

## Pelz, Zach

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**From:** Dave Froode [dfroode@comcast.net]  
**Sent:** Wednesday, November 21, 2012 9:56 AM  
**To:** Pelz, Zach; Sonnen, John; Jordan, Chris; Thornton, Megan  
**Subject:** Fwd: Fwd: Fwd: Fwd: Re: Letter to Zach Pelz  
**Attachments:** ATT00001.png

City of West Linn  
Planning Dept.  
Attn Zach Pelz

Nov. 20,2012

Dear Mr Pelz:

Thanks for your recent e-mail concerning the process involved in documenting the Planning Commission's action on the Lake Oswego/Tigard water project. It seems that we have a mis-understanding about our expectations.

The point we were attempting to make is that a draft of the findings document should be posted on the City's website, so that it can be reviewed by citizens prior to Planning Commission adoption. We apologize if this wasn't clearly communicated. While we recognize that we don't have the right to re-open the process, we do feel that the extensive community involvement warrants assurance that the documentation is prepared faithfully according to the Planning Commission's discussion and reasons for denying the applications. We thought use of the actual video/audio would aid in this process. We don't expect that the findings document be a verbatim recitation of the multiple public hearings. But the document needs to be more than a simple summary.

We understand that the task may not be an easy one in light of the staff's pre-hearing recommendations. But we're confident that a professional staff will act professionally and will accurately and comprehensively capture the factual and legal points made by the Planning Commission.

Our group and allied neighbors and businesses had hoped that the objectives of the two cities and ourselves could have been accommodated. We worked hard to emphasize the need for the Lake Oswego and Tigard to respond positively and sensitively to the West Linn community, just as they would to their own constituents. Not much movement occurred. We're committed to making this process work for West Linn and will be directly involved at each step along the way. If this matter is to go to the City Council, we want to make certain that the Council has the benefit of a clear, appropriately documented Planning Commission decision. No hidden agendas on our part are present.

That's why seeing the draft document is important to us. It would be a disservice to the community not to have this very public process continue with the high level of transparency which the Planning Commission used.

Thanks for your cooperation. If you have any questions, please contact one of us.

Very truly yours,  
David J. Froode  
Wm. J. More  
Pete Bedard  
Chuck Landskroner  
Rebecca Walters  
Thomas Holder  
Norman B. King  
Carl and Linda Edwards  
Jack Norby  
Scott Gerber

*Glenda Whittle*

cc: City Manager  
City Attorney  
Planning Director



## Pelz, Zach

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**From:** Pelz, Zach  
**Sent:** Friday, November 16, 2012 8:42 AM  
**To:** lamontking@comcast.net  
**Cc:** Sonnen, John  
**Subject:** RE: Planning Questions  
**Attachments:** image001.gif

Lamont,

All parties with standing, including yourself, will receive notice of the Planning Commission's decision when it is issued. The Planning Commission's decision is not subject to further public input at this point and will reflect their deliberations during the public hearing for the two LOTWP projects.

Zach

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**From:** lamontking@comcast.net [mailto:lamontking@comcast.net]  
**Sent:** Thursday, November 15, 2012 7:36 PM  
**To:** Pelz, Zach  
**Cc:** Blake, Steve; Bryck, Kevin; Carson, Jody; Cummings, Teri; Jones, Michael; Kovash, John; Tan, Jennifer  
**Subject:** Re: Planning Questions

Thanks Zach! Can you notify me when it is available? There are a number of issues raised by our Planning Commission that need to be addressed including the poor quality of geology work presented by LOT. They also mentioned an existing pipeline that is 24" in diameter that poses an immediate risk to the neighborhood. It still concerns me that our own Planning Dept. recommended an application that was roundly deemed inadequate by the entire Planning Commission.

Lamont

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**From:** "Zach Pelz" <ZPELZ@westlinnoregon.gov>  
**To:** lamontking@comcast.net  
**Sent:** Thursday, November 15, 2012 8:01:44 AM  
**Subject:** RE: Planning Questions

Good morning, Lamont –

We're working on preparing the draft findings for the Planning Commission's review as we speak and expect to be able to forward them to the Planning Commission shortly.

Thanks,

Zach



Zach Pelz, AICP  
[ZPELZ@westlinnoregon.gov](mailto:ZPELZ@westlinnoregon.gov)  
Associate Planner  
22500 Salamo Rd.  
West Linn, OR 97068  
P: (503) 723-2542  
F: (503) 656-4106  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

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**From:** lamontking@comcast.net [mailto:lamontking@comcast.net]  
**Sent:** Wednesday, November 14, 2012 4:09 PM  
**To:** Pelz, Zach; Tan, Jennifer  
**Cc:** Blake, Steve; Bryck, Kevin; Kovash, John; Carson, Jody; Cummings, Teri; Jones, Michael  
**Subject:** Planning Questions

Hi Zach,

When will the Planning Commission Report be completed on the LOT projects? Is LOT waiting for that report in order to file their anticipated appeal? Are you including the findings by Dr. Martin that the pipeline constitutes "transportation" and thus the HWY 43 requirements are increased significantly. I believe this was reluctantly confirmed by our attorney, Pam Beery at the hearing. Thank you for your time in providing me with this information!

Lamont

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## Pelz, Zach

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**From:** Pelz, Zach  
**Sent:** Thursday, November 15, 2012 2:35 PM  
**To:** dfroode@comcast.net  
**Subject:** response to provide verbatim minutes

Mr. Froode –

In response to your offer to provide the Planning Commission with verbatim minutes of their deliberation during the public hearings for CUP-12-02/DR-12-04 and CUP-12-04/DR-12-14: It is not the Planning Commission's practice to rely on new material or public comments regarding the draft final decision in crafting their decision. Your letter, and minutes if you choose to provide them, will be forwarded to the City Council in the event the Planning Commission's decision is appealed.

Please let me know if you have any questions. Thanks,

Zach

## Pelz, Zach

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**From:** lamontking@comcast.net  
**Sent:** Wednesday, November 14, 2012 4:09 PM  
**To:** Pelz, Zach; Tan, Jennifer  
**Cc:** Blake, Steve; Bryck, Kevin; Kovash, John; Carson, Jody; Cummings, Teri; Jones, Michael  
**Subject:** Planning Questions

Hi Zach,

When will the Planning Commission Report be completed on the LOT projects? Is LOT waiting for that report in order to file their anticipated appeal? Are you including the findings by Dr. Martin that the pipeline constitutes "transportation" and thus the HWY 43 requirements are increased significantly. I believe this was reluctantly confirmed by our attorney, Pam Beery at the hearing. Thank you for your time in providing me with this information!

Lamont

## Pelz, Zach

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**From:** Shroyer, Shauna  
**Sent:** Tuesday, November 13, 2012 10:23 AM  
**To:** Pelz, Zach  
**Subject:** FW: Letters  
**Attachments:** SPWKonica12110909240.pdf; SPWKonica12110909241.pdf

▪ Shauna Shroyer, Administrative Assistant  
Planning, #1557

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**From:** Shroyer, Shauna  
**Sent:** Friday, November 09, 2012 9:55 AM  
**To:** Holmes, Gail; Martin, Robert; Michael Babbitt; Miller, Holly; Russell Axelrod; Steel, Christine; Thomas Frank  
**Subject:** Letters

Good Morning,

Two letters were received here at city hall for the planning commission. The first letter from Yvonne Davis was sent individually to each member of the commission. The second letter from Steve Hopkins was sent to the commission as a whole.

Shauna

## Pelz, Zach

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**From:** Shroyer, Shauna  
**Sent:** Tuesday, November 13, 2012 10:23 AM  
**To:** Pelz, Zach  
**Subject:** FW: Debt of gratitude to Planning Commission

Shauna Shroyer, Administrative Assistant  
Planning, #1557

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**From:** Shroyer, Shauna  
**Sent:** Friday, November 09, 2012 8:04 AM  
**To:** Holmes, Gail; Martin, Robert; Michael Babbitt; Miller, Holly; Russell Axelrod; Steel, Christine; Thomas Frank  
**Subject:** FW: Debt of gratitude to Planning Commission

FYI

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**From:** Sonnen, John  
**Sent:** Thursday, November 08, 2012 4:38 PM  
**To:** Shroyer, Shauna  
**Subject:** FW: Debt of gratitude to Planning Commission

Please forward to the PC

John Sonnen, Planning Director  
Planning and Building, #1524

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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:** Ray and Kim Cozby [<mailto:rcozby@hotmail.com>]  
**Sent:** Wednesday, November 07, 2012 9:29 AM  
**To:** Sonnen, John  
**Subject:** Debt of gratitude to Planning Commission

Dear Chair Michael Babbitt, Vice Chair Gail Holmes, Christine Steel, Holly Miller, Robert Martin, Russell Axelrod, and Thomas Frank,

My wife and I would like to express our profound gratitude for your work recently regarding the applications for Conditional Use Permits to construct a massive water treatment plant on the residential lots in the Mapleton Grove platt in West Linn. As opponents of the project we are extremely relieved by your decision and feel our neighborhood and homes are at least temporarily protected. But more than that we want to thank you for *how* you performed your work, the high levels of dedication, thoughtfulness, thoroughness, intelligence, courage and tenacity that you displayed through your time and attention to the process. I think all of us were just hoping that all of the facts would be fairly presented and that our Planning Commission would listen and consider all of these important issues when rendering a decision. And we feel that's exactly what happened, we could not have asked for more from you. You were fair and comprehensive in your deliberations and provided both the applicant and the opposition ample time and opportunity to express ourselves. It had always seemed clear to us that a reasonable person would come to the conclusion that the proposed project was not appropriate and does not meet the tests as provided in statute but then

again you just never know. The statements each of you made at the conclusion of deliberations were EXACTLY spot on. I hope those comments are memorialized and documented for future reference.

