

regarding state historic review. Commissioner Miller **seconded** the motion and it **passed** 6:0. The Commission took a five minute recess and then reconvened for the next hearing.

**CUP-12-01/DR-12-03, Booster Pump Station at Bland Reservoir site, 23120 Bland Circle**

Vice Chair Babbitt opened the public hearing and outlined the applicable criteria and procedure. He asked the Commissioners to declare any conflict of interest, bias, or ex parte contact. Commissioners Steel, Axelrod, Frank, Miller, Holmes and Vice Chair Babbitt each reported a site visit.

Gary Hitesman, 2188 Clubhouse Dr., challenged Commissioner Frank's ability to hear the matter because Frank had been reported to have indicated that he wanted to see infrastructure move ahead in West Linn. Commissioner Frank stated he had no bias and had not predetermined the application.

Commissioner Steel **moved** to allow Commissioner Frank to participate in the hearing. Vice Chair Holmes **seconded** the motion and it **passed** by unanimous vote.

*Staff Report*

Mr. Soppe had distributed the April 4, 2012 staff report. He advised the proposed pump station was subject to conditional use approval because it was a change to an existing conforming conditional use site, and because it would be a new conditional use on the site as well. The site was in the R-7 zone, but the Commission had the discretion to determine and apply dimensional requirements to a conditional use in that zone. Class 2 design review was required because it was a new public building. The City's Water Master Plan called for the new pump station at the Bland reservoir to help ensure an adequate water supply for the Rosemont pressure zone

Mr. Soppe pointed out on the map where access to the site was to be via an easement with a shared driveway over an adjacent parcel that was not in the City. It had an existing house on it. Another parcel on the east side of the site was dividable and developable. Therefore, houses could eventually be up to the east boundary of the site. He referred to the site plan and pointed out the proposed location of the pump station building. He advised that the City was currently negotiating an easement with adjacent property owners for electric and sanitary lines. He showed elevations for the pump station. It was proposed to be painted green to match the existing tank. Arborvitae were proposed to provide screening. Fencing would be extended around the entire perimeter of the site. He showed photographs of the existing site. A small clump of mostly alder trees would be removed to accommodate the building footprint. The City Arborist had found the trees proposed to be removed were not significant trees. Positioning the building there would avoid significant trees further back on the site. The staff recommended a condition of approval to install the fencing behind the new arborvitae so the arborvitae would screen the fence. The fence would be five feet back from the property line. The staff found the application met conditional use criteria. With the fencing behind the arborvitae it would meet screening and landscaping criteria. To position the new building further back would mean that the access and parking would impact larger trees' roots. The applicant's noise study found ambient noise would not be an issue. The staff found that for compatibility reasons the signage should be similar to that required for parks. They recommended a condition to plant a shade tree by the parking area to meet the landscaping requirement related to the required ratio of shade trees to parking spaces. The applicant proposed to install lighting fixtures that directed light downward so it stayed onsite. The conditions of approval required the applicant to get easements for connecting infrastructure such as the sanitary and electric. The staff recommended approval subject to the recommended conditions of approval.

During the questioning period Commissioner Steel expressed concern that people would not know where the property line was if the fence was not on the line. Mr. Soppe advised the Commissioners could decide to put the fence right on the line and in front of the landscaped strip, but the staff recommended using the landscaping to screen the chain link fence. He clarified that there are two separate utility corridors. One would get the water to the zone it was serving via the most direct route through the properties to the north if easements could be obtained. The alternative was to route it down the existing driveway easement and through public right-of-way. If the City could not negotiate them it could potentially use its condemnation authority. The staff clarified the site did not contain any natural creeks or springs.

*Public Testimony*

*Applicant*

Dennis Wright, Engineering Manager, testified that the adopted Water Master Plan anticipated that an additional pump station and eventually another, larger, reservoir would be necessary to provide water to the Rosemont pressure zone. Construction of Trillium School had triggered the need for the pump station. Different locations had been considered during the master planning process before the Bland site was selected. It had room for the pump station and it was logical and economical to locate the pump station next to the reservoir. 4B Engineering had designed the project. The City was currently negotiating easements with three adjacent property owners so the line could tie into a Weatherhill Road line. It already had tentative agreements with two of them. Another easement would be necessary to bring electric power to the station. It would be along the west side of Mr. Omlor's property, where development had once been approved but had since lapsed.

Adam Butts and Edward Butts, 4B Engineering, submitted updated materials showing they had made the changes recommended in the staff report. Mr. Butts testified the consultants originally proposed to locate the station on the northeastern portion of the site, but the Water Supervisor had asked them to change it to where it was proposed now. The proposed location would make it easier to access. The engineers explained the design encased the turbine in a way that helped mitigate noise. They had designed over 200 similar facilities. They took the needs of the community and the environmental issues into consideration when they designed this type of infrastructure. They also did modeling to ensure a location would offer the proper hydraulics so the facility would function properly. They had looked at several different locations on the site for the pump station and found the proposed location was the best location for it.

During the questioning period the engineers clarified they had not been asked to look at alternative sites to the Bland site. They clarified that the parking area would be in front of the pump station and it would be graveled, not paved. It would be large enough to bring in a crane to service the pumps and large enough for City vehicles to turn around. They recalled that a similar Salem facility used paving stones instead of gravel. They clarified some alder trees would be impacted in both the originally proposed plan and the plan they had just submitted. They clarified they had repositioned the station at the direction of City staff. The new location was better for hydraulic reasons and because it would avoid significant large Douglas fir trees. They proposed chain link fencing because the health division required a security fence and typically approved chain link fencing for that purpose. Any alternative fencing would have to provide as good or better security. They advised that cities typically made one to three trips a week to check on such facilities.

*Proponent*

Alice Richmond, 3939 Parker Rd., testified that all City pump stations were automated. All reservoirs were in residential neighborhoods. This one was at a higher altitude and put more

stress on the pumps. It was a much needed facility, especially now there was a new school to serve. It was already paid for by school SDCs. She urged the Commission to approve it.

*Opponents*

Kathie Halicki, 2307 Falcon Dr. advocated using the \$1.25 million to repair the existing system and putting the pumps in later. She understood the pump station was intended to serve future development, not the school. She related the area experienced episodes of insufficient electricity. She was concerned the new facility would put even more strain on the electrical system.

Charles Mathews, 2305 Crestview Dr., testified the pipe easement ran across the end of Crestview, right behind his house. It would be about 15' to 20' above his property. He was concerned the pipe would rupture and create a landslide. He asked for an opportunity to contest the easement before the Commission approved the project.

Roberta Schwarz, 2206 Tannler Dr., submitted written testimony. She pointed out that several Douglas firs would be at risk as well as the ash (alder) trees. She contended the City had not distributed the required public notice of its intention to put an industrial facility in the middle of a residential neighborhood in 2008 when the Water Master Plan was adopted. That could be a violation of state statutes. She advised the application did not meet code requirements to maintain the existing character and quality of West Linn; enhance the appearance of the City; make every effort to preserve and protect trees; and to buffer above-ground utilities to obscure them from view and reduce noise levels. She had surveyed her neighbors. All 41 who responded indicated they wanted the trees saved. She testified that people at the neighborhood association and preapplication meetings had been told that not a single tree would be harmed. She considered it 'bait and switch' that the consulting engineers were attributing changes in the location of the station to the City staff and vice versa. She asked the City to start the water master planning process over and seek input from the neighbors first. She cautioned that systems failed. Last year's pump failure and resulting un-potable water problem was a good example of that. The area would soon be living with over 800 gallons of water literally on top of it.

Gary Hitesman, 2188 Clubhouse Dr., asked that the hearing be held open to allow more time to evaluate the new information.

*Neither for nor Against*

Johnny Coppedge, 23128 S Bland Cir., related that his house was just below the water tower and the access easement was across his property. He explained that after listening to the proceedings he felt there was too much uncertainty. He was concerned about noise and about the fence. He testified that when work was done on the tower last year there had been so much noise he could not sleep at night. He noted the chain link fence would be right next to his property. He noted the position of the pump station had suddenly been changed. He was concerned about having hundreds of thousands of gallons of water there. He asked the City to make sure the pump station was in the right spot.

Commissioner Frank **moved** to continue CUP-12-01/DR-12-03 to April 25, 2011 and leave the record open for additional oral and written testimony. Commissioner Axelrod **seconded** the motion and it **passed** 6:0.

**Items of interest from the Planning Commission**

Commissioner Steel had observed development activity where the winery on Salamo Road used to be. Mr. Sonnen advised it was a phased development that been approved by the Commission about four years ago. The plat had been finalized last year. The 30-lot development would be the location of this year's Street of Dreams show.

