



Memorandum

Date: August 10, 2012

To: John Kovash, Mayor
Members, West Linn City Council

From: Chris Jordan, City Manager 

Subject: Agenda Items for August 13, 2012

At the August 6 Council work session, the Council revised the agenda for August 13 and had questions about some agenda items.

- **Robinwood Park Trail Easement.** This item has been placed on the August 13 agenda. A package of information has been forwarded to the Council earlier this week and placed on the City's website.
- **Intergovernmental Agreement with Lake Oswego-Tigard.** As directed by the Council, this item has been moved to the last item on the agenda. The Council also requested a redline version of the IGA. In response, Lake Oswego-Tigard representatives provided the attached document that should capture the changes to the 2003 IGA.
- **Summit Teen Center.** Councilors asked for a legal opinion regarding the legality of using public funds for this purpose. Attached is an e-mail from Attorney Ron Guerra on this topic. Councilors also asked the amount of the fee waiver for this permit. The waiver was \$1,090. City staff has spent approximately 20 hours assisting with this project.
- **Contract for Marylhurst Park Improvements.** Information was forwarded to the Council earlier this week and placed on the City's website.

Attachment

**INTERGOVERNMENTAL
COOPERATIVE AGREEMENT
FOR
WATER SYSTEM INTERTIE
BETWEEN THE**

**SOUTH FORK WATER BOARD, THE CITY OF LAKE OSWEGO, THE CITY OF WEST LINN,
AND THE CITY OF TIGARDWEST LINN**

This Agreement is made and entered into by and between the South Fork Water Board, an intergovernmental entity created pursuant to ORS Chapter 190, serving as a water supply agency and jointly owned and operated by the Cities of Oregon City and West Linn, hereinafter referred to as "Board," and the City of Lake Oswego, an Oregon municipal corporation, hereinafter referred to as "Lake Oswego," and the City of West Linn, an Oregon municipal corporation, hereinafter referred to as "West Linn," and the City of Tigard, an Oregon Municipal Corporation, hereinafter referred to as "Tigard", all hereinafter collectively referred to as the "Parties."

RECITALS

The Parties agree upon the following recitals:

1. WHEREAS, the Parties acknowledge that the Board, Lake Oswego, and West Linn ~~hereto~~ entered into an intergovernmental cooperative agreement in 1984 to provide for the construction, operation and maintenance of an emergency water system intertie between the water supply system of the Board and West Linn and the water supply system of Lake Oswego; and
2. ~~WHEREAS, the facilities as described in the 1984 agreement, which are located near the intersection of Old River Road and Kenthorpe Way in West Linn, were constructed and the intertie became operable in that same year, and~~
3. WHEREAS, the intertie has been utilized periodically since 1984 during emergencies to provide emergency water supply between the Board, Lake Oswego, and West Linn ~~Parties~~; and
4. WHEREAS, the planning for the 1984 intertie contemplated future construction of an intertie water pump station in the vicinity of original intertie; and
5. WHEREAS, West Linn has constructed the previously contemplated pump station on Old River Road near its intersection with Kenthorpe Way; and
6. ~~WHEREAS, the pump station was constructed in conjunction with a scheduled shutdown and reconstruction of West Linn's finished water transmission main that is located on the Interstate 205 Bridge and;~~
7. ~~WHEREAS, this transmission main supplies all the water to West Linn from the South Fork Water Board; and~~

~~8. WHEREAS, the pump station was needed to provide for automatic and unattended operation of the intertie over an extended period of time to provide water supply to West Linn from Lake Oswego during the shutdown of West Linn's transmission main; and~~

~~9. WHEREAS, the shutdown of the transmission main commenced in the fall of 2001 and was completed by spring of 2002; and~~

~~10.6. WHEREAS, the intertie pump station and appurtenant facilities provide benefit to all of the Parties to this agreement; and~~

7. WHEREAS, the Board, Lake Oswego, and West Linn contributed all of the Parties agree to contribute to the cost of the pump station and appurtenant facilities; and

8. WHEREAS, Lake Oswego and Tigard have entered into an intergovernmental cooperative agreement that conveys an ownership interest in existing water supply facilities necessary to supply emergency water to West Linn and Board, and provides for construction of new water supply facilities including an expanded water treatment plant and raw and finished water pipelines to supply their respective long term water needs; and

9. WHEREAS, the changes in ownership, anticipated facilities expansion, and water allocation formulas called for in the intergovernmental agreement between Lake Oswego and Tigard necessitate amendment of the existing water system intertie agreement; and

10. WHEREAS, through expansion of Lake Oswego's existing water supply system to its ultimate treatment capacity of 38 million gallons per day (mgd), Lake Oswego and Tigard can provide West Linn and Board with redundant water supply facilities and a reliable source of emergency water supply sufficient to meet West Linn's average day demand of 4 mgd through at least 2041; and

11. WHEREAS, the Parties agree that other options for West Linn to provide its citizens with a redundant and reliable water supply system for emergency water supply needs are significantly more expensive and therefore agree it is in the best interests of their respective communities to work together in good faith to address critical, local water infrastructure needs in a coordinated and collaborative manner for mutual benefit; and

~~11.12.~~ WHEREAS, provided that expansion of Lake Oswego's existing water supply system occurs, West Linn ratepayers will avoid between \$12 million to \$19 million in water system capital construction needs during the next 20 years, and each Party will realize other benefits including mitigating environmental impacts from duplicative infrastructure projects, flexibility in system operations for emergency and non-emergency events, and economies not otherwise achieved through individual actions; and

~~12-13.~~ WHEREAS, the Parties acknowledge that by entering into this Agreement the public health, safety and welfare of their citizens are protected and enhanced in a fiscally responsible manner ~~desire that this agreement supersede and replace the 1984 agreement;~~ and

~~13-14.~~ WHEREAS, the Parties acknowledge that they have authority to execute this cooperative intergovernmental agreement pursuant to the terms of their respective municipal charters and pursuant ~~to~~ ORS 190.010;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is agreed by and between the Parties hereto as follows:

1. “Water Supply Facilities” Defined. As used herein, the term “water supply facilities” means river intake, raw and finished pumping facilities, water treatment facilities, water storage facilities, and all other infrastructure used in conjunction with the appropriation, treatment, storage or transmission of the Parties’ water.