Your willingness to volunteer and devote all of this time for the protection of our community is laudable. You have strengthened our faith in the system, thank you for that. I know for a fact that many others share our sentiments.

Very Best Regards,

Ray and Kim Cozby  
4284 Mapleton Drive  
West Linn, Oregon

## Pelz, Zach

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**From:** Sonnen, John  
**Sent:** Friday, November 09, 2012 4:55 PM  
**To:** Pelz, Zach; Worcester, Ken; Pam Beery  
**Cc:** Abeles, Jim  
**Subject:** FW: Granting easement to Lake Oswego/Tigard Water Partnership  
**Attachments:** LO-West Linn neighbors\_2012.11.pdf

FYI

John Sonnen, Planning Director  
Planning and Building, #1524

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-----Original Message-----

**From:** Vanessa Demoe [mailto:vanessa.demoe@state.or.us]  
**Sent:** Friday, November 09, 2012 3:20 PM  
**To:** jumpin@cmn.net  
**Cc:** rebecca.walters@adp.com; karieokee@aol.com; gwensieben@att.net; jkomarek@ci.oswego.or.us; lindaedwards@clear.net; dfroode@comcast.net; hawkey88@comcast.net; mark.ellsworth@comcast.net; normbking@gmail.com; pete.bedard@gmail.com; patvicsmith@q.com; CWL Planning Commission; Carson, Jody; Tan, Jennifer; Jones, Michael; Cummings, Teri  
**Subject:** RE: Granting easement to Lake Oswego/Tigard Water Partnership

Mr. Gerber,

Please see attached letter from Oregon State Parks Commission Chair, Mr. Moriuchi.

Thank you,

Vanessa R DeMoe  
Oregon Parks and Recreation  
Assistant to the Director & Commission Assistant  
725 Summer St NE, Ste C  
Salem, OR 97301  
Ph 503-986-0719  
Fax 503-986-0796





# Oregon

John A. Kitzhaber, MD, Governor

## Parks and Recreation Department

725 Summer St. NE, Suite C

Salem, OR 97301-1271

(503) 986-0707

Fax (503) 986-0794

[www.oregonstateparks.org](http://www.oregonstateparks.org)



Date: November 8, 2012

Scott Gerber  
3940 Kenthorpe Way  
West Linn OR 97068

RE: Granting easement to Lake Oswego/Tigard Water Partnership

Dear Mr. Gerber

Thank you for presenting your issues to the Oregon Parks and Recreation Commission at the November 7, 2012 meeting. This letter is a follow-up to the discussion and decision made at that meeting that is intended to provide additional background of the Commission's deliberation and decision.


As you know, Mary S. Young State Park is owned by Oregon Parks and Recreation Department (OPRD) and managed by City of West Linn through an intergovernmental agreement. When the Lake Oswego/Tigard Water Partnership approached West Linn Parks and OPRD proposing a potential water supply alignment, we responded collectively with West Linn as we would with any local government with whom we are partners: we examined the Partnership's proposal for consistency with the intergovernmental agreement and with our policy. Initially, we deemed their proposal unacceptable due to the disturbance to park uses and the potential impact on natural resources. The Partnership responded with a refined proposal that significantly reduced impacts to both park uses and natural resources. In addition, they agreed to additional park enhancement projects that enabled the proposal to meet our policy.

As an advisory body appointed by the Governor, the Commission provides guidance to the department for management of state parks for park users throughout the state. When projects arise that are important to local jurisdictions and governed by local land use regulations, the department and Commission respectfully defer to local jurisdictions, where they have applicable authority, after such projects are deemed compatible with OPRD's policies. The action the Commission took on November 7 did just that. The action granted the temporary construction easement and the perpetual easement contingent on (1) the final local land use approval and (2) Oregon Department of Justice approval of resolution of any deed restriction issues. If local land use approval is not obtained, OPRD does not grant the easement.

The Commission has been provided with considerable background on this project and the issues with surrounding neighborhoods. While the central focus of the Commission is to assure protection of park properties and their uses, we are concerned with being good neighbors. Part of being a good neighbor is to honor and respect local jurisdictions and their processes. We trust the local public processes will be thorough, open and transparent and the right decisions will be made in the public forum.

We appreciate your interest in our valuable parks and their uses and value your input. Thank you for your testimony to the Commission.

Sincerely,

A handwritten signature in cursive script that reads "Davis G. Moriuchi".

Davis Moriuchi  
Chair, Oregon State Parks Commission

CC:

Carl Edwards  
Vicky and Pat Smith  
David Froode  
Mike Cooper  
Mark Ellsworth  
Norm King  
Karie Oakes  
Rebecca Walters,  
Gwen Sieben,  
Pete Bedard,  
Joel Komerek  
West Linn City Council  
West Linn Planning Commission

## Pelz, Zach

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**From:** Sonnen, John  
**Sent:** Thursday, November 08, 2012 4:38 PM  
**To:** Pelz, Zach  
**Subject:** FW: Debt of gratitude to Planning Commission

FYI

John Sonnen, Planning Director  
*Planning and Building, #1524*

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**From:** Ray and Kim Cozby [mailto:rcozby@hotmail.com]  
**Sent:** Wednesday, November 07, 2012 9:29 AM  
**To:** Sonnen, John  
**Subject:** Debt of gratitude to Planning Commission

Dear Chair Michael Babbitt, Vice Chair Gail Holmes, Christine Steel, Holly Miller, Robert Martin, Russell Axelrod, and Thomas Frank,

My wife and I would like to express our profound gratitude for your work recently regarding the applications for Conditional Use Permits to construct a massive water treatment plant on the residential lots in the Mapleton Grove platt in West Linn. As opponents of the project we are extremely relieved by your decision and feel our neighborhood and homes are at least temporarily protected. But more than that we want to thank you for *how* you performed your work, the high levels of dedication, thoughtfulness, thoroughness, intelligence, courage and tenacity that you displayed through your time and attention to the process. I think all of us were just hoping that all of the facts would be fairly presented and that our Planning Commission would listen and consider all of these important issues when rendering a decision. And we feel that's exactly what happened, we could not have asked for more from you. You were fair and comprehensive in your deliberations and provided both the applicant and the opposition ample time and opportunity to express ourselves. It had always seemed clear to us that a reasonable person would come to the conclusion that the proposed project was not appropriate and does not meet the tests as provided in statute but then again you just never know. The statements each of you made at the conclusion of deliberations were EXACTLY spot on. I hope those comments are memorialized and documented for future reference.

Your willingness to volunteer and devote all of this time for the protection of our community is laudable. You have strengthened our faith in the system, thank you for that. I know for a fact that many others share our sentiments.

Very Best Regards,

Ray and Kim Cozby  
4284 Mapleton Drive  
West Linn, Oregon

**RECEIVED**

NOV - 7 2012

PLANNING & BUILDING  
CITY OF WEST LINN  
INT. \_\_\_\_\_ TIME \_\_\_\_\_

✓ Michael Babbitt, Chair  
West Linn Planning Commission  
22500 Salamo Road  
West Linn, OR 97068

Nov 7, 2012

Re: Lake Oswego-Tigard Water System Improvements Conditional Use Permit Applicatons

Dear Chair Babbitt:

The undersigned are citizens who testified during the Planning Commission's consideration of the Lake Oswego – Tigard applications for expansion of those cities' water system improvements. As we understand it, the next step in the Planning Commission's process is the preparation and adoption of findings, documenting the Planning Commission's denial of the Lake Oswego – Tigard applications.

As the Planning Commission is aware, the applications were very controversial and created a significant level of community involvement. Obviously, the many residents and property owners who testified at the Commission's hearings, concurred with the Commission's denial decision. Our interest, at this point, is in having the documentation prepared in sufficient and accurate detail so that the Planning Commission's reasoning is reflected.

We trust that the City staff and legal counsel will prepare the findings in accordance with the Planning Commission's deliberations. It is important to us that there be a full explanation in the findings document as to what occurred at the ultimate Commission meeting. Because the City has a video/audio of the hearing, excellent source materials exist so that the findings can be complete and capture the Commission's intent. In an effort to memorialize the Commission's action we are in the process of transcribing the video of the final hearing. We are quite willing to offer the transcription of the video for the Commission's benefit.

Our objective in this process is neither to interfere with the staff nor the Planning Commission in concluding this phase of the process. Rather, we think that a community-wide ability to view and understand the proposed findings and offer any appropriate comment is a final step in an admirably administered public process. Assuming the Commission would agree

there is widespread community interest, we respectfully request that once the findings are drafted and they be posted on the City's website allowing any interested party to read them prior to Commission action on them.

Thank you for affording citizens full and robust participation in all the Planning Commission hearings on these applications. At this point, we simply want the paperwork to be correct, to reflect the Commission's reasoning and to continue the transparency exhibited throughout.