**Items of interest pertaining to the Commission for Citizen Involvement**

None.

**Items of interest from staff.**

None.

**Adjournment**

There being no other business, Chair Babbitt adjourned the Planning Commission meeting at 10:20 p.m.

APPROVED:



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Michael Babbitt, Chair

6-6-12

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Date



CITY OF  
**West Linn**

PLANNING COMMISSION

**SPECIAL MEETING**

Minutes of April 25, 2012

Members present:

Chair Michael Babbitt, Vice Chair Gail Holmes, Russell Axelrod, Thomas Frank, Holly Miller, Christine Steel and Robert Martin (arr. approx. 8:15 p.m.)

Members absent:

Council Liaison:

Staff present:

John Sonnen, Planning Director; Chris Kerr, Senior Planner; Tom Soppe, Associate Planner; Zach Pelz, Associate Planner; Dennis Wright and Khoi Le, Engineering Department; Jim Whynot, Water Supervisor; and Pam Beery, Legal Council

**CALL TO ORDER**

Chair Babbitt called the meeting to order in the Council Chambers of City Hall at 6:00 p.m.

**PUBLIC COMMENTS (None)**

**APPROVAL OF MINUTES**

Commissioner Miller **moved** to approve the Minutes of March 7, 2012. Commissioner Steel **seconded** the motion and it **passed** 6:0. Commissioner Martin was not present.

**PUBLIC HEARINGS**

**CUP-12-01/DR-12-03, Booster Pump Station at the Bland Reservoir site** [Continued from April 4, 2012.]

Chair Babbitt opened the public hearing. Commissioner Martin was not present during this hearing. Chair Babbitt asked the Commissioners to declare any additional *ex parte* contacts. Commissioner Steel related she served on a committee that was considering the West Linn water system in general. She had toured the system with Jim Whynot, Water Supervisor. They had visited a number of reservoirs and pump stations, but not the Bland reservoir.

*Public Testimony – continued*

*Proponent*

Alice Richmond, 3939 Parker Rd., recalled the Commission had approved the school as a conditional use. One of the conditions was the pump station. The project was not legally connected to a requirement to do road repair.

*Opponents*

Kathi Halicki, 2307 Falcon Dr., questioned that Trillium School should be considered the trigger for a pumping station. It would be open before the pumping station was operational and the greatest need for water would be during the summer when school was not in session. She held the issue of lack of water should have been discussed and resolved before the bond issue was voted on. That would have been transparent government. She recalled there was an issue of what should or should not be in the Stafford triangle. She asked the City to table the application and revisit it when there was actually a need. She asked the City to table the application until the condition of the roadways could be addressed. Tannler and Bland were

not in good condition. They needed to be strengthened before the project began so they could accommodate heavy trucks and again after the project.

Gary Hitesman, 2188 Clubhouse Dr., displayed photographs of some houses in the area and compared them to the proposed design, which he called 'The Green Turd' because it was just a concrete box painted green. He held what was proposed did not belong in the neighborhood and did not meet Design Review or Landscaping code. He suggested more work was necessary to get the proposed landscaping to blend in with the rest of the landscape. He favored using native plants instead of arborvitae. He indicated he did not favor the proposed massing and he questioned the need for the project. He questioned where the City was going to find an emergency generator to take to the pump station while an emergency was going on. He advised the emergency generator would need to be brought to the site for testing every month or two. That would generate noise. He explained what was really needed was an *in situ* emergency generator. That would require a slightly larger building. He advised that the Commission could not approve the pump house without it having an attached emergency generator. He held the Commission should send the application back to the Engineering Department for redesign to ensure it met the landscaping and emergency generator requirements. He advised there were other alternatives that could be used to make the pump house fit in better with its surroundings.

Ken Pryor, 2119 Greene St., Vice President of the Savannah Oaks Neighborhood Association, related the neighborhood was going to prepare a formal objection. He discussed and submitted a compilation of issues that had been solicited from the neighborhood. Residents believed a Comprehensive Plan amendment/zoning change was the correct process. That was because what was proposed was not an expansion but a new use of the site. It was an industrial plant that should not be in a residential neighborhood. They were concerned about the lack of an auxiliary power supply for an emergency. They were concerned seismic hazards had not been adequately addressed. One of the neighbors had received information that homes in the area would not be covered by City insurance if there was an Act of God. There was no environmental impact study. People objected to the plan to remove several significant trees. Residents felt there might be alternate sites that might be more suitable for the station. No notification had been provided to neighbors who might be adversely affected by the plant when the Water Master Plan was adopted in 2008. That violated CDC 99.038. The code stated the purpose and intent of design review was to conserve and enhance the appearance of the City. Residents held the application did not meet that criterion. They believed the approval criterion that every reasonable effort was to be made to preserve existing trees was not met. They recalled conflicting testimony. The contractor stated the City had told them to move the station to where trees had to be cut down but the applicant said the contractor had recommended it. The code called for above ground utilities to be buffered and screened to obscure the view and reduce noise levels. The application did not meet that code. There was general consternation that when the school was put on the ballot the voter guide had not related there was inadequate water for a new school. Residents were aware of many instances when pumps failed and water spilled. Having so much water stored uphill from dozens of houses was just not acceptable. Residents asked the Commission to deny the application so the applicant would go back to the drawing board and use some other site that was not in such close proximity or in such a steep environment.

Vice Chair Holmes noted the Water Master Plan had been posted in the *West Linn Tidings* in October 2008 and delivered in water bills. Mr. Pryor responded that if it had been buried there the residents likely overlooked it. When asked, Mr. Pryor clarified that the Association was going to vote to submit a formal request to deny the application at the next neighborhood association meeting on May 3, 2012.

David Rittenhouse, 2101 Greene St., President of the Savannah Oaks Neighborhood Association, related the application had caught the Association off guard. He had been a member of the Association since 2005 and had a good memory, but he could neither recall nor find a record of an Association meeting about the Water Master Plan. It would significantly impact the Neighborhood. He did not know if any alternative sites had been considered. People were concerned about earthquakes and Acts of God. He related that when he inquired about the criteria for protecting water tanks during earthquakes staff had told him the neighborhood was lucky because theirs was strapped down. Others were not strapped down. That was the best the City did. He related that residents at the top of the Neighborhood Association could not get flood insurance because they were not in the floodplain. During the questioning period, Mr. Rittenhouse clarified that the Association had received notice of the current application, but he could not recall that the Association had received proper notice of the 2008 Water Master Plan. He believed he would remember something that significant. Legal council advised that the project was properly noticed.

*Rebuttal*

Mr. Wright testified that the facility was designed to current seismic standards. No additional sites had been considered in the Water Master Plan process because the subject site had an existing reservoir and was over an acre. The master planning process found that an additional 300,000 gallon reservoir and pump station was needed to serve growth in the Rosemont zone. The school triggered it because the Rosemont tower reservoir was much smaller than what was really required. That had happened before he joined the City and he was not certain why. To mitigate for the small size of that reservoir the Plan found there had to be three backup feeds into the reservoir to handle the additional demand from growth. One came up from View Drive. It had been constructed when the Rosemont Point development was built. There was another pump station at Horton. The third one was the subject site. It was an optimum location because its size would accommodate the facility as well as landscape buffering. Having a pump station close to a reservoir was an ideal situation because it reduced line loss and was more energy efficient. He stated the design would meet all the noise criteria in City codes. A deciduous tree out front that barely met significant status had been identified. The applicant was very willing to mitigate its loss with other plantings that would actually enhance the screening. A tree such as a fast growing Leland Cypress would provide screening year-round and it would be a stronger tree. The applicant was trying to be a good neighbor and would comply with the conditions of approval mitigate impacts to the neighbors.

