

Memorandum

Date: September 14, 2012
 To: Michael Babbitt, Chair, West Linn Planning Commission
 From: Zach Pelz, Associate Planner
 Subject: Process for consolidated public hearings

Purpose

On May 16, 2012, the Lake Oswego-Tigard Water Partnership (Partnership) asked the West Linn Planning Commission to suspend the Water Treatment Plant (WTP) land use proceedings so that the Partnership could respond to three issues raised during the WTP hearing process. The issues identified in the May 16th request are:

1. Expedite the submittal of the pipelines application to allow a consolidated hearing process to consider the cumulative effects and benefits of both proposals;
2. Initiate negotiations with the City of West Linn on an amended intergovernmental agreement (IGA) for emergency water supply that clarifies commitments by and benefits to the parties; and,
3. Conduct further discussions with the affected neighborhood association and individual neighbors in an effort to resolve their concerns over mitigation (Lake Oswego-Tigard Water Partnership, August 20, 2012).

With the completion of items 2 and 3 above, the City is preparing for the consolidated public hearings identified under item 1. This memo clarifies the recommended approach for conducting consolidated public hearings regarding the Partnership's WTP and transmission line proposals.

Tentative Timeline

The timeline below is for planning purposes only and includes anticipated key dates associated with the City's review of the consolidated proposals, pending a response from the Planning Commission. The following dates are subject to change:

Item	Date
Staff report available	October 5, 2012
Planning Commission hearing #1	October 17
Planning Commission hearing #2	October 18
Record open for 7-days (ending Oct. 25 at 7pm) with 7-day rebuttal from applicant	ending November 1
Planning Commission deliberation and decisions	November 1
Planning Commission decisions signed	November 6
Last day to appeal Planning Commission decision	November 20
Appeal staff report available	December 21
City Council hearing #1	January 7, 2013

The above timeline is contingent upon: 1) the applicant's verbal agreement (May 16, 2012, approved Planning Commission Minutes pg. 2/5) to waive the 120-day decision deadline by the maximum duration allowed by Oregon Statute (February 20, 2013, for CUP-12-02/DR-12-04 and August 14, 2013, for CUP-12-04/DR-12-14) for both proposals; 2) the Planning Commission's acceptance of back-to-back hearings on October 17 and 18; 3) the Planning Commission agreeing to leave the public record open for 7-days following the October 18 hearing with an additional 7-days for the applicant's rebuttal, if a continuance is requested; and, 4) the Planning Commission reaching a decision on both cases on November 1.

Consolidated Hearing Procedure

Following discussions with the Partnership and the City's legal counsel, staff recommends the following sequence for consolidated public hearings of the WTP and water transmission proposals:

1. Staff report on revisions to CUP-12-02/DR-12-04 (WTP)
2. Staff report on CUP-12-04/DR-12-14 (water transmission line)
3. Applicant's presentation on revisions to CUP-12-02/DR-12-04 (WTP) **(20 minutes)**
4. Applicant's presentation on CUP-12-04/DR-12-14 (water transmission line) **(20 minutes)**
5. Open public testimony for CUP-12-02/DR-12-04 and CUP-12-04/DR-12-14 **(6 or 10 minutes per witness¹)**
6. Presentation on additional neighborhood outreach efforts from Greg McKenzie **(10 minutes** – *Greg will not be available on October 17 and staff therefore recommends the Planning Commission allow Mr. McKenzie to present his findings on October 18, prior to public testimony on that evening.*)
7. Applicant's rebuttal to testimony for CUP-12-02/DR-12-04 and CUP-12-04/DR-12-14 **(40 minutes)**
8. Questions from the Commission to staff and staff response to testimony regarding CUP-12-02/DR-12-04 (WTP)
9. Planning Commission deliberation on CUP-12-02/DR-12-04 (WTP)
10. Planning Commission decision on CUP-12-02/DR-12-04 (WTP)
11. Questions from the Commission to staff and staff response to testimony regarding CUP-12-04/DR-12-14 (transmission line)
12. Planning Commission deliberation on CUP-12-04/DR-12-14 (transmission line)
13. Planning Commission decision on CUP-12-04/DR-12-14 (transmission line)

Staff's recommended approach respects that each proposal will require an individual decision, based upon findings with respect to Community Development Code criteria that are uniquely applicable to each proposal, while at the same time providing an opportunity to consider both proposals concurrently. Staff will be tasked with archiving public testimony into the appropriate project record following the public hearing. Staff intends to present this proposal, as amended, to the Planning Commission on September 19, 2012. The Planning Commission may accept or modify it as they like.

¹ The Planning Commission typically grants 5-minutes to witnesses wishing to testify at quasi-judicial land use hearings. Applying this practice to the consolidated Lake Oswego-Tigard water hearings would allow each witness to present up to 10-minutes of testimony. In consideration of the extensive public testimony on the WTP proposal received to-date, staff offers an alternative public testimony period of 6-minutes, which is twice the 3-minute testimony period allowable and typically used at City Council hearings.