Respectfully,  
Charles K.Landskroner  
Peter Bedard  
Scott Gerber  
Carl L Edwards  
Linda Edwards  
Shanon M. Vroman  
Mike Cooper  
Glenda Waddle  
William J. More,  
Robinwood Shopping Center  
Norm King  
Jack Norby  
Rebecca Walters  
David J. Froode  
Thomas Holder  
Kevin Bryck  
Thomas J. Sieben  
Gwen L. Sieben

CC Chris Jordan, West Linn City Manager  
Director of Planning, John Sonnen  
Staff Planner, Zach Pelz

## Pelz, Zach

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**From:** Sonnen, John  
**Sent:** Tuesday, November 06, 2012 3:50 PM  
**To:** Pelz, Zach  
**Subject:** FW: Wilsonville Willamette River Water Treatment plant visit  
**Attachments:** imageaa5a7e.gif@d917b2ab.8dd244dd

For the Council record

John Sonnen, Planning Director  
Planning and Building, #1524

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**From:** Tan, Jennifer  
**Sent:** Tuesday, November 06, 2012 2:02 PM  
**To:** Sonnen, John  
**Cc:** Jordan, Chris  
**Subject:** FW: Wilsonville Willamette River Water Treatment plant visit

Hi John,  
Can you please include in the LOT record as ex-parte contact.  
Thank you,  
Jenni

 Councilor Jennifer Tan  
[itan@westlinnoregon.gov](mailto:itan@westlinnoregon.gov)  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, OR 97068  
P: (503) 657-0331  
F: (503) 650-9041  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

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**From:** Tan, Jennifer  
**Sent:** Tuesday, November 06, 2012 1:56 PM  
**To:** [shanewyer@netscape.net](mailto:shanewyer@netscape.net)  
**Subject:** RE: Wilsonville Willamette River Water Treatment plant visit

Hi Shane,  
Thank you for your thoughtful e-mail. We understand our citizens' concerns, and we have provided our citizens with financial assistance for mediation and planning. Our staff have worked to obtain various forms of compensation for West Linn should the land use case be approved. Currently, the Planning Commission has denied this land use case, and it most likely will be appealed to the Council.

I hope that it is okay that I forward your e-mail to our planning department as ex-parte contact. We are required to do this for all correspondence related to land use cases.

Thank you,  
Jenni Tan

---

**From:** shanewyer@netscape.net [shanewyer@netscape.net]  
**Sent:** Saturday, November 03, 2012 8:39 AM  
**To:** Tan, Jennifer  
**Subject:** Wilsonville Willamette River Water Treatment plant visit

Hi Jenni,

I work at the water treatment plant in Wilsonville and work with Gary Simantel (his grand daughter and your daughter play soccer together). A few weeks ago we had a couple people come to our plant trying to gain some experience about water treatment because they live on the street that the water plant (City of Lake Oswego plant) is doing the upgrades. They want to know what involves building a plant and everything else that has to do with the operations and safety issues.

Another operator (not Gary) and myself spent about 30 minutes talking with them. I am sending you this from my home email so there is no conflict with my work (Veolia Water). They are concerned about the traffic of big trucks and numerous trips back and forth down the street. Since I have been at our plant since the near end of construction (January 2002), I feel like I can give them my honest opinion that the construction process at our plant was very sensitive to the neighbors concerns that live by the plant. They built a park that is right up against the plant and the plant exterior windows have displays in them showing what is behind the plant process at that location. They also wanted to make sure there was not a lot of lights from the plant at night.

The couple mentioned that there are no sidewalks on the streets and I asked if they could ask the city if they proceed with the upgrades, if the city could install sidewalks after the plant upgrade and pipeline is replaced since they will have to tear up the road and then rebuild it. So, this is my recommendation to you. What can the city do to compensate the homeowners and be proactive since there are concerns from the neighbors? I think it would be great if it was decided to do something like this and turn to the people and say, "we are going to do this for you" instead of them having to ask.

I thought, if I lived on the street what could be done to help ease mine and my neighbors concerns. If I didn't like the idea of all this going on and thought, "it's probably going to happen if I like it or not, but at least they are going install (blank).....or do this (blank).....for us.

I do not know if the city has offered to do anything or not and I have no idea if they are fighting this. This just happens to be some concerned neighbors trying to get some information that could impact their home values and safety in this process. Since I talked to Gary about the couple, he recommended I send you an email.

Thanks,  
Shane



## Pelz, Zach

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**From:** Sonnen, John  
**Sent:** Tuesday, November 06, 2012 3:48 PM  
**To:** Pelz, Zach  
**Subject:** FW: Water treatment plant decision...

For the council record

John Sonnen, Planning Director  
Planning and Building, #1524

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-----Original Message-----

**From:** Tan, Jennifer  
**Sent:** Tuesday, November 06, 2012 2:01 PM  
**To:** Sonnen, John  
**Cc:** Jordan, Chris  
**Subject:** FW: Water treatment plant decision...

Hi John,  
Can you please include in the LOT record as ex-parte contact? Thank you.  
Jenni

Councilor Jennifer Tan  
<mailto:jt@westlinn.oregon.gov>  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, OR 97068  
P: (503) 657-0331  
F: (503) 650-9041  
Web: <http://westlinn.oregon.gov>

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**From:** Tan, Jennifer  
**Sent:** Friday, November 02, 2012 1:56 PM  
**To:** Jeff O'Brien  
**Subject:** RE: Water treatment plant decision...

Dear Mr. O'Brien,  
LOT's application is a land use appeal, and by duty I must act in a quasi-judicial decision maker. I must listen to the case and then base my decision on the case. Without listening to the case under legal procedures, I cannot rule either way. Please do not infer from my response that I am biased either way to approve or deny.



Thank you,  
Jenni Tan

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From: Jeff O'Brien [jeff@dogwood-design.com]  
Sent: Friday, November 02, 2012 10:00 AM  
To: Tan, Jennifer  
Subject: Water treatment plant decision...

Hi,

I've just read the Oregonian article stating that the WL planning commission has denied LOT's application to expand their plant. The article also stated that it would most likely be appealed to the WL city council.

This means that voters will want to know how you'll vote in that appeal. I haven't voted yet...

I look forward to your response.

Thanks,  
Jeff O'Brien  
18740 Nixon Ave.

## Pelz, Zach

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**From:** Kerr, Chris  
**Sent:** Tuesday, November 06, 2012 8:48 AM  
**To:** Sonnen, John; Pelz, Zach  
**Subject:** FW: Today's RBA Meeting Summary

This was sent to the CC, pls add to the record

Chris Kerr, Economic Development Director  
*Economic Development, #1538*

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

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**From:** Thomas Clayton Boes [mailto:tcboes@gmail.com]  
**Sent:** Monday, November 05, 2012 12:40 PM  
**To:** Neace, Linda; Kerr, Chris; Wyatt, Kirsten; Kovash, John; Tan, Jennifer; Jones, Michael; Carson, Jody; Cummings, Teri  
**Subject:** Today's RBA Meeting Summary

Good afternoon!

For those of you who could not attend today's November meeting of the Robinwood Business Association, you can read my summary of the discussion here,

Robinwood Business Association - November Meeting Summary.

To follow our discussion, 'Friend' the Robinwood Business Association on Facebook.

Thank you.

**Thomas Boes**, Chair

Robinwood Business Association - West Linn Chamber of Commerce

November 4, 2012

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

Dear Planning Commissioners:

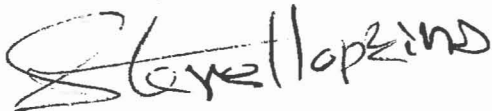
I was serving on jury duty in Portland's Federal District Court last week and missed the meeting during which you rejected Lake Oswego/Tigard's treatment plant expansion.

Thank you for your service on the Planning Commission, your patient review of residents' testimony and your ability to transcend the Planning Staff's focus on codes to the apparent exclusion of residents' safety concerns. This is why we need the common sense and wisdom of the Planning Commission!

To approve the application probably would have been an act of negligence which later could have caused serious harm. The trial I served on recognized negligence which harmed 12 Oregon National Guardsmen and resulted in the jury's award of \$85,000,000 to the plaintiffs.

You have served the city well and we appreciate it.

Sincerely,

A handwritten signature in black ink that reads "Steve Hopkins". The signature is written in a cursive, slightly slanted style.

Steve Hopkins  
3910 Mapleton Drive

Commissioner Babbit

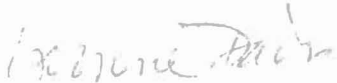
November 2, 2012

City of West Linn  
Planning Department  
22500 Salamo Road #1000  
West Linn, OR 97068

Dear Commissioner Babbit,

Thank you for voting "No" on the LOT projects last night. It is a testament to your ability as commission chair that the proceedings moved as smoothly as they did. Reading through all the materials and testimony must have been a daunting task. But you and your commissioners persevered with integrity and dedication. Thank you for standing up for the people of West Linn.

Sincerely,



Yvonne Davis

4226 Mapleton Drive

West Linn

## Pelz, Zach

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**From:** Gary Hitesman [ghitesman@gmail.com]  
**Sent:** Thursday, November 01, 2012 12:02 PM  
**To:** Pelz, Zach; RNA Great Neighbor Committee; CWL Planning Commission  
**Subject:** CUP-12-04/12-02~My apologies on affronting sensitive sensibilities-Oct. 25 response to new evidence & the Tidings article does not match my experience or observations

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Planning Commissioners,

Today's article in the Tidings cannot go unanswered. Their editorializing rubs me the wrong way. My fight is really all about *this code*.

