

TO: West Linn Planning Commission
RE: Lake Oswego-Tigard Water Partnership
Date: October 8, 2012

Letters can be mailed to:
West Linn Planning Commission
22500 Salamo Road
West Linn, OR 97068

I would like to submit this letter as my recorded testimony to the West Linn Planning Commission for the meeting scheduled on October 17th, 2012 regarding the Lake Oswego-Tigard Water Partnership Water Treatment Plant

The cities of Lake Oswego and Tigard are requesting a Conditional Use Permit to expand the current Water Treatment Plant on Kenthorpe Way in West Linn in order for Lake Oswego to enter into a **revenue generating agreement** with the city of Tigard to provide drinking water for Tigard. It is my understanding according to the West Linn Comprehensive Plan, the approval of a Conditional Use Permits **REQUIRES** a "community benefit".

I don't believe there is any "community benefit" to West Linn or the Robinwood Neighborhood if this application is approved. Most of the benefits the LOT plan lists are either already in place (intertie) or will have to be done because the scope of this construction will destroy existing streets, pipelines and Mary S. Young State Park.

I do see an enormous list of horrific things no one could possibly consider a "community benefit" including:

- **West Linn Citizens** will have to endure 2+ years of constant construction including heavy truck traffic and loud heavy machinery noise for 11 hours EVERY weekday and 9 hours EVERY Saturday and Sunday. West Linn Citizens will be subjected to this type of construction for 7 days a week ... for 2 years – all for a *Revenue Generating Agreement* between the cities of Lake Oswego and Tigard.

- **West Linn Citizens** will have 2+ years of extremely limited access to their homes 24 hours a day, 7 days a week during this construction. The impact of this construction, especially to West Linn Senior Citizens living in this area, **Will Be Life Changing** in their daily routines. Also negatively affected will be main transportation and pedestrian routes and 24-hour emergency vehicle access.

- **West Linn Citizens** will be exposed to the possibility of reduced property values and irreparable damage to their homes because of pipeline placement and possible pipe breakage which will be the fiscal responsibility of the **West Linn Citizens**. Not the cities of Lake Oswego or Tigard.

Secondly, how can West Linn ALLOW Lake Oswego to **invalidate covenants established in 1944 by the City of West Linn** to protect property zoning on Mapleton Drive? How can West Linn even consider giving Lake Oswego the opportunity to exercise the option to use "eminent domain" in the city of West Linn? Up until now dealing with the Lake Oswego Water Treatment Plant has never been a problem for this neighborhood. It is now.

Lake Oswego's sole reason for expanding this plant is to build a revenue base by supplying water to Tigard. And they want to create this revenue base as cheaply as possible. **Who's looking out for West Linn Citizens?** You Should Be!

The City of West Linn asked us the question: "How does this proposal meet or not meet the approval criteria for a Conditional Use Permit?" As a **CITIZEN OF WEST LINN**, that's the question you must ask yourself. You represent West Linn. You need to think very carefully about the **CITIZENS OF WEST LINN** who will be so impacted if you give your approval to this Conditional Use Permit.

Respectively Submitted:

Liz Baker (Signature)
Name Liz Baker, LCSW
Name

RECEIVED	
3434 Ponderosa Loop/W.L./97068	Address
1980 Willamette Falls Dr. #200/W.L./97068	Address
OCT 8 2012	
PLANNING & ZONING	
CITY OF WEST LINN	
INT. _____	TIME _____

Also a business owner

10-29-12

Ladies and Gentlemen of the West Linn Commissioners and Planners,

In the October 25, 2012 Planning meeting I was gratified to hear several new facts regarding the Lake Oswego Water Works Plant, built in 1967, in our City.