2. “Emergency Condition” Defined. An “emergency condition” is an occurrence created by a failure of the water supply facilities of the Board, Lake Oswego, ~~or~~ West Linn, or Tigard, or the occurrence of an event which jeopardizes the Parties’ water quality, whereby insufficient supply to any of the water customers of the Parties could threaten the health or safety of those customers. Such failure includes failure or interruption in the operation of river intakes, raw and finished water pumping facilities, water treatment facilities, raw and finished water pipelines, reservoirs, and appurtenant facilities. Emergency conditions shall not include situations involving loss of water pressure or diminution in water volume in a water distribution system during periods of high demand if the system remains in a normal operational mode, and shall not include scheduled repairs or maintenance or reductions in water availability due to regulatory action.

~~3.~~ Utilization of Water Intertie. The

~~Emergency Conditions. Utilization of the water system intertie under emergency conditions, as defined in paragraph 2 above, may be utilized~~ accomplished by the mutual consent of the executive officers of each of the Parties, or their designees. Decisions regarding the

~~Non-Emergency Conditions Less Than Two Weeks. Sporadic use of the intertie for routine maintenance and repair may be reviewed~~ accomplished by the city councils ~~mutual consent of the executive officers~~ of each of the Parties ~~parties or their designees.~~

~~4.3. Non-Emergency Conditions Greater Than Two Weeks. Prolonged use of the intertie for routine maintenance and repair may be accomplished by the mutual consent of the parties provided Lake Oswego gives notice to West Linn at the discretion of each city council~~ least one month advance notice so that the West Linn governing body may approve the action by resolution.

~~5-4.~~ Location and Description of Water System Intertie. The location of the water system intertie is in the vicinity of the intersection of Kenthorpe and Old River Road in West Linn. The intersection connection that was established and constructed in 1984 under the above-referenced prior agreement consists of an 18-inch intertie main approximately 800 feet in length and related appurtenance that are located on Old River Road between Mapleton Drive and Kenthorpe Way.

This pipeline connects West Linn's 18-inch diameter transmission main located on Highway 43 to Lake Oswego's 24-inch diameter transmission main located at the intersection of Kenthorpe Way and Old River Road. In 2000, West Linn ~~has~~ constructed an intertie booster pump station on property located on the west side of Old River Road between Kenthorpe and Mapleton Drive. The property is located between Old River Road and Highway 43. ~~The project is described by plans and specifications prepared by Murray, Smith & Associates, Inc. entitled "Contract Documents for Emergency Intertie Water Pump Station" dated November 2000.~~ The pump station connects to, and utilizes, the 18-inch intertie main on Old River Road. The pump station allows the intertie to be used on a continuous and automatically controlled basis in both directions of supply, i.e. Board and West Linn to Lake Oswego and Lake Oswego and Tigard to West Linn and Board. The pump station includes flow, pressure control, metering and telemetry facilities, and a connection for providing emergency power supply. The pump station, along with the facilities and appurtenances associated with it, as well as the facilities previously constructed in 1984, constitute the water system intertie that is the subject of this agreement.

~~6-5.~~ Modifications to Water System Intertie. Prorating of Project Costs. West Linn, as the project owner, undertook and completed the water system intertie pump station project. West Linn has maintained accurate cost accounting records relating to the project. The Board agreed to contribute \$100,000.00 to the project cost, which shall be payable in accordance with a payment schedule not to exceed two years. Lake Oswego agreed to contribute to the project a sum equal to 50% of the project cost of the facilities that benefit Lake Oswego, but not to exceed \$65,000.00. These facilities are defined as the piping, valves, vaults, metering, instrumentation and control systems, and appurtenant facilities that are used to provide water supply to Lake Oswego from West Linn and the Board. The estimated project cost of these facilities which benefit Lake Oswego is \$130,000. "Project Cost" as used in this paragraph is defined as the final construction cost of the facilities plus the prorated share of the engineering costs for project which include pre-design, design, bidding and award, construction management, permits and approvals, operation and maintenance manuals, and intertie operating plan. Project costs do not include property acquisition costs, contractor claims, litigation costs or other extraordinary costs related to the project. Upon completion of the project, West Linn will provide documentation to Lake Oswego for the project costs incurred. Lake Oswego agrees to pay West Linn its contribution toward the cost of such facilities in accordance with a payment schedule not to exceed two years from the date of this agreement.

~~7-6.~~ Title to Intertie Facilities. The title to the water system intertie facilities as described above in Paragraph 4 and the obligation to insure them shall be in the name of West Linn. Title to the property occupied by the intertie pump station will be in the name of West Linn.

~~8-7.~~ Method of Water Supply Through Intertie. Supply to Lake Oswego and Tigard from the Board and West Linn will be by gravity through the piping, metering, flow and pressure control facilities associated with the intertie pump station. Supply to West Linn and the Board from Lake Oswego and Tigard will be accomplished by pumping or gravity from the Lake Oswego-Tigard Oswego's water system through the intertie pump station into West Linn's system. Instrumentation, control and telemetry systems will be installed in the station and the station will be under the primary control of West Linn. Lake Oswego has installed additional instrumentations, control and telemetry systems that will provide for pump station status

indication and additional control functions. West Linn will prepare an operating plan for the intertie pump station and appurtenant facilities and provide copies of same to the Board and Lake Oswego.

~~9.8.~~ Quantity of Water to be Supplied. Upon agreement between the Parties to make use of the intertie pursuant to Paragraph 3 of this Agreement, the ~~Party~~ supplying ~~Party~~water shall endeavor to supply the maximum feasible quantity of water ~~requested by~~ the ~~receiving~~other Party, and take all reasonable actions necessary to accomplish the same, so long as such actions are not detrimental to the operation of the supplying Party's own water system. Provided that Lake Oswego's supply facilities are expanded to a treatment capacity of 38 million gallons per day, Lake Oswego and Tigard can provide West Linn and Board with redundant water supply facilities and a reliable source of emergency water supply sufficient to meet West Linn's average day demand of 4 mgd through at least 2041.

~~10.9.~~ Cost of Water to be Supplied. The Parties agree to pay for all water provided through the intertie at the rate then being paid by West Linn to South Fork for wholesale water. The volume of water delivered shall be measured by the meter installed at the intertie pump station. The Parties shall have the right at any time to review rates for water supplied and make such adjustments to the cost of water provided, as they deem necessary and by mutual agreement of all Parties. In the event it is necessary for a Party supplying water through the intertie to obtain additional water from a water provider not party to this agreement, the water rate charged to the Party receiving water under this agreement shall be the water rate charged to the supplying Party by the non-party water provider. The Parties further agree that water utilized for periodic testing and exercising of the facilities will be furnished between the Parties without cost. In addition to the rate charged for water, the Parties by mutual agreement reserve the right to impose wheeling charges.