The Tidings article underscores many of the observations placed into new evidence on Oct. 25. Indeed, it appears that a whole lot of new evidence has recently surfaced that should RE-OPEN the hearing for public testimony after the applicant has responded to their first and second set of misrepresentations.

1.) the city tries to "come to a conclusion that is best for everyone in the end."

I believe the Record says otherwise. The presentation by staff has been less than objective, unprofessional, and wholly supportive to the applicant by not administrating this code properly.

2.) "This isn't personal to (the residents). ... It's about how to move land use forward." Wyatt said. "They need to recognize staff is pushing forward a process that works. It's not about taking sides."

Really? This is not how you move land use forward! I'm sorry. Land use moves forward by virtue of this code and the Comprehensive Plan. Ms. Wyatt is ignorant of planning and an inept director of our neighborhood associations. She is the one who chose sides a long time AGO and has put residents at odds with the Planning Commission and Council. But I agree on one point. This isn't personal. Nor is it emotional.

3.) "It's hard to figure out where to toe the line," she said. "We have to ask ourselves, 'Is this an atypical conversation that would happen in another land use case?'" and this is not."

Ms. Wyatt is correct. The City has failed at the CCI and NA level consistently. The list of failed planning projects backs my claim stronger than it does hers. Atypical in that citizens now know for a fact how staff and consultants view 'us'. The city practices to screw everybody in how it administrates planning applications.

4.) Assistant City Manager Kirsten Wyatt said city staff and the city council have been uncomfortable during the whole LOT application process, having to walk a thin line

This is the path Kirsten and Chris put forward. Residents have not been put first; they have been brushed aside. Ms. Wyatt is disingenuous, as always. The thin line is the new ex parte policy that the council hides behind and was put there by the CM. Really, take a look at ORS 197 Ex Parte notifications. It is not really a thin line. It is a ruling requiring transparency and remaining objective. These are traits that Jordan, Wyatt, and the council appear to misunderstand.

5.) He denied any collusion.

There is empirical and there is factual. The record contains neither empirical or factual basis that the City Manger colluded with certain residents and/or L.O. Not all the evidence and facts are out, yet. There is an assumption of innocence here that does not align with L.O.'s condemnation of covenants when the City itself owns one of the affected properties. There are many actions of the City manager that suggest collusion has taken place. It appears to have taken place with the lack of public discussion(on the status of the city's own covenant) and any deals struck with L.O. Why is the record silent? *The Commission needs to take that opinion into the Record.*

6.) "If we screw up on process, we could lose on a mistake made by us. If (the applicant) can tell us up front what they object to, we know what to address." Jordan said.

Or, as Jordan and Kovash have done in the past, cover it up? This is what happened when then Director Brown failed to enforce a required conditional use process for the Holiday Inn application, CUP-10-03(?) I just have not yet uncovered the "smoking gun" with this application but, likely, will after I have reviewed the engineering reports overseen by the terminated Engineering Director, Mr. Greene. But there is anecdotal evidence to suggest that the PC had better check it's facts and information before making their decision. It was the PC that failed to make the simple observation with CUP-10-03 last time. Staff, as it turned out, was oblivious(??) to the mistake. And that was when a new tactic was implemented by then councilor Kovash after the CM "exploded" at a following council retreat. *I was requested to submit 'other' evidence and I misplaced my ethics, loyalties, and allowed evil to prevail, AGAIN!!* The applicant ended up taking the City to court and was offered a scathing article in the Oregonian criticizing the city for it's egregious representation and altering the facts.

Or how about the play structure this commission allowed earlier? You know, Spir's Folly?! The error was on page two of the application and nobody picked up on that!

I think History is set to repeat itself; only in spades this time. All commissioners are potentially culpable. However, I still have faith in your abilities and wisdom to overcome the adversity of the false counsel you have been subjected to. I'm only asking that you don't drink the Kool-Aid the City is offering. It is a Foul Swill.

7.) In response to Mr. Sonnen. Am I malicious? No.

***ma·li·cious/mə'liSHəs/***

Adjective: Characterized by malice: intending or intended to do harm: "malicious rumors".

Synonyms: malevolent - spiteful - vicious - malignant - wicked

***Muckracker?*** Yes, definitely.

muck·rake (mŭk' rāk')

*intr.v.* muck·raked, muck·rak·ing, muck·rakes

***To search for and expose misconduct in public life.***

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[From the man with the muckrake, *tool for raking muck, who cannot look up to heaven because he is so obsessed with the muck of worldly profit, in Pilgrim's Progress by John Bunyan.*]

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**muck' rak er n.**

My emails are direct. I will match being "uncouth" to the City's being "crass". But really, given how I have seen the RNA treated, how fellow residents have been sued without representation or given a fair chance, and how city administrators have treated us; I would simply say "This is the tea kettle calling the frying pan black". Sonnen is a man who appears to be stealing our money versus someone who is representing the best welfare of residents. The track record for public stewardship of planning is abysmal! Why should I sugar coat what I believe to be evidently true? Sonnen is working for the City Manager and collaborating with Pam Beery who is

also advising the applicant at the same time she drafted a draconian interpretation of ex parte that has upended Goal One policies and goals. This is simply a conflict-of-interest that the CM created and is now trying to cover up. It will not work!

Attached is a copy of Today's article in the Tidings, to be submitted in the record;

Residents got a behind-the-scenes look at how city planning works last week when a camera was left running after a planning commission meeting.

Conversations between city staff and representatives from the Lake Oswego-Tigard Water Partnership were recorded for nearly an hour after the Oct. 25 meeting was over.

That evening's agenda was the conclusion of public testimony, the third in a series of hearings in the conditional use process for an expansion of a water treatment plant in West Linn's Robinwood neighborhood and the installation of a new pipeline.

West Linn residents have continually expressed concern about the projects. Residents worry about years of disruption, reduced property values, noise, light, construction traffic, risk of flooding and burst pipes, chemicals and the appropriateness of the site.

Over the past two years, some residents have expressed distrust with the city and that the project is being pushed ahead without protecting or listening to the residents. To some, the recorded conversation confirms their opinion.

After the audience and planning commissioners left on Oct. 25, West Linn Attorney Pam Beery, Planning Director John Sonnen, Associate Planner Zach Pelz and LOT representatives Carrie A. Richter with Garvey Schubert Barer, Jonathan Holland with Brown and Caldwell and Pete Oveson with Brown and Caldwell stayed behind to talk. Though they were mostly off screen, the majority of their conversation could be heard.

Tonight will be LOT's chance for rebuttal and time for the planning commissioners to ask questions, so last week the group talked about what should be addressed during rebuttal.

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"I typically don't mind getting the applicant's perspective," said Beery.

The conversation took a turn when the applicants said they wouldn't delve too deeply into some issues because the projects are almost guaranteed to be appealed to the city council and the process will start over again anyway.

"This planning commission, I think you know, just wants to do everything regardless of the fact that we make it a procedural do-over. ... They just really want to do everything right and be very deliberative of that," Beery said.

When the group discussed criteria and the wants of the neighbors, they said a lot of the issues neighbors raised are not tied to the criteria needed to approve the projects.

“We could respond to a whole bunch of irrelevant stuff to really tug on somebody’s heartstrings,” Holland said.

West Linn staff members agreed.

“The extent that you make it politically more palatable for (planning commissioners) by responding to some of the neighbors’ concerns that aren’t captured in criteria ... I mean, that’s probably good to put that toward the end than waste valuable time,” Sonnen said.

Shortly after, the LOT representatives left and city staff stayed behind and continued talking for about a half hour.

As is custom for the city, the meeting footage was cut to show gavel to gavel, and so this conversation is no longer on the website. Also, according to City Manager Chris Jordan, because the conversation included the city attorney speaking with staff members, it is considered attorney-client privilege.

Since last weekend, copies of the footage have been shared with neighbors in Robinwood and beyond. Some have had a strong reaction to it, believing the city should not be interacting and making game plans with the applicant.

“My reaction is it’s extremely unfortunate,” resident Dave Froode said. “At first it hurt. The very people I hope have our best interest at stake are working against us. That angers me.”

Resident Eric Jones was also upset after watching the footage. “I was appalled that the level of collusion raised to this level. I am very disappointed.”

Jones said the city was attempting to get the project approved regardless of what citizens want.

“The neighborhood has suspected for a long time this issue has been controlled by the city,” he said. “The process needs to be halted and examined. ... The process is biased toward the applicant and that is not what code requires.”

Resident Bob Stowell said, “They are just trying to cram this thing down our throat. ... Frankly, I don’t trust the city at all.”

However, city officials said these interactions, though not caught on video, happen frequently in the planning process.

“If there was an issue of secrecy, they wouldn’t have been meeting in the council chambers,” Jordan said.

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“It’s hard to figure out where to toe the line,” she said. “We have to ask ourselves, ‘Is this an atypical conversation that would happen in another land use case?’ and this is not.”

Jordan stressed the need that when the application goes to city council and the council makes its decision that it is upheld if it is taken to the state land use board of appeals.

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The planning commission will meet at 7 p.m. today at city hall to hear rebuttal from LOT and have time for the commissioners to ask questions and potentially deliberate on the application.

Michael Monical  
18735 Nixon Ave  
West Linn, Oregon 97068  
November 1, 2012

Submitted 11/1/2012  
CU: sdp  
[Signature]

Additional testimony in response to Applicants Submittals on October 25th 2012.

