



City Council
December 2, 2024

6pm

Newberg Public Safety Building 401 E. Third Street
Denise Bacon Community Room

Online: <https://us06web.zoom.us/j/89536547180>

Public Comment Registration: <https://bit.ly/nbgcomment>

[View Slides](#)

1. CALL TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

4. [HOMETOWN BUSINESS EXCELLENCE AWARD: LE OKAY](#)

5. CITY MANAGER'S REPORT

5.1. November Narrative Report

i [RCA: City Manager Report](#)

ii [Presentation](#)

6. PUBLIC COMMENTS

7. CONTINUED BUSINESS

7.1. [Budget Code Clean Up](#)

i [Attachment A](#)

8. NEW BUSINESS

8.1. [Media Representatives for Executive Session](#)

i [Press Questionnaire*](#)

ii [Wallis Responses*](#)

iii [OGEC Ruling*](#)

9. RECESS FOR NURA MEETING

10. EXECUTIVE SESSION

- 10.1.** Executive Session pursuant to ORS 192-660 (2) (e). To conduct deliberations with persons designated by the governing body to negotiate real property transactions and (h) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

11. ADJOURNMENT

ADA STATEMENT

Contact the City Recorder's Office for physical or language accommodations at least 2 business days before the meeting. Call (503) 537-1283 or email cityrecorder@newbergoregon.gov. For TTY services please dial 711.

*Indicates supplementary item



Hometown Business Excellence Award

PROUDLY PRESENTED TO

Le-Okay

In recognition of exemplary updates to their business and building to
make downtown Newberg more attractive.

*Awarded this 2nd day of
December, 2024*

Mayor Bill Rosacker

REQUEST FOR COUNCIL ACTION



Date Action Requested: (December 2nd, 2024)

| | |
|---|--|
| Order <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Information <input checked="" type="checkbox"/> Proclamation <input type="checkbox"/> | |
| Subject: CM narrative for November 2024 events | Staff: Will Worthey CM Department: Administration |
| Work Session <input type="checkbox"/> Business Session <input checked="" type="checkbox"/> | Order On Agenda: CM report |

Is this item state mandated? Yes ☐ No ☒

If yes, please cite the state house bill or order that necessitated this action: NA

Recommendation: NA

Executive Summary: The summary of events conducted by city departments in November of 2024.

Fiscal Impact: All were conventionally budgeted items.

Council Goals:

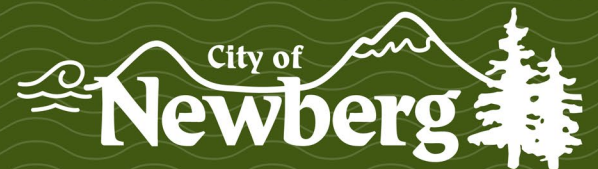
Goal 5: Create and maintain a high level of transparency with our residents in order to build trust.

Effective CM reporting assists with Objective 1:

Expand communication outreach in regard to regular city events and additional involvement with city businesses.

Newberg CM report

Monthly Events for November events



Engineering

The HB 2001 project continues to progress with the first construction phase, consisting of Segments I-1 and I-4, planned to be advertised in early 2025.

The design phase is anticipated to continue through 2025 and possibly beyond for future construction phases for Segments I-2 and I-3, Segment 5, Segment 7 and Segment 8. All project segments are to be completed by July 2029.

Public Safety

The department was involved in responding to a house fire. The inhabitants had evacuated, but one of the kids got stuck in the backyard behind a fence as the smoke & fire really started to get out of control.

K9 Officer Pilon booted the fence and scooped the kid up to bring him out to join the rest of his family. The house was quickly engulfed in flames and a considerable amount of damage occurred.



Public Safety, continued

Madison graduated from Telecommunications Academy at DPSST. Madison was selected as class leader for her class and represented NEWCOM 911 and the Newberg-Dundee Police Department very well. Her entire class was given the academic honor of having an overall passing score on the final exam of over 94%.

Officers Fergus and Carlson received their Distinguished Service Award during the OACP banquet on Friday. It was a very nice event, and we feel they deserved the recognition!



Madison at DPSST Telecommunications Academy Graduation



Officer Carlson and Officer Fergus
receiving their Distinguished Service
Award at OACP

Public Safety Continued

The 2024 Newberg-Dundee Police Department's Citizen Academy concluded this week. This 10-week academy was very successful and culminated with the students participating in scenarios where they were able to take the classroom information and apply it to real life scenarios.

The students did great, and the instructors had a great time interacting with the students and role playing during the scenarios.

Public Safety Continued

During the academy, the students learned about the use of force, taser, traffic stops, speed enforcement, canines, digital forensics and a case study from the Special Investigation Unit. There were many other activities and each night we tried to make the participation hands-on.

The students were also able to operate the handheld radar and lidar units, conducting speed enforcement on HWY 18.

We will be back next year with a brand-new citizen academy so keep an eye out for updates on when the academy will commence. We hope that you will consider joining us!



Citizens Academy
Graduating Class 2024

Libraryland

This November the Children's Services team has been busy visiting every Kindergarten in Newberg, Dundee and St. Paul to talk about the library and give Kindergarteners a free books to keep, thanks to the Library Foundation of Newberg.

Building these early connections are important as Kindergarteners begin their literacy journey, and we are delighted to be a part of that.

November 23rd our all-ages Cozy Reading Program began – folks should come to the library to get your reading log and a chance to win some excellent local gift cards and more. We have reading logs and activities for everyone from babies to grown-ups and everyone in between.

Libraryland Continued

For National Native American Heritage Month, the library has a "Native Innovations" exhibit from University of Oregon's Museum of Natural and Cultural History Museum.

We've had wonderful community feedback on the exhibit. A member of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians came into the library and was very excited to see her heritage representation. She also found a picture of her cousin in the display!

Libraryland Continued

On November 19th the library reduced hours temporarily until we are able to fill two recently opened positions.

On Tuesday and Wednesday the library now closes at 6:00 p.m. instead of 8:00 p.m., but we anticipate returning to our regular hours by the end of January. After recruitments are complete.

Libraryland Contrinued

To end on a bright note, here's a pic of a LEGO creation made by ten-year-old Jack, which he titled, "A Romantic Moment."

LEGO Builders is hosted at the library once a month and we never know what gems we will see!



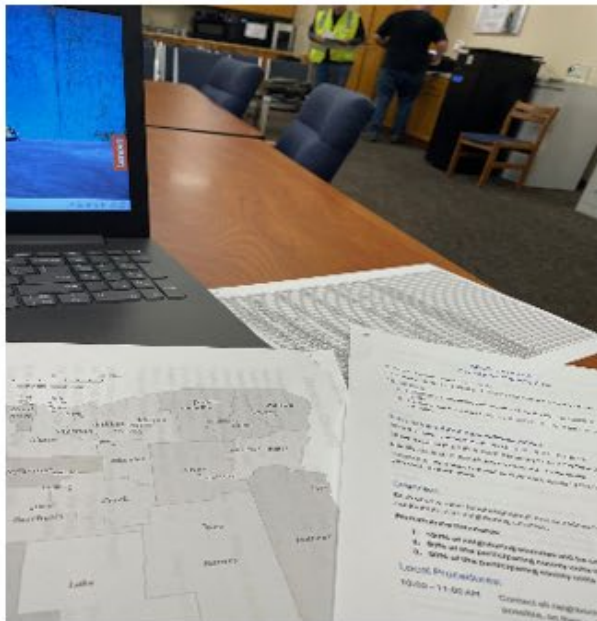
Public Works – Emergency Management

Nov 9 2024 Hosted the County ARES Volunteers for the ‘Oregon Fall Set Drill’. Operators activated all three Newberg EOC radios, U/Vhf, HF and Winlink digital. The objective to test signal reach between neighboring counties. Post drill report shows successful reach to Polk, Marion, Multnomah, Yamhill, Benton and Clackamas, (Washington county had conflicting S&R exercises that day). In addition, we received inbound from Union, Coos and Klamath counties.

We are grateful to continue our relationship with volunteers who are passionate about the Newberg EOC, since the county ARES group is hosted by Yamhill Sheriff’s office as a whole.

Public Works – Emergency Management

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Public Works Maintenance recent events

Maintained Hydrants - 44

Water Mains Flushed – 3020 ft.

Water Valves Exercised – 48

Water Meter Service – 108

(Connects - 31, Disconnects - 51, Leak Checks – 26)

Water Meter Maintenance – 18

Water Meter MXU's Replaced – 7

Water Meters Replaced – 3

New Meters Installed – 2

Maintained Hydrants - 44

Water Mains Flushed – 3020 ft.

Water Valves Exercised – 48

N Howard St Repair



Chehalem St Water Repair



Charles St Water Repair



Backflow Install



9th St Market Sewer Lateral Replacement



New QR code parking signs



Public Works Fleet

45 Work Orders were completed. It was a busy month checking out police cars before and after EVOC training.
Replaced hopper on electric sweeper.