~~11.10.~~ Operation and Maintenance Costs. The Parties agree that West Linn, as the owner of the intertie facilities, will be responsible for and will pay for the normal day-to-day operation and maintenance costs of the facilities.

~~12.11.~~ Repairs, Renewals, Replacements, Upgrading and Modifications. The Parties agree that West Linn, as the owner of the intertie facilities, will be responsible for scheduling, contracting for and implementing any repairs, renewals, replacements, upgrading and modifications that may be required in the future to maintain or increase the function of the facilities.

- a. Cost of Repairs: West Linn shall be responsible for the cost of all repairs, except that Lake Oswego and Tigard agrees to pay 50% of the cost of any repairs necessary to those facilities which benefit Lake Oswego and Tigard. Those facilities are defined as the piping, valves, vaults, metering, instrumentation and control systems, and appurtenant facilities that are used to provide water to Lake Oswego and Tigard from West Linn and the Board.

- b. Cost of Capital Improvements. The cost of any capital improvements or improvements which increase the function of the facilities will be shared in an equitable manner, based upon the benefit to be derived from each Party from each particular period.

~~13.~~12. Access to Water System Intertie Facilities. The Parties and their employees shall have access to the water system intertie facilities.

~~14.~~13. Agreement Not to Resell Water Without Consent. Except for existing wholesale customers or existing mutual aid agreements, the The Parties agree that they will not resell water supplied under the terms of this agreement without prior written consent of all Parties.

~~15.~~14. Supersedes Prior Agreement. The Parties agree that this is agreement supersedes and replaces the prior agreement executed in ~~October~~March and ~~November, 2003~~April, 1984.

~~16.~~15. Amendment Provisions. The terms of this agreement may be amended by mutual agreement of the Parties. Any amendments shall be in writing, shall refer specifically to this agreement, and shall be executed by the Parties.

~~17.~~16. Termination of Agreement. This agreement shall continue in effect until terminated by any Party~~the Parties~~ with written notice of such intent to terminate provided to the other Parties. Notice to terminate must be provided at least 36 months prior to the effective date of termination. Termination of this agreement shall not affect ownership status of the water system intertie facilities hereinabove described.

~~18.~~17. Written Notices Addresses. All written notices required under this agreement shall be sent to:

South Fork Water Board: General Manager
 South Fork Water Board
 15962 S. Hunter Avenue
 Oregon City, Oregon 97045

City of Lake Oswego: City Manager
 City of Lake Oswego
 P.O. Box 369
 Lake Oswego, Oregon 97034

City of West Linn: City Manager
 City of West Linn
 22500 Salamo Road
 West Linn, Oregon 97068

City of Tigard City Manager
 City of Tigard
 13125 SW Hall Blvd
 Tigard, Oregon 97223

~~19-18.~~ Dispute Resolution: If a dispute arises between the parties regarding this Agreement, the Parties shall attempt to resolve the dispute through the following steps:

Step One (Negotiation)

The Manager or other persons designated by each of the disputing Parties will negotiate on behalf of the entity they represent. The nature of the dispute shall be reduced to writing and shall be presented to each Manager, who shall then meet and attempt to resolve the issue. If the dispute is resolved at this step, there shall be a written determination of such resolution, signed by each Manager and ratified by their respective Board or Council, which shall then be binding upon the Parties.

Step Two (Mediation)

If the dispute cannot be resolved within thirty (30) days at Step One, the parties shall submit the matter to non-binding mediation. The Parties shall attempt to agree on a mediator. If they cannot agree, the Parties shall request a list of five (5) mediators from the Presiding Judge of the Clackamas County Circuit Court. The Parties will attempt to mutually agree on a mediator from the list provided, but if they cannot agree, the mediator will be selected by the Presiding Judge of Clackamas County Circuit Court. The cost of mediator shall be borne equally between the Parties, but each Party shall otherwise be responsible for its own costs and fees therefore. If the issue is resolved at this step, a written determination of such resolution shall be signed by each Manager and ratified by their respective Board or Council.

Step Three (Arbitration)

If the Parties are unsuccessful at Steps One and Two, the dispute shall be resolved by binding arbitration proceedings pursuant to ORS Chapter 36. The Parties shall follow the same process as in Step Two for the selection of the arbitrator. Upon breach of this agreement, the nondefaulting Parties shall be entitled to all legal or equitable remedies available, including injunctive relief, declaratory judgment, specific performance and termination. The prevailing Party(ies) in Step Three shall be entitled to reasonable attorney fees and costs which have been incurred during the Step Three process, as may be awarded by the arbitrator.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties have set their hands and affixed their seals as of the date and year hereinabove written.

Board has acted in this matter pursuant to Resolution No. _____ adopted on the _____ day of _____, 2012.

Lake Oswego has acted in this matter pursuant to Resolution No. _____ adopted on the _____ day of _____, 2012.

West Linn has acted in this matter pursuant to Resolution No. _____ adopted on the _____ day of _____, 2012.

Tigard has acted in this matter pursuant to Resolution No. _____ adopted on the _____ day of _____, 2012.

South Fork Water Board,
by and through its officials

APPROVED AS TO FORM

By: _____
Doug Neeley ~~Alice Norris~~, Vice Chair

By: _____
Chris Crean, Attorney

City of Lake Oswego,
by and through its officials

APPROVED AS TO FORM

By: _____
Jack D. Hoffman, Mayor

By: _____
David Powell, City Attorney

Attest: _____

By: _____
Catherine Schneider, City Recorder

City of West Linn,
by and through its officials

APPROVED AS TO FORM

By: _____
Jon Kovash, Mayor

By: _____
Pam Beery ~~Tim Ramis~~, City Attorney

Attest: _____
Kathy Mollusky, City Recorder

City of Tigard
by and through its officials
by: _____
Craig Dirksen, Mayor

APPROVED AS TO FORM

By: _____
Tim Ramis, Attorney

Attest: _____

Cathy Wheatley, City Recorder _____ (Administrative Assistant)

From: Ron Guerra
Sent: Thursday, August 09, 2012 11:40 AM
To: Wyatt, Kirsten
Cc: Ted Naemura; Mollusky, Kathy; Jordan, Chris; Tim Ramis
Subject: RE: Perspectives on church partnerships [IWOV-Worksite.FID1366366]

Kirsten:

The question of the allocation of Community Grant Funds to the Teen Summit Center was raised in the context of a separation of church and state issue at the WL work session on Monday, August 6th. I was asked to review the question and provide some background for the Council.