Vice Chair Holmes asked about three-phase power. She wanted to know what the cost difference was between using a route over the Mathews' property and using an alternative route. Mr. Wright confirmed the pump station would require three-phase power and PGE would bring it into the site. He understood that would improve the reliability of the power in that area and the new pump would have a 'soft start' feature and would turn on gradually so people would not even be aware of it. He related the route option to go out to Bland and then along the Salamo right-of-way was a much longer route and would have more impact on citizens because the pavement would be torn up. The proposed route was the shortest, lowest cost and least impactful route. It would impact three lots that were in the county. The applicant would need to obtain an easement from some property owners. Mr. Wright confirmed for Commissioner Miller that the applicant would take out ash trees and replace them with evergreens. No other significant trees were at risk. Commissioner Steel recalled they were both ash and alder. She asked if it was feasible to have a generator on site and what it would cost. Mr. Wright related the applicant had considered having a generator on site. They had a couple of pump stations where generators were on site. They had not opted for that at the Bland site because it was more expensive (estimated to be around \$200,000) and they could use a portable generator for backup. If a generator was on site it would require regular maintenance and testing that might cause noise and interruption. Commissioner Steel

inquired about who would maintain the access driveway. She recalled the owner of the property the access was over had testified at the last hearing. She recalled he had not opposed the additions and fencing, but he had seemed to want to be sure his own needs and interests were considered. She asked if the applicant could assure him he would be part of decisions that were made, especially regarding screening. Mr. Whynot reported he had met with Mr. and Ms. Coppedge that day. They had discussed things like the driveway and screening. They maintained the driveway, but he had assured them the City would repair it if the City damaged it. It had just been paved and was in good shape. The Coppedge's had indicated they would prefer to see the trees go because they were 'hideous' and they seemed to like the idea of having evergreens there. Mr. Wright related they actually preferred the proposed station location because if it were moved further west it would be in the line of sight from their deck.

Commissioner Steel noted the screening was to screen the chain link fence. She indicated she would prefer to screen the utilities rather than the fence. She suggested the fence could be green so it would blend in. She explained that if it was positioned on the property line people would not get confused about where the boundary was. Mr. Wright indicated the applicant wanted to be a good neighbor and would do whatever the Commission wanted them to do with the fence. He noted the neighbors on the north side already had their fences in place and when the property to the east was developed there would be a fence there as well. Those residents would likely not be able to see the chain link fence. The applicant had talked to the Coppedge's about screening and they had indicated they were receptive to either alternative for a fence.

Commissioner Axelrod and the staff discussed an existing well on the site. It had been drilled on the City's property by mistake and then capped by a predecessor owner of the Coppedge property. He advised that the well should be properly decommissioned before the station was built. He asked why the applicant did not consider the Horton location. Mr. Wright explained it would not serve as the third backup source that water consultants recommended because Horton was already one of the feeds. Commissioner Axelrod was concerned that the site plan was so spread out over the parcel and the structure would be so close to where other homes would be built. He would prefer the northwest location, but he noted it might require removal of one of the significant trees and the neighbors did not favor it because the facility would be in their direct view. He asked if it was possible to put the station there and plant vegetation that would block that view. Mr. Whynot related the Coppedges preferred not to see it from their patio. He had been in their house and looked out of their windows and found they would not see the proposed facility from their house because of existing shrubbery on their own property that would block both the station and the group of trees to be removed. The additional screening would screen the view from the driveway. Commissioner Axelrod suggested if a sewer connection was not needed a swale could be used. Mr. Wright related the water volume was extremely low and the City did not want to spend the money to connect to the sewer. He and the Building Official had talked about it and wanted to pipe the water outside so it never touched the floor.

Commissioner Axelrod suggested the impact of the 15' high structure could be reduced by excavating and lowering it.

Everett Butts, Four B's Engineering, advised that would require an additional level of design and additional cost. The walls would have to be designed to handle the soil loading outside and the designers would have to verify there was no ground water encircling the site. He explained that the Building Code categorized booster pump stations as essential facilities. That meant an extra layer of design effort was necessary because the facilities had to stay in operation during emergencies such as a moderate earthquake. Commissioner Axelrod asked about the habitat value of the property; if it was to be entirely fenced; and if it needed to be habitat friendly fencing. Mr. Soppe advised the site was not in the WRA and the only resource-related code criteria to apply were with respect to trees.

Commissioner Frank asked about three-phase power. Mr. Butts related that PGE would bring in two additional phases in order to achieve three-phased power. Its biggest concern would be ensuring that the new power did not cause problems with existing residential service. He anticipated residents would benefit from it because of redistributed, more balanced, transformer loads. Commissioner Frank asked what the notification standards were. Mr. Soppe said the current process required a neighborhood meeting and 500-foot notice. That had been done. He said he had researched the notice requirements for the water master planning process and found they were not only met but exceeded. Commissioner Frank asked if the plan would have to change if the City could not negotiate the easements. Mr. Wright related the pump station site layout would not be impacted at all. The option to go up to Bland and Salamo was available. Commissioner Axelrod said he preferred to see a more rigorous vegetation plan with a variety of native vegetation instead of a wall of arborvitae that would look too much like commercial use. Mr. Wright said the applicant would be happy to do that.

Chair Babbitt asked if the applicant had researched the well. Mr. Butts confirmed they had found records of the well which indicated it was a fairly shallow-cased well about 50 feet deep in basalt rock. He confirmed the well needed to be permanently abandoned per state standards. He intended to ensure that got done.

Chair Babbitt discussed the concern about the generator. \$200,000 was a lot of money if a generator could be transported to the site fairly easily. Mr. Whynot related that one of the two other stations serving the Rosemont zone had an on-site generator. This facility and the other one that did not have a generator would have a place to plug in a generator. If the site with the generator was using it and the other sites needed one the City would have to get other generators out there. Chair Babbitt asked if it was realistic to have a portable generator on the subject site. Mr. Whynot advised the City did not have a portable generator powerful enough to run that station. It would have to rent one and transport it to the pump station. He explained one of the other two pump stations did have an on-site generator that would feed water into the zone in the event of a power outage. That was the backup. Commissioner Miller asked how far away the City would have to go to rent a generator in the event of an emergency. Mr. Whynot advised it could likely be four hours to a couple of days if the bridges were down, depending on the emergency. The worst case scenario would be if the I-205 Bridge fell down. Commissioner Miller asked if the City was guaranteed a rental if more than one City was looking for one. Mr. Whynot advised the City did not have a contract in place that guaranteed it a rental. When asked, he confirmed the staff would be willing to consider that. Mr. Butts advised it was not unusual to set up stations that allowed a portable generator to be plugged in. In this case the City would have more flexibility than many other areas because it had three units. It could run just one pump and do load sharing so it did not need such a large generator in an emergency. That offered flexibility to handle those situations. He advised that because of 9/11 and storms there had been a large influx of rental units in the metropolitan area. He did not anticipate it would be too difficult to find a generator that would run the station. Chair Babbitt noted the Commission was walking a fine line. It had to apply the code. It was not the body to set policies and procedures for how the City handled emergencies. Commissioner Axelrod commented that having to find rentals during an emergency did not sound like a very good approach. It would be nice to know what the implications would be to have a small emergency generator on site. Mr. Whynot recalled the master planning process had analyzed how to address emergencies and was comfortable that there would be three pump stations serving the zone. One of them would have a backup generator. There were two other sites in town that also had backup generators.

#### *Additional Public Testimony*

Chair Babbitt invited a person who had just submitted a testimony form to come forward to testify.

C. Mathews, 2305 Crestview Dr., testified there was a significant Douglas fir tree in the area of the easement that would go past his house that would be destroyed. He clarified he lived in the house at the end of Crestview and the easement would abut his property.

*Additional Rebuttal*

The applicant waived the opportunity to provide additional rebuttal.

*Additional Staff Comments*

The staff had distributed the April 20 Memorandum entitled, "Answers to Commissioners' concerns on Bland Water Pump Station, CUP-12-01/DR-12-03"; and the April 25 Memorandum entitled, "Correspondence since April 20 PC packet." Mr. Soppe reported that the City Arborist had advised that none of the trees proposed to be removed were significant trees. He advised off-site infrastructure, including the pipeline, was outside the purview of the CUP. He pointed out that the staff memorandums answered questions and contained emails submitted by the Commissioners, the City Arborist, and members of the public. Roberta Schwarz had submitted photographs of an Idaho reservoir she found to be more aesthetically pleasing. The City Arborist had corrected the affected trees' species; reported that none of them were significant trees; and advised it would be better to replace them with stronger, fast growing trees for long term screening. The April 25 memorandum answered Commissioner Axelrod's questions including questions related to hydrology and whether the structure should be reviewed as an accessory structure. Mr. Soppe advised the structure was too important to the site to be an accessory structure. Vice Chair Holmes asked what it would cost for the facility to have its own temporary generator. The staff did not have that estimate.

