLAMATION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NEWBERG
DECLARING RECOGNITION OF KATHY HAYES ON HER ACCOMPLISHMENTS AS AN
ATHLETE.

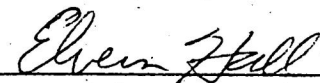
WHEREAS, KATHY HAYES is a representative of the City as she has
lived in Newberg for some time; and

WHEREAS, KATHY HAYES graduated from Newberg High School in 1981
and achieved many honors during her high school years for cross
country and other track events including 1980-81 State Cross Country
Champion; 1981 1500 meter State Champion; in 1981 had the 4th fastest
time in the United States, for a student, in the 1500 meter run; and

WHEREAS, KATHY HAYES since graduation has accomplished the following
feats: In November of 1981 ranked 16th in the Nation for Cross
Country; named to the All American Team in Cross Country; is cur-
rently ranked #1 for collegiate women in the 3000 meter run and
has recently set a new record for the 5000 meter run at the Uni-
versity of Oregon.

NOW, THEREFORE BE IT DECLARED that the Mayor and the City Council
of the City of Newberg recognize the athletic accomplishments of
Kathy Hayes. And on behalf of the City Council and residents of
the community of Newberg offer the heartiest of congratulations
and continued success.

DATED this 10th day of May, 1982.



Elvern Hall -- Mayor

MEMO

TO: City Council
FROM: City Administrator
SUBJECT: Report on Plumbing Inspections

DATE: May 3, 1982

The Building Official has presented a memorandum to me outlining the plumbing inspections for the City of Newberg. We have had a Plumbing Inspector that works two days a week (Tuesdays and Thursdays) to do the inspections for the City. This person's name is Don Miller. There is no other person in our department that is certified to do plumbing inspections.

I am concerned about the plumbing inspections for two reasons. First, we have a plumbing inspector here only two days a week rather than five. Second, as the figures indicate we are not covering our costs through the inspections.

The Building Official has contacted the County and the County has indicated a willingness to give us daily inspections. This would be very similar to the way we have handled our electrical inspections. The County does that also and gives us a percentage of the fees collected. In the case of the plumbing inspection fees we would receive 25% of the revenue and not have any of the overhead.



Michael Warren
City Administrator

MW/bjm



CITY OF

Tape
5/10 Newberg

NEWBERG

414 E. First Street

Newberg, OR 97132

PROPOSAL

TO: City Administrator
FROM: Building Official
RE: PLUMBING INSPECTIONS

DATE: April 23, 1982

I propose that plumbing inspections be contracted to Yamhill County due to the cost to the city as compared to the revenue.

Revenue for the last 6 months was \$4129.44. Cost of plumbing inspection for the last 6 months was as follows:

Plumbing inspector salary -	\$ 2,968.50
Mileage paid plumbing inspector -	420.00
Their were 498 inspections at a cost of -	7,968.00
approximately \$16.00 each which includes,	\$11,356.50
city car, gas, insurance, wages for	- (7,227.06) Loss
additional inspector, etc.	

At the present time we have one plumbing inspector working 2 days a week and one inspector working 3 days a week, who is not currently certified to do plumbing inspections. Their days of work are nearly the same, giving the department 4 days a week of coverage for plumbing inspections. I must cut out the uncertified plumbing inspections which leaves the department with 2 days a week coverage.

The County is willing to contract with us for 75% of the revenue and give us daily inspections. I feel that this would be a much improved method of handling the plumbing inspections and also provide the city with a 25% revenue profit rather than the large lost which we are currently experiencing.

Sincerely,

Alan A. Barnes
Building Official

AAB/lsa

11

MEMORANDUM
May 3, 1982

may 10
Manda
Council
city ATT
only

TO: Rick Faus, City Attorney

FROM: Clay Moorhead, Planning Director

RE: Annexation and construction permits for the Francis
Twin Cinema project located at the intersection of
Highway 99W and Springbrook Street.