Under longstanding constitutional standards the question is one that implicates the Establishment Clause of the constitution, both state and federal, where the Establishment Clause prohibits laws respecting the establishment of religion. The allocation of Community Grant Funds is not a law but the constitutional test would be the same for this allocation. (My understanding is that the allocation itself is not subject to the test. Rather, the law setting up the Community Grant Funds is the one at issue. If the law setting up the Fund passes the test, the allocation is constitutional unless the allocation itself is made due to a sect preference.) The test is a three-part test:

1. The law must have a secular legislative purpose (no religious purpose);
2. The primary effect of the law must neither advance nor inhibit religion (neutral primary affect);
3. The law must not foster an excessive government entanglement with religion.

With this three-part test in mind, I conclude that the West Linn Community Grant program is a "law" (ordinance) that has a secular purpose of addressing the community need for after school activities and safe place to gather for West Linn teenagers. The process for allocating funds is based on an application that meets specific criteria that neither advance nor inhibit religion. The Citizens' Budget Committee has clearly declared criteria for evaluating requests based on the following principles:

- Priority given to organizations or causes that directly benefit West Linn residents.
- A complete, descriptive, and thorough application submitted.
- Transparency as to exactly what funds would be used for and who benefits.
- No funding allocated for advertising or promotion.
- No funding allocated to Neighborhood Associations.
- No funding for purely fundraising type of events or requests related to political advocacy.
- Any undesignated balance left in the "community grants" account can be used by the Parks Department to assist with other community organizations that need financial assistance during the fiscal year which did not complete an application or receive full funding.

Applicants are evaluated on how well the use of funds will benefit West Linn residents, without regard to any religious purpose. The creation and operation of a program directed at teenage youth for a safe place to gather for after school activities appears to have a secular purpose. I understand, and therefore rely upon this fact, that the Citizens' Budget Committee has examined whether the Willamette Christian Church is masking religious purpose behind a secular face for the purpose of receiving money from the City Community Grant funds and determined that the true intent is secular. Therefore, the process meets the first prong of the three-part test.

Likewise, the process appears to neither advance nor inhibit religion and is therefore neutral as to its primary affect. That is, any community organization that directly benefits West Linn residents, and meets other criteria, are eligible for consideration of an award of a grant. Therefore, the process meets the second prong of the three-part test.

Finally, the last prong of the test requires that the "law" not foster an excessive government entanglement with religion. As you are aware, the actual grant requested by the Teen Summit Center (Willamette Christian Church) was originally \$14,800, an amount to fund the start-up of the Teen Summit Center. However, in considering this grant request the Citizens' Budget Committee did not make an award because it wanted to ensure that the Teen Summit Center had broad community interest and funding from a broad class of entities serving West Linn. The present request, for the remaining unallocated balance of the Community Grant funds in the amount of \$1,300, reflects that the Teen Summit Center has obtained a broad based list of contributors including a Memorandum of Understanding with the YMCA of Columbia-Willamette to operate the Teen Summit Center on behalf of its Advisory Board. A one-time contribution of \$1,300 in light of the totality of the contributors and contributions obtained would not be found to foster an excessive government entanglement here. Therefore, the third prong of the three-part test is also met.

It is my legal opinion that the allocation and awarding of a \$1,300 Community Grant to Willamette Christian Church for its Teen Summit Center would not violate constitutional principles here. With broad based support of the community, as evidenced by the contributions of others and the list of contributors, I see little or no risk for the City of West Linn at this time for this request. However, if in the future the City were to receive numerous requests from religiously-affiliated groups that could create an environment where faith groups eclipse secular groups and the volume funding could be interpreted as supporting religion.

I would also point out that life has a way of repaying virtue with trouble. For example, suppose Wahabbist school hears of grant program and applies. Saying Yes to them could be discussed as supporting terrorism. Saying No could be discussed as discriminatory. Therefore, the City should carefully consider the precedent it may set if it awards Community Grant funds to religiously-affiliated groups. That is not to suggest that this Teen Summit Center is not a worthwhile program to support but I merely suggest that its funding may create future problems.

If you have any questions please advise.

Ronald G. Guerra | Shareholder
Jordan Ramis PC | Attorneys at Law
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Washington: (360) 567-3900
www.jordanramis.com

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One of *Oregon Business Magazine's* 100 Best Companies to Work For
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Memorandum

Date: August 10, 2012

To: John Kovash, Mayor
Members, West Linn City Council

From: Chris Jordan, City Manager 

Subject: Miscellaneous Items

- **Economic Development.** On July 16, the Council heard from Economic Development Chris Kerr about his goals for economic development. Attached is a summary of his planned initiatives for both the short and long term. In addition, Chris met with the Economic Development Committee on August 3 to bring them up to date on his plans and requested assistance from the Committee in implementing many of these initiatives.
- **Stafford/Borland Forum.** Clackamas County has announced that the next Stafford/Borland forum is planned for September 22. Attached is information we received this week from the County on this topic.
- **Climate Smart Communities Scenarios Project.** For the Council's information, attached is a Metro document that describes the Climate Smart Communities initiative.

Attachment

Memorandum

Date: July 26, 2012

To: Chris Jordan, City Manager

From: Chris Kerr, Economic Development Director

Subject: Proposed initiatives for the Economic Development Department

In accordance with the broader goals outlined for the Department, please find below a specific list of anticipated initiatives for the Department. This list is not inclusive, as flexibility in this role is of paramount importance.

Short term - Fall/Winter:

- Create and go online with a new Economic Development website that will be a more functional, accessible and convenient resource for businesses (both new and potential businesses)
- Complete survey of existing home based businesses in the City to determine their needs and outline best strategy to meet those needs
- Provide CC with a presentation on alternatives for implementing OR 43 Plan and receive direction to proceed
- Re-engage the Economic Development Committee and determine their work program with specific tasks for the next year
- Hold outreach 'face-time' meetings with variety of businesses and significant property owners in the City to confer on EDD goals (goal is 40)
- Audit of existing City regulations /processes to identify barriers and determine incentives to business community
- Establishment of distinct business associations for the City's retail areas along OR 43
- Create e-toolkit to assist new and existing City businesses
- Establishment of a City "Welcoming Committee" for new businesses interested in relocating or expanding within City
- Prepare and present issues and option paper to CC to consider alternative uses of certain underutilized City owned properties/facilities
- Contribute to the Blue Heron Task Force and Staff recommendations for the former mill property.