The Applicant Submitted Additional Testimony (page 94):

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*CDC 60.070(A)(3) Needs – provide for a facility that is consistent with the overall needs of the community.*

- *WL provides its own water;*
- *Other claimed benefits are non-existent or are provided as mitigation to offset impacts;*
- *Bolton is only a benefit if Bolton stays where it is - otherwise no benefit.*

Addressed in staff reports: WTP: Finding 6 revised  
Pipes: Finding 10

WTP: The proposal will meet numerous community needs, the principal benefit being the implementation of the proposed West Linn Storm Water Management Plan which calls for improving the emergency supply capacity and reliability. Expanding capacity from 16 mgd to 38 mgd will potentially increase the availability for emergency water pending the execution of a new IGA, therefore, providing West Linn residents with greater certainty that emergency water will be there when it is needed. A reliable source of drinking water for Lake Oswego and Tigard and a safer, more environmentally friendly and sustainable operation within West Linn, will allow the cities to accommodate anticipated population growth thereby reducing development pressure in rural areas; and will reduce the expense of new infrastructure. West Linn's consulting engineers, Murray Smith and Associates, stated in a letter dated October 16, 2012 that "LOTWP's proposed upgrade allows construction of the Bolton Reservoir on the preferred existing site, and allows downsizing from 8MG to 4 MG."

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I would like to comment on the Applicant's statement of the "PRINCIPAL BENEFIT" they are claiming. Ignoring the fact that the Storm Water Master Plan has nothing to do with our Water system:

1. The intertie is installed and functioning and has a capacity in excess of the 4 MGD. The upgrade called for in the Master Plan was budgeted for \$75,000 and was installed in 2011. The alleged capacity and reliability improvement called for in the Master Plan was NOT identified to a specific project in the Master Plan. MSA's letter of 10/16/2012 identifies this as a budget to build an intertie to Washington County's Water system in support of the LOTWP plan. This idea has been dropped and so there is no benefit for that.

2. Expanding capacity in excess of the pumping rates of the intertie has no benefit for West Linn. Also consider that the expansion is to support a much larger population and eventually will not supply ANY water (as identified in the proposed IGA) to West Linn.
3. Instead of adding "greater certainty" the expansion will be adding MORE COMPETITION for a scarce water resource.
4. The claim of a "safer, more environmentally friendly and sustainable operation" does not justify an expansion and in fact identifies a fallacy of the concept of putting an industrial plant in a residential zone. In what way is the current plant unsafe, not environmentally friendly, or unsustainable? If they want to fix the existing plant, that would be easy to justify and would likely not be objectionable. The fact that they appear to be calling their own plant unsafe, not environmentally friendly, and unsustainable should convince us that this is NOT a compatible use, much less a benefit. How is making the plant bigger going to make it compatible or a benefit?
5. Anticipated population growth in Tigard is not justification for a water plant in West Linn. Tigard has other sources of water and they have another location they can site the plant. The fact that LOTWP does not WANT to site a plant on the Willamette does not CREATE a benefit to West Linn.
6. West Linn will not receive water from this plant except for emergency and maintenance activities which are basically a tit for tat arrangement. Lake Oswego also gets water from SFWB as required.
7. The claim that the project will reduce the expense of new infrastructure is mostly incorrect and is grossly exaggerated. With very few exceptions there is no new infrastructure required by West Linn being funded by this project. There are requirements for maintenance which will be reduced but only because the original infrastructure is destroyed by the project. Some of the improvements being offered by LOTWP are less than the Code requires because the neighborhood currently does not want those improvements. LOTWP has an opportunity to provide a benefit with the replacement of water line not physically displaced but they plan to charge the City for that work. In other words, it is going to cost the City of West Linn cash out of pocket to build the LOTWP. We currently do not have the funds to do this work.
8. The claim that the projects will allow the reduction in proposed size of Bolton from 8 MG to 4 MG is incorrect. As mentioned previously and included in the Master Plan, the site could not support an 8MG tank. Furthermore the requirement allowing the reduction in TOTAL STORAGE is met by the existing intertie. The proposal eliminates the Emergency Supply to West Linn in 30 years thereby REQUIRING West Linn to pay for a \$15 million to \$30 million project.

The applicant goes on to state:

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The project will meet the needs of the community by furthering "dozens" of comprehensive plan policies (see revised finding 10) such as, right-of-way improvements on Mapleton and Kenthorpe, environmentally sustainable storm water facilities, community open spaces that include lighting, benches and an "important" public trail connecting Mapleton and Kentthrope. The trail will benefit school children walking to Cedaroak School. The proposal preserves natural resources and habitat and ensures opportunities for recreation. The staff



report concludes: "While the improvements are not required of the applicant under CDC, the applicant has offered them for the benefit of the community."

Pipes: The WSMP identifies the emergency water intertie as a top priority for improving West Linn's water supply reliability for many years. To realize this potential, Lake Oswego and Tigard City Councils have offered an IGA to West Linn City Council and the South Fork Water Board for execution. Construction of the new intertie will improve system reliability.

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The ROW improvements proposed by LOTWP are NOT to standard. While done at the request of the neighborhood, the lack of these improvements will ultimately cost the City of West Linn when it finally makes the needed sidewalk and drainage improvements to provide for the most cost effective infrastructure. The substandard infrastructure proposed by LOTWP will cost more to maintain due to substandard sidewalks curbs and drainage facilities.


In the event of any other development by a contiguous property owner, it is highly likely that these improvements would be mandated by Planning Staff. The dead end of Kenthorpe is a highly undesirable situation. Quite possibly a development would have been required to install a full public street as the current street pattern does NOT meet planning goals and these properties provide the opportunity to correct that situation.

Typically when mandated improvements are deferred by the jurisdiction either cash for the improvement or non-remonstrance are collected. If the development is approved this should be a condition.

The applicant has offered virtually nothing that would not have come out of a development of this property under any other circumstances; and in fact is offering much less. Staff's concurrence to recommend approval does not appear to be based on thorough analysis of the development request, facts or standard planning practice.

Web link not found

## Post-meeting talks fuel water plant complaints

Created on Thursday, November 01, 2012 | Written by [Lori Hall](#) | 

### Video captures conversation between city staff and LOT

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Add a comment...

Comment using...



**Scott Gerber** · West Linn, Oregon

Regardless of legalities here, it is really unfortunate that our planning staff has chosen to side with the applicant thereby negating any chance of an unbiased report.

The dark side of planning is a term I came across that is used by planning scholars to distinguish actual planning from ideal planning. It was coined by an Oxford professor based on research of how political power influences rationality in urban planning. "The real rationalities of urban planners are called dark because it turns out that what planners do in actual practice often does not stand the light of day, i.e., actual urban planning practice often violates generally accepted norms of democracy, efficiency, and equity, and thus of planning ethics. It would appear our planning staff has entered the dark side.

Reply · 1 · Like · 2 hours ago



**Judith Fried** · Tamarac, Florida

Scott, we know how you feel..we are being held hostage by planners of our little community who have a bias against the owner of of golf course development (PROBABLY WELL FOUNDED), but not considering the environment or economical development and how it may benefit the residence and enhance the well being of the whole community

Reply · 1 · Like · about an hour ago



**Gary Hitesman** · Principal/Owner at Hitesman LLC

Scott, I wish was even just THAT. In West Linn, they claim they are limited by law when in fact they use the law to side with big monied development. If this was a small out-of-town guy or Canby, none of this would have ever occurred. This is LO insiders helping out LO while our city council is asleep at the switch.

Reply · Like · 29 minutes ago



**Gary Hitesman** · Principal/Owner at Hitesman LLC

At the heart of the problem is FAILED City Council policies. This council has allowed Chris Jordan to walk all over them and run the process without proper oversight and representation of the people. This is what has made Burgess before them, and Kovash/Tan/Jones/Carson questionable proper stewards of this city. This is not the first time either. This is a planning fiasco of the first order and a shining monument of our City manager's ego and wrath towards community advocates vested in protecting their neighborhoods from undisciplined, and uncoordinated, development.

Reply · 1 · Like · 6 hours ago



**Gary Hitesman** · Principal/Owner at Hitesman LLC

This will be Kovash's legacy?

Reply · Like · 6 hours ago

## Pelz, Zach

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**From:** Gary Hitesman [ghitesman@gmail.com]  
**Sent:** Monday, October 29, 2012 1:46 AM  
**To:** Pelz, Zach; jheisler@ci.oswego.or.us  
**Cc:** Newell, David; kevinbryck@comcast.net; gwensieben@att.net; hendersonjj@comcast.net; chucklandskronercrm@hotmail.com; ericjones2009@aol.com; dfroode@comcast.net; patvicsmith@msn.com; lamontking@comcast.net; noelblake@comcast.net; mutschler2@comcast.net; Stowell5050@aol.com; President RNA; shanonmv@comcast.net; jnorb@comcast.net; roberta.schwarz@comcast.net; juliecmcadams@yahoo.com; kappa@dekka.com; murbobr@q.com; annaw@hevanet.com; bniedermeyer@msn.com; quetzal.verapaz@gmail.com; tessamess@gmail.com; cinkauffman@yahoo.com; clan.mccarthy@yahoo.com; darryl\_walters@comcast.net; francisco.varela@comcast.net; 2emblens@comcast.net; ronleblanc4mayor@gmail.com; glgavin@comcast.net; thorfinn@comcast.net; justjoanmail@yahoo.com; kenhanawa@yahoo.com; liselotte@dekka.com; mark.ellsworth@comcast.net; Drs.mutschler@gmail.com; drcanes14@gmail.com; miatippner@gmail.com; mike@workflowpro.net; munixinc2000@yahoo.com; .nahey.4.coopers@comcast.net; ryhimm@hotmail.com; rcozby@hotmail.com; rickveda22@yahoo.com; sreid\_229@msn.com; smedbery@yahoo.com; norahs1344@yahoo.com; spgavin63@gmail.com; butterqueen@comcast.net; Karie Oakes; tdavisson@gmail.com; thom.holder@comcast.net; valariesabo5@hotmail.com; viktoriyac@gmail.com; flyartcreations@comcast.net; sfhopkins9@aol.com; sistephe@gapac.com; hawkey88@comcast.net; jumpin@cmn.net; yvonne.davis@tqs.com; Rebecca.Walters@adp.com  
**Subject:** A early review of the after hearing discussion by anonymous

Zach,

I found a blank-looking DVD in my mailbox this morning with nothing else. It appeared innocuous and it is anonymous. It contains the after gavel discussions from the last PC meeting. It appears to be just a normal discussion but also one of those unfortunate ones that have gotten out.