The City staff first became officially involved in this matter on September 22, 1981 at which time an application for annexation was submitted relating to the drive-in theater property. The Planning Commission met on October 22, 1981 and requested approval of the annexation and the City Council met on November 2, 1981 and approved the annexation subject to certain conditions. In the time that this matter was being processed as an annexation, beginning in September 1981, Mr. Francis was attempting to begin construction of the twin cinema project. Since the project was not yet in the City, the only way that this could be issued would be if the County could authorize the development. The City went well out of its way to help coordinate with the County and DeY Ltd. (the general contractors involved with this project) to allow some construction to begin in order to meet the timetables scheduled for opening the theater. It was represented by DeY Ltd. that the immediate construction of the theater was necessary in order to meet a Thanksgiving or Christmas deadline for opening the theater.

From this point things began to get worse. The County did not issue permits for the construction of this twin cinema. The applicant's then started construction, and later, a stop work order was placed on the project. It was determined by the County that the only that construction could be initiated on the site was if a septic approval was granted for a septic tank. This would be necessary in order to issue the permits in the County. Munciple sewer lines were found within the area, however, the applicant could not hook up to them and could not be guaranteed a hook up until the finalization of an annexation process. The problem that now existed was that the applicant's had paved a parking lot over the area that could otherwise have been approved for a septic tank. The County still allowed construction to occur based upon the agreements reached at meeting between the City, the County and representatives of DeY Ltd. held at the Newberg City Administrators office on or about November 20, 1981. At the conclusion of the meeting it was agreed that, since the property would soon be annexed under the City's annexation procedures and, since the applicants had agreed to completing the conditions listed upon a letter sent to Ted Francis

We
came to
the rescue

dated November 20, 1981 and signed by the Planning Director, construction would be allowed to continue in the County until such time as the annexation procedures were complete. Once the annexation procedures were complete, the matter would be fully within the City limits and under City jurisdiction. At that point it would be the City's responsibility to finish the permit and inspection process on the project.

Through the annexation process, the City Council required, as a condition of the annexation, that a 10 ft. street dedication be conveyed from the owner of the property to the City for road widening purposes of Springbrook Road. A second condition was also established which requires the applicant to comply with the site review procedures of the Zoning Ordinance before the City would issue further permits or authorization to hook up to sewer and water services.

**K* Many of the items that were agreed upon by the applicant's representatives (DeY Ltd.) at the November 20 meeting were never completed. To date, the fees established for traffic control have yet to be paid, which amount to \$1,815.00. Ted Francis, who is the president of Francis Enterprises Inc., did come to a site review meeting at which time certain conditions were agreed upon relating to the site development of the project. At the conclusion of this meeting it was agreed that Mr. Francis would have a site plan prepared which would take into consideration the matter agreed upon at the site review meeting. Mr. Francis was then to initial the final site plan, which was to be made a part of the building permit. Mr. Francis did do so and a permit was issued to allow for further construction of the project.

*Based on
his words*

In about the third week of May, 1982 it was noticed that Mr. Francis was not constructing the project as per the approved site plan and, therefore, a letter was issued to Mr. Francis by the Planning Director with a cover letter from the City Administrator which indicated the problems. The Planning Director met with Mr. Francis on April 26, 1982 at 11:00 A.M. in the City Administrator's office to discuss these matters in greater detail. At that time Mr. Francis indicated that he would not agree to completing the conditions specified on the April 22, 1982 letter by the City Planner. On April 27, 1982 the City Administrator, Planning Director and City Engineer all met at Mr. Francis' twin cinema project site to further discuss the matter. At that point, Mr. Francis was notified that he could either complete the project pursuant to the agreed upon site plan and ordinances of the City or that he could redesign the project and go through the site review process again from scratch (he would then be subject to any new conditions established through that process, regardless of current development) or that he could elect to continue to violate the approved site review plan which would require the City staff to immediately initiate violation procedures relating to the matter.

Page 3

Mr. Francis did not indicate that he was willing to take any of the three choices. The following day a revised site plan was submitted to the Planning Director's office which indicated changes in the number of seats proposed in the development, the number of parking spaces proposed, the location of landscaped areas, the location of fire accesses and the design and location of fences within the project. There is no letter or indication from Mr. Francis that he approved this revised plan and whether it is his desire to go through a site review procedure again.