Public Works Wastewater

With the recent and more steady rainfall we have been receiving, our plant is going through the usual seasonal transition. Flows have began increasing to normal winter levels, and during this transition we often experience issues with our chlorine residuals both upstream and downstream. We also experience changes to the biological process, specifically nitrification and denitrification.

Public Works Wastewater Continued

The last couple weeks our operators and regulatory staff have been consistently monitoring and making changes to operations to address both issues. On top of that, we have continued to operate the solids handling portion of the plant aggressively to maintain and good inventory of solids.

At this point everything that we have been doing is working, the treatment process is working very well, and our effluent water quality remains excellent. The staff are to be commended with keeping up with this despite the PLC project.

Before



Replacing a damaged
blower air bypass valve
and actuator.

After



Finance

During the month of November, Finance has continued its work on Operation Quadratic to begin making changes to the budget document to prepare for a two-year budget cycle. We also had the auditors on-site for a week to perform the annual audit. Our new Accounts Payable Specialist started this month, and we are happy to be fully staffed once again!

Lastly, Court has been working on cross-training in the court room between the court clerk and court administrator and also working on implementing the red-light camera citations which are set to go live this month.

City Recorder Update

The City Recorder's Office has had a busy month. November has been spent finalizing committee recruitment for the city standing committees, supporting staff in work on the new website, and moving back into City Hall!

We have also been deep in records work, and we are happy to announce that all building records digitization will be completed this month!

IT Update

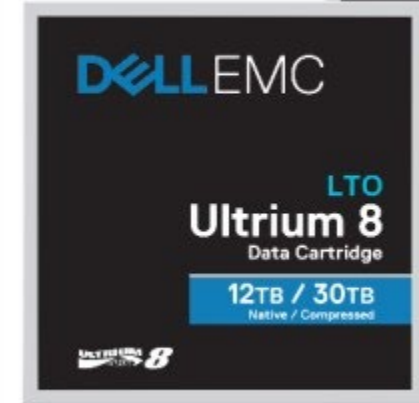
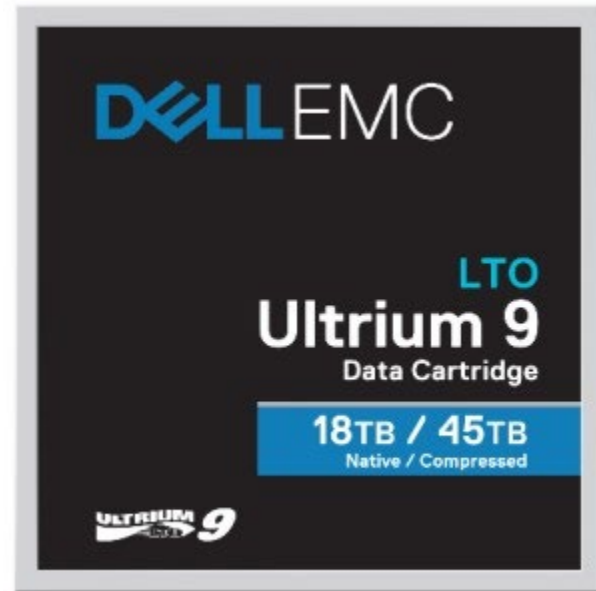
This month your IT department spent a lot of time getting ready for, and helping departments with, the move back into City Hall, which paid off. With the exception of a few small issues, we had great success moving almost everyone back into City Hall! The last group we're going to be helping move is ourselves! Which should have already happened by the time you're reading this.

We also received and installed our new backup server system. The first full backup using this new system was 3 times faster than using our previous server.

IT Update

In addition to significantly more performance and local storage built into the system, the tapes we use to store data off-site are going from 6TB to 18TB of uncompressed storage, giving us significantly more capacity for the same volume of physical space.

The new server and tapes should have ample capacity to suit our needs for at least the next 5 years, based on our current use and our historical average rate of storage growth.



IT Update

We also entered into a security service agreement with the federal Cybersecurity Infrastructure Security Agency (CISA), which will help us to detect and resolve potential security vulnerabilities as early as possible. This is a free service provided by the federal government to many local governments, and we're very happy to add it to our existing portfolio of security tools and initiatives.

We've already received several reports from CISA, so far they haven't found any significant security issues, and we're planning to continue to do everything we can to keep it that way.



CDD recent highlights

Q1 Financials look good. Planning and building are both under budget for expenses and Planning exceeding expected permit revenues.

We received new applications for 17-lot subdivision on NE Waterfront Street, design review for a commercial expansion along Hwy 99W, and a code adjustment to modify setback for a resident along N Springbrook Way.

We published a Notice of Funding Availability for up to \$1,000,000 from the Construction Excise Tax Fund for affordable housing projects.

CDD recent highlights

We hosted a public workshop on 11/13 at the library for a conversation about the challenges and possible solutions of rent-burdened households in Newberg.

We hosted two pre-application meetings for prospective projects including for a new bar/restaurant at First Bank of Newberg Building and the annexation of two lots near N College and N Terrace Drive. We attended FEMA information sessions for understanding regulatory floodplain permitting and monitoring requirements of local jurisdictions

CDD recent highlights

Oregon Planning Procedures training in Woodburn was attended by Planning Commissioners, Fe Bates, and Will Worthey who can no longer claim to have zero Oregon land use knowledge!

The opening soon sign is up on the Fairfield Inn – final inspection of project pending (no ETA available)

We hosted the first of three Vacation Rental Home outreach events. Staff have awarded honorary gold stars to Councilors McBride and Wheatley for both attending, and showing up early enough that they were “invited” to assist staff in workshop setup.

So that's it for November events!

As you can see, residents' tax dollars have been hard at work as always.

Questions?

REQUEST FOR COUNCIL ACTION



Date Action Requested: December 2, 2024

| | |
|---|---|
| Order <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Information <input type="checkbox"/> | |
| No. 2024-2932 | |
| Subject: AN ORDINANCE AMENDING THE NMC TO REFLECT CHANGE FROM ANNUAL BUDGET PERIOD TO A 24-MONTH BUDGET PERIOD | Staff: Kady Strobe Department: Finance |
| Business Session | Order On Agenda: |
| Hearing Type: Legislative <input checked="" type="checkbox"/> Quasi-Judicial <input type="checkbox"/> Administrative <input type="checkbox"/> Not Applicable <input type="checkbox"/> | |

Recommendation:

Motion to approve Ordinance 2024-2928, by title only, amending the Newberg Municipal Code to reflect change from an annual budget to a 24-month budget period.

Executive Summary:

ORS 294.323(1) states that the governing body of a municipal corporation may, by resolution, provide that the budget and budget documents for the municipal corporation be prepared for a period of 24 months. The City Council has adopted a biennial budget by Resolution No. 2024-3947 in accordance with ORS 294.323(1). The City Council desires to update the Newberg Municipal Code to implement this resolution and change certain City processes to reflect a biennial budget process.

Fiscal Impact:

N/A

Council Goals:

ORDINANCE NO. 2024-2932



AN ORDINANCE AMENDING THE NMC TO CHANGE THE ANNUAL BUDGET PERIOD TO A 24-MONTH BUDGET PERIOD

Recitals:

1. The Newberg Municipal Code currently reflects an annual budget period.
2. ORS 294.323(1) states that the governing body of a municipal corporation may, by resolution, provide that the budget and budget documents for the municipal corporation be prepared for a period of 24 months.
3. On December 2, 2024, the City Council adopted Resolution No. 2024-3947, which established a 24-month budget period,
4. The Newberg Municipal Code should be revised to reflect and implement the 24-month budget period,

The City of Newberg Ordains as Follows:

1. **Ordinance Amendment.** The following sections of the Newberg Municipal Code (“NMC”) are amended as shown in Exhibit “A” (the “Ordinance Amendment”):
 - a. NMC 2.05.010
 - b. NMC 2.15.080.B.3
 - c. NMC 2.15.180
 - d. NMC 2.15.200.C, D
 - e. NMC 2.35.270.B.8
 - f. NMC 3.25.050.A
 - g. NMC 3.25.080.H
 - h. NMC 3.30.010.B.3
 - i. NMC 3.30.020
 - j. NMC 13.05.140.B
 - k. NMC 13.10.240.D.1
 - l. NMC 13.10.240.D.2
 - m. NMC 13.20.040.D.2

2. **Implementation.** The City Manager is authorized to take appropriate actions to implement the requirements of the Ordinance Amendment.

Effective Date of this ordinance is 30 days after the adoption date, which is: January 2, 2025.

Adopted by the City Council of Newberg, Oregon, this 2nd day of December 2024, by the following votes: **AYE:** **NAY:** **ABSTAIN:**

Rachel Thomas, City Recorder

Attest by the Mayor this _____ day of _____, 2024.

Bill Rosacker, Mayor

EXHIBIT “A”
Proposed Newberg Municipal Code Amendments

Notes: Existing text is shown in regular font.
Added text is shown double underline.
Deleted text is shown in ~~strike through~~.