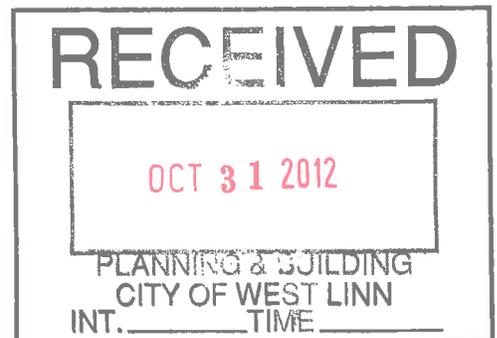
While we were out-witted and deprived of property taxes and operative license fee revenue funds; Lake Oswego City avoided much disparagement and inconveniences to their city. Lake Oswego water works plant has been a sore "thorn" ever since it has been in our back yard. This project is not an industry as noted by staff. Any industries pay taxes and licenses to operate no matter where. West Linn City does not hold a comprehensive plan code to apply on such infrastructures; such buildings have state and federal and U.S. Corp's codes. Sorry, ladies and gentlemen that's the way it is! Respectfully, I remind City Planners and Commissioners, you have justifiable jurisdiction to refute this bold giant water works plant who not only is not beneficial to West Linn, but entrenches in our City.

LOT cities governments' undertakings are undermined, irrational and incongruous. Their (abusive) comportment toward our tax payers and fee paying residents, with trouncing tribulations is unspeakable. Even Lake Oswego residents would not tolerate such comportments. So why, I ask you, should West Linn tenants be required punishment being sued, condemned, evicted from their long time rightful homes. Meanwhile, West Linn elected governance is standing by playing politics, tsc, tsc, tsc! Commissioners, there is a burden of conscience here as well; the lawful thing to do is to refute this structure and let Lake Oswego build their services in their city. Thank you for your time and attention to this critical issue.

Alice Richmond

Alice Richmond
3939 Parker Road
West Linn, OR 97068
53 year resident of West Linn

*although I am a member
of W.L. U.I.A.B - I stand
here as a long time W.L.
resident.*



Pelz, Zach

From: Scott Gerber [jumpin@cmn.net]
Sent: Tuesday, October 30, 2012 3:14 PM
To: Pelz, Zach
Subject: letter to PC
Attachments: AA AGAIN.docx

Mr. Pelz

Attached is another letter of concern to our planning commission. Will you please see that they receive it and confirm Thanks Scott Gerber

Oct 30,2012

I would like to address a memorandum dated Oct 25 from LOT regarding the Lake Oswego-Tigard application for the water treatment plant and transmission pipeline. The subject heading is Code Compliance Response.

On page 5 the partnership addresses the issue of alternatives analysis with the following statement:

No alternatives analysis was conducted with regard to the plant because a) the WSMP presumes that the plant and the intertie will continue to provide a reliable source of emergency back-up water; and b) because there is no requirement that such a study be conducted.

I know that I and others have brought this subject up ad-nauseum, but because of this recent response by LOT, I feel forced to address it once more.

The response referring to the WSMP is a smokescreen as well as a continuation of LOT's fear mongering. If you don't play our game we remove the plant and the intertie. Their statement dodges the issue of any alternatives that would retain the intertie or both. If LOT and West Linn had had discussions on this in the past, perhaps this whole mess could have been avoided.

As for part b), no requirement, LOT is ignoring several specific code and comprehensive plan references that speak to the issue. I have referenced these in earlier communications but will repeat them here:

- In the staff report under 27.045 Critical Facilities it states "Construction of new critical facilities shall only be permissible within the SFHA if no feasible alternative site is available.
- L. Roads, driveways, utilities, or passive use recreation facilities. Roads, driveways, utilities, public paths, or passive use recreation facilities may be built in those portions of HCAs that include wetlands, riparian areas, and water resource areas when no other alternative practical exists but shall use water-permeable materials unless City engineering standards do not allow that
- "Project design minimizes environmental impacts to identified wetlands, wildlife habitat, AIR, water quality, cultural resources, and scenic qualities, and a site with fewer environmental impacts is not reasonably available" CDC 60.090(A)(3)

Where does the "burden of proof" come in here? Why is this or any applicant allowed to bypass the issue of there possibly being a better way?