At this point the construction of the project is in violation of the Newberg Zoning Ordinance and the Annexation Ordinance, as the 10 ft. street dedication, which is required as a condition of the annexation, has yet to be submitted; the traffic control fees, amounting to \$1,815 have yet to be submitted; Mr. Francis has apparently illegally hooked up a residence within the County onto the City sewer system; the site construction of the project does not comply with the approved site plan which has been made a part of the building permit. A copy of portions of the original site plan and the revised site plan, which was submitted April 28, 1982, is attached and identifies the violations relating to the site construction.

1. Section 4, Ordinance No. 2069, annexing the property placed a site review overlay on the property. This is pursuant to Section 612-620 of Ordinance No. 1968, the Newberg Zoning Ordinance. This has been violated in several particulars in that the plan approved by Site Review Committee and signed off by Mr. Francis has been varied from substantially as follows:

- A. No provision for a fire truck entrance and exit.
- B. No provision for adequate screening, landscape cover, etc.
- C. Fenced addition of Springbrook. There was to be no higher than 5 feet. It is now 6 or 7 feet.
- D. Maintenance and access easement for connection of sewer line. This was to be deeded to the city. This has not been done.
- E. Traffic signal fees required by Ordinance have not been paid.

Enforcement issues of Ordinance No. 1968, the Zoning Ordinance, provides for penalties of \$500. a day for each day of violation of the provisions of the zoning ordinance. This is under Section 802. Section 620 regarding site review states that any variation from the approved site plan is a violation of the ordinance, and thus, a \$500. a day penalty would be available. Further, Section 776 of the zoning ordinance allows violations to be declared nuisances. Section 780 gives City Attorney power to institute legal proceedings to enforce the ordinance. Section 784 allows suits in equity under ORS 30.315 to enjoin violations. Thus, the remedies of fine and declaration of nuisance, injunction are available in this matter for these violations. In addition Sections 303C and 303E of the Uniform Building Code which we have adopted in our Ordinance No. 1740, Section 1, provides under validity of permit, allows building official to "prevent building operations being carried on thereunder" meaning under the permit "when in violation of this code or any other ordinances of this jurisdiction. Under E, Suspension Revocation, Building Official may suspend a revoked permit issued under provisions of the code where the permit is issued or used in violation of any ordinance or regulation.

In summary, under the building code, the City can revoke or stop work under the existing permit for violation of the site review provision of the zoning ordinance. Further, no certificate of occupancy could be issued for these continuing violations.

Further, our building Ordinance No. 1740, Section 12, provides \$100. a day penalty for violations of the ordinance, including all provisions of the building code.

2. Section 5 of Ordinance No. 2069, the Annexation of this property, required a 10 foot dedication, road right-of-way as a condition of the annexation to comply with the transportation, public facilities and services goal of the Comprehensive Plan, which is Ordinance No. 1967. Violation of this requirement provides several avenues of activity:

- A. Under Ordinance No. 895, because the Comp. Plan provides no penalties for violation of its sections, the unenumerated penalties ordinance can provide a \$100. a day and 90 days in jail penalty for violations of the Comp. Plan.
- B. Action can be taken to repeal the ordinance granting annexation on the basis of the condition of dedication, essential for Comp. Plan compliance has not been complied with. This procedure provides several interesting

legal issues on the detachment of an area from the city, etc. and would require a hearing on issue of non-compliance. That is probably the biggest hammer we have, in that, if we revoke the annexation, the sewer connections go with it.

- C. It is my understanding that an unlawful tap off of this sewer line already exists. An alternative on the 10 foot dedication requirement would be to sue for specific performance of the ordinance provision on the basis that the annexation was already granted and thus, the City has done its part and Francis must be required to comply by giving the dedication.