Long term:

- Serve as project manager for the CC's chosen policy direction on OR 43 vision
- Implement CC strategy for use of public properties/facilities

- Organize and lead field trip for City officials to review successful Economic Development projects
- Continue Ongoing efforts to educate to officials, Staff, public about importance of economic vitality
- Oversee the completion of outdoor recreational asset/attraction study that is designed to enhance tourism in City
- Propose specific amendments to regulations/procedures that reduce barriers and incentivize business. (e.g. CDC, SDC's, review and permitting processes, site specific rezoning, etc.)
- Implement specific strategy approved to enhance and support home based businesses (e.g. modification of regulations/fees, marketing assistance, incubators, targeted entrepreneurial support, etc)
- Identify sustainable financial strategy for on-going economic development efforts (e.g. modification of existing fees, general fund allocation, leasing of City property, surcharge/user fees,)

Ongoing tasks:

- Coordinate and direct monthly EDC meetings
- Updates to City's EDD website
- Attend and contribute as necessary, at meetings with the following City groups:
 1. Blue Heron Task Force
 2. Robinwood and Bolton Business Associations
 3. Willamette Main Street
 4. Heritage Area
 5. Neighborhood Associations
 6. Planning Commission
 7. Additional groups, special events as necessary (e.g. Centennial, Locks, Street of Dreams)
- Provide assistance as necessary for existing businesses and those looking to relocate into West Linn
- Create programs and initiatives to further the success of existing local businesses (marketing, training, education, , etc.)
- Serve as general business liaison and 'ombudsman' on day to day issues.
- Serve as City's representative and strengthen relationships with regional partners such as:
 1. Clackamas County Business and Economic Development Dept.
 2. West Linn Chamber of Commerce
 3. Business Oregon
 4. Oregon Economic Development Association
 5. Surrounding Cities EDD partner programs
- Continue communications (site visits, one-on-one discussions) with the business community to determine the best way to align City resources to meet those needs

From: McCallister, Mike [<mailto:MikeM@co.clackamas.or.us>]
Sent: Thursday, August 09, 2012 12:54 PM
To: 'Egner, Dennis'; 'AQUILLA HURD-RAVICH'; 'Alice Rouyer'; Sonnen, John
Subject: Stafford - Borland Forum

Good Morning,

The County and Stafford Hamlet has scheduled Stafford – Borland Forum #4 for Saturday September 22, 2012 at the Athey Creek Middle School from 9:00 a.m. – 12:00 p.m. The forum will be focused around conservation easements, purchase of development rights and TDR's. We are hoping to get speakers from the Columbia Land Trust, other conservation group and possibly DLCD to discuss the pros and cons of the TDR pilot program taking place in the south Willamette Valley. We will also likely give an update (if there is one) on the status of the urban / rural reserve decision from DLCD. A final agenda will be out within the next 2 weeks and will be forwarded to you. Please feel free to forward this meeting date to other interested parties.

I may be reached at 503-742-4522 if you have any questions.

Mike McCallister
Planning Director
Planning & Zoning Division
Clackamas County
503-742-4522
MikeM@co.clackamas.or.us



The region's six desired outcomes – endorsed by city and county elected officials and adopted by the Metro Council in December 2010

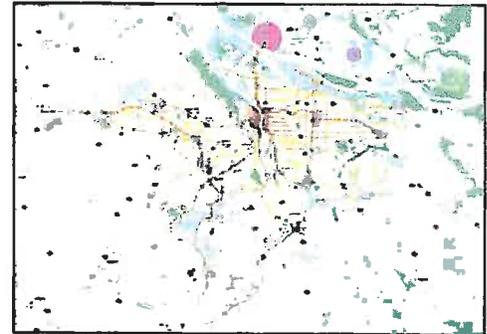
Climate Smart Communities Scenarios Project

Background

In 2007, the Oregon Legislature established statewide goals to reduce carbon emissions – calling for an end to increases in emissions by 2010, a 10 percent reduction below 1990 levels by 2020, and a 75 percent reduction below 1990 levels by 2050. The goals apply to all sectors, including energy production, buildings, solid waste and transportation.

In 2009, the Oregon Legislature passed House Bill 2001, directing the region to “develop two or more alternative land use and transportation scenarios” by January 2012 that are designed to reduce carbon emissions from cars, small trucks and SUVs. The legislation also mandates adoption of a preferred scenario after public review and consultation with local governments, and local government implementation through comprehensive plans and land use regulations that are consistent with the adopted regional scenario. The Climate Smart Communities Scenarios Project responds to these mandates and Senate Bill 1059, which provided further direction to scenario planning in the Portland metropolitan area and the other five metropolitan areas in Oregon.

Metro’s Making the Greatest Place initiative resulted in a set of policies and investment decisions adopted in the fall of 2009 and throughout 2010. These policies and investments focused on six desired outcomes for a successful region, endorsed by the Metro Council and Metro Policy Advisory Committee in 2008: vibrant communities, economic prosperity, safe and reliable transportation, environmental leadership, clean air and water, and equity. Making the Greatest Place included the adoption of the 2035 Regional Transportation Plan and the designation of urban and rural reserves. Together these policies and actions provide the foundation for better integrating land use decisions with transportation investments to create prosperous and sustainable communities and to meet state climate goals.



The 2040 Growth Concept - the region's adopted growth management strategy

State response Oregon Sustainable Transportation Initiative

The Oregon Department of Transportation and the Department of Land Conservation and Development are leading the state response through the Oregon Sustainable Transportation Initiative. An integrated effort to reduce carbon emissions from transportation, the initiative will result in a statewide transportation strategy, toolkits and specific performance targets for the region to achieve.

Regional response Climate Smart Communities Scenarios Project

The Climate Smart Communities Scenarios Project will build on the state-level work and existing plans and efforts underway in the Portland metropolitan area. The project presents an opportunity to learn what will be required to meet the state carbon goals and how well the strategies support the region’s desired outcomes.