Section 1. NMC 2.05.010 shall be amended as follows:

2.05.010 Compensation of city council and mayor.

A. The duly elected and qualified members of the city council shall be compensated a monthly stipend as established by the ~~annual~~ budget process of the city.

B. The finance department will process the payments as part of the payroll function of the city. [Ord. 2903 § 1 (Exh. A), 7-18-22; Ord. 2153, 12-3-84; Ord. 2136, 11-21-83. Code 2001 § 30.01.]

Section 2. NMC 2.15.080 shall be amended as follows:

2.15.080 Powers and duties.

A. The library advisory board shall be an advisory board and shall have no executive or administrative powers or authority and this article shall not be construed as depriving elected or appointed officials of the city of any power they may have under the laws of the state or the Charter of the city.

B. The board shall have powers and duties as follows:

1. The library advisory board participation in the selection of the library director is important. The selection process for library director shall include participation and recommendations from representatives of the board. The library director shall be hired by the city manager.

2. The library advisory board shall make recommendations to the city council about rules and policies for the efficient and effective operation of the library, its services and programs.

3. The library advisory board shall review the ~~annual~~ budget as prepared by the library director and as submitted by the city manager-budget officer. Should budget changes become necessary, the board may participate in the budget committee deliberations by representing the views of the library and the board. Recommendations may be made by the board to the budget committee and city council regarding the library budget.

4. The library director shall be responsible for all expenditures within the operating budget in conformance with city administrative procedures and Oregon local budget laws.

5. The library advisory board shall make recommendations for the acceptance, use, or expenditure of any real or personal property or funds donated to the library under NMC 2.15.100, or make recommendations for the purchase, control or disposal of real and personal property necessary for the purposes of the library.

6. The library advisory board shall develop and recommend to the city council long-range plans for library service and facilities consistent with city priorities and with state, regional and national goals pertinent to libraries. Further, the board shall recommend to the city council sites for library facilities and shall participate in the planning for library facilities.

7. The library advisory board may recommend to the city council terms for contracts and working relationships regarding library service and facilities.

8. The library advisory board will be responsible for such other library activities as the city council may assign. [Ord. 2481, 7-7-97. Code 2001 § 32.03.]

Section 3. NMC 2.15.180 shall be amended as follows:

2.15.180 Presiding members.

At the committee's first meeting each July of the new fiscal year, the committee shall elect a chair and vice chair to serve one-year terms. [Ord. 2892 § 1 (Exh. A), 11-15-21; Ord. 2767 § 1(B), 12-2-13; Ord. 2585, 7-21-03; Ord. 2418, 10-2-95. Code 2001 § 32.76.]

Section 4. NMC 2.15.200 shall be amended as follows:

2.15.200 Authority.

Once convened, the committee shall have the authority to establish a process for reviewing the water rates, wastewater rates, stormwater maintenance fees, and other fees as assigned by the city council. The process for establishing the rates and fees shall be just and equitable, and set by an administrative process which includes the following:

A. Rates shall be imposed upon all users of the water and wastewater systems, both inside and outside the city, and shall be just and equitable charges for service, maintenance, operation, debt service and reconstruction of the water and/or wastewater system.

B. Fees shall be imposed upon all users of the stormwater system, both in and outside the city, and shall be just and equitable charges for service, maintenance, operation, debt service, and reconstruction of the stormwater system. This review process may be undertaken with either the water rates, wastewater rates, or stormwater maintenance fees, or both the water and wastewater rates together, or all or both rates and fees together.

C. All costs for maintenance, operation, debt service, and reconstruction of the water system and/or wastewater system and/or stormwater system shall be identified by the city staff. These costs shall be reported to, reviewed, changed, and approved by the budget committee of the city during the ~~annual~~ budget process, as required by state statute.

D. The city council shall, as part of the ~~annual~~ budget process, adopt a budget for the maintenance, operation, debt service, and reconstruction of the water system and/or wastewater system and/or stormwater system.

E. Should the budget which the city council adopts require a change in the rates and/or fees levied and imposed upon all users of the water system and/or wastewater system and/or stormwater system, the city council shall, by motion at a duly noticed regular city council meeting, instruct the committee to develop and identify the rates and/or fees according to a cost-to-serve analysis. The cost-to-serve analysis shall provide a proposal for charges for service for the customer service groups which use the water system and/or wastewater system and/or stormwater system.

F. The committee, after due deliberation and consideration, shall set a date for a public hearing to receive input on the proposed rates and/or fees. The public hearing shall be held prior to a final recommendation to the city council on the rates and/or fees. The existing rates and/or fees and the new rates and/or fees shall be published in a newspaper and posted in three public places as part of the notice for the public hearing with the committee. The hearing shall consist of a presentation and explanation of the rates and/or fees by the city manager or designee, and an opportunity for users or representatives of users to address the rates and/or fees or other items of concern with relation to the water system and/or wastewater system and/or stormwater system. A written record of the hearing shall be made and kept for review by the city council.

G. Based on the input from the hearing, its understanding of the needs of the water system and/or wastewater system and/or stormwater system, and any other information it decides to consider, the committee shall recommend the water rates and/or wastewater rates and/or stormwater maintenance fees to be adopted by the city council.

H. The city manager, or a designee, shall compile the written and/or video record for the city council to consider as part of the committee's recommendation.

I. Notice of the rates and/or fees that are recommended by the committee shall be published in the newspaper and posted in three public places within the city.

J. The city council shall hold a public hearing within 30 days after receiving the committee's recommendation. The public hearing shall provide an opportunity to comment on the recommended water rates and/or wastewater rates and/or stormwater maintenance fees. The city council shall consider the record of the public hearing held by the committee and may open the matter for additional public input on the proposed rates and/or fees. The city council shall hear presentations and explanations of the rates and/or fees by the city manager, or a designee, as part of the public hearing. The city council may set rates and/or fees which are either equal to or less than those recommended by the committee. The city council may adjust the rates and/or fees, but if they are higher than those recommended by the committee, the city council must send the proposed rates and/or fees to the committee for reconsideration and hearing.

K. If the rates and/or fees are sent back to the committee for reconsideration, the city council shall review the recommendation after the public hearing by the committee.

L. The city council shall then, by resolution, set the water rates, wastewater rates and/or stormwater maintenance fees at an amount that assures the financial self-sufficiency of the systems.

M. Special Provision Allowing Increases Above a Certain Percent per Year in the Rates and/or Fees Set by the City Council to Be Subject to the State Referendum Process. The city council by resolution will set the rate and/or fees as provided for in this section. The rates and/or fees are set by the city council through exercising administrative authority by approval of a resolution. The exercise of administrative authority is not subject to the state referendum process since it is not municipal legislation. However, the city council grants the right to the electorate of the city to refer the resolution that approves any increase in rates and/or fees to the voters of the city for approval subject to the provisions set out below. This right of referral granted to the electorate will use the state referendum process including all the rules, regulations, and laws that apply to that process. Such resolution that adopts the approved increase in rates and/or fees will not take effect for at least 30 days from date of passage. This right of referral is subject to the following conditions:

1. Any annual increase in the rates and/or fees that does not exceed a percentage equal to the Consumer Price Index (CPI) plus three percent annually will not be subject to the referendum process.
2. Any portion of an annual increase which is greater than the percentage designated in subsection (M)(1) of this section will be subject to the right of the electors to refer the approval of that portion of the increase to the voters for approval through the state referendum process as set out above.
3. The CPI designated in subsection (M)(1) of this section is the CPI-U West Region Annual Average. The annual CPI is released on or around February 17th of the following year (approximately one and a half months after calendar year-end).
4. The resolution approving the increase in rates and/or fees will designate which portion of an increase if any is subject to the referral process as set out above. [Ord. 2861 § 1, 4-6-20; Ord. 2752 § 1, 5-7-12; Ord. 2585, 7-21-03; Ord. 2418, 10-2-95. Code 2001 § 32.78.]

Section 5: NMC 2.35.270 shall be amended as follows:

2.35.270 Sale of city-owned surplus property.

A. City-owned personal property, which is declared to be unnecessary and surplus to the operation of the city by the city manager, may be disposed of by the sale procedures set forth in NMC 2.35.160 through 2.35.260, or by sale to another government body for fair market value. The city manager shall be authorized to establish fair market value.

B. If city-owned personal property is declared to be unnecessary and surplus, the city manager may donate the surplus personal property to other government bodies or recognized private, not-for-profit organizations subject to the following conditions:

1. The surplus personal property is to be used for public purposes by the recipient.
2. The recipient shall provide proof, to the city manager's satisfaction, as to its status as a government body or a private, not-for-profit organization.