LOT has been asked since this project surfaced to provide an alternative site analysis. They have had plenty of time to address this, yet they refuse. In their DSL application, they state as relates to a possible Willamette River site in LO:

“the necessary new development on the banks of the Willamette River would not be seen as an appropriate and necessary environmental impact by citizens of both communities” (referring to LO and Tigard

So, an alternative site or study of such might be offensive to their citizens, but there is no concern when it comes to the citizens of West Linn.

I know you are tired of hearing about this, but with each response LOT provides, they show their arrogance and lack of concern for the residents of West Linn. They have seen this project as a slam dunk, so have never felt the need to look into possible alternatives of which there are a number.

I urge the Commission once more to call them on the carpet regarding this issue. This project should not even be considered in any form without a documented report that it is indeed the best solution to the myriad issues that are being addressed.

Scott Gerber

3940 Kenthorpe Way, West Linn

Pelz, Zach

From: Gary Hitesman [ghitesman@gmail.com]
Sent: Tuesday, October 30, 2012 1:42 PM
To: Pelz, Zach; CWL Planning Commission; RNA Great Neighbor Committee; President RNA
Subject: CUP-12-02/CUP-12-04 New Evidence comment extension period ending 11/1/12 5:00 PM

- **Executive Summary:** As the latest letters attest, inconsistencies and misconstrued information given to citizens have undermined Neighborhood Associations and its function to work as a vehicle supporting Oregon Revised statute ~ enacting citizen participation and good planning. Both the partnership and the City of West Linn appear to have implemented draconian policies limiting participation at the same time staff and the partnership misinformed and misrepresented findings-of-fact. Part of this problem is a universal one that threatens to undermine the intent and purpose of planning in the State of Oregon. The paid-consultants and attorneys making a mockery of the process. Every one of these professionals participating have no understanding of aesthetics, sustainable design, REAL citizen participation, manifest superiority, and this code. You have heard of "Girls-Gone-Wild"? This application is planning porn. It is "Engineers-Gone-Wild". As Director Sonnen has reconciled previous errors, staff are not to be listened to.

Commissioners,

First; the pdf's provided on the website cannot be edited for review and commentary. This makes the "Burden of Persuasion" more difficult and time consuming. Therefore, I can only lead you to the page and paragraph instead of providing you with the actual words used. **Both Memorandum Covers are indistinguishable from one another! Pages are not numbered!** The organization and dissemination of information is inconsistent with the Plan and statute regarding clarity and public participation. How can a Commissioner, let alone a citizen, adequately address all the problems and issues brought forward? This type of disorganized repetitiveness has been used by the applicant to their advantage. Look to them to blame "us" for being repetitive! Without the proper organization of the information gathered and the ever-changing facts created by the applicant, behind closed doors, has made this application impossible to interpret.

Lacking clarity and creating a record of changing facts and figures has created a repetitive record that is hard to follow. The related confusion has made the application too difficult to approve. City administrators have failed you, us, and this code. Look at page 3, paragraph four and five, which notes insufficient notice to businesses. I can't tell how to discern what packet it is because neither set is distinguished. This 'disorganized' organizational practice does not support the clarity and consistency this code and revised statutes require. Potential impacts to all the businesses tied to the efficient flow of traffic on Hwy. 43 were never discussed with local business and/or the NA. This is a failure to support Goal 4 of Goal 1 in the WL Comprehensive Plan.

Second; letters discuss 2008 Water System Master Plan that I also just asked the Commission to read twice. I have reviewed it four times already. Essentially, the new evidence demonstrates the City and Applicant misconstrue and misinterpret the Plan. The major assumption of the Plan states that BOTH river crossings shall be assumed inoperable. The main objective of the WSMP is emergency water supply and delivery. The Plan is also clear on the options to be pursued; none of which was implemented by the City Manager in his negotiations. To wit: water is to come from Bull Run through L.O.; or, the Robinwood aquifer can be tapped. In the Plan, the aquifer was deemed to be too expensive because the water source was not immediately known without extensive research. But as the partnership discovered, and thus with the need for pilings, the plant sits above the reservoir of water that would meet with the goal and objectives of the WSMP. I request all commissioners look at the Plan again. It's all there and you can see first hand how the applicant, paid

consultants, and city staff have misinterpret and misconstrue the WSMP. As a benefit, this application should address the WSMP; not make stuff up!