The room clears out and 'after' discussions are recorded at 2:14:00 with three other people from LO(?) . . . I'm at 2:30:00 and Zach turns the lights out at about 2:56:00. The discussion is hard to discern and I would like some help with this. It appears that Beery, Sonnen, and you are discussing strategy and policy to sway or give the PC what they are asking for. It would be good for the RNA to hear this because it provides insight into how some city staff see their duties.

I think Robinwood can discern where it stands with city staff and consultants. Who is the grey bearded & headed fellow with the blue jacket and khakis? Bob?

Just a few highlights here;

- 1.) So this application is just "a start over" at the CC anyway? Why is our time being wasted? I knew the PC was wasting their time but to be emasculated so clearly and obviously shows little respect for those good folks, and us, who have put a lot of time into this. Or worse, have had their homes destroyed.
- 2.) There is an issue regarding actual trips with dirt that is not known. LO states to go with what was submitted (August number still applies) although the number is not known. Beery(?) says she will do something in writing to address the issue?
- 3.) Beery appears to be coordinating a session with the applicant for this coming Thursday to file an objection based on ?? (Beery? "I will be helping you with that.") ?? LO--> "They did nothing to us."
- 4.) Sonnen states the City has not been overturned once in 3 years.
- 5.) Beery claims much of the testimony is not relevant anyway. "With these neighbors . . ." "Oh yeah!"
- 6.) L.O. is contemplating responding to some irrelevant issues "to maybe tugging at someone's heart strings" (?)
- 7.) discussion on repetitiveness.
- 8.) On Greg McKenzie testifying ; "What was he smoking?" " I felt bad for him." "That was a thankless task."



9.) Sonnen is solid. Nothing other than doing his job. He is obviously not working for us.

10.) Beery instructs staff on how to respond to certain issues.

11.) Sonnen discusses a Comprehensive Plan policy (9)? that surprises Pam(?). Here, there appears to be a "kill button" written into the plan that stops public participation? Something to do with a 2003 council change in the plan and engineering?

Other quotes;

"No sidewalks anywhere. They(LO) are going to reconstruct what is exactly there right now."

Beery says she has a problem with the truck trips too.

There is much that makes no sense to me.

Zach, can the RNA and PC hear this tape and ask for clarifications? It does appear obvious that you three plot on how to help the applicant out instead of holding them to do the work themselves. So much for the "burden of proof", eh Zach?

Ms. Beery was stating another problem regarding the chair and was interrupted.

Regardless, this should go into the record? A person comes in and the conversation stops at 1:49:24. I'm transferring using My Movie and will try to post to youtube if it works so you can see what I have.

## Pelz, Zach

---

**From:** GARY [hitesman@q.com]  
**Sent:** Saturday, October 27, 2012 1:30 PM  
**To:** Pelz, Zach; Sonnen, John; RNA Great Neighbor Committee; CWL Planning Commission  
**Subject:** CUP 12\_04 possible conflict of interest and ex parte communication\_Future assignment of error

It just occurred to me that I could do an ORS 197.319 action? Let's get the LCDC involved! Given how the whole mediation process and public participation has been co-opted by Beery/Jordan, this is just another example of their overt duplicity and poor stewardship of the planning process?

Obviously, my statement that staff has not performed a proper and objective deliberation in their findings-of-fact has been substantiated. I'm not a lawyer! How is this not fraudulent behavior?

“Strange as my circumstances were, the terms of this debate are as old and commonplace as man; much the same inducements and alarms cast the die for any tempted and trembling sinner; and it fell out with me, as it falls with so vast a majority of my fellows, that I chose the better part and was found wanting in the strength to keep to it.”  
— [Robert Louis Stevenson, \*The Strange Case of Dr. Jekyll and Mr. Hyde\*](#)

### **Issue #1: seeing how the City Attorney and staff work with LOT to speculate about the PC and plan a strategy together.**

This is the same attorney who has been advising the chair of the Planning Commission and wrote the Beery memo? Who is paying her fee? Obviously, Beery reports to Jordan and Jordan gets word to the council? Sorrid? Yes. Lack of Ethics? Yes. Conflict of Interest? Reprehensible? Without a doubt.

I don't see any regulations preventing this type of treachery from occurring within a morally corrupt individual, or politician. I say the PC be sent a copy of this conversation and have it entered into the record to avoid the appearance of any impropriety. Has the process been corrupted? The PC should be told, as they were post - Trillium Creek Elementary School regarding the play structure, to disregard staff findings. Right, Mr. Sonnen?

[I also request my email regarding the play structure on CUP 10-02 be entered into the record.]

Certainly, this will be an assignment of error as my appeal moves forward. Zach, please include the conversation into the record given that the conversation has been made public. If not now because of some arbitrary rule you will conjure up, let's put it in the appeal to the city council. Thanks.

----- Original Message -----

**From:**  
**To:**  
**Sent:** Saturday, October 27, 2012 12:16 PM  
**Subject:** Re: PC video

I've seen/heard it all in pieces. I don't think it qualifies as attorney-client privilege. Jordan likes to use that tactic for anything he doesn't want the public to know. It may give some insight on their strategy, but I think the biggest impact will be seeing how the City Attorney and staff work with LOT to speculate about the PC and plan a strategy together.

-----Original Message-----

**From:** To: Hitesman  
**Sent:** Sat, Oct 27, 2012 5:13 am  
**Subject:** PC video

Has anyone you reviewed the extended PC video? Comments please but could we keep them in a closer circle.

-Screw that! The informtion has entered the public realm. Cat's out of the bag and Jordan's problem now? GH

## Pelz, Zach

---

**From:** GARY [hitesman@q.com]  
**Sent:** Saturday, October 27, 2012 10:28 AM  
**To:** Pelz, Zach  
**Subject:** One more for the Road CUP 12-04

I'm on this Dr. Jekyll and Mr. Hyde kick. This quote, perhaps, is a good metaphor that goes to the core problem of planning?

“I feel very strongly about putting questions; it partakes too much of the style of the day of judgement. You start a question, and it's like starting a stone. You sit quietly on the top of a hill; and away the stone goes, starting others; and presently some bland old bird (the last you would have thought of) is knocked on the head in his own back garden, and the family have to change their name. No, sir, I make it a rule of mine: the more it looks like Queer Street, the less I ask.”

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

## Pelz, Zach

---

**From:** Gary Hitesman [ghitesman@gmail.com]  
**Sent:** Friday, October 26, 2012 3:38 PM  
**To:** Pelz, Zach  
**Subject:** Re: CUP 12-04 continuance

Thank you for your quick reply!

On a somewhat personal note, I appreciate reviewing your work. In my experience, it appears solid. Your demeanor and work are appreciated.

I happen to disagree with the applicant on almost every issue and see with utter appall the management of the City of West Linn regarding the Water Treatment application and some elements of the pipeline.

I'll review the documents submitted over the weekend. I appreciate both your and Director Sonnen's service to the community.