*Deliberations*

Chair Babbitt closed the public hearing. Staff pointed out they had crafted new Condition 6.b (related to screening) and Condition 7 (to decommission the well). Commissioner Frank indicated he would support the application with the additional conditions. He suggested adding Condition 8, which would call for 3-phase power to be brought in. Commissioner Miller indicated she was leaning toward approval, but she was uncomfortable because of the generator issue. She did not know if requiring 3-phase power was within the purview of the hearing; if it needed to be a condition of approval; or if it was required anyway. Commissioner Steel did not favor the requirement to set the fence back five feet from the property boundary. She indicated the screening should screen the facility itself and not the fence. Putting the fence on the property line would help avoid any adverse possession claims. She asked for clarification regarding which site plan Condition 1 should refer to. Mr. Soppe clarified that the site plan the Commissioners were given on the night of the application had another possible future water tank on it that was not part of the current application. Vice Chair Holmes expressed concern that there might not be a generator on hand. She noted the City was separated from help from other jurisdictions by a lot of bridges. She was concerned about the impact on the neighbors of the unsightly fenced area and removal of trees. Commissioner Axelrod agreed with the suggestion for a condition related to electrical service. He was concerned about the generator. He held the pump house should function in an emergency and the emergency response needed to be better defined. He suggested the City might purchase a generator. He was not sure the Commission could require it. He recalled the neighborhood association opposed the application. He saw a need for more dialogue with the neighbors and the neighborhood association to ensure all of their concerns were being addressed.

Chair Babbitt asked staff if the Commission had the authority to impose a condition of approval that would require the City to purchase a portable generator or construct a permanent generator station. Ms. Beery advised the Commission had the authority to condition approval on a generator if it was directly related to the approval criteria.

The Commissioners went through the list of issues to reach consensus. The majority of the Commission did not think a condition of approval requiring three-phased power was necessary because they understood it would be required anyway. Mr. Sonnen had indicated he understood that the pump station would only become operational with that power. Vice Chair Holmes and Commissioner Frank wanted it to be a condition of approval. Chair Babbitt polled the Commissioners and found they all agreed to impose Condition 7 which required the well to be decommissioned. The Commissioners then discussed the fencing. Commissioner Steel advocated changing the conditions of approval to require the fence to be located on the property line with the vegetation behind it. She indicated she believed screening was really needed to screen the pump station/reservoir. That could be done behind the fence. Vice Chair Holmes agreed. Commissioner Miller observed that chain link was not very attractive, even if it was green. It would not be in keeping with the other good neighbor fences in the neighborhood. She wanted to be cognizant of the neighbors concern that it would look too industrial. She preferred to have the fence set back five feet and well screened, but not necessarily with arborvitae. Mr. Soppe displayed the aerial view and pointed out which houses had wooden fences. He recalled that people did not want to see chain link fencing. That was why the staff had crafted Condition 6(a). Commissioner Steel noted the proposed condition said the applicant was to coordinate landscaping and fencing materials with the property owner to the south to screen the pump station and reservoir. She noted that was the neighbor who needed the most screening. She indicated she agreed with the newly proposed language that called for evergreen trees and native shrubs. If the fence was on the property line that screening would be behind it. Commissioner Frank would leave the condition as drafted, in deference to the neighborhood. The fenced area would be in view from Bland and from Tannler. It would look too industrial if it were not set back with a shrubbery buffer in front of it. Commissioner Axelrod also favored setting the fence back behind the vegetation. He preferred a green colored fence to soften it. He asked how high the entrance gate was. Mr. Soppe noted the proposed condition said it was to be no more than 8 feet high, but the applicant proposed a six-foot high fence. Commissioner Axelrod suggested changing the condition to specify six feet. Vice Chair Holmes wanted to know that the fence screening vegetation would cover the fence. Mr. Sonnen pointed out the proposed condition suggested Leland Cypress, which was a fast growing tree that could reach 15 to 20 feet in five years and be as tall as 30 feet at maturity. Mr. Soppe suggested inserting the words, 'fast growing.' Commissioner Axelrod advised there were other species that grew fast such as Hogan Cedar that the applicant could look at. Commissioner Steel related that she would not deny the application on the basis of Condition 6(a) which related to screening.

*Applicant's response to changed conditions of approval*

Chair Babbitt observed the applicant was indicating they would agree with the conditions of approval that had been crafted.

Commissioner Axelrod then suggested considering adding language to Condition 5 to call for a bioswale or some alternative to the sewer if that was feasible. He wanted to look at incorporating onsite water management into the design. He recalled the applicant had indicated it would be feasible to do that. He suggested considering a condition calling for lowering the pump house profile a couple of feet by requiring a shallow excavation. Commissioner Steel did not support that because she was concerned about whether a bioswale would be sufficient if there was a tank overflow and she did not support requiring the applicant to start reengineering the design at this time. Commissioner Axelrod clarified the bioswale he suggested was not intended to address overflow. Chair Babbitt was willing to consider modifying Condition 5, but he did not want to look into excavating and redesigning the site. Commissioner Miller explained that she was sensitive to how high the tower would be but not

to the point of imposing a condition of approval calling for excavation. Commissioner Frank did not favor looking into a condition of approval related to excavation. Vice Chair Holmes did not think looking into excavation was a good idea. Chair Babbitt observed the majority of the Commission did not want to explore imposing a condition related to excavation. Mr. Soppe crafted changes to Condition 5 by adding a last line related to an alternative solution if the applicant would not need to include sanitary sewer, such as a stormwater bioswale.

Mr. Wright discussed proposed Condition 5. He recommended conditions that called for the applicant to meet all the building and plumbing code requirements. If it turned out a sanitary sewer connection was required by the code the applicant had no other option. If the code did not require it the applicant would do whatever they were required to do in lieu of a sanitary sewer connection. Commissioner Axelrod suggested adding 'or similar design' after 'bioswale.' Vice Chair Holmes and Commissioners Miller and Frank agreed. Commissioner Steel related that she would have preferred a more careful study of the impacts. Chair Babbitt indicated he felt comfortable moving forward with the changed condition because the applicant would have to meet the code. Mr. Wright confirmed that the applicant would agree to the seven conditions of approval. Commissioner Axelrod asked if a condition was necessary in light of the neighborhood's request for more time to resolve any remaining issues. Ms. Beery observed that Chair Babbitt had already closed the hearing and would have to reopen it to allow testimony by the neighborhood association and anyone else who wanted to testify.

Commissioner Steel **moved to approve** CUP-12-01/DR-12-03 subject to the seven conditions of approval that had been edited during deliberations. Commissioner Miller **seconded** the motion.

Vice Chair Holmes observed the Commission had not discussed the backup generator. The applicant had not addressed an emergency need for adequate water and how they would supply it. She wanted to add a related condition. Ms. Beery observed that condition might not address the applicable criteria. She suggested after taking action on the application the Commission could discuss asking the City Manager to consider the need for emergency backup. Chair Babbitt polled the Commissioners to assess support for a condition regarding a generator. Commissioner Steel recalled she had learned during a recent tour of West Linn's water system that there were redundancies and ways of getting water to different reservoirs when one was offline. The Water Department staff seemed to feel comfortable with the way things were. She indicated that she would feel more comfortable knowing Public Works had an emergency generator they could pull out and take wherever they needed to. She would not make it a condition of approval. She would send a memorandum to the City Manager conveying the concerns of the Commissioners and public about it. Commissioner Axelrod recalled hearing that the City was able to provide water to that zone with the existing on-site generator. He suggested the Commission send a memorandum asking the administration to look into whether one or two backups could be worked into the system. Commissioner Frank was not convinced the Commission could impose a condition of approval calling for a backup generator. He did support sending a memorandum conveying the Commissioners' concerns. Commissioner Miller indicated she was very uncomfortable after having learned what the City had and did not have. She wanted to convey that to the City but would not tie it to a condition of approval. **The vote was conducted and the motion passed 5:1.** Vice Chair Holmes voted against. The Planning Commission recessed for fifteen minutes and reconvened at 8:15 p.m. when Commissioner Martin joined them.

**CUP-12-02/DR-12-04, proposal to modify and expand the Lake Oswego Water Treatment Plant and site** [Continued from April 18, 2012.]

Chair Babbitt opened the hearing. He asked the Commissioners to declare any site visits or *ex parte* contacts they had not previously declared. Commissioner Martin reported he had visited Lake Oswego websites to try to track down the documents the applicant referred to in the





- Mail
  - Calendar
  - Contacts
  - Deleted Items (110)
  - Drafts (37)
  - Inbox (3993)
  - Junk E-mail
  - Sent Items
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- Conflicts
  - appointments
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Reply
 Reply to All
 Forward
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 Delete
 Close

## COA

Cummings, Teri

Sent: Monday, June 25, 2012 5:56 PM

To: Cummings, Teri

June 25, 2012

AP -12-01 Possible Conditions of Approval changes or additions to consider;

### Changes to Approved COA

2. - Front Gate- needs aesthetic screening in keeping with Residential character? TVFR requests Knox lock device for access

Add Knox device per TVFR approval and add wooden slots to chain-link

3. Utility Easement-Impervious area likely will exceed 500 sq ft minimum, especially if area for future or emergency generator not accounted for  
Storm water plan permit required if impermeable area, including site for generator is not less than 500 sq ft

6. Screening- Inconsistently allows wood fencing in some areas adjoining residential and not others. Question life span of wood? Instead of requiring Coppedge neighbors to provide area for buffering, why not increase setback onsite?