Third, as one letter presents new information, the applicant has failed to make a presentation on the findings-of-fact, relying instead on complementing staff for their work. The applicant has gotten away with "not" presenting and instead deflecting serious concerns of these letters. As example, note these letters and Joel's comment that staff could not have done a better job of presenting the application. Instead of providing the "burden of proof", the Commission has to rely on the interpretations of Pam Beery; who is clearly masterminding the process and coordinating the efforts of staff with the applicant and city manager. This is also another large inconsistency with "burden of proof", the city's tendency to downplay citizen participation (like calling us "malicious"), and confusing the record by hiding the findings of fact under a mountain of paper and overburdened, under-resourced city department. As another letter asks, "How is Ms. Beery's oversight of the hearings NOT a Conflict of Interest?"

Lastly, Fourth, there is a letter regarding the facilitation by Greg McKenzie. The meeting they held at the NA was a complete farce of public participation. The letter provides evidence that the questions that Greg mentioned were culled and vetted before being made public. The team took questions in a bowl and only answered those they wanted to. The applicant applied their own layer of scrutiny and perception in a bias that favored them and ignored the REAL concerns of the neighbors. And even with that, the facilitation process does not meet with the intent and objectives of findings-of-fact or citizen participation. Indeed, this was a thankless task as well as unnecessary, inconsistent, and misinterpreted. I think Greg was duped by our own City Manager Chris Jordan! (IMO, getting a commission in this town is a double edged sword and example of your city managers' obstruction of the planning process.) Both Greg and Chris Jordan selected who they would talk to, culling people with standing away from the process. Greg himself only chose those who he wanted based on his own misconceptions of the process; not Oregon planning goals and objectives. As L.O. had asked "What was he smoking?" is not at all accurate. What was the City Manager smoking?

- *Both the applicant, the City of Lake Oswego, The City of Tigard, and West Linn staff, have failed to meet the "burden of proof" by being inconsistent, submitting an incomplete application, by the numerous changes that are not normal to the planning process, and being overly repetitive. As this new testimony supports, the commission shall deny CUP-12-02/CUP-12-04.*

As I read these letters, I did not detect a single example of emotion as the city consultants and city representatives have stated. Statements of emotion are just another example of misrepresentation and inconsistency being put into the record by the applicant. If I appear malicious in my emails, as the Planning Director recently said to Ms. Pam Beery, it is only because these consultants, and indeed L.O., appear to be a nefarious greedy bunch of neighborhood home-wreckers with no soul, consciousness, or respect for the citizens that they are harming. The Commission cannot allow, nor sanction, this type of civictomfoolery.

As information is to be immediately forwarded to the applicant, I also request as a matter of consistency and fairness that the commissioners receive letters equally; at the same time. This practice has been done by the City before and I request that the City maintain similar practices they have used in other applications.

(c) 2012 Gary Hitesman LLC



Harold & Kimberly Otterlei
1340 Tenth Street
West Linn, OR 97068
hkotterlei@gmail.com
503.657.0436
c 503.705.2748

Thursday, October 25, 2012

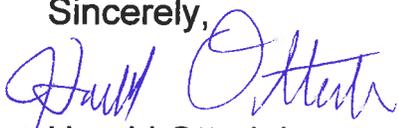
West Linn Planning Commission
22500 Salamo Road
West Linn, OR 97068

Re: Questions about the proposed LOT Water Treatment Center expansion

I attended the public hearing on Thursday, October 25, 2012. My questions:

1. Why is our city even considering this request?
2. If we say yes, what benefit does the City of West Linn get from the project?
3. Why aren't we as citizens being asked to vote on such a significant issue?
4. Is there another way the LOT need could be handled?