3. Illegal Sewer Tap. It is my understanding that Francis has illegally tapped the sewer line extended to his property for the use of an adjacent house. Since this tap is illegal on its face, I feel that service to the entire area can be immediately cut off, regardless, of paying any tap fees, etc. for violation of Ordinance No. 1386, our Sewer Ordinance. Additionally, as I understand it, all water service and sewer service to the site is only temporarily authorized under the building permit until construction is completed and then formal arrangements are made tapping. If a stop work order is placed as part of that from the cutting off of service, it should be allowed. In addition, for the illegal tap, I feel a Theft of Services charge could be imposed, or injunction or, after notice, financial or jail penalties imposed under Section 801, 802, or 803 of Ordinance No. 1386, which provides a \$500. fine or 30 day imprisonment or both for each day of violation.
4. File Life Safety Violations with regard to a lack of fire engine access by way of suitable fire entrance or exit. The requirement of the entrance/exit was imposed under the site review requirements of the zoning ordinance and this could be used as the basis of enforcement. Additionally, I am sure State regulations specifically requires fire equipment access to sites of high occupancy, such as the theatre and failure to provide this would clearly constitute a danger and a violation of the fire code, as well as affecting the insurability of the premises. This danger alone would be sufficient to stop work until is remedied.

Summary. The City has available to it numerous methods of action in handling these violations including:

- A. Stopping work on the site under the current building permit; and
- B. Refusing to provide an occupancy permit.
- C. Cutting off temporary sewer and water service to the premises.
- D. Imposition of financial penalties for violations of the City's ordinances under zoning ordinances, particularly for violation of site review requirements. This may also apply to fire and life safety.
- E. Imposition of financial penalties for illegal taps.
- F. Injunctive action should there be a continuation of work on the premises or attempts to occupy in violation of the above.
- G. City Council action to revoke the annexation of the premises for failure to comply with the material requirement of the annexation, which is the road dedication.
- H. Other relief not yet enumerated.

Additional note

Authority regarding the access for fire apparatus comes from the Uniform Fire Code adopted by our Ordinance No. 1867, Section 1 which carries a penalty under Section 13 of maximum penalty of \$500. fine per day and 90 days per day of violation. Violations must be corrected immediately. The authorities found under Section 13.208(a,b,c,d, & e) of the Uniform Fire Code which requires clear and adequate access roadways for fire apparatus.

RDF:fj

Additional Note on Fire Access Requirement

This clear fire access gate is needed primarily for the laying of hose in case of an emergency. There are two hydrants involved. One on the Northeast corner of the area and another in the Southeast corner of the area. Without this access it would be impossible to string hose from the Northeast corner hydrant for adequate fire coverage, and thus, an access with the proper width is needed. Access would have to be kept clear at all times but the gate could be kept locked at all times and all the Fire Department would require in case of fire would be the ability to cut the locking chain. The access is needed primarily for the stringing of hose rather than the utilization of equipment.

CONFIDENTIAL MEMO

TO: City Council
FROM: City Administrator
SUBJECT: Francis Theatre

DATE: April 29, 1982

I've copied the City Council with a letter that was sent last week by the Planning Director and myself informing Ted Francis that there were some serious defaults in the construction. Mr. Francis came in Monday and Clay spent about an hour with him and I spent an additional hour and a half with him. Mr. Francis fluctuates from being very belligerent to wanting to cooperate. The situation is as follows:

Mr. DeYoung represented Ted Francis at a City Council meeting in which he stated that right of way, site review, etc. would all be done if the City agreed to annex the property. We attempted to work with the County in trying to get this property into the City quickly. The reason was that they had planned on opening the theatre around Christmas time or shortly thereafter. Clay sent DeYoung a letter saying all the things that were agreed upon at the City Council meeting and explaining that in order for the property to be annexed, right of way, site review, etc. would have to be done and in fact, was agreed upon at the City Council meeting.

We went around and around with DeYoung on meeting minimum requirements. Ted Francis paid quite a bit of money to DeYoung and in his opinion, probably didn't get what he paid for. DeYoung did not communicate (again, according to Francis) with Mr. Francis and it is here where the situation begins to get confusing. The contractor/developer is suppose to work with the owner of the property to make sure that there is communication. Since this wasn't going on Mr. Francis was supposedly unaware of what was going in on his site.