3. Written request may be submitted for surplus property, but such request will be held open for a period not to exceed six months from the date of its receipt.
4. Consideration of a request will be given only as far as it relates to the surplus personal property available at the time of request.
5. As far as practical, requests will be granted on a first-come, first-served basis.
6. The following types of surplus property may not be donated:
 - a. Contraband;
 - b. Firearms;
 - c. Hazardous items;
 - d. Items of historical significance, regardless of market value, unless approved by the city council; and
 - e. Any other item deemed inappropriate for donation by the city manager.
7. The city shall provide the recipient of donated surplus personal property with appropriate documentation transferring ownership of the property to the recipient.
8. The city manager shall prepare and file ~~an annual~~ report every two years to the city council of all items donated during each ~~fiscal year~~ budget period. The report shall contain:
 - a. The name of the recipient of the surplus property;
 - b. A description of the surplus property donated; and
 - c. The estimated market value of the surplus property at the time of its donation. [Ord. 2573, 12-2-02. Code 2001 § 38.71.]

Section 6: NMC 3.25.050 shall be amended as follows:

3.25.050 Authority of purchasing manager.

A. General Authority. The city manager shall be the purchasing manager for the city and is authorized to issue all solicitations and to award all city contracts for which the contract price does not exceed \$100,000 and the proposed expenditure is included in the current ~~fiscal year~~ budget. Subject to the provisions of this chapter, the purchasing manager may adopt and amend all solicitation materials, contracts, and forms required or permitted to be adopted by contracting agencies under the Oregon Public Contracting Code or otherwise convenient for the city's contracting needs. The purchasing manager shall hear all solicitation and award protests.

B. Solicitation Preferences. When possible, the purchasing manager shall use solicitation documents and evaluation criteria that:

1. Give preference to goods and services that have been manufactured or produced in the State of Oregon if price, fitness, availability, and quality are otherwise equal;
2. Give preference to goods that are certified to be made from recycled products when such goods are available, can be substituted for nonrecycled products without a loss in quality, and the cost of goods made from recycled products is not significantly more than the cost of goods made from nonrecycled products; and
3. Give any other preferences as set forth in the City of Newberg Purchasing Policy, applicable law, or both.

C. Delegation of Purchasing Manager's Authority. Any of the responsibilities or authorities of the purchasing manager under this chapter may be delegated and subdelegated by written directive, including the City of Newberg Purchasing Policy.

D. Mandatory Review of Rules. Whenever the Oregon State Legislative Assembly enacts laws that cause the Attorney General to modify its Model Rules, the purchasing manager shall review the public contracting regulations, other than the Model Rules, and recommend to the city council any modifications required to ensure compliance with statutory changes.

E. Emergencies.

1. In General. When the city manager or the city manager's duly appointed designee determines that immediate execution of a contract is necessary to prevent substantial damage or injury to persons or property, the city manager or designee may execute the contract without competitive selection and award or city council approval, but, where time permits, the city manager shall attempt to use competitive price and quality evaluation before selecting an emergency contractor.

2. Reporting. Any official who enters into an emergency contract shall, as soon as possible, in light of the emergency circumstances:

- a. Document the nature of the emergency, the method used for selection of the particular contractor, and the reason why the selection method was deemed in the best interest of the city and the public; and
- b. Notify the city council of the facts and circumstances surrounding the emergency execution of the contract.

3. Emergency Public Improvement Contracts. A public improvement contract may only be awarded under emergency circumstances if the city council has made a written declaration of emergency. Any public improvement contract award under emergency conditions must be awarded within 60 days following the declaration of an emergency unless the city council grants an extension of the emergency period. Where the time delay needed to obtain a payment or performance bond for the contract could result in injury or substantial property damage, the city council may waive the requirement for all or a portion of required performance and payment bonds. [Ord. 2894 § 2 (Exh. A), 2-7-22; Ord. 2856 § 1, 2-18-20; Ord. 2733 Att. A, 2-7-11; Ord. 2618, 3-7-05; Ord. 1730, 5-6-74. Code 2001 §§ 31.21, 34.05.]

Section 7: NMC 3.25.080 shall be amended as follows:

3.25.080 Solicitation methods for certain classes of contracts.

The following classes of public contracts and the method(s) that are approved for the award of each of the classes are established by the city council:

A. Purchases from Nonprofit Agencies for Disabled Individuals. The city shall give a preference to goods, services, and public improvements available from qualified nonprofit agencies for individuals with disabilities in accordance with the provisions of ORS 279.835 through 279.850.

B. Public Improvement Contracts.

1. City-Funded Privately Constructed Public Improvements. The city may contribute funding to a privately constructed public improvement project without subjecting the project to competitive solicitation requirements if all of the following conditions are met with respect to the entire public improvement project:

- a. The city's contribution to the project may not exceed 25 percent of the total cost of the project;
- b. The city must comply with all applicable laws concerning the reporting of the project to the Bureau of Labor and Industries as a public works project;
- c. The general contractor for the project must agree in writing to comply with all applicable laws concerning reporting and payment of prevailing wages for the project;
- d. The funds contributed to the project may not provide a pecuniary benefit to the owner of the development for which the project is being constructed, other than benefits that are shared by all members of the community;

e. The performance of the general contractor and the payment of labor for the project must be secured by performance and payment bonds or other cash-equivalent security that is acceptable to the purchasing manager to protect the city against defective performance and claims for payment; and

f. The contract for construction of the project must be amended, as necessary, to require the general contractor to maintain adequate workers' compensation and liability insurance and to protect and provide indemnification to the city for all claims for payment, injury, or property damage arising from or related to the construction of the project.

2. Public Improvement Contracts for Construction, Maintenance, and Repair of Public Rights-of-Way Where the Work Is Adjacent to a Private Developer's Construction Work. The city is authorized to sole source city public improvement contracts for construction, maintenance, and repair of public rights-of-way (or utilities located in city rights-of-way) where the work to be done under the public improvement contract is adjacent, connecting or in close proximity (i.e., six blocks) to where a private developer is having construction work done on infrastructure in their development.

C. Contracts Subject to Award at Solicitation Agent's Discretion. The following classes of contracts may be awarded in any manner which the solicitation agent deems appropriate to the city's needs, including by direct appointment or purchase. Except where otherwise provided, the solicitation agent shall make a record of the method of award.

1. Advertising. Contracts for the placing of notice or advertisements in any medium.

2. Amendments. Contract amendments shall not be considered to be separate contracts if made in accordance with the public contracting regulations.

3. Animals. Contracts for the purchase of animals.

4. Copyrighted Materials – Library Materials. Contracts for the acquisition of materials entitled to copyright, including, but not limited to, works of art and design, literature and music, or materials, even if not entitled to copyright, purchased for use as library lending materials.

5. Equipment Repair. Contracts for equipment repair or overhauling, provided the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing.

6. Government-Regulated Items. Contracts for the purchase of items for which prices or selection of suppliers are regulated by a governmental authority.

7. Insurance. Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145.

8. Non-Owned Property. Contracts or arrangements for the sale or other disposal of abandoned property or other personal property not owned by the city.

9. Specialty Goods for Resale. Contracts for the purchase of specialty goods by the city for resale to consumers.

10. Sponsor Agreements. Sponsorship agreements under which the city receives a gift or donation in exchange for recognition of the donor.

11. Structures. Contracts for the disposal of structures located on city-owned property.

12. Renewals. Contracts that are being renewed in accordance with their terms are not considered to be newly issued contracts and are not subject to competitive procurement procedures.

13. Temporary Extensions or Renewals. With the exception of price agreements, contracts for a single period of one year or less, for the temporary extension or renewal of an expiring and nonrenewable, or recently expired, contract, other than a contract for public improvements.

14. Temporary Use of City-Owned Property. The city may negotiate and enter into a license, permit, or other contract for the temporary use of city-owned property without using a competitive selection process if:

- a. The contract results from an unsolicited proposal to the city based on the unique attributes of the property or the unique needs of the offeror;
- b. The proposed use of the property is consistent with the city's use of the property and the public interest; and
- c. The city reserves the right to terminate the contract without penalty, in the event that the city determines that the contract is no longer consistent with the city's present or planned use of the property or the public interest.

15. Used Property. A solicitation agent, for procurements up to \$20,000, and the purchasing manager, for procurements in excess of \$20,000, may contract for the purchase of used property by negotiation if such property is suitable for the city's needs and can be purchased for a lower cost than substantially similar new property. For this purpose the cost of used property shall be based upon the life-cycle cost of the property over the period for which the property will be used by the city. The purchasing manager shall record the findings that support the purchase.

16. Utilities. Contracts for the purchase of steam, power, heat, water, telecommunications services, and other utilities.

D. Contracts Required by Emergency Circumstances.

1. In General. When an official with authority to enter into a contract on behalf of the city determines that immediate execution of a contract within the official's authority is necessary to prevent substantial damage or injury to persons or property, the official may execute the contract without competitive selection and award or city council approval, but, where time permits, the official shall attempt to use competitive price and quality evaluation before selecting an emergency contractor.

2. Reporting. An official who enters into an emergency contract shall, as soon as possible, in light of the emergency circumstances:

- a. Document the nature of the emergency, the method used for selection of the particular contractor and the reason why the selection method was deemed in the best interest of the city and the public; and
- b. Notify the city council of the facts and circumstances surrounding the emergency execution of the contract.