### Additional Questions and COA to consider:

PGE upgrade needed now in order that pump can be allowed to operate?

LEED requirements?

Lighting- Why new lighting so close to property now? Move back?

Location- Please explain "chief reason" pump Operations Supervisor requested pump location moved, Where is the drawing, and what is the area plan for Generator storage?

Emergency Generator- Access road exceeds slope and is not all weather surface . Should have permanent Generator? How would permanent generator change noise, impervious area /stormwater conditions? Require analysis?

Teri Cummings

22500 Salamo Road  
West Linn, Oregon 97068

503-635-9241

Councilor Teri Cummings  
<mailto:tcummings@westlinnoregon.gov>  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, OR 97068  
P: (503) 657-0331  
F: (503) 650-9041  
Web: <http://westlinnoregon.gov>

West Linn Sustainability Please consider the impact on the environment before printing a paper copy of this email.

Notes of Gary Heitzman Testimony

CDC 60,076(A)(7)

GOAL ONE POLICIES ARE NOT  
BEING MET.

"NOTICES" ARE OF A TECHNICAL NATURE  
AND AS SUCH, ARE NOT CONSIDERED IN AN  
APPEAL AT LVBA. HOWEVER, I APPRECIATE  
THE DAYLIGHTING OF BIAS AND UNDECLARED  
EX PARTE.

ON THE OTHER HAND, "MINUTES" ARE USED  
TO ESTABLISH BASIS OF FACTS & FACT  
FINDING. ALSO, OREGON REVISED STATUTES  
REQUIRE A MINIMUM OF 7 DAYS TO  
RELEASE MINUTES.

~~"PATTERNS", CLARITY, CONCISE CODE, &  
PROCEDURES~~

ESTABLISHED PATTERNS, CLARITY, CONCISE CODE  
& PROCEDURES ARE AN IMPORTANT PART OF  
LAND USE. CITY ACTIONS & THIS HEARING  
CAN TO MEET THE REQUISITE STANDARDS.  
"REPRESENTATION OF THE ROSEMONS PRESSURE ZONE"

~~"NOTICES" ARE OF A TECHNICAL NATURE  
AND AS SUCH ARE NOT CONSIDERED BY LUBA.~~

CDC 60.070 (A.) Requires the ~~Planning Commission~~<sup>City Council</sup> to approve, approve with conditions, or deny an application for a conditional use based on findings of fact following the criteria #'s 3, 4, 5, 6, and 7;

3. The granting of the proposal will provide for a facility that is consistent with the overall needs of the community.
4. Adequate public facilities will be available to provide service to the property at the time of occupancy.
5. The applicable requirements of the zone are met,
6. The supplementary requirements set forth in Chapters 52 to 55 CDC are met.
7. The use will comply with the applicable policies of the Comprehensive Plan.

### Number 3.

Applicable policies of the Comprehensive Plan were incorrectly applied by city management leaders and were not adequately addressed by the Planning Commission. In a review of the "overall needs of the community" and the applicable policies of the comprehensive plan, this code has not been satisfied. The application is not consistent with "overall need" nor the Comprehensive Plan. The substantial evidence supports denial of the pump station.

---

"NOTICES" ARE OF A TECHNICAL NATURE AND AS SUCH ARE NOT CONSIDERED IN AN APPEAL. HOWEVER, I APPRECIATE THE DAYLIGHTING OF BIAS. & ON THE OTHER HAND, "MINUTES" ARE USED TO ESTABLISH BASIS OF FACT & IS GROUNDS FOR IMMEDIATE REVERSAL."

Number 4.

KEN HAS IT WRONG.

CDC 60.070(a)(4.) is not met. Written Testimony submitted March 27 was not addressed in the public hearing. This code says "Adequate public facilities will be available to provide services to the property at the time of occupancy". The lack of an on-site generator;

- means the design of the facility does not provide <sup>RELIABLE</sup> service.
- Originally, existing electrical service would have created power surges and service "flicker" to nearby homes creating a subpar level of service.
- Now, city staff says the pump station will not be built until adequate public facilities are provided. So services are not available.
- A portable emergency generator is already needed at the View Drive pump house. A portable generator is not reliable, missing the principals of the Water Master Plan and this code.

• Unresolved easement -

Number 5.

WMP = "pump station piping system"

This issue was addressed at the PC Hearing enough to establish standing and a right to appeal to LUBA. I am reaffirming that the applicable requirements of the residential zone have **not** been met.

## Number 6.

CDC Chapters 55 thru 52 are not met;

- This was covered by the SONA presentation.
- Any proposed Conditions of Approval effectively render this submission mute and would trigger a LUBA appeal denying the application.
- There are applicable policies of the Comprehensive Plan triggered by 60.070(a)(7) that also provide substantial evidence, i.e. fencing, landscaping, and existing homes, that the appearance of the City is neither enhanced, innovative, compatible, safe, nor made aesthetically attractive.

## Number 7.

CDC 60.070(a)(7.) is what I recommend the council deliberate over. This section of the code was overlooked by the Planning Commission. And to be clear, this is where CUP-12-01/DR-12-03 fails.

Section(7) has been misinterpreted. The title of ORS 197 is COMPREHENSIVE LAND USE PLANNING COORDINATION. And, under 197.175, a CITIES' RESPONSIBILITIES are to implement their comprehensive plans.

What staff calls ambiguous is anything but. What the city lacks is clarity and the substantial evidence to have the PC's approval upheld.

Unfortunately, the time allotted to citizens of West Linn leaves almost no opportunity to contribute positively to the discussion. I have only enough time to enter findings of fact into the record to satisfy Oregon

Revised Statutes to appeal an approval of this project to LUBA, where I guarantee a reversal will be granted.

Applying CDC 60.070(a)(7) provides substantial evidence the pump station does not meet code nor ensure the highest level of livability in Oregon.

- The purpose of the Water Master Plan is not applied.
- The Water Master Plan policies are not being followed.
- Based on the assumptions of the Water Master Plan, this pump station will not function as stated and likely, never will.
- "Emergency Supply" is not met.
- "Reliability" is not met.
- The SDC fee allocation has been misappropriated and misapplied
- Is the pump house for the Aquatic center?
- Goal 14 opens the door to development in the Stafford Hamlet.
- Page 100 of the WMP is not satisfied and has been misapplied.
- As a whole, the Savanna oaks neighborhood Plan was not incorporated.
- The criteria under ORS 197.835 has not been met.
- "Clear and objective manner", under ORS 197.831, was not demonstrated.
- Ex parte has been overly burdened, NA's were not notified, and Goal One citizen participation statutes and comprehensive plan policies were not met.
- The City has no Engineering Director to stand behind this proposal. The last time, the Planning Director was let go after messing up the Holiday Inn application. The City has little credibility.

(CUP  
10-3  
INTO THE  
RECORD)

• CUP 10-3 ~~staff~~ pre

- If you really want the pipe, This pipeline and pump house should go before a vote of the people. It does not change the fact that this pump station is a waste of time, limited resources, and destroys ~~your eroding political base even further.~~ *Confidence*

*o the process has been unconstitutional in fact*

\_ doesn't work

SDC fee allocation - misappropriated

Goal 14 Urban Reserves - pump house

Aquatic Center use?

Karie Oakes  
1125 Marylhurst DR  
West Linn, OR 97068

City of West Linn City Council

June 25, 2012

Re: AP-12-01 Appeal by the Savanna Oaks Neighborhood Association of the Planning Commission's approval of a Conditional Use Permit and Class II Design Review for a water pump station at the Bland Reservoir, 23121 Bland Circle (CUP-12-01/ DR-12-03).

I object to the jurisdiction of the Council to review this matter tonight because procedural requirements are not met as set forth in ORS 227.180(C) and ORS 197.763; and as prescribed by Council Rules and West Linn Community Development Code (CDC). At issue is the fact that the record was incomplete and was not available for inspection in advance of this hearing as stated in the notice pursuant to **CDC 99.270(G)**.