Gary Hitesman

On Fri, Oct 26, 2012 at 2:58 PM, Pelz, Zach <[ZPELZ@westlinnoregon.gov](mailto: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.pdf)

[http://westlinnoregon.gov/sites/default/files/projects/pc\\_memo\\_10-26-12\\_with\\_attachments\\_0\\_0.pdf](http://westlinnoregon.gov/sites/default/files/projects/pc_memo_10-26-12_with_attachments_0_0.pdf)

Zach



Zach Pelz, AICP  
[ZPELZ@westlinnoregon.gov](mailto:ZPELZ@westlinnoregon.gov)  
Associate Planner  
22500 Salamo Rd.  
West Linn, OR 97068  
P: [\(503\) 723-2542](tel:(503)723-2542)  
F: [\(503\) 656-4106](tel:(503)656-4106)  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

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:** Gary Hitesman [mailto:[ghitesman@gmail.com](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:** Gary Hitesman [ghitesman@gmail.com]  
**Sent:** Friday, October 26, 2012 1:12 PM  
**To:** Sonnen, John; CWL Planning Commission  
**Cc:** Pelz, Zach; jheisler@ci.oswego.or.us; kevinbryck@comcast.net; Newell, David; chucklandskronercrm@hotmail.com; ericjones2009@aol.com; dfroode@comcast.net; patvicsmith@msn.com; lamontking@comcast.net; noelblake@comcast.net; mutschler2@comcast.net; Stowell5050@aol.com; President RNA; shanonmv@comcast.net; jnorb@comcast.net; roberta.schwarz@comcast.net; juliecmcadams@yahoo.com; javahag@comcast.net; Pam Beery; kappa@dekka.com; murbobr@q.com; annaw@hevanet.com; bniedermeyer@msn.com; quetzal.verapaz@gmail.com; c davidson@hfflp.com; tessamess@gmail.com; cinkauffman@yahoo.com; clan.mccarthy@yahoo.com; darryl\_walters@comcast.net; francisco.varela@comcast.net; 2emblens@comcast.net; glgavin@comcast.net; thorfinn@comcast.net; justjoanmail@yahoo.com; kenhanawa@yahoo.com; liselotte@dekka.com; mark.ellsworth@comcast.net; Drs.mutschler@gmail.com; drcanes14@gmail.com; miatippner@gmail.com; mike@workflowpro.net; munixinc2000@yahoo.com; hitesman@q.com; Natalie Cooper; ryhimm@hotmail.com; rcozby@hotmail.com; rickveda22@yahoo.com; sreid\_229@msn.com; smedbery@yahoo.com; norahs1344@yahoo.com; spgavin63@gmail.com; butterqueen@comcast.net; tdavisson@gmail.com; thom.holder@comcast.net; valariesabo5@hotmail.com; viktoriyac@gmail.com; flyartcreations@comcast.net; hendersonjj@comcast.net; sfhopkins9@aol.com; sistephe@gapac.com; hawkey88@comcast.net; jumpin@cmn.net; gwensieben@att.net; yvonne.davis@tqs.com; Karie Oakes  
**Subject:** Re: LOT WTF PC meeting last night\_For the Record  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Planning Director John Sonnen,

Thank you for your professionalism and your courteous, quick reply. I, on the other hand, can barely contain my complete lack of regard for your process.

As I stated by example, I believe precedent has established a different routine practice than the one you describe.

So much for transparency.

L.O. truly sucks eggs. In the future, 'they' should display enough courtesy to plot out the wholesale destruction of a neighboring town by reconvening outside the city limits; let alone within the bosom of our own city hall! Attorney-client privilege my ass! Who is paying for her services?!!

How is this not a conflict of interest for you or anyone else working for the city?

The questions, as well as the eggs, are rhetorical. Warm Regards,

Gary Hitesman

On Fri, Oct 26, 2012 at 12:00 PM, Sonnen, John <[JSONNEN@westlinnoregon.gov](mailto:JSONNEN@westlinnoregon.gov)> wrote:

Hi Gary.

As you said, the video inadvertently ran live longer than usual after the close of public hearing last night. Per our routine practice, the video was trimmed this morning so the posted version is gavel to gavel, thus providing a full and complete record of the public meeting as required by law (the excess was, as always, destroyed). In any case, the conversation you refer to after the close of the hearing was attorney-client privileged and not subject to disclosure.

John

 John Sonnen  
[JSonnen@westlinnoregon.gov](mailto:JSonnen@westlinnoregon.gov)  
Planning and Building Director  
22500 Salamo Rd.  
West Linn, OR 97068  
P: (503) 723-2524  
F: (503) 656-4106  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

*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:** Gary Hitesman [mailto:[ghitesman@gmail.com](mailto:ghitesman@gmail.com)]

**Sent:** Friday, October 26, 2012 10:28 AM

**To:** Sonnen, John; Pelz, Zach; [jheisler@ci.oswego.or.us](mailto:jheisler@ci.oswego.or.us); CWL Planning Commission

**Cc:** [kevinbryck@comcast.net](mailto:kevinbryck@comcast.net); Newell, David; [chucklandskronercrm@hotmail.com](mailto:chucklandskronercrm@hotmail.com); [ericjones2009@aol.com](mailto:ericjones2009@aol.com); [dfroode@comcast.net](mailto:dfroode@comcast.net); [patvicsmith@msn.com](mailto:patvicsmith@msn.com); [lamontking@comcast.net](mailto:lamontking@comcast.net); [noelblake@comcast.net](mailto:noelblake@comcast.net); [mutschler2@comcast.net](mailto:mutschler2@comcast.net); [Stowell5050@aol.com](mailto:Stowell5050@aol.com); President RNA; [shanonmv@comcast.net](mailto:shanonmv@comcast.net); [jnorb@comcast.net](mailto:jnorb@comcast.net); [roberta.schwarz@comcast.net](mailto:roberta.schwarz@comcast.net); [juliecmcadams@yahoo.com](mailto:juliecmcadams@yahoo.com); [javahag@comcast.net](mailto:javahag@comcast.net); [kappa@dekka.com](mailto:kappa@dekka.com); [murbobr@q.com](mailto:murbobr@q.com); [annaw@hevanet.com](mailto:annaw@hevanet.com); [bniedermeyer@msn.com](mailto:bniedermeyer@msn.com); [quetzal.verapaz@gmail.com](mailto:quetzal.verapaz@gmail.com); [cdavidson@hfflp.com](mailto:cdavidson@hfflp.com); [tessamess@gmail.com](mailto:tessamess@gmail.com); [cinkuffman@yahoo.com](mailto:cinkuffman@yahoo.com); [clan.mccarthy@yahoo.com](mailto:clan.mccarthy@yahoo.com); [darryl.walters@comcast.net](mailto:darryl.walters@comcast.net); [francisco.varela@comcast.net](mailto:francisco.varela@comcast.net); [Zemblens@comcast.net](mailto:Zemblens@comcast.net); [glgavin@comcast.net](mailto:glgavin@comcast.net); [thorfinn@comcast.net](mailto:thorfinn@comcast.net); [justjoanmail@yahoo.com](mailto:justjoanmail@yahoo.com); [kenhanawa@yahoo.com](mailto:kenhanawa@yahoo.com); [liselotte@dekka.com](mailto:liselotte@dekka.com); [mark.ellsworth@comcast.net](mailto:mark.ellsworth@comcast.net); [Drs.mutschler@gmail.com](mailto:Drs.mutschler@gmail.com); [drcanes14@gmail.com](mailto:drcanes14@gmail.com); [miatippner@gmail.com](mailto:miatippner@gmail.com); [mike@workflowpro.net](mailto:mike@workflowpro.net); [munixinc2000@yahoo.com](mailto:munixinc2000@yahoo.com); [hitesman@q.com](mailto:hitesman@q.com); Natalie Cooper; [ryhimm@hotmail.com](mailto:ryhimm@hotmail.com); [rcozby@hotmail.com](mailto:rcozby@hotmail.com); [rickveda22@yahoo.com](mailto:rickveda22@yahoo.com); [sreid.229@msn.com](mailto:sreid.229@msn.com); [smedbery@yahoo.com](mailto:smedbery@yahoo.com); [norahs1344@yahoo.com](mailto:norahs1344@yahoo.com); [spgavin63@gmail.com](mailto:spgavin63@gmail.com); [butterqueen@comcast.net](mailto:butterqueen@comcast.net); [tdavisson@gmail.com](mailto:tdavisson@gmail.com); [thom.holder@comcast.net](mailto:thom.holder@comcast.net); [valariesabo5@hotmail.com](mailto:valariesabo5@hotmail.com); [viktoriyac@gmail.com](mailto:viktoriyac@gmail.com); [flyartcreations@comcast.net](mailto:flyartcreations@comcast.net); [hendersonjj@comcast.net](mailto:hendersonjj@comcast.net); [sfhopkins9@aol.com](mailto:sfhopkins9@aol.com); [sistephe@gapac.com](mailto:sistephe@gapac.com); [hawkey88@comcast.net](mailto:hawkey88@comcast.net); [jumpin@cmn.net](mailto:jumpin@cmn.net); [gwensieben@att.net](mailto:gwensieben@att.net); [yvonne.davis@tqs.com](mailto:yvonne.davis@tqs.com); Karie Oakes

**Subject:** LOT WTF PC meeting last night\_For the Record

Planning Director John Sonnen and LOT,

I understand the videographer left the tape running last night for hours after the PC adjourned. I am interested in the staff discussion that took place in the public meeting hall. The tape has now been changed and edited on graticus. I request that the portion be placed back onto the web for everyone to hear/see.

I have indicated I have the intent to file an appeal on this CUP request. A public records request will eventually be made, as that was what Ms. Beery said she would allow.

Mr. Sonnen,

This type of thing has happened before but only in the opposite case. In that instance, Patti Galle was mistreated and recorded "after the gavel".(Apologies to Ms. Galle.) Regardless, the tape aired on WFTV the very next day after Ms. Kirsten Wyatt ran the tape down to Oregon City and instructed the facility to run the tape immediately. This was highly unusual as the City was forwarding tapes, on average, 7 days after. Needless to say, Ms. Galle was mistreated and maligned that night by some of the very same people who were involved in that incident. Only after her lawyers were successful in pressuring Chris Jordan did the chastened City Manager walk a revised tape back down to the Studio. (This is part of the record.)

Please explain to me why the City will maintain the right to suppress this information? And why are LO representatives and West Linn lawyers so nasty and needlessly so 'curt'? I'm talking about cherished homes and venerated neighborhoods and appropriate land use. What is West Linn and Ms. Beery talking about?