3. Emergency Public Improvement Contracts. A public improvement contract may only be awarded under emergency circumstances if the city council has made a written declaration of emergency. Any public improvement contract award under emergency conditions must be awarded within 60 days following the declaration of an emergency unless the city council grants an extension of the emergency period. Where the time delay needed to obtain a payment or performance bond for the contract could result in injury or substantial property damage, the city council may waive the requirement for all or a portion of required performance and payment bonds.

E. Federal Purchasing Programs. Goods and services may be purchased without competitive procedures under a local government purchasing program administered by the United States General Services Administration (GSA) as provided in this chapter.

1. The procurement must be made in accordance with procedures established by GSA for procurements by local governments, and under purchase orders or contracts submitted to and approved by the purchasing manager. The solicitation agent shall provide the purchasing manager with a copy of the letter, memorandum, or other documentation from GSA establishing permission to the city to purchase under the federal program.

2. The price of the goods or services must be established under price agreements between the federally approved vendor and GSA.
3. The price of the goods or services must be less than the price at which such goods or services are available under state or local cooperative purchasing programs that are available to the city.
4. If a single purchase of goods or services exceeds \$150,000, the solicitation agent must obtain informal written quotes or proposals from at least two additional vendors (if reasonably available) and find, in writing, that the goods or services offered by GSA represent the best value for the city. This subsection does not apply to the purchase of equipment manufactured or sold solely for military or law enforcement purposes.

F. Cooperative Procurement Contracts. Cooperative procurements may be made without competitive solicitation as provided in the Oregon Public Contracting Code.

G. Surplus Property.

1. General Methods. Surplus property may be disposed of by any of the following methods upon a determination by the solicitation agent that the method of disposal is in the best interest of the city. Factors that may be considered by the solicitation agent include costs of sale, administrative costs, and public benefits to the city. The solicitation agent shall maintain a record of the reason for the disposal method selected and the manner of disposal, including the name of the person to whom the surplus property was transferred.

a. Governments. Without competition, by transfer or sale to another city department or public agency.

b. Auction. By publicly advertised auction to the highest bidder.

c. Bids. By publicly advertised invitation to bid.

d. Liquidation Sale. By liquidation sale using a commercially recognized third-party liquidator selected in accordance with rules for the award of personal services contracts.

e. Fixed Price Sale. The solicitation agent may establish a selling price based upon an independent appraisal or published schedule of values generally accepted by the insurance industry, schedule and advertise a sale date, and sell to the first buyer meeting the sales terms.

f. Trade-In. By trade-in, in conjunction with acquisition of other price-based items under a competitive solicitation. The solicitation shall require the offer to state the total value assigned to the surplus property to be traded.

g. Donation. By donation to any organization operating within or providing a service to residents of the city which is recognized by the Internal Revenue Service as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

2. Disposal of Property with Minimal Value. Surplus property which has a value of less than \$500.00, or for which the costs of sale are likely to exceed sale proceeds, may be disposed of by any means determined to be cost-effective, including by disposal as waste. The official making the disposal shall make a record of the value of the item and the manner of disposal.

3. Personal-Use Items. An item (or indivisible set) of specialized and personal use, other than police officers' handguns, with a current value of less than \$100.00 may be sold to the employee or retired or terminated employee for whose use it was purchased. These items may be sold for fair market value without bid and by a process deemed most efficient by the purchasing manager.

4. Police Officers' Handguns. Upon honorable retirement from service with the city, a police officer may purchase the handgun that the police officer was using at the time of retirement. The purchase price shall be the fair market value of the handgun as determined by an independent appraisal performed by a qualified weapons appraiser. An officer electing to exercise this option shall notify the city at least 30 days prior to the officer's expected retirement date and request an appraisal of the handgun. Upon receipt of the appraisal fee from the

officer, the city shall arrange for the appraisal. A copy of the completed appraisal shall be provided to the officer, who shall have up to 30 days from the date of retirement to purchase the handgun for the appraised fair market value. However, the purchasing manager is delegated the authority to present the handgun that the police officer used at the time of retirement to the police officer as a gift from the city.

5. Restriction on Sale to City Employees. City employees shall not be restricted from competing, as members of the public, for the purchase of publicly sold surplus property, but shall not be permitted to offer to purchase property to be sold to the first qualifying bidder until at least three days after the first date on which notice of the sale is first publicly advertised.

6. Conveyance to Purchaser. Upon the consummation of a sale of surplus personal property, the city shall make, execute, and deliver a bill of sale signed on behalf of the city, conveying the property in question to the purchaser and delivering possession, or the right to take possession, of the property to the purchaser.

H. Concession Agreements.

1. General. No part of a concession agreement shall contain or constitute a waiver of any generally applicable rules, code provisions, or requirements of the city concerning regulation, registration, licensing, inspection, or permit requirements for any construction, rental, or business activity.

2. Classes of Contracts Eligible for Award without Competition. The following concession agreements may be awarded by any method deemed appropriate by the solicitation agent, including, without limitation, by direct appointment, private negotiation, from a qualified pool, or using a competitive process:

a. Contracts under \$10,000. Contracts under which the solicitation agent estimates that receipts by the city will not exceed \$10,000 ~~in any fiscal year~~ annually and \$100,000 in the aggregate.

b. Single Event Concessions. Concessions to sell or promote food, beverages, merchandise, or services at a single public event shall be awarded based on any method determined by the purchasing manager to provide a fair opportunity to all persons desiring to operate a concession, but in which the promotion of the public interest and success of the event shall be of predominant importance.

3. Competitive Award. Concession agreements solicited by the city for the use of designated public premises for a term greater than a single event shall be awarded as follows:

a. Small Concessions. For concession agreements for which the concessionaire's projected annual gross revenues are estimated to be \$500,000 or less, the purchasing manager has discretion to use either an informal solicitation or formal request for proposals process applicable to contracts for personal services. If the proposals received indicate a probability that the concessionaire's annual gross revenues will exceed \$500,000, the solicitation agent may, but shall not be required to, reissue the solicitation as a request for proposals.

b. Major Concessions. Concession agreements for which the concessionaire's projected annual gross revenues under the contract are estimated to exceed \$500,000 annually shall be awarded using a request for proposals. [Ord. 2894 § 2 (Exh. A), 2-7-22; Ord. 2856 § 2, 2-18-20; Ord. 2705 § 4, 10-6-08; Ord. 2618, 3-7-05. Code 2001 § 34.08.]

Section 8: NMC 3.30.010 shall be amended as follows:

3.30.010 Enactment, process and order.

A. Enactment. The city establishes and authorizes the levying of a public safety fee (PSF) to be used to support the police and fire departments in carrying out their respective missions and duties to protect the public. The city council is empowered to enact separate PSFs through the process established below.

B. Process. The city will follow the process which provides the following:

1. Report from the administration that addresses:

- a. Specific purpose or use to be made of the revenue from each PSF.
 - b. The estimated amount of revenue that the PSF would raise for the city.
 - c. The specific amount of the PSF and the method of determining the amount of the PSF.
 - d. The group of citizens who would be charged the PSF.
 - e. The criteria established for determining the need for a PSF.
2. Public hearing at which the city council may receive from the public advice; input and comment concerning the PSF.
 3. Requirement that reporting be done at least ~~annually~~ once per budget period to report the amount of revenue raised by the PSF, the expenditures from that revenue. This report may be incorporated in the ~~annual~~ budget.

Section 9: NMC 3.30.020 shall be amended as follows:

3.30.020 Administration and collection.

The city administration will be responsible for billing, collection, and reporting to the city council concerning each PSF. The PSFs may be billed and collected through the city's utility billing system. The city budget will contain information that clearly indicates the amount of revenue that each PSF is estimated to collect and the proposed expenditures. Each budget period, a ~~An annual~~ report will be made to the city council showing actual revenue collected and expenditures made during the previous ~~fiscal year~~ budget period. This report may be incorporated in the ~~annual~~ budget. [Ord. 2714 § 7 (Exh. A), 2009. Code 2001 § 36.36.]

Section 10: NMC 13.05.140 shall be amended as follows:

13.05.140 Segregation and use of revenue.

A. All funds derived from a particular system development charge are to be segregated by accounting practices from all other funds of the city. That portion of the system development charge calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in NMC 13.05.060.

B. The city manager shall provide an ~~annual~~ accounting every two years, based on the city's ~~fiscal year~~ budget period, for system development charges showing the total amount of system development charge revenues collected for each type of facility and the projects funded from each account. [Ord. 2926 § 1 (Att. A), 6-17-24; Ord. 2922 § 2 (Att. B), 2-20-24; Ord. 2823 § 1, 3-19-18; Ord. 2306, 6-18-91. Code 2001 § 50.14.]