#### **99.270 CONTENTS OF NOTICE ON APPEAL OR REVIEW**

Notice given to persons entitled to mailed notice under CDC 99.260 shall:

**G. State that the application and record are available for inspection at no cost, and copies at a reasonable cost. (Ord. 1382, 1995; Ord. 1474, 2001; Ord. 1547, 2007; Ord. 1568, 2008)**

The record was incomplete at the time of notice because the Planning Commission (PC) had not approved the minutes of it's meetings on April 4, 2012 and April 25, 2012 when hearings for this application were held. Minutes are part of the record pursuant to **CDC 99.220**.

#### **99.220 RECORD OF PROCEEDINGS**

**A. A verbatim record of the proceeding shall be made by video recording, or other available means. It shall not be necessary to transcribe testimony. The minutes and other evidence of the proceedings shall be part of the record and the basis for deciding a decision on review. Inadvertent loss of a verbatim record due to technical or mechanical problems unforeseen by the City shall not be grounds for invalidating a public hearing or decision.**

**C. The official record shall include:**

**3. The verbatim record made by video recording or other available means, the minutes of the hearing, and other evidence of the proceedings before the hearings body;**

Notice requirements of **CDC 99.080(A)(1 through 3)** are not satisfied because the minutes were not approved before various notices were given, as evident in the record and public record. Therefore persons requiring notice were not allowed the required time to review the record.

June 1, 2012 - Notices were mailed.

June 6, 2012 - PC approved April 4, 2012 minutes

June 7, 2012 - Sign posted

June 14, 2012 - Tidings notice

June 20, 2012 - PC approved April 25, 2012 minutes

## 99.080 NOTICE

Notice shall be given in the following ways:

**A. Class A Notice.** Notice of proposed action or a development application pursuant to CDC [99.060](#) shall be given by the Director in the following manner:

1. At least 20 days prior to the scheduled hearing date notice shall be sent by mail to:

a. The applicant or the applicant's agent, and the property owner of record on the most recent property tax assessment roll where such property is located.

b. All property owners of record on the most recent property tax assessment roll where such property is located within 500 feet of the site.

c. Any affected governmental agency which has entered into an intergovernmental agreement with the City which includes provision for such notice; plus, where applicable, the Oregon Department of Transportation, Tri-Met, neighboring local jurisdictions, Clackamas County Department of Transportation and Development, and Metro.

d. The affected recognized neighborhood association or citizens advisory committee.

e. For a hearing on appeal or review, all parties and persons with standing described in CDC [99.140](#) to an appeal or petition for review.

2. At least 10 days prior to the hearing or meeting date, notice shall be given in a newspaper of general circulation in the City. An affidavit of publication shall be made part of the administrative record.

3. At least 10 days prior to the hearing or meeting date, the Planning Director shall cause a sign to be placed on the property which is the subject of the decision or, if the property does not have frontage on a public street, adjacent to the nearest public street frontage in plain view and shall state, "This property is the subject of a land use decision," with the type of use or request indicated.

If the application is not located adjacent to a through street, then an additional sign shall be posted on the nearest through street.

4. At least 10 days but no more than 40 days prior to hearing of a proposed zone change for manufactured home parks, notice shall be given to the respective manufactured home park residents.

5. The City shall make reasonable efforts to post notice of the application on the City's website at least 10 days prior to the hearing, meeting, or decision date. Failure to comply with this section due to technical problems with the website is not a procedural defect entitling any party to a delay in the hearing process.

6. The Director shall cause an affidavit of mailing of notice and posting of notice to be filed and made part of the administrative record.

I request that the Council terminate this hearing according to City Council Rules and conduct the hearing at a later date which is properly noticed with a complete record.

### City Council Rules

#### Public Hearings

**D. If there are objections to the jurisdiction of the City Council to hear a matter, the Mayor shall terminate the hearing if the inquiry results in substantial evidence that the Council lacks jurisdiction or the procedural requirements of any code or ordinance provision were not met.**



# West Linn

June 25, 2012

Dear West Linn City Council:

Please include this letter in the record of tonight's City Council hearing on Appeal AP-12-01.

While I am confident the Planning Commission performed a thorough review of our application and that their approval of this project will be ultimately upheld, as the applicant, my responsibility and obligation is to implement adopted master planned projects, and to look out for the interests of all our citizens including the 2330 households within the Rosemont Pressure Zone who will be affected by this project. Therefore, I must object to Council jurisdiction over this matter. The appeal filing was invalid because it was not properly authorized under the applicable public meeting law.

The public meeting law, which applies to Association meetings, bars Council from taking jurisdiction over this case because no proper Association meeting was convened to vote on whether the Association should appeal in the Planning Commission's decision. While the Association appears to have voted against the proposal at their May 3<sup>rd</sup> meeting, that meeting was improper under the public meetings law due to a notice defect.

City Code requires that Association meetings comply with Oregon's public meetings laws. In this case, the meeting authorizing the appeal was held without legally sufficient notice. Under ORS 192.640 the Association must notify "interested persons." The City, and probably others, should have received notice but did not.

Under the City Code section, the Association membership consists of, "Any resident, business owner or owner's representative, nonprofit organization's representative or property owner who resides, owns property or maintains a business within the recognized boundary of a neighborhood association shall be entitled to membership and to vote." The City is a member because it is a property owner within the Association's geographic boundaries. And, the City was clearly affected by the vote taken at the meeting because the City's land use application was at issue. It therefore qualifies as an "interested person" and should have been notified of any meeting in which an appeal would be considered.

Because the notice of the meeting was defective the action taken was invalid and the appeal was not properly authorized. I therefore request that the Council dismiss the appeal as an invalid filing.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ken Worcester", written over a horizontal line.

Ken Worcester, Interim Public Works Director

cc: Chris Jordan  
John Sonnen  
Tim Ramis  
Savanna Oaks Neighborhood Association

## Worcester, Ken

---

**From:** Wyatt, Kirsten  
**Sent:** Thursday, June 14, 2012 2:57 PM  
**To:** Rittenhouse, David  
**Cc:** Mollusky, Kathy  
**Subject:** RE: SONA May meeting

Thanks! Please also send me your email list, and the correspondence you had with the newspaper(s) about publication.

Thanks,

Kirsten

Kirsten Wyatt, Assistant City Manager  
Administration, #1428

West Linn Sustainability Please consider the impact on the environment before printing a paper copy of this email.

Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public.

**From:** David Rittenhouse [<mailto:daver@europa.com>]  
**Sent:** Thursday, June 14, 2012 2:50 PM  
**To:** Wyatt, Kirsten  
**Subject:** SONA May meeting

**From:** David Rittenhouse [<mailto:daver@europa.com>]  
**Sent:** Monday, April 30, 2012 2:13 AM  
**To:** David Rittenhouse  
**Subject:** SONA MEETING THURSDAY 7PM @ CITY HALL

Dear Savanna Oaks Neighbors,

Our monthly meeting is this Thursday May 3rd at the West Linn City at 7pm. On the agenda is discussion of the decision by the Planning Commission on the Bland Circle pump station. If we get a quorum of members we may vote to see if the neighborhood wants to appeal the decision. We may also discuss the issues surrounding the Lake Oswego, Tigard water plant in West Linn's Robinwood neighborhood and if we as a neighborhood would want take a position on it.

See You Thursday!

David Rittenhouse  
SONA NA President

Good evening Mayor Kovash, City Councilors, city staff, and citizens of West Linn,  
My name is Roberta Schwarz and I live at 2206 Tannler Dr. West Linn. I am  
Speaking tonight with reference to the proposed Bland Cr Booster Pumping  
Station.

CDC 99.038(B) states that the applicant shall contact by letter all recognized  
neighborhood associations whose boundaries contain all or part of the site of the  
proposed development and all property owners within 500 feet of the site. This  
was not done when the **Water Master Plan** was changed. No notification was  
given to the people who would be so adversely affected by the changes in our  
neighborhood. What this means is that no public notice was given of the intention  
of the city to add an industrial facility into the middle of our neighborhood which  
would include a booster pumping station and later, a 300,000 gallon  
reservoir, to the to 500,000 gallon reservoir already in place. This lack of  
notification is a serious concern and the intent of the code was not met. Also the  
pumping station and the 300,000 gallon reservoir should both be included in this  
same application and not fragmented into two applications just like the LO-T  
treatment plant.

Other CDC codes were not met and involve the taking out of trees and other  
items and they include: 01.020 which states that the purpose of the code is to

improve and maintain the existing character and quality of West Linn.

This application does not comply with the very definition of the purpose for having a code.

55.010 which states that the purpose and intent of design review is to conserve and enhance the appearance of the city is not met. 54.020 (A) Approval Criteria states that every reasonable attempt shall be made to preserve and protect existing trees. This code is not met with this application. 54.020 (E) (3) which states that above ground utilities shall be buffered and screened to obscure their view and reduce noise levels and this application does not meet that code.