When Ted Francis got into the picture, he wanted to be updated and we did just that. We began arguing the same points that we had argued with DeYoung and finally settled it by going through the site review process with Mr. Ted Francis and his architect, Mr. Holbrook, sitting at a table along with the Planning Director, Public Works Director, Ken Andrews of the Fire Department, the Postmaster, Building Inspector and the City Administrator. We all agreed to a number of different items. My only concern that I voiced to the staff members was that the City was much too lenient. Where we usually require 15% landscaping we required barely 7½%. Where we usually address ourselves to safety, we did not. (i.e. cars will still be backed up on 99W and because there will be two theatres in operation, they will be backed up even further.)

This is what was agreed upon and initialled by Mr. Francis on his architect's set of plans.

Memo to City Council
RE: Francis Theatre

1. The fence adjacent to Springbrook St. would be no higher than five feet. The fence is seven feet high.
2. There would be 7½% landscaping with the landscaping designated on the set of plans as fir trees, ivy, etc. In order to accomplish this a fence separating the parking for the walk-in theatre from the drive-in was to be angled. This fence is not angled and consequently, not according to plans and there is no way they can accomplish the landscaping that was agreed upon.
3. Right of way to get to the sewer line would have to be deeded to the City. Mr. Francis says he now does not want to do this.
4. A fire entrance was to be constructed at a certain point off of Springbrook St. and the fence that has gone in does not allow for this. Mr. Francis and his son have said that they would like to put the fire entrance adjacent to the fence which would mean going over another piece of property. This was not approved by the City since we had not seen it before and to my understanding they do not even have the right of way from the property owner.
5. Traffic signal fees that are required by ordinance were to be paid. These have not been paid and we continue to go around about why they should be paid.

When the Public Works Director, the Planner and I went out to visit the site on Tuesday, April 27, Mr. Francis and his son simply could not understand why any of the above had to be done. We talked about the fact that if this wasn't done staff was in a very awkward position. We could very easily shut off their sewage since they did not comply with the agreement on the annexation and they countered with the threat that this couldn't be done because a residential unit was hooked up to the sewer line. Bob Sanders has checked into this and if there is a residential unit hooked up to the sewer line it has been done without fees and done illegally.

My concern on this matter can be viewed by any of the Council members going out and walking around the theatre. The project, even if they comply with what the City has asked, will still be much less than attractive.

It is obvious that other developers are going to point to the drive-in theatre and say "why wasn't this done to the Francis Drive-in Theatre when you are asking this of me.

We have explained to Mr. Francis and his builder that there are only three alternatives:

1. The drive-in and walk-in theatre should comply with what was agreed upon in the site review meeting and designated on the set of plans that was initialled by Mr. Francis.

Memo to City Council
RE: Francis Theatre

2. We would go through the whole process again with a new site review meeting and try to work out something that would meet safety and environmental requirements, even though much of the construction has already been completed.

3. Shut down the project. This would require posting by the building department and if work continues a restraining order to be filed by the City Attorney. If there was still no compliance then our Police Officers would arrest those people on site disobeying the stop work order.

This is an extremely serious situation. The owner of the property has been blatant about his disregard for City requirements and agreements that were reached by both parties. He is in part, a victim of circumstances and a victim of his lack of knowledge on putting together a project of this magnitude. In either case, the City must protect itself and the citizens. There is absolutely no way the City Staff can turn it's back on this project or compromise any further.

I would like to talk further on this issue and receive City Council suggestions at the May 3, 1982 City Council meeting. I have talked with our City Attorney and he has said it is best to discuss this subject matter dealing with possible litigation in Executive Session, under ORS 192.660 1 (b).


Michael Warren
City Administrator

MW/bjm

cc: City Planner
Public Works Director
City Attorney

MEMORANDUM
May 3, 1982

TO: Mike Warren, City Administrator

FROM: Clay Moorhead, Planning Director

RE: Initiation of an alley vacation by the City Council
On their May 3, 1982 regular meeting

A request for an alley vacation was received on April 28, 1982 by Brian and Donna Walker. Specifically, they are requesting that a portion of the alley within Block 54 of Edwards Addition Subdivision, which abuts lots 1, 2, 3 and 4. The alley is located between Eighth and Ninth Streets, River and Chehalem Streets.