Section 11: NMC 13.10.240 shall be amended as follows:

13.10.240 Customer classes – Billing structure defined.

A. Customer Classes Defined. For the purposes of determining rates and assigning service charges, users shall be grouped, accordingly, into one of the following customer classifications:

1. Residential. All single-family residential services and multifamily residential services which have individual water meters for each dwelling unit;
2. Multi-residential or Standard Discharge Strength. All multifamily dwellings in which a single water meter provides service not classified elsewhere which have discharge strengths (ROD or SS) not exceeding one and one-half pounds per 100 cubic feet (240 mg/liter) of discharge flow;
3. Nonstandard Discharge Strength. All nonresidential users with discharge strengths (ROD or SS) in excess of one and one-half pounds per 100 cubic feet (240 mg/liter) of discharge flow;
4. Industrial. Establishments discharging nonstandard discharge strength, as defined in this chapter;
5. Commercial 1 Discharge Strength. All commercial users which have discharge strengths (BOD or SS) not exceeding one and one-half pounds per 100 cubic feet (240 mg/liter) of discharge flow;

6. Commercial 2 Discharge Strength. All commercial users with discharge strengths (BOD or 55) in excess of one and one-half pounds per 100 cubic feet (240 mg/liter) of discharge flow;

7. George Fox University; and

8. Public agencies.

B. Rate Structure. Wastewater service rates for each of the respective customer classifications enumerated in subsection (A) of this section shall be derived and calculated in accordance with the following standards and fixed by resolution of the city council:

1. Residential. A monthly flat fee based on average residential wastewater discharge.

2. Multi-residential or Standard Discharge Strength.

a. A minimum monthly fee equal to the wastewater service rate for residential users; plus

b. A per-unit charge for measured or estimated wastewater in excess of residential wastewater discharge.

3. Nonstandard Discharge Strength.

a. A monthly charge calculated in the same manner as for users in the multi-residential or standard discharge strength customers class; plus

b. An extra strength fee per unit of discharge based on measured or estimated wastewater parameters as established by the city.

4. Industrial. A monthly charge calculated in the same manner as for users in the nonstandard discharge strength customer class.

C. Charges to Customers outside the City. Any person having connection to the city wastewater system which is outside the corporate boundaries of the city, in addition to the fees and charges for services called for in subsection (B) of this section, shall be charged monthly fees derived and calculated in accordance with standards fixed by resolution of the city council.

D. Review and Revision of Rates. There are levied and imposed upon all users of the wastewater system, both inside and outside the City of Newberg, just and equitable charges for service, maintenance, operation, debt service, and reconstruction of the wastewater system. The setting of rates may be undertaken in conjunction with the consideration of the water rates. The just and equitable charges shall be fixed by an administrative process as established by ordinance.

1. All costs for maintenance, operation, debt service, and reconstruction of the wastewater system shall be identified by the public works director. These costs shall be reported to, reviewed, changed, and approved by the budget committee of the City of Newberg during the ~~annual~~ budget process required by state statute.

2. The city council shall, as part of the ~~annual~~ budget process, adopt a budget for the maintenance, operation, debt service, and reconstruction of the wastewater system.

3. Should the budget which the city council adopts require a change in the rates levied and imposed upon all users of the wastewater system, the public works director shall, within 30 days of adoption of the budget by the city council, develop and identify the rates according to a cost-to-serve analysis. The cost-to-serve analysis shall provide just and equitable charges for service for the customer service groups which use the wastewater system. The rates shall be reviewed by the citizens' rate review committee in accordance with this chapter.

4. Based on the information received from the public works director and the community at the public hearing, the committee shall recommend the wastewater rates to be established to the city council.

5. The city manager shall compile the written record for the city council.

6. Notice of the rates that are recommended to be implemented shall be published in the newspaper and posted in three public places within the city.

7. The city council shall hold a public hearing within 30 days of the date of the recommendation to the city. The public hearing shall provide an opportunity to comment on the recommended wastewater rates. The city council may choose to hear the rate proposal on the record of the public hearing held by the committee. The city council shall hear presentations and explanations of the rates by the city manager, or designee, as part of the public hearing. The city council may then set rates which are either equal to or less than the rates recommended by the committee or may alter or change the rates in any way the city council deems appropriate. If the city council recommends rates higher than those recommended by the committee, the rates shall be sent back to the committee for reconsideration.

8. The city council shall then receive back a further recommendation from the committee.

9. The city council shall then by resolution set the wastewater rates, which are just and equitable, at an amount that assures the financial self-sufficiency of the wastewater system.

10. Such rates set by the city council shall not go into effect for a period of at least 30 days.

11. If within 30 days following the passage of the resolution setting the rates, the city receives through a petition, a form of which to be prescribed by the city and in general conformance with the state laws governing referendum petitions, a proposal to refer the matter of the wastewater rates to the voters of the city signed by a number of legal voters equal to 15 percent of the registered voters of the city, on the date such petitions are submitted, the city council shall then refer the matter to the voters of the city at the next available election. The wastewater rates shall not take effect until such time as the election has taken place. If the voters of the city reject the measure as referred to them, then the wastewater rates that were in effect prior to the passage of the resolution shall remain in full force and effect.

E. Notification. Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services. On or before July 1st of each year, the public works director shall post for public review at City Hall a listing of the wastewater parameters and corresponding categories of businesses which serve as the basis for the derivation of extra strength fees for users in the nonstandard discharge strength customer class as specified in subsections (A) and (B) of this section.

F. Appeals.

1. Any wastewater system user who believes their wastewater user charge, as applied to the user's premises, is not within the intent of the foregoing provisions may make written application to the city council requesting a review of their user charge. The written request shall, where necessary, show the actual or estimated average flow of the user's wastewater in comparison with the values upon which the charge is based, including how the measurements or estimates were made.

2. Review of the request shall be made by the city council and the director of public works or designee; action may include recommending further study of the matter by the director. If the city council determines that the user's charges should be recomputed, based on approved revised flow and/or strength data, the new charges thus recomputed may be applied retroactively for the period of up to six months. [Ord. 2733 Att. A, 2-7-11; Ord. 2713 Exh. B, 4-20-09; Ord. 2684 § 1, 12-17-07; Ord. 2418, 10-2-95; Ord. 2334, 7-6-92; Ord. 2150, 8-28-84. Code 2001 § 51.61.]

Section 12: NMC 13.20.040 shall be amended as follows:

13.20.040 Stormwater system management.

A. The city, through its public works department, shall have all necessary authority and responsibility for the planning, design, construction, maintenance, administration and operation of the stormwater system.

B. The city council shall, as part of the ~~annual~~ budget process, adopt a budget for the stormwater system (including costs for maintenance, operation, debt service and construction of the system) and may include other information,

such as field activities, accomplishments and the upcoming ~~fiscal year's~~ budget period's priorities for the system.
[Ord. 2784 § 10, 9-8-15; Ord. 2571, 5-5-03. Code 2001 § 53.04.]

REQUEST FOR COUNCIL ACTION



Date Action Requested: December 2, 2024

| | | | | | |
|--|------------------------------------|-------------------------------------|--|---|---------------------------------------|
| Order <input type="checkbox"/> | Ordinance <input type="checkbox"/> | Resolution <input type="checkbox"/> | Motion <input checked="" type="checkbox"/> | Information <input type="checkbox"/> | Proclamation <input type="checkbox"/> |
| Subject: Media Representatives for Executive Session | | | | Staff: Will Worthey Department: Administration | |
| Business Session | | | | Order On Agenda: New Business | |

Is this item state mandated? Yes ☐ No ☒

If yes, please cite the state house bill or order that necessitated this action:

Recommendation:

Council may decide to make one of the following motions:

To recognize Rebecca Wallis of Yamhill County News as a member of the press and as such permitted to attend executive sessions of the City of Newberg.

OR

To decline to recognize Rebecca Wallis of Yamhill County News as a member of the press and subsequently deny her entry to executive sessions.

Executive Summary:

Rebecca Wallis has applied to be recognized as a member of the press and has requested access to City Council Executive Sessions. Oregon Government Ethics Commission has declined to provide an opinion on the qualifications of Wallis as a member of the press citing ORS 192.660(11). It falls to City Council to evaluate Wallis' application to be recognized.

The Attorney General has issued opinion No. 8291 which gives guidelines for evaluating a member of the news media.

Unfortunately, the legal landscape around the recognition of members of the community as journalists to executive sessions is murky to say the least. Instead of a firm set of criteria there exists only a checklist of possible factors that must be weighed to inform a decision. It appears that there is no clear and objective standard within Oregon law to make this determination, and so it falls to our governing body the council to make this decision.

Fiscal Impact: N/A

Council Goals:

N/A

The following questions have been prepared to gather information and make a determination regarding your qualifications as a "representative of news media" pursuant to ORS 192.660(4) and Oregon Department of Justice Opinion 8291 (April 18, 2016).

What's the formal name of your news media organization?

What is your business's street address?

In what medium is your news published? If published electronically, what is the website address?

Is your news media organization registered as a business with the Oregon Secretary of State?

Does your news media organization have a formal business structure? If so, please describe it.

Is your news media organization:

- a publication that qualifies as a newspaper under ORS 193.010?
- an entity that qualifies as a station under ORS 193.310?

Does your news media organization have an employed staff who are paid regular wages or salary?