I have given you a couple of pictures to show you the ash trees and fir trees at the site. I conducted a survey of my neighbors and out of the 41 people who responded all of them want the trees on the location saved. The trees were not going to be removed and that is what the neighbors had initially been told. Then after the pre app meeting on this application, that was changed. "Bait and switch" is the term that is sometimes used.

Trees have a tremendous effect on our air quality. They absorb harmful pollutants including nitrogen dioxide, sulfur dioxide, ozone and carbon monoxide. Most importantly the city has stated in both printed media (WL Tidings 5/31/21)

and verbally at the previous hearing and meetings that this facility will be for the new school but when questioned by former City Councilman Burgess at a City Council Meeting on January 26, 2009, Mr. Kerr, Sr. Planner, stated that "This property can be served by the existing water storage and is available to the site".

Please see proof of these statements included with my written testimony which I would like included into the public record. The people who voted to annex the Erikson property into West Linn were told there was adequate water for the School. Now we are being told there is not and we need the Bland booster pumping station to fill the needs of the school.

Which time were we not being told the truth? If the voters were told something that is not true to pass a Measure on the Ballot that is a serious offense.

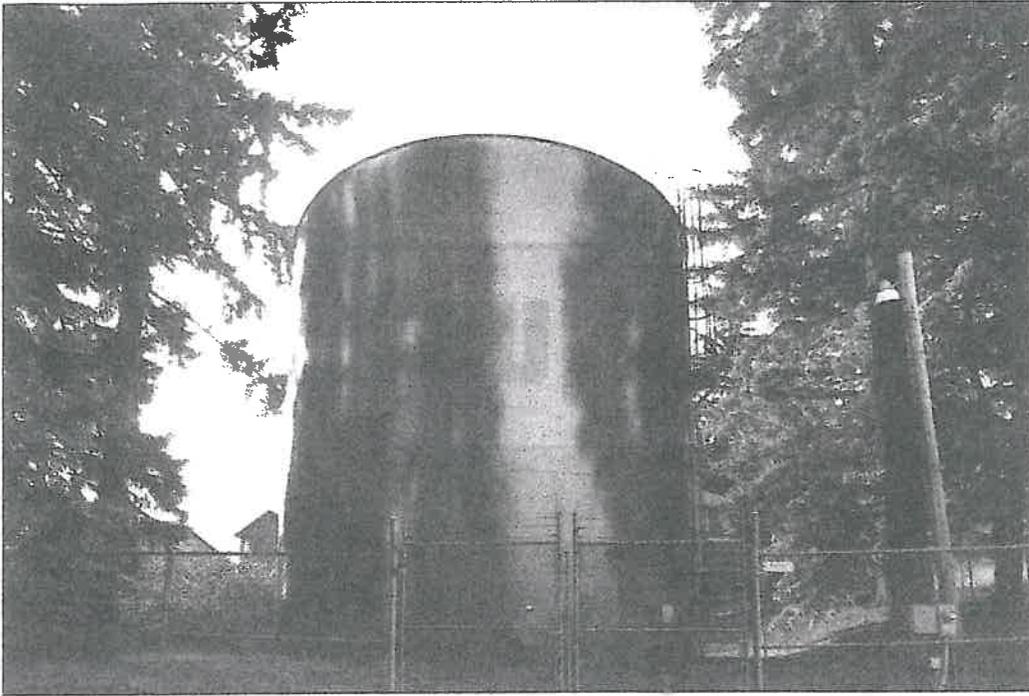
If we are being told something that is not true now in order to get this Bland booster pumping station application passed by the city, that is a serious offense.

I believe that the citizens deserve to know the truth.

Please deny this application and then ask the city to start from the beginning and let the neighbors have input on first the Water Master Plan that this is a part of and then this specific application. Transparency is a word used often by the city.

This Water Master Plan and subsequent application are sorely lacking in it.

Thank you



TIDINGS PHOTO: VERN UYETAKE

The proposed pump station on Bland Circle will match the forest green color of the current reservoir.

# Pump station: Appeal June 25

■ From page A1

year capital improvement plan, is budgeted at \$1.25 million.

The plan calls for housing the pump station equipment inside a 15.5-foot-tall, 16-foot-by-22-foot concrete block building located near the southeast corner of the site. New water lines would connect the pump to the reservoir and distribute water to the Rosemont water pressure zone.

The city's water system is broken zone into four zones. Each zone has a pump station and a reservoir to help manage water pressure. The new Bland Circle pump station will service the Rosemont neighborhood.

The site, which was annexed to West Linn in 2006, has contained the city's Bland reservoir facility since 1980. The current reservoir is a cylindrical, above-ground tank approximately three stories tall and 42 feet in diameter, according to city records.

The plan calls for constructing a new pump station to address increased need with the construction of the new Trillium Creek Primary School. A

According to city staff, the Rosemont reservoir storage is significantly undersized and redundant water pipeline interconnections are required to overcome this deficiency. Completion of this project is tied to the occupancy of the new Trillium Creek Primary School.

The city is not adding more storage to the facility, but improving water pressure, Public Works Director Ken Worcester said. Along with the new pump station, a larger 12"-line is proposed along Weatherhill Road, which will tie into the Rosemont pressure zone, which feeds water to the Tanner Basin and the Savanna Oaks neighborhood.

The city is currently working with neighbors to gain easements to run the new line.

An underground pipe would connect the pump station to the reservoir on the north side of the site, and a new water line would connect the pipe to existing waterlines in the Rosemont zone.

"We are meeting with adjacent property owners to work out agreements," Worcester said, adding that planners are

its April 25 meeting. Some members raised concerns about the lack of a backup generator, but Worcester said the city owns several portability generators that could be brought to the site if the pump and other built-in redundancies failed.

"It's really more about having these extra redundancies," Worcester said.

Although the planning commission approved the project, the Savanna Oaks Neighborhood Association filed an appeal against it on May 17, citing a laundry list of reasons.

One of the reasons listed is that the new pump station would service the Stafford area, but Worcester said that is not true and that the pump will service those already in the urban growth boundary.

"Everything is designed to serve everyone in the urban growth boundary," Worcester said.

Those appealing the site also listed seismic hazards, safety hazards, environmental impact, lack of proper screening and engineering concerns.

The project and the appeal will be heard by the West Linn City Council during its June 25

# Residents appeal pump

Water project tied in with needs of new school

By LORI HALL  
The Tidings

The city of West Linn is running into some speed bumps with its most recent water system improvement project, as an appeal has been filed by the Savanna Oaks Neighborhood Association.

The city plans to build a new pump station and install a new water line at its Bland Circle reservoir in the Savanna Oaks neighborhood. The project, included in the city's six-

See PUMP STATION / Page A15

## INDEX

Opinion.....A4	Neig/
Police.....A10	Com/
Education.....A12	Ente

Questions of Council to Staff

Councilor Burgess asked if staff had reviewed past aerials to determine if there had been any tree removal or stream alterations since the ordinance was passed that requires mitigation at the time of annexation. Mr. Kerr stated the ordinance was passed three maybe four years ago. He went out to the site with staff to review the site for clearing or alterations and there was no evidence of any activity on the site.

Councilor Burgess stated he would rather have this property under City codes rather than County. FU-10 (County zoning) is not acceptable for development unless it is developed in the County. Mr. Kerr stated the property has to be rezoned when it comes for annexation.

Councilor Burgess asked staff to comment on the zoning districts. Mr. Kerr stated the zoning districts have specific purpose statements for each zoning district. The Comprehensive Plan states that low-density residential is for lands that have some type of environmental restraints. The range is from R-7 to R-40. When you get into specific purpose statements for each zoning district, each one has very similar language, to accommodate development that is consistent with what surrounds it in a manner that preserves and addresses the environmental constraints on the property. Any of the zoning districts (R-10, R-15, and R-20) are consistent with the purpose statement; however R-7 and R-40 are not.

Councilor Burgess asked staff to comment on any restraints that would prevent this property from being developed. Mr. Kerr stated there are water, sewer and roadways that are available to service this development. This property can be served by the existing water storage and it is available to the site.

Council President Carson asked if the adjacent R-10 was developed as an R-10 PUD. Mr. Kerr stated that looking at the map he is confident that the R-10 was developed as a PUD. The proposed zoning is consistent with the surrounding areas in terms of how it has been developed.

Point of Order from the audience; there was a request for information during public testimony that was not addressed. Bill Monahan stated that it was Council's decision whether or not they wanted that particular question answered.