This matter has not been scheduled on the regular agenda because of the date in which this request was received. If the City Council chooses to initiate the vacation, the matter would be scheduled before the Newberg Planning Commission on May 20 and re-scheduled for a Public Hearing before the City Council at their regular June meeting. In initiating the alley vacation, the staff would recommend that the Planning Commission review the entire alley system within block 54 for vacation, rather than only a portion of the alleyway.

April 24, 1982

Mr. Elvern Hall, Mayor
Newberg, Oregon

Dear Sir,

We own the home and property at 800 S. River Street in Newberg.
The property's legal designation is Lot 54, Blocks 1, 2, 3, and 4.

We hereby request that the City of Newberg accept our application to vacate the alley which runs behind our property, parallel to River Street.

Currently, there is a fence across it between lots 9 and 10, making it impassable from Ninth Street. In addition, there are berry bushes planted and cultivated behind lots 7, 8, and 9. The person who lives on the south half of block 54, lots 16, 17, and 18 had a garden in the alley last year. There is a five inch curb on the Eighth Street side rather than an access ramp, making use of the alley difficult.

Since the majority of the residents use the alley for other purposes, it seems reasonable to accommodate this request. Thank you.

Sincerely,

Donna + Brian Walker

Brian and Donna Walker

cc. Clay Morehead
City Planner

VIII 1

RESOLUTION NO.

A RESOLUTION ENDORSING BALLOT MEASURE NO. 4 AND ENCOURAGING ALL CITIZENS AND BUSINESSES TO SUPPORT THIS IMPORTANT MEASURE.

WHEREAS, The state, county, and city roadway system is the backbone of commerce in the State of Oregon; and

WHEREAS, the State of Oregon has over 20,000 miles of public roads and highways that are in substandard condition; and

WHEREAS, statistics have shown that over one-half of the driving in Oregon takes place on these badly neglected roads; and

WHEREAS, the gas tax funds for state, county, and city road maintenance have not kept pace with inflation and the demand for repair; and

WHEREAS, the City of Newberg has not had sufficient gas tax funds to provide systematic maintenance of the roadway system in the form of pavement overlays for over four years; and

WHEREAS, the 1981 Oregon legislature has referred Ballot Measure No. 4 to the voters of the State of Oregon at the May 18, 1982 primary election; and

WHEREAS, Ballot Measure No. 4 would raise approximately \$21 million annually for the Highway Fund for each 1¢ increase in the gas tax, and \$3 million of this amount would be allocated to Oregon cities for maintenance and construction of local roads; and

WHEREAS, the City of Newberg would receive an annual increase of approximately \$20,000 for each 1¢ increase in the gas tax.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newberg, Oregon as follows, to-wit:

1. That the users of the roadway system, both private vehicles and commercial carriers should pay an increased fuel tax which allows the state, counties, and cities to properly maintain the road networks within their jurisdiction.

2. That a properly maintained roadway is a deterrent to vehicle accidents.

3. That the Council of the City of Newberg endorses Ballot Measure No. 4 and encourages all citizens to support this important measure.

ADOPTED by the Council this 3rd day of May, 1982.

Arvilla Page - City Recorder

IX 1

MEMO

TO: City Council

DATE: May 5, 1982

FROM: Finance Director

SUBJECT: Contingency Fund Transfers

Supplies and postage throughout the budget is at or exceeding projections. During the past year, we have initiated a plan where we purchase office supplies through the hospital to obtain quantity discounts. Prices are significantly less than those quoted by other suppliers. However, inflation has caught up on office supplies and the 2¢ increase in first class postage has had its affect.

The interest expense item under General Government is the interest paid when money had to be borrowed from another fund until taxes were received in November. Budgeting properly would prevent the need to borrow funds. An item should be in the budget designated "Unappropriated Fund Balance" sufficient to meet the needs of the General Fund until the taxes are received. It has not been included in an effort to keep the tax rate down. Money will need to be borrowed each year until we can get this budgeted.

Legal Books & Publications is due to unexpected higher costs for material update and a share of service for the Hospital Law Manual. The manual was originally purchased by the Hospital, but the update is the responsibility of the Legal Department.

Office and Jail Repair. The plan was to make minor repairs to the bathroom in the Police Department. Then it was decided to try to bring it up to code. It had no vent, improper wiring and rats in the walls. This is just part of the cost to do the much needed remodeling.