A goal of this effort is to further advance implementation of the 2040 Growth Concept, local plans, and the public and private investments needed to create jobs, build great communities, and meet state climate goals. Addressing this multi-faceted challenge will take collaboration, partnerships and focused policy and investment discussions and decisions by elected leaders, stakeholders and the public. Identifying equitable and effective solutions through strategies that create livable, prosperous and healthy communities is essential to the process.

Metro’s policy and technical advisory committees will guide the project, leading to Metro Council adoption of a “preferred” land use and transportation strategy in 2014.

About Metro

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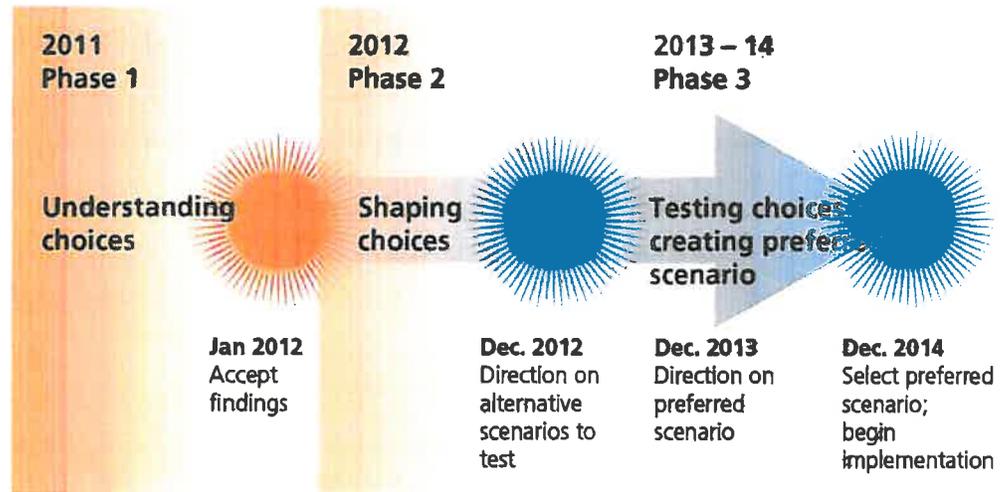
Barbara Roberts,

District 6

Auditor

Suzanne Flynn

Climate smart communities scenarios project timeline



Phase 1

Understanding the choices

The first phase of regional-level scenario analysis occurred during summer 2011 and focus on learning what combinations of land use and transportation strategies are necessary to meet the state greenhouse gas emissions targets. Strategies included transportation operational efficiencies that can ensure faster, more dependable business deliveries; more sidewalks and bicycle facilities; more mixed use and public transit-supportive development in centers and corridors; more public transit service; incentives to walk, bike and use public transit; and user-based fees.

Findings and recommendations from the analysis were reported to Metro's policy committees in fall 2011 before being finalized for submittal to the Legislature in January 2012.

Phase 2

Shaping the direction

In 2012, the region is designing more customized alternative scenarios that apply the lessons learned from Phase 1. This phase provides an opportunity to incorporate strategies and new policies that reflect community aspirations identified through local and regional planning efforts already underway in the region (e.g., SW Corridor Plan, East Metro Connections Plan, Portland Plan, and other local land

use and transportation plan updates).

This work will involve leaders from local governments as well as businesses and communities. By the end of 2012, Metro's policy committees will be asked to provide direction on alternative scenarios to be tested in 2013.

Phase 3

Building the strategy and implementation

The final project phase during 2013 and 2014 will lead to adoption of a "preferred" land use and transportation strategy. The analysis in this phase will be conducted using the region's most robust analytic tools and methods – the regional travel demand model, MetroScope and regional emissions model, MOVES. Additional scoping of this phase will occur in 2012 to better align this effort with mandated regional planning and growth management decisions.

This phase will identify needed changes to regional policies and functional plans, and include updates to the Regional Transportation Plan and region's growth management strategy. Implementation of approved changes to policies, investments, and other actions would begin in 2014 at the regional and local levels to realize the adopted strategy.



UNIQUE LOCAL APPROACHES, ONE COMMON GOAL – to make our region a great place to live in the years ahead

From downtown Gresham to Orenco Station to Oregon City, the region is rich with unique places to live where parks, schools and jobs are close by. As a result, we drive 20 percent fewer miles a day than most people in urban areas our size, so we spend less time in traffic and more time with our families and friends.



The things we have done to make this a great place are more important now than ever. The same efforts that helped protect farmland and revitalize downtowns and main streets over the last generation are essential to meeting statewide climate goals for the years ahead. Rising energy prices, a state mandate to reduce pollution and a growing eagerness to live in walkable neighborhoods make it essential for us to create places for people to work, shop and play – without having to drive far away. With federal and local resources lagging, we need to work together to make our visions a reality.

The Climate Smart Communities Scenarios Project will help the region's cities and counties define their goals for the next 20 years. It will show how those goals might help the region reduce carbon emissions. There are many ways we can reduce pollution, create healthy, more equitable communities and nurture the economy, too. Investing in main street businesses, expanding transit service, encouraging electric cars and providing safer routes for biking and walking can all help.

A one-size-fits-all approach won't meet the needs of our diverse communities. Instead, a combination of many local approaches, woven together, will create a diverse yet shared vision for how we can keep this a great place for years to come.

www.oregonmetro.gov/climatescenarios

Working together with city, county, state, business and community leaders, Metro is researching the most effective combinations of policies and strategies to help us meet Oregon's targets for reducing greenhouse gas emissions.

**MAKING A
GREAT
PLACE**



COMMUNITY BENEFITS, MANY OPTIONS EMERGE FROM EARLY RESEARCH

Metro staff researched land use and transportation strategies that are used to reduce emissions in communities across the nation and around the world. In December 2011, this work was summarized in a toolbox describing policies for community design, pricing, marketing and incentives, roads, fleet, and technology.

These strategies also provide many community benefits:

- Fewer emissions means less air pollution.
- Investment in main streets and downtowns can boost job growth, save public money and make it easier to get to work and entertainment.
- Safe places to walk can improve public health, increase transit use and lower obesity rates.
- Creating vibrant commercial areas combined with transportation options can increase dollars spent locally while taking cars off the road.

Working closely with cities and counties, Metro tested 144 combinations of strategies, called scenarios. No single strategy was enough to meet the state target, but more than 90 combined scenarios met or surpassed it.