If your organization has an employed staff who are paid regular wages or salary, how many employees does it have?

Is your news media organization's publication schedule daily, weekly, or monthly? If your organization follows a different publication schedule, please describe the schedule.

How long has your news media organization been publishing regularly and without interruption?

What other characteristics of an institutional news media entity does your organization have?

Please provide copies of any of the following forms of evidence or credential(s) that indicate that you are a representative of your news media organization:

- A press badge or press identification issued by your news media organization

- A news article or broadcast published or distributed by your news media organization within the last 30 days identifying you as the reporter
- A masthead or broadcast element including your name as a member of the news-gathering staff of your news media organization
- A letter on letterhead from an editor or officer of your news media organization stating that you are a news-gathering representative of the organization

Institutional News Media Entity Representative Application

Pursuant to ORS 192.660(4) and Oregon Department of Justice Opinion 8291 (April 18, 2016), the City of Newberg allows representatives of the news media to attend executive sessions of the City Council. Individuals requesting recognition as representatives of news media entities must complete, sign, and submit this application. Please submit this application by personal delivery to **individual or City department** or by via email sent to **e-mail address**.

NOTE: The City will not allow you to attend an executive session until it has reviewed and approved your application.

Your Name

Name of News Media Organization

Website (if applicable)

Business Address

The news media organization named above (check all that apply):

- ☐ Is a publication that qualifies as a newspaper under ORS 193.010
- ☐ Is an entity that qualifies as a station under ORS 193.310
- ☐ Has an employed staff who are paid regular wages or salary
- ☐ Has a formal business structure (including registration with the Oregon Secretary of State)
- ☐ Regularly and continuously publishes, broadcasts, or transmits news about activities of public concern via television, radio, the internet, or other means
- ☐ Has other characteristics of an institutional news media entity, including (describe below)

How many employees does the news media organization have? _____

The news media organization has been published regularly and without interruption since: _____

The news media organization has the following publication schedule (check one)

- ☐ Daily ☐ Weekly ☐ Monthly ☐ Other (describe below)

I am providing copies of the following evidence or credential(s) indicating that I am a representative of the news media organization named above (check all that apply):

- ☐ A press badge or press identification issued by the news media entity
- ☐ A news article or broadcast published or distributed by the news media entity within the last 30 days identifying me as the reporter
- ☐ A masthead or broadcast element including my name as a member of the news-gathering staff of the news media entity
- ☐ A letter on letterhead from an editor or officer of the news media entity stating that I am a news-gathering representative of the entity
- ☐ The following evidence that shows I am a representative of the news media organization named above:

-
- ☐ **(Check only if necessary)** I am also providing provide a copy of the following photo identification to authenticate my identity as the representative indicated in the evidence or credential described above:
-

CERTIFICATION OF REPRESENTATION

I am an employee, contractor, or authorized agent of the news media organization named above, and I am assigned to gather news on behalf of the organization.

I and the news media organization I represent agree to comply with the City's requirement to maintain the confidentiality of information shared, deliberations that occur, and statements made during an executive session.

I, _____, certify the above to be true and accurate.

SIGNATURE

DATE

JOB TITLE

Responses received from Mrs. Wallice on July 18th

Note these were received too late for consideration for the executive session
that occurred only five hours later that day.

Will Worthey

From: Yamhill County News <yamhillcountynews@gmail.com>
Sent: Thursday, July 18, 2024 12:45 PM
To: Will Worthey
Subject: Re: Response following legal review on your request to attend executive sessions
Attachments: SOS - Corporation - Business Entity Filing Records - 227306594.PDF; License 2024 (1).pdf

This email originated from outside the City of Newberg's organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Subject: Response to Questions Regarding News Media Status

Dear Will,

I appreciate your diligence in ensuring that all news media representatives meet the necessary qualifications. However, I must express my concern that the city's request for such detailed information exceeds its authority and is not justified.

Here are the responses to your questions, which I provide under protest:

1. **What's the formal name of your news media organization?**
Yamhill County News LLC.
2. **What is your business's street address?**
713 East Crestview Drive, Newberg, OR 97132.
3. **In what medium is your news published? If published electronically, what is the website address?**
Our news is published electronically. Website: [Yamhill County News](#).
4. **Is your news media organization registered as a business with the Oregon Secretary of State?**
Yes, our business is registered. [Registry Number: 227306594](#).
5. **Does your news media organization have a formal business structure? If so, please describe it.**
Yamhill County News LLC is a domestic limited liability company, member-managed by Rebecca R. Wallis.
6. **Is your news media organization a publication that qualifies as a newspaper under ORS 193.010 or an entity that qualifies as a station under ORS 193.310?**
Our organization operates as a news media entity under the broad and flexible statutory term "news media" as outlined in ORS 192.660. We meet the general requirements for a newspaper under ORS 193.010, which includes being published in the English language for disseminating news and having bona fide subscribers. However, we have not yet published legal notices because we have been under the new ownership for less than 12 months, which is a specific requirement for publishing legal notices under ORS 193.010 ([OregonLaws: Online Or. Law Library](#)) ([OregonLaws: Online Or. Law Library](#)) ([Justia Law](#)).
7. **Does your news media organization have an employed staff who are paid regular wages or salary?**

Our organization operates with a small team of contracted contributors and volunteers. Due to the nature of our operations, we do not have staff paid regular wages or salary.

8. If your organization has an employed staff who are paid regular wages or salary, how many employees does it have?

Not applicable, as we operate with contracted contributors and volunteers.

9. Is your news media organization's publication schedule daily, weekly, or monthly? If your organization follows a different publication schedule, please describe the schedule.

Our news articles are published on an ongoing basis, with multiple updates per week.

10. How long has your news media organization been publishing regularly and without interruption?

Yamhill County News has been publishing since January 2018. The organization was under previous ownership until June 2024, when I, Rebecca Wallis, purchased and took over the operations. Since then, it has been very active with increased publication frequency and coverage.

11. What other characteristics of an institutional news media entity does your organization have?

We provide news coverage, investigative journalism, and local reporting. Our publication has a significant online presence with a substantial number of followers.

12. Please provide copies of any of the following forms of evidence or credential(s) that indicate that you are a representative of your news media organization:

- **A press badge or press identification issued by your news media organization:** Rebecca Wallis is identified as the Managing Editor on our website.
- **A news article or broadcast published or distributed by your news media organization within the last 30 days identifying you as the reporter:** A recent news article published by Yamhill County News identifies Rebecca Wallis as the reporter.
- **A masthead or broadcast element including your name as a member of the news-gathering staff of your news media organization**
- **A letter on letterhead from an editor or officer of your news media organization stating that you are a news-gathering representative of the organization:** As the Managing Editor, I can provide a formal letter upon request.

While I am complying with your request for information, I must reiterate that as a registered news entity with both the State of Oregon and the City of Newberg, I am entitled to the same rights and access as other recognized news media. The opinion of the Oregon Attorney General (Opinion No. 8291, April 18, 2016) clearly states that a governing body may not exclude a representative of the news media from executive sessions except as specifically allowed by ORS 192.660.

Additionally, I suggest that the city update its policy to include a formal process for evaluating the credentials of news media representatives. This would provide clarity and ensure fairness for all parties involved.

Lastly, I must address that referring to our organization as a "blog" was uncalled for and does not accurately represent the nature of our work. Yamhill County News LLC is a legitimate and registered news entity, and such mischaracterizations are not conducive to a professional dialogue.

I hope this matter can be resolved amicably and in accordance with the law.

Best regards,

ARTICLES OF ORGANIZATION



Corporation Division
sos.oregon.gov/business

E-FILED
Jun 04, 2024
OREGON SECRETARY OF STATE

REGISTRY NUMBER

227306594

TYPE

DOMESTIC LIMITED LIABILITY COMPANY

1. ENTITY NAME

YAMHILL COUNTY NEWS LLC

2. MAILING ADDRESS

713 EAST CRESTVIEW DRIVE
NEWBERG OR 97132 USA

3. PRINCIPAL PLACE OF BUSINESS

713 EAST CRESTVIEW DRIVE
NEWBERG OR 97132 USA

4. NAME & ADDRESS OF REGISTERED AGENT

REBECCA R WALLIS

713 EAST CRESTVIEW DRIVE
NEWBERG OR 97132 USA

5. ORGANIZERS

REBECCA R WALLIS

713 EAST CRESTVIEW DRIVE
NEWBERG OR 97132 USA

6. INDIVIDUALS WITH DIRECT KNOWLEDGE

REBECCA R WALLIS

713 EAST CRESTVIEW DRIVE
NEWBERG OR 97132 USA

7. INITIAL MEMBERS/MANAGERS

MEMBER

REBECCA R WALLIS

713 EAST CRESTVIEW DRIVE
NEWBERG OR 97132 USA

8. DURATION

PERPETUAL



9. MANAGEMENT

This Limited Liability Company will be member-managed by one or more members

10. OPTIONAL PROVISIONS

The company elects to indemnify its members, managers, employees, agents for liability and related expenses under ORS 63.160 to 63.170.