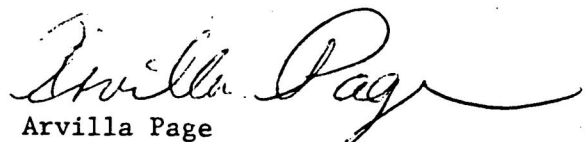
There has been a major revision of the Building Codes publications and new books were needed. Also, forms printing requirements have been greater than anticipated.

Water & Sewer Fund Administration. New supplies of checks, purchase orders, utility bills and personnel forms have had to be purchased. The shortage in Communication is apparently an underestimate in the budget.

Sewer Plant utilities. A check of the billings indicates more power is being used. No changes have been made at the plant that would account for more usage except higher volume. This is all PGE with their increased rates also having an effect.

Sewer Pipe & Materials is to cover the cost of the connections to the Twin Cinema and Twin Oaks developments.

Fire Equipment. Total cost of the tanker will not be known until quotes are received. The Contingency account only contains \$31,550 which may not be enough. If the total cost is more, the tank will have to be delayed until July 1, 1982. \$15,000 is required at this time for the chassis purchase. I recommend transferring \$15,000 now and planning to transfer the balance later if the tank can be obtained for \$16,550 maximum.


Arvilla Page
Finance Officer

IV 2

RESOLUTION NO.

A RESOLUTION AUTHORIZING TRANSFER OF FUNDS FROM THE GENERAL FUND, SEWER FUND, AND WATER FUND, CAPITAL IMPROVEMENT FUND, CONTINGENCY ACCOUNTS OF FUNDS TO NUMEROUS DESIGNATED PERSONAL SERVICE AND MATERIALS ACCOUNTS AND CAPITAL IMPROVEMENT ACCOUNTS.

WHEREAS, funds in the amount of _____ must be appropriated from the General Fund, Sewer Fund, Water Fund and Capital Improvement Fund, Contingency Accounts to meet personal service, materials and service, and capital improvement obligations; and

WHEREAS, the Finance Committee of the City Council of the City of Newberg has met and does recommend these transfers; and

WHEREAS, the Council of the City of Newberg has considered the transfer of funds from the Contingency Accounts of funds as set forth in the budget for the fiscal year 1981-1982 which are enumerated below and has determined that the expenditures hereinafter mentioned are necessary and that the transfer of funds hereinafter stated should be allowed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newberg, Oregon as follows, to-wit:

1. That the following transfer of funds from the General Fund Contingency Account in the amount of \$7,934.00 are hereby authorized and expenditure of the funds are authorized for the purposes stated as follows:

<u>Fund/Purpose</u>	<u>Amount</u>
<u>General Fund</u>	
General Government:	
Supplies & Postage	\$ 350.
Interest Expense	3,462.
Municipal Court:	
Supplies & Postage	200.
Legal:	
Books & Publications	300.
Police:	
Office & Jail Repair	2,672.
Building Inspection:	
Supplies & Postage	75.
Printing	175.
Engineering:	
Supplies & Postage	100.
Administration:	
Dues, Meetings, Travel	600.
TOTAL GENERAL FUND	\$ 7,934.

2. That the following transfer of funds from the Sewer Fund Account in the amount of \$16,500.00 is hereby authorized and expenditure of the funds are authorized for the purpose stated as follows:

<u>Fund/Purpose</u>	<u>Amount</u>
<u>Sewer Fund</u>	
Administration:	
Supplies & Postage	\$ 250.
Printing	300.
Communication	150.
Plant:	
Utilities	12,000.
Collector:	
Pipe & Materials	<u>3,800.</u>
TOTAL SEWER FUND	\$16,500.

3. That the following transfer of funds from the Water Fund Contingency Account in the amount of \$600.00 is hereby authorized and expenditure of the funds are authorized for the purpose stated as follows:

<u>Water Fund</u>	
Administration:	
Supplies & Postage	\$ 200.
Printing	300.
Communication	<u>100.</u>
TOTAL WATER FUND	\$ 600.