Encouraging findings from early results

- Current local and regional plans provide a strong foundation for meeting our carbon emissions reduction target.
- The cities and counties in our region are already implementing most of the strategies under consideration to achieve other economic, social or environmental goals.
- If the state achieves its own expectations for vehicle fleet and fuel efficiency characteristics, the local plans and policies already adopted in our region will get us very close to our emissions reduction target.

STRATEGIES EVALUATED



COMMUNITY DESIGN

Walkable communities, vibrant downtowns, job centers, housing and transportation options, walk and bike-friendly facilities, frequent transit service, urban growth boundary



PRICING

Gas tax, fees and pay-as-you-drive insurance options



MARKETING AND INCENTIVES

Education and marketing programs that encourage efficient driving, car sharing and use of travel options



ROADS

Clearing breakdowns and crashes quickly, adding capacity and using ramp metering, traffic signal coordination and traveler information to help traffic move efficiently



FLEET

Replacing older cars with more efficient new ones; shifting from light trucks to cars



TECHNOLOGY

More fuel-efficient vehicles, cleaner fuels, use of hybrid and electric vehicles



TIMELINE FOR ENGAGING CITIES, COUNTIES AND COMMUNITIES

Description	Participants	Time frame
 <p>Technical work group – Meets regularly to review and provide input on analysis</p>	City, county, TriMet, state and Metro planning staff, and community representatives	Ongoing throughout project (2011-2014)
 <p>Accept Phase 1 Findings Report</p>	Metro Policy Advisory Committee, Joint Policy Advisory Committee on Transportation, Metro Council	January 2012
 <p>Discuss findings with local leaders – Presentations at city councils and county boards</p>	Metro councilors and staff, and city and county elected officials	Spring-Summer 2012
 <p>Envision Tomorrow introductory training – Learn how to use scenario planning software for regional and local applications</p>	Planning staff from Beaverton, Gresham, Hillsboro, Oregon City, Portland, West Linn, Clackamas County, Washington County, Metro and TriMet	June 2012
 <p>Scorecard workshops and focus groups – Identify evaluation criteria and outcomes to measure in scenario analysis</p>	Leaders representing the public health, equity and environmental justice, environmental and business communities	March, July-August, 2012

Description	Participants	Time frame
 <p>Case studies – Analysis of five different types of community developments to illustrate community visions and the strategies needed to achieve them</p>	Five local communities TBD	Summer 2012
 <p>Community partner work sessions – Use Envision Tomorrow software to assess and affirm community visions for future development; results will inform scenarios options</p>	Elected officials and planning staff from communities around the region	Summer-Fall 2012
 <p>Southwest Corridor land use vision work sessions – Use Envision Tomorrow software to assess and affirm community visions for future development; results will inform Southwest Corridor and scenarios projects</p>	Elected officials and planning staff from SW Corridor partners	Summer 2012
 <p>Online engagement – Opt In survey tool for input on scenario options and how they will be evaluated</p>	General public	Fall 2012
 <p>Summit – Community leaders showcase local actions that are already reducing emissions and provide input on the three scenarios to test in 2013</p>	JPACT, MPAC, Metro Council, other elected officials and community leaders	Late fall 2012
 <p>Community partner workshops and online engagement – Discuss findings, benefits and tradeoffs of choices</p>	Public, elected officials and community leaders	2013 and 2014
 <p>MPAC, JPACT, Metro Council – Direct staff 2011, accept findings January 2012, agree on three scenarios to test December 2012, select a scenario in 2014</p>	MPAC, JPACT, Metro Council	2011-2014

STAY INFORMED

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For email updates, send a message to climatescenarios@oregonmetro.gov



LOCAL INGREDIENTS FOR A REGIONAL VISION

With many options available to the region, the natural next step is to test some potential future ways the region could grow and invest, called scenarios, to see what might work best. In building those alternatives in 2012, Metro will start local, gathering the most recently adopted community plans and visions to serve as the foundation of each scenario. Efforts such as the Beaverton Civic Plan, McLoughlin Area Plan, South Hillsboro Plan, AmberGlen Community Plan, Portland Plan, Gresham Downtown Plan and transportation system plans from across the region are the ingredients that will make up the alternatives we consider going forward. A work group of local planning staff continues to help guide the project.

Since community investment is such a powerful tool for helping grow jobs and protecting our clean air, the region will consider a range of investment levels - low, medium and high – to demonstrate what communities and the region can accomplish on our current path with existing resources and tools, and what could be accomplished with more. Current local plans will comprise the medium option. Each option will consider how we can stretch our dollars for the greatest impact on the things that will make the region a more prosperous, healthy and equitable place for all.

Through a series of case studies, community partner workshops and a regional summit, Metro and local elected officials will decide what should go into the three scenarios. All will be tested in 2013, so cities, counties and community partners can decide which elements of the three should go forward into one scenario for the region to adopt in 2014. As with the 2035 Regional Transportation Plan and the 2040 Growth Concept, the region's preferred scenario will vary from place to place within the metropolitan area, responding to local goals.

One scenario – many options for local communities.



Driving less, saving money

By driving just four fewer miles a day, the average car owner driving 10,000 miles a year can save \$1,126 a year, according to AAA.

WHAT'S NEXT?

- Start with common vision
- Evaluate scenarios
- Shape scenarios to test
- Engage public

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HELP SHAPE THE FUTURE OF YOUR COMMUNITY

Beginning summer 2012, city, county, community and business leaders will be asked to share their community visions. These visions will set the direction for regional scenario options to be tested.

In 2013-14, Metro will engage the public in evaluating the regional

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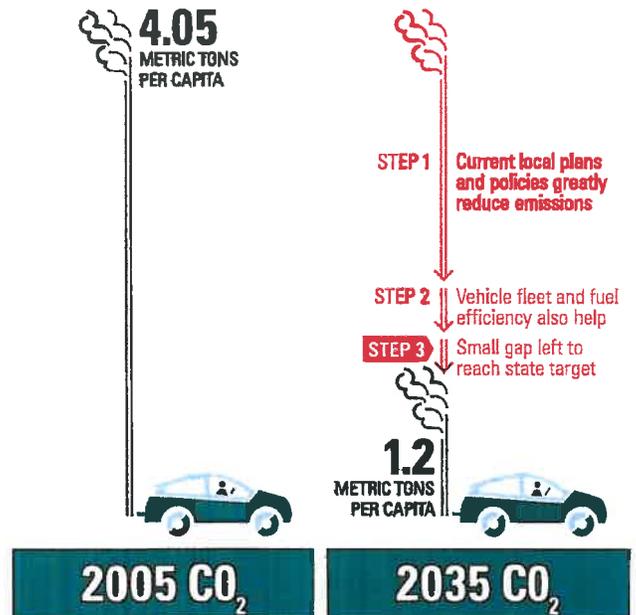
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scenario options. Leaders from across the region will adopt a regionwide scenario in 2014.