I declare, under penalty of perjury, that this document does not fraudulently conceal, fraudulently obscure, fraudulently alter or otherwise misrepresent the identity of the person or any officers, managers, members or agents of the limited liability company on behalf of which the person signs. This filing has been examined by me and is, to the best of my knowledge and belief, true, correct, and complete. Making false statements in this document is against the law and may be penalized by fines, imprisonment, or both.

By typing my name in the electronic signature field, I am agreeing to conduct business electronically with the State of Oregon. I understand that transactions and/or signatures in records may not be denied legal effect solely because they are conducted, executed, or prepared in electronic form and that if a law requires a record or signature to be in writing, an electronic record or signature satisfies that requirement.

ELECTRONIC SIGNATURE

NAME

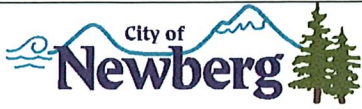
REBECCA R WALLIS

TITLE

ORGANIZER

DATE

06-03-2024



BUSINESS LICENSE

Expires on: 6/4/2025

NOT TRANSFERABLE

License Number: LIC24-0054

Issued: 6/4/2024

License Fee: \$50.00

Location Address

713 E CRESTVIEW DR

Business Name & Mailing Address

Yamhill County News LLC

Yamhill County News LLC

713 E CRESTVIEW DR

Newberg, OR 97132

The above named Business is hereby licensed to do business in the City of Newberg. Said Business to be conducted according to the ordinances of the City of Newberg now in force or hereafter to be enacted, and in conformity with the laws of the State of Oregon. This License will be subject to revocation for the violation of any City ordinance or regulation or for violating the laws of the State of Oregon.

RECEIPT MUST BE CONSPICUOUSLY DISPLAYED IN YOUR PLACE OF BUSINESS

Will Worthey, City Manager Pro-Tem



City Council

July 18, 2024

Newberg Public Safety Building 401 E. Third Street

Denise Bacon Community Room

Hybrid Meeting

Hybrid: <https://us06web.zoom.us/j/89536547180>

Public Comment Registration: <https://bit.ly/nbgcomment>

1. CALL TO ORDER

2. ROLL CALL

3. PLEDGE OF ALLEGIANCE

4. EXECUTIVE SESSION

4.1. Held Pursuant to ORS 192.660 (2)(e).

5. Continued Business

5.1. Discussion of the Butler Property sale.

6. ADJOURNMENT

ADA STATEMENT

Contact the City Recorder's Office for physical or language accommodations at least 2 business days before the meeting. Call (503) 537-1283 or email cityrecorder@newbergoregon.gov. For TTY services please dial 711.

OGEC ruling on Mrs. Wallice

No Opinion

From: Ashford, Craig A. <Craig.Ashford@MillerNash.com>
Sent: Wednesday, November 13, 2024 3:39 PM
To: Will Worthey <Will.Worthey@newbergoregon.gov>; Bill Rosacker <Bill.Rosacker@newbergoregon.gov>
Cc: James Walker <james.walker@millernash.com>
Subject: Fw: OGEC Advice

This email originated from outside the City of Newberg's organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please excuse the brevity of this email. I'm currently on the road visiting a client.

We finally received a response from the Oregon Government Ethics Commission last week with respect to our request for an opinion on whether Rebecca Wallis qualifies as a "representative of news media" entitled to attend executive sessions under Oregon law. Attached is a brief letter from OGEC's Executive Director as well as a sample report that I'll describe shortly. In addition, you can find additional information in the Executive Director's email below.

Surprisingly, OGEC stated that they cannot opine on whether Ms. Wallis qualifies as a representative of news media. Oregon law (ORS 192.660) prohibits OGEC from adopting rules regarding who/what constitutes news media. OGEC interprets that statute as also prohibiting them from deciding whether or not someone meets the standard of news media.

Instead, OGEC believes its authority is limited to determining whether or not other Oregon government entities (such as the City of Newberg) have applied the law regarding news media in a reasonable way. To that end, the Executive Director provided a sample Preliminary Review report from OGEC staff which shows how OGEC reviews complaints from individuals who claim that a government entity has improperly refused them access to an executive session. As that report demonstrates, OGEC gives significant deference to the decisions of Oregon government entities on this topic of news media so long as the government entities' decisions were, again, reasonable.

In fact, the case described in the sample report is especially noteworthy because the individual who complained in that case had previously been admitted to OGEC's own executive sessions as a purported representative of news media, but the Oregon Department of Education refused to recognize the individual as news media and denied him access to the Department's executive sessions. OGEC upheld the Department of Education's decision to exclude the individual from executive session even though that decision conflicted with OGEC's own decision to admit him to their executive sessions. OGEC staff even point out in the report that, in light of OGEC's limited

authority (only overturning government entity decisions if they are "unreasonable"), the current legal landscape can lead to differing conclusions by the various government entities who may be asked to decide this question for the same individual.

With that in mind, James and I are preparing to present this matter for City Council review and decision in a December meeting. In the meantime, would you like to discuss OGEC's response, next steps, and any other questions you may have?

Let us know if/when you'd like to discuss further. I think we're all looking forward to putting this in the rearview mirror.

Thanks!

Craig

Get [Outlook for Android](#)

Craig A. Ashford

Special Counsel (Pronouns: he/him/his)

Miller Nash LLP

1140 SW Washington St, Ste 700 | Portland, OR 97205

Direct: 503.205.2572 | *Office:* 503.224.5858

[Email](#) | [Insights](#) | [Website](#)

Our attorneys regularly offer insights to address the challenges faced by our clients. To visit the Miller Nash industry-focused blog overview page on our updated website: [please click this link](#).

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distribute the email. Instead, please notify us immediately by replying to this message or telephoning us. Thank you.

From: MYERS Susan * OGEC <Susan.MYERS@ogec.oregon.gov>
Sent: Tuesday, November 5, 2024 5:35:39 PM
To: Ashford, Craig A. <Craig.Ashford@MillerNash.com>
Subject: OGEC Advice

[EXTERNAL MESSAGE: This email originated from outside of the firm. Do not click links or open attachments unless you recognize the sender and know the content is safe.]

Mr. Ashford –

Attached is a Letter of Advice in response to your request for guidance regarding whether a specific individual qualifies as a representative of the news media allowed to attend executive sessions under ORS 192.660(4).

I wanted to take this opportunity to both apologize for the delay in providing this letter of advice and to provide some additional explanation. Your original request was for a staff advisory opinion, per ORS 244.282, on whether Rebecca Wallis qualifies as a representative of the news media that is allowed to attend executive sessions under ORS 192.660. That is not an opinion that the Commission or its staff is authorized to provide.

ORS 244.282 authorizes issuance of a staff advisory opinion on the application of ORS 192.660 to any actual or hypothetical circumstance. The difficulty here is that the question asked and the facts provided relate not so much to application of ORS 192.660(4) (which as the Letter of Advice indicates simply requires governing bodies to permit news media representatives to attend executive sessions in all but four circumstances), as to the guidance provided by the Attorney General in Opinion No. 8291 (AG Opinion) (defining news media representative and providing factors a governing body may consider in making its determination as to whether someone qualifies as a news media representative). ORS 192.660(11) prohibits the Oregon Government Ethics Commission from adopting rules that establish what entities are considered representatives of the news media entitled to attend executive sessions. There are no administrative rules, nor has the Commission issued any opinions regarding what entities are considered representatives of the news media. The Commission cannot provide legal advice or advice on the application of the AG Opinion, as our advice authority is limited to application of ORS 192.660, in pertinent part. Because of all of this, I have exercised my authority to issue the attached Letter of Advice rather than a staff advisory opinion.

As the Letter of Advice indicates, the determination of whether someone qualifies as a representative of the news media must be made by the governing body. The AG Opinion clarifies

that it is the responsibility of each governing body to weigh the relevant factors to determine if an individual is a representative of the news media when deciding whether to allow that individual to attend an executive session. The Attorney General's Public Records and Meetings Manual 2019 (AG Manual) further advises that "[b]ecause no bright-line definition exists, we encourage governing bodies to consult with their legal counsel when receiving a request from a blogger or other non-traditional journalist to attend an executive session." (AG Manual § II.E.4.a).

I have also attached a copy of a Preliminary Review report prepared by Commission staff in a recent case that raised some of these same questions. In particular, this report may provide some clarity on how the Commission addresses a complaint that a news media representative was denied entry to an executive session. When evaluating such a complaint, the Commission can only analyze whether the particular governing body's analysis reasonably applied the relevant standards in making its determination to admit or exclude an individual as a representative of the news media to/from its executive session.

I hope that you and your clients find this sample Preliminary Review report helpful, in conjunction with the guidance provided in the AG Opinion. If you have questions or need further clarification, I would be more than happy to schedule a call or a Teams meeting with you.

Susan V. Myers

Executive Director

Oregon Government Ethics Commission

susan.myers@ogec.oregon.gov

(503) 378-6808

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