4. That the following transfer of funds from the Capital Improvement Fund Contingency Account in the amount of \$ is hereby authorized and expenditure of the funds are authorized for the purposes stated as follows:

Capital Improvement Fund
Fire Equipment

5. That the foregoing transfers shall be made from accounts as set forth in the budget of the City of Newberg for the fiscal year 1981-1982.

ADOPTED by the Council this 10th day of May, 1982.

Arvilla Page - City Recorder

NEWBERG CITY COUNCIL

May 10, 1982

Francis Twin Cinema

Variances from site plan, alleged by City officials, which resulted in stop-work order on project:

1. Fire entrance lane from Springbrook Road:
Cyclone fence was inadvertently installed by sub-contractor without the entrance. It is today being installed, at location specified and in accord with arrangements made with Newberg Fire Chief.
2. Screening with planting along westerly fence:
This fence is solid (corrugated metal) to prevent headlights in the theater parking lot interfering with the patrons in the drive-in theater. The fence was planned to run directly south from the corner of the cinema building, but when it was installed Mr. Francis discovered that this location was not compatible with some of the drive-in theater facilities, and also the posts of the fence would interfere with the drain field. Hence, he ran the fence from the same beginning point but in a southeasterly direction, so that its southern terminous encroached approximately 7 feet into the planting and parking space area. It never occurred to him that this would create any problem, as there were still more parking spaces than required for his seating capacity, a large part of the planting area remained available, and additional planting area was provided north of the building, increasing the planting area to 8% of the site, instead of the 7% minimum.
3. Cyclone fence along Springbrook is higher than the 5 feet designated on original site plan:
The fence as installed is 6 feet, topped by a barb wire cap, as a security measure. There never was any discussion with the Planning Department about the height of the fence, with the only requirement being that it be open, without slats. It conforms with usual security fence requirements, and the variance from the 5 feet designated on original site plan should be immaterial.
4. Necessary parking spaces removed - northeast side of building:
Several spaces in that area were removed on the revised plan, in order to increase planting area. Spaces are now provided for 114 cars, which is 3 more than the ordinance requirement.
5. Street dedication on west side of Springbrook Road:
The City has requested a 10-foot additional right-of-way. Mr. Francis states that he granted 10 feet years ago in connection with water line for the PGE building, but any such easement or deed apparently was never recorded. He does not object to the 10-foot right-of-way called for by the annexation ordinance, but the deed submitted to him by the City is ambiguous and incomplete, perhaps resulting in 10 feet down the middle of Springbrook Street. This would not be desired by the City, and the ambiguity creates a title problem. The City should prepare a metes and bounds description calling for 10 feet adjacent to the existing right-of-way line.
6. Residence north of theater, outside City limits, allegedly connected to City sewer:
This allegation apparently refers to the Auld property (residence, service station and snack bar) lying in the southwest corner of the highway intersection. Interview with the contractor who constructed the Francis sewer line shows that there is no connection to the Auld property, and no "T" or other facility installed which would make such connection possible. Interview with Mrs. Auld, on her property, shows

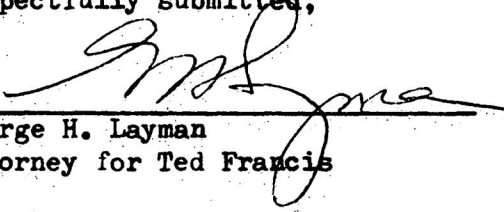
Newberg City Council
May 10, 1982
Francis Twin Cinema
Page 2

that she has one septic tank for her house, so low that sewage would have to be pumped to the Francis sewer line. Her other septic tank is behind her service station and there is no connection between it and the Francis sewer line. The sewer line was installed, and connected to the City sewer, after the blacktop was in, and a visual inspection on the ground shows no possible ditch, trench or other means of connecting the Auld property to the Francis sewer. This allegation seems totally baseless, and hastily made, but even if it were so, it simply would not be a basis for stopping work on the theater project.

7. Traffic control fees:

The City has requested payment of \$815.00 at \$15 each for 121 spaces. Such fee will be paid when the final number of spaces is determined and approved.

Respectfully submitted,



George H. Layman
Attorney for Ted Francis