Sincerely,


Harold Otterlei

The UPS Store
19363 Willamette Dr.
West Linn, OR 97068

October 29, 2012

West Linn Planning commission
22500 Salamo Road
West Linn, OR 97068



Dear West Linn Planning Commission:

Hello and allow me to introduce myself. I have been the owner of the UPS Store on Willamette Drive since 2005. As the store owner, I am extremely concerned with regard to the Lot Water Treatment Plant. I strongly believe this expansion will greatly disrupt businesses in the West Linn area. This will be especially true for businesses along Willamette Drive Road and surrounding areas. Willamette Drive is the main and only artery for roads to and from my business. There are many other businesses that also reside on this main road. I am worried that any traffic slow-down will greatly affect my business in a very negative way. Customers will simply travel to other shipping outlets to avoid highway congestion. Other business owners, I have spoken to all share similar concerns of how this Lot Water Plant will adversely impact their businesses. Not only will this negatively affect the business community but the homeowners of West Linn who reside in this area will also be greatly affected. All will suffer from long traffic delays and loud construction noise on a daily basis. I am very worried that my business may not survive due to the extensive length of time to complete the project. I believe this endeavor could permanently destroy many West Linn businesses. They may never recover from the lack of customers during the construction time frame. As you well know, the economy has been very difficult for small neighboring businesses and this project will only cause further pain and hardship for all of us. Also, I employ other members of the West Linn community and I am afraid some would lose their jobs if business slows down.

I strongly hope you do not allow this plan to go further due to the tremendous damage it will bring to not only my business, but the overall community of West Linn as well. In conclusion, I ask you to please reconsider the future hardships the project will bring to all of us. Thanking you in advance for your time taken to read this letter and to carefully weigh the negative impact on us all.

Sincerely,

David Goldfarb

Pelz, Zach

From: Gary Hitesman [ghitesman@gmail.com]
Sent: Saturday, October 27, 2012 11:13 AM
To: Pelz, Zach
Subject: Re: CUP 12-04 continuance

As I read many of these comments, the preponderance of evidence overwhelming demands that this application be denied. I am 100% positive there is not a commissioner who can objectively support this application as meeting the burden of proof. Staff is incorrect in stating this application has met with the intent of the Comprehensive Plan, this code, and Oregon Statute 197 on coordinated land use requests. here you have additional information supplying you with a successful "burden of persuasion".

In addition, the public participation process, as evident in this additional information, has been hijacked by the city manager of West Linn in a last minute effort to salvage and provide redemption to his own mismanagement of the application.

As this testimony verifies, I request that the staff findings-of-fact be properly addressed and no longer misconstrued as an effort to undo any future, potential appeals to LUBA. I could simply state that the application is wholly without merit because the scale of what they propose exceeds the capacity of the site. This application might have worked. But as this testimony demonstrates, the partnership had a preconception of what they wanted to accomplish and set about the public participation process dishonestly and incompletely.

“The most racking pangs succeeded: a grinding in the bones, deadly nausea, and a horror of the spirit that cannot be exceeded at the hour of birth or death. Then these agonies began swiftly to subside, and I came to myself as if out of a great sickness. There was something strange in my sensations, something indescribably sweet. I felt younger, lighter, happier in body; within I was conscious of a heady recklessness, a current of disordered sensual images running like a millrace in my fancy, a solution of the bonds of obligation, an unknown but innocent freedom of the soul. I knew myself, at the first breath of this new life, to be more wicked, tenfold more wicked, sold a slave to my original evil and the thought, in that moment, braced and delighted me like wine.”

— [Robert Louis Stevenson, *The Strange Case of Dr. Jekyll and Mr. Hyde*](#)

On Fri, Oct 26, 2012 at 2:58 PM, Pelz, Zach <ZPELZ@westlinnoregon.gov> wrote:

Mr. Hitesman,

The links to testimony received yesterday are on the City's website here:

http://westlinnoregon.gov/sites/default/files/projects/pc_memo_10-26-12_with_attachments_0.pdf

http://westlinnoregon.gov/sites/default/files/projects/pc_memo_10-26-12_with_attachments_0_0.pdf

Zach

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

From: Gary Hitesman [mailto:ghitesman@gmail.com]
Sent: Friday, October 26, 2012 2:49 PM
To: Pelz, Zach
Subject: CUP 12-04 continuance

Dear Planner Mr. Pelz,

Has the new information from last night been posted yet? Could you please forward a link?