Mr. Kerr stated that the request was for the specific language of the code in Chapter 81.055 of the Municipal relating to the three specific factors that Council should consider. Councilor Cummings had a copy of the language dated September 29, 2005, MISC 053(a) Community Development Code Amendment. In this document, under Chapter 81, Boundary Changes, there is a chart for the low-density residential from R-7 to R-40. It talks about (1) specific site characteristics such as topography, drainage and inclusive vegetation must be considered; (2) existing zoning; and (3) capacity of the City to provide road, sanitary sewer, storm, etc.

# Bland Circle Pump Station Appeal

CUP-12-01/DR-12-03

Savanna Oaks Neighborhood Association

June 25, 2012

## Agenda

1. Review of issues included in appeal
2. Summary of Conditions of Approval from Planning Commission
3. Additional Conditions of Approval requested of City Council

## Agenda

1. Review of issues included in appeal
2. Summary of Conditions of Approval from Planning Commission
3. Additional Conditions of Approval requested of City Council

## Review of Issues from NA Appeal

- A. This application is a violation of the Comprehensive Plan because this water will be used to go into the Stafford area which is not part of West Linn.
- B. It should not be a Conditional Use Permit but an actual Zoning Change application because this is a new development not an expansion (it is an industrial plant which should not be located in a residential neighborhood).
- C. It should have to go through a Comprehensive Plan Amendment Process since it has dramatically significant changes to the West Linn Comp Plan.
- D. This is not consistent with the Savanna Oaks Neighborhood Plan which was written by members of the SONA with the guidance of a consultant hired by the City of West Linn and with the support of the City of West Linn.
- E. The alternate sites that this booster pumping station could be located on should be studied more carefully. The neighborhood was not privy to any of the additional sites.

Locating this industrial plant on a site that is not close to existing homes is preferable and would be more consistent with the "Benefit to the community" and "Impact on the neighborhood" provisions of the code.

## Review of Issues from NA Appeal

(continued)

- F. *(Combines 3 Issues)* There will be additional safety hazards with the building of this booster pump and an additional 300,000 gallon reservoir.  
 There have been instances when pumps fail, pipes leak, water spills. With a total of 800,000 gallons of water uphill of dozens of houses this is just not an acceptable site.  
 The seismic hazards to our neighborhood have not been adequately addressed. Nor have the geologic issues been studied adequately and addressed. One of our neighbors was sent an email that stated that the homes nearby would not be covered by city insurance if there were "an act of God". An earthquake or land movement or flooding fall in that category.
- G. *(Combines 2 Issues)* An environmental impact study should be done.  
 We have gone from being told no trees would be cut in the initial meeting with the neighborhood and the pre-app conference to now several trees will be cut and some of them are significant trees.  
 CDC 54.020(A) Approval Criteria states that every reasonable attempt shall be made to preserve and protect existing trees. This code is not met with this application. Indeed we had conflicting testimony when the contractor stated that he was told to move the location by the city so that now the trees must come down but the city said that it was the contractor who stated it must be relocated and the trees must come down. This is not in compliance.
- H. CDC 55.010 states that the purpose and intent of design review is to conserve and enhance the appearance of the city and this application does not meet that criteria. This is not in compliance.

## Review of Issues from NA Appeal

(continued)

- I. CDC 54.020(E)(3) states that above ground utilities shall be buffered and screened to obscure the view and reduce noise levels and this application does not meet that code either.
- J. Partially burying the second reservoir and the pumping station were not considered even though photographs were provided from another city (Idaho Falls) which has done so successfully.
- K. CDC 01.020 states that the purpose of the code itself is to improve and maintain the existing quality and character of West Linn. This application does neither. This is not in compliance.
- L. No notification was given to the neighbors who would be adversely affected by this industrial plant when the Water Master Plan was changed in 2008. This is in violation of CDC 99.038(B).
- M. There is no emergency back-up generator on site. We were told it would be brought in if necessary. However, in an emergency it might not be possible to bring it to the site.

## Review of Issues from NA Appeal

(continued)

- N. An attorney who was not on staff and not a consultant of the City of West Linn who was at the hearing for a different application altogether was allowed to advise the Planning Commission on this hearing and her opinions were solicited by the PC. This is unprecedented.
- O. There are several engineering concerns which have been brought up by the citizens and not addressed prior to the Planning Commission decision to approve the application.
- P. When the school was put on the ballot it was never stated in the voter guide that there wasn't adequate water for the new primary school. Therefore there must currently be water available for the school or the voters were not told pertinent information before they voted for this school. That is a serious issue that bears looking into.

***The Savanna Oaks NA still believes that these are valid issues and will be upheld should this application be appealed to the Land Use Board of Appeals (LUBA). We reserve the right to make such an appeal.***

## Agenda

1. Review of issues included in appeal
2. Summary of Conditions of Approval from Planning Commission
3. Additional Conditions of Approval requested of City Council

## Planning Commission - COAs

1. Site Plan. With the exception of modifications required by these conditions, the project shall conform to the Proposed Site Plans dated January 25, 2012 located on Page 113 (close-up) and Page 114 (entire site) of Exhibit PC33, and shall conform to the Building Elevations plan dated January 25, 2012 on Page 115 of Exhibit PC-3.
2. Shade Tree for Parking Area. A minimum of one shade tree at least 2 inches in diameter at breast height (DBH) shall be planted beside at least one of the new gravel areas where parking may occur. The species and exact location of the tree(s) shall be approved by the City Arborist.
3. Front Gate Height. The proposed gate at the driveway entrance shall be a maximum of 6 feet in height.
4. Signage. The sign proposed to be located on the gate identifying the site and its utilities, as discussed on pages 64 and 67 of Exhibit PC-3 by the applicant, shall be of the style and material used by the Parks and Recreation Department for signs identifying parks, as this will make the signage compatible with the residential neighborhood.

## Planning Commission – COAs

(continued)

5. Utility easement on 23150 Bland Circle. The utility easement proposed by the applicant to accommodate sanitary sewer and electrical lines serving the site, connecting from the site to Bland Circle along the west edge of the 21350 Bland Circle property, or an alternative easement approved by the City Engineer, must be recorded with Clackamas County before final inspection is approved for the project. Alternatively, the easement would not need to include a sanitary sewer if an alternative solution such as a stormwater bioswale or similar design could be implemented on site.
6. Screening.
  - a. In the area where vegetative screening is proposed, the proposed fence location shall be shifted 5 feet away from the property boundary (per Section 54.020 E[3][b]) to accommodate the proposed vegetation on the pump station site and to allow it to screen these fencing areas.
  - b. The proposed arborvitae on the east and south frontages shall be replaced with evergreen trees, such as Leyland cypress, interspersed with native shrubs. The applicant will coordinate landscaping and fencing materials with the property owner to the south to screen the pump station and reservoir.
7. Decommission Well. The existing well on site shall be decommissioned to state Water Resource Division standards.

## Agenda

1. Review of issues included in appeal
2. Summary of Conditions of Approval from Planning Commission
3. Additional Conditions of Approval requested of City Council

## Additional Requested COAs

1. Safety (F). *"Between the tank and the pump station (suction line): (...)* One possible method to prevent tank drainage in a seismic event would be the installation of a **one-way control valve** controlled by a seismic sensor device."
2. Safety (F). *"The pump station itself: (...)* The applicant could also install a **sump in one corner of the station** along with a transmitter and time delay that would shut off the pumps if the transmitter senses standing water."
3. Safety (F). *"The discharge line: (...)* On this line the applicant could install an **auxiliary check valve**, which would close in the event that the pumps turned off, to prevent water from backfeeding into the pump station. Once the pumps are turned off this auxiliary check valve would close down due to lack of water flow. This would isolate the pump station in the event of a discharge line break."
4. Safety (M). "The Planning Commission determined that since there is not applicable approval criteria pertaining to emergency generators it was **not under their purview** to address the subject in their decision."

## Additional Requested COAs

(continued)

5. Appearance (J). "The applicant responded to questions from the Planning Commission about the possibility of **burying the pump station building a few feet** to give it a lower profile and **the applicant indicated that they would be willing to do so** if conditioned as such."



## Additional Requested COAs

(continued)

6. Appearance (H). "If the City Council finds that **more aesthetic improvements to the pump station building or site** are necessary to make it compatible with the surroundings, the Council can add to or modify conditions of approval. The applicant has indicated that they **are willing to do what is necessary** to make the development of the pump station on this site acceptable to surrounding residents and the City's decision making bodies."



**Thank You**

**The Savanna Oaks Neighborhood Association**