OREGON'S EMISSIONS TARGET FOR 2035 FOR THE PORTLAND AREA

The Land Conservation and Development Commission established a 2005 baseline for the Portland area: 4.05 metric tons annual, per capita roadway greenhouse gas emissions. (One metric ton CO₂ equals 112 gallons of gasoline.)

The 2035 target calls for cutting emissions to 1.2 metric tons. Implementing our local plans and realizing advancements in cleaner fuels and more efficient vehicles reduce emissions to 1.3 metric tons. Additional policy actions will be needed to reach the target (Step 3, on right).



optin
ONLINE PANEL

STAY CONNECTED Sign up to receive periodic updates about the scenarios project at www.oregonmetro.gov/connect.

SHARE IDEAS Share ideas or suggestions with your local elected officials and your Metro Councilor.

OPT IN Voice your opinion by signing up for Metro's online opinion panel at www.optinpanel.org. Upcoming survey topics will include the scenarios project.



Memorandum

Date: August 9, 2012

To: John Kovash, Mayor
Members, West Linn City Council

From: Chris Jordan, City Manager 

Subject: Planning Commission Memorandum – Nuisance Abatement

Attached to this memorandum is a memorandum from the Planning Commission discussing issues raised by two West Linn residents concerning their ongoing neighborhood disputes regarding the recreational activities of their neighbors and their neighbors' children. The Planning Commission asks the Council to determine that the use of property for recreational activities is a nuisance that needs to be abated under the West Linn Municipal Code.

The Planning Commission cites Municipal Code section 5.495(3) that states, in part,

“All activities or man-made conditions on a property that have an unreasonable adverse effect on other properties may be declared a nuisance by the Council and abated as provided in sections 5.400 to 5.530.”

Background and Discussion

The two residents identified in the Planning Commission memorandum have previously discussed their concerns with City staff and Council. They have raised some issues that could be considered for amendments to the Community Development Code – which the Planning staff is developing for future consideration by the Planning Commission.

The idea of pursuing a remedy to these neighborhood issues through nuisance abatement has also been discussed previously. Under the Municipal Code (5.500), the City Manager has the authority to determine that a nuisance exists and post the premises. Or, as mentioned above, staff could have requested the Council determine these activities to be a nuisance. Staff has not taken either of these approaches for the following reasons:

- 1) Although the language in the code provides the Council with discretion to declare something a nuisance, the other parts of this section specifically enumerate and describe items that:
 - Can have a direct effect on public health or the environment (animals with communicable diseases, water pollution, noxious vegetation, etc.);
 - Are clearly visible items (abandoned vehicles, for example) that have a detrimental effect on the aesthetics of the community; or
 - Are attractive nuisances that could cause harm.

The concerns raised by these residents do not meet any of those definitions.

- 2) The property improvements described were installed legally on the property and to date, the City has taken no action that would make these improvements illegal. Any property owner in the City could construct such improvements on their property today and the City would not regulate them. There may be some components of these improvements that can, and possibly should, be regulated (lights, fences, etc.) but, to date, the City has never held a public hearing to determine if these improvements should be regulated.

- 3) We are concerned that taking action to essentially outlaw or significantly limit children's recreational activities within their own yards would not be a positive statement about West Linn's community values.

Next Steps

If the Council would like to take time to discuss this matter further, we could schedule time at a work session in the fall.

Attachment



CITY OF
West Linn

Planning Commission

Dear City Council Members,

You may recall that one of the issues the Planning Commission is addressing this year is lighting impacts between residences. The issue was one of several raised by two families, the McGills and Swansons, who live next to patios actively used as sport courts (e.g., for basketball and a batting cage). These families state that their neighbor's recreational activity creates noise that is distracting inside the residence while the windows are closed and music is on; resulting in dozens of balls entering their yards, some of which damage landscaping; and, in one case, includes noisy late night basketball and other play under intense lighting that illuminates their bedroom. They assert that this activity significantly diminishes their quality of life, poses safety risks, and impacts their ability to conduct a home occupation.

Both the McGills and Swansons have petitioned the Planning Commission to expand the scope of the CDC amendment pertaining to lighting to include the broader range of impacts associated with sports courts (e.g., noise, safety of neighbors in their yards, damage to property, excessive storm water runoff). Consequently, the Planning Commission conducted two work sessions to explore the possible approaches for addressing impact caused by sports courts. We identified several potential CDC amendments that can address such problems going forward but they will not fully resolve the issues associated with the legally established recreational uses that are causing the current problems.

Through CDC amendments that address issues with sport courts such as, noise, lighting, and safety. We will be able to make sure that situations like this are prevented in the future. They can address these, and other aspects of sports courts to insure that one person's enjoyment is not at the expense of another. However, CDC amendments will not significantly help either the McGills or the Swansons, who have endured years of compromised quality of life, or others who may be affected in the future by previously built sport courts and light poles.

Therefore, we urge the City Council to consider declaring the lighting and noisy recreational activity that severely diminishes the livability of the McGills' and Swansons' homes a nuisance under West Linn Municipal code Section [5.495](#):

(3) In addition to the nuisances listed in subsections (1) and (2) of this section, all activities or man-made conditions on a property that have an unreasonable adverse effect on other properties may be declared a nuisance by the Council and abated as provided in Sections **5.400** to **5.530**. A declaration of a nuisance under this subsection shall be supported by findings relating to the nature of the nuisance, the effect on other properties, whether permits were necessary and were obtained, and the effect on the natural environment.

(4) In addition to those nuisances specifically enumerated within Sections 5.400 to 5.530, every other thing, substance or act which is determined by the Council to be injurious or detrimental to the public health, safety or welfare of the City is declared to be a nuisance and may be abated as provided in Sections 5.400 to 5.530.

Thank you for your prompt attention to this. On behalf of the West Linn Planning Commission,

A handwritten signature in black ink, appearing to read "Michael Babbitt". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael Babbitt, Chair
West Linn Planning Commission