Gary

Pelz, Zach

From: lamontking@comcast.net
Sent: Thursday, October 25, 2012 5:09 PM
To: Pelz, Zach
Subject: PC testimony to be included in record
Attachments: West Linn Planning Commission Meeting.docx

Hi Zach,

After my presentation last week, the PC asked them I submit my testimony in writing. Please add this attachment to the PC file on LOT.

Thanks,

Lamont

West Linn Planning Commission Meeting 10/18/2012

LOT Water Treatment Plant Expansion

Testimony from: Lamont King

4257 Kenthorpe Way, West Linn OR

My name is Lamont King and I have been a resident of West Linn for over 40 years. I live across the street from the LOT Water Treatment Plant and was living there when it was constructed around 1968. We didn't want an industrial plant in our neighborhood then and we still don't.

Earlier this year I received several phone calls from people living on Mapleton who were recently sued by LOT to nullify covenants on the deeds to their property. These people were terrified by the prospect of being sued and asked me how another city could come into West Linn and use eminent domain to take away their property rights. They asked me how they could justify a huge industrial plant expansion in our city and put us through the construction nightmare and increased industrial presence after construction when the plant wasn't for their benefit.

I would like to address the Neighborhood Coordination contained in LOT'S filing and show how their interaction with our neighborhood was superficial and insincere and failed maintain a "high level of communication" during the construction phase. They acknowledge the plant is located "in the midst of a residential neighborhood " and that the plant must remain "compatible with this setting" which it does not.

My first experience with LOT came at a meeting at the local Presbyterian Church on 12/10/2010. Representatives from LOT conducted a meeting using handheld electronic devices to record responses to various questions about the proposed plant. A quick review of those questions revealed that many, if not all of the questions regarded issues that were not optional on the part of LOT. They will be required to replant/restore areas disturbed by the pipeline in MSY Park, they will be required to minimize pipeline time/disruption, they will have to maintain access to area homes during construction and they will have to ensure a safe school commute during the construction period. The list goes on and the more we read caused many of us to not participate in the voting which LOT dutifully recorded. This insulting attempt to create a record showing they worked with the neighborhood has continued throughout most of the process.

LOT mentions other Public Outreach in their proposed plan. They mentioned public briefings for neighborhood associations and other interested groups. They didn't mention that four of the largest and most active Neighborhood Associations(Bolton, Willamette,Hidden Springs and Robinwood) voted in support of the GNC and against LOT's unchecked expansion into our neighborhood.

LOT has attended many of our neighborhood meetings and conducted a number of open houses but have refused to sit down with concerned members of our community and address issues that have

many residents concerned about the impact this development will have on their homes and the liveability of the neighborhood.

Most, if not all of the mitigations LOT has claimed they included in their plan for the benefit of the community were required by the City of West Linn, TV&R and other approving bodies. The items requested by members of the community to specifically address the expansion of a major industrial facility in a residential neighborhood were for the most part ignored. There were recently meetings with LOT senior level people (the mayors and the Oversight Committee) and those meetings indicated that there was some common ground and perhaps with additional meetings and some sincere give and take, some of our concerns could be better addressed.

This expansion has little or no direct benefit to the citizens of West Linn (we already have mutually beneficial intertie) and this hearing is about the plant and not the pipeline. LOT's own Project Manager has publicly stated that the Clackamas watershed cannot provide long term water for existing customers in Clackamas County and now he plans on selling 20 million gallons a day to Tigard in order to subsidize Lake Oswego's water rates. I ask that the West Linn Planning Commission deem this application incomplete until the concerns of the citizens of West Linn have been properly addressed.

Respectfully submitted,

Lamont King 4/18/2012