Gary Hitesman



## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Friday, October 26, 2012 12:00 PM  
**To:** Gary Hitesman; Pelz, Zach; jheisler@ci.oswego.or.us  
**Cc:** kevinbryck@comcast.net; Newell, David; chucklandskronercrm@hotmail.com; ericjones2009@aol.com; dfroode@comcast.net; patvicsmith@msn.com; lamontking@comcast.net; noelblake@comcast.net; mutschler2@comcast.net; Stowell5050@aol.com; President RNA; shanonmv@comcast.net; jnorb@comcast.net; roberta.schwarz@comcast.net; juliecmcadams@yahoo.com; javahag@comcast.net; Pam Beery; kappa@dekka.com; murbobr@q.com; annaw@hevanet.com; bniedermeyer@msn.com; quetzal.verapaz@gmail.com; c davidson@hfflp.com; tessamess@gmail.com; cinkauffman@yahoo.com; clan.mccarthy@yahoo.com; darryl\_walters@comcast.net; francisco.varela@comcast.net; 2emblens@comcast.net; glgavin@comcast.net; thorfinn@comcast.net; justjoanmail@yahoo.com; kenhanawa@yahoo.com; liselotte@dekka.com; mark.ellsworth@comcast.net; Drs.mutschler@gmail.com; drcanes14@gmail.com; miatippner@gmail.com; mike@workflowpro.net; munixinc2000@yahoo.com; hitesman@q.com; Natalie Cooper; ryhimm@hotmail.com; rcozby@hotmail.com; rickveda22@yahoo.com; sreid\_229@msn.com; smedbery@yahoo.com; norahs1344@yahoo.com; spgavin63@gmail.com; butterqueen@comcast.net; tdavisson@gmail.com; thom.holder@comcast.net; valariesabo5@hotmail.com; viktoriyac@gmail.com; flyartcreations@comcast.net; hendersonjj@comcast.net; sfhopkins9@aol.com; sistephe@gapac.com; hawkey88@comcast.net; jumpin@cmn.net; gwensieben@att.net; yvonne.davis@tqs.com; Karie Oakes  
**Subject:** RE: LOT WTF PC meeting last night\_For the Record

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John

John Sonnen, Planning Director  
Planning and Building, #1524

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**Sent:** Friday, October 26, 2012 10:28 AM  
**To:** Sonnen, John; Pelz, Zach; jheisler@ci.oswego.or.us; CWL Planning Commission  
**Cc:** kevinbryck@comcast.net; Newell, David; chucklandskronercrm@hotmail.com; ericjones2009@aol.com; dfroode@comcast.net; patvicsmith@msn.com; lamontking@comcast.net; noelblake@comcast.net; mutschler2@comcast.net; Stowell5050@aol.com; President RNA; shanonmv@comcast.net; jnorb@comcast.net; roberta.schwarz@comcast.net; juliecmcadams@yahoo.com; javahag@comcast.net; kappa@dekka.com; murbobr@q.com; annaw@hevanet.com; bniedermeyer@msn.com; quetzal.verapaz@gmail.com; c davidson@hfflp.com; tessamess@gmail.com; cinkauffman@yahoo.com; clan.mccarthy@yahoo.com; darryl\_walters@comcast.net; francisco.varela@comcast.net; 2emblens@comcast.net; glgavin@comcast.net; thorfinn@comcast.net; justjoanmail@yahoo.com; kenhanawa@yahoo.com; liselotte@dekka.com; mark.ellsworth@comcast.net; Drs.mutschler@gmail.com; drcanes14@gmail.com; miatippner@gmail.com; mike@workflowpro.net; munixinc2000@yahoo.com; hitesman@q.com; Natalie Cooper; ryhimm@hotmail.com; rcozby@hotmail.com; rickveda22@yahoo.com; sreid\_229@msn.com; smedbery@yahoo.com; norahs1344@yahoo.com; spgavin63@gmail.com; butterqueen@comcast.net; tdavisson@gmail.com; thom.holder@comcast.net; valariesabo5@hotmail.com;

viktoriyac@gmail.com; flyartcreations@comcast.net; hendersonjj@comcast.net; sfhopkins9@aol.com; sistephe@gapac.com; hawkey88@comcast.net; jumpin@cmn.net; gwensieben@att.net; yvonne.davis@tqs.com; Karie Oakes

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Gary Hitesman

## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Friday, October 26, 2012 9:10 AM  
**To:** Shroyer, Shauna; Boyle, Shane; Pelz, Zach  
**Subject:** FW: Citizen Request 17568 - Planning Commission Video 10/25/12

John Sonnen, Planning Director  
Planning and Building, #1524

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:** Webmaster  
**Sent:** Friday, October 26, 2012 8:03 AM  
**To:** Sonnen, John  
**Subject:** Citizen Request 17568 - Planning Commission Video 10/25/12

A new Citizen Request has been submitted to the Citizen Support Center, and assigned to you for prompt response. Please use the online Citizen Support Center to respond to this Citizen Request. As a reminder, your response will be included in the online tracking system for this Citizen Request. Thank you.

<b>Original Request</b>	<b>10/26/2012</b>	Reference Number:	<b>17568</b>
<b>Summary</b>	Date:	Status:	<b>Assigned</b>
Name:		Source:	<b>online</b>
Email:	<a href="mailto:kariookee@aol.com">kariookee@aol.com</a>	Assigned To:	<b>jsonnen</b>
Phone:		Assigned Group:	<b>Planning</b>
Topic	<a href="#">Planning Commission Video 10/25/12</a>		
Request Details:	The videographer should be certain to turn off the video once the meeting is adjourned. The video is still running now as I write (it's 10 PM.) I felt like a fly on the wall as I listened to Pam Berry and Zach Pelz before they turned out the lights and left the room.		
Comment:			

Thank you for using the Citizen Support Center. The City of West Linn welcomes your continued involvement with City affairs.

## Pelz, Zach

---

**From:** Gary Hitesman [ghitesman@gmail.com]  
**Sent:** Friday, October 26, 2012 10:28 AM  
**To:** Sonnen, John; Pelz, Zach; jheisler@ci.oswego.or.us; CWL Planning Commission  
**Cc:** kevinbryck@comcast.net; Newell, David; chucklandskronercrm@hotmail.com; ericjones2009@aol.com; dfroode@comcast.net; patvicsmith@msn.com; lamontking@comcast.net; noelblake@comcast.net; mutschler2@comcast.net; Stowell5050@aol.com; President RNA; shanonmv@comcast.net; jnorb@comcast.net; roberta.schwarz@comcast.net; juliecmcadams@yahoo.com; javahag@comcast.net; kappa@dekka.com; murbobr@q.com; annaw@hevanet.com; bniederermeyer@msn.com; quetzal.verapaz@gmail.com; cdavidson@hfflp.com; tessamess@gmail.com; cinkauffman@yahoo.com; clan.mccarthy@yahoo.com; darryl\_walters@comcast.net; francisco.varela@comcast.net; 2emblens@comcast.net; glgavin@comcast.net; thorfinn@comcast.net; justjoanmail@yahoo.com; kenhanawa@yahoo.com; liselotte@dekka.com; mark.ellsworth@comcast.net; Drs.mutschler@gmail.com; drcanes14@gmail.com; miatippner@gmail.com; mike@workflowpro.net; munixinc2000@yahoo.com; hitesman@q.com; Natalie Cooper; ryhimm@hotmail.com; rcozby@hotmail.com; rickveda22@yahoo.com; sreid\_229@msn.com; smedbery@yahoo.com; norahs1344@yahoo.com; spgavin63@gmail.com; butterqueen@comcast.net; tdavisson@gmail.com; thom.holder@comcast.net; valariesabo5@hotmail.com; viktoriyac@gmail.com; flyartcreations@comcast.net; hendersonjj@comcast.net; sfhopkins9@aol.com; sistephe@gapac.com; hawkey88@comcast.net; jumpin@cmn.net; gwensieben@att.net; yvonne.davis@tqs.com; Karie Oakes  
**Subject:** LOT WTF PC meeting last night\_For the Record

Planning Director John Sonnen and LOT,

I understand the videographer left the tape running last night for hours after the PC adjourned. I am interested in the staff discussion that took place in the public meeting hall. The tape has now been changed and edited on graticus. I request that the portion be placed back onto the web for everyone to hear/see.

I have indicated I have the intent to file an appeal on this CUP request. A public records request will eventually be made, as that was what Ms. Beery said she would allow.

Mr. Sonnen,

This type of thing has happened before but only in the opposite case. In that instance, Patti Galle was mistreated and recorded "after the gavel". (Apologies to Ms. Galle.) Regardless, the tape aired on WFTV the very next day after Ms. Kirsten Wyatt ran the tape down to Oregon City and instructed the facility to run the tape immediately. This was highly unusual as the City was forwarding tapes, on average, 7 days after. Needless to say, Ms. Galle was mistreated and maligned that night by some of the very same people who were involved in that incident. Only after her lawyers were successful in pressuring Chris Jordan did the chastened City Manager walk a revised tape back down to the Studio. (This is part of the record.)

Please explain to me why the City will maintain the right to suppress this information? And why are LO representatives and West Linn lawyers so nasty and needlessly so 'curt'? I'm talking about cherished homes and venerated neighborhoods and appropriate land use. What is West Linn and Ms. Beery talking about?

Gary Hitesman



## Pelz, Zach

---

**From:** Gary Hitesman [ghitesman@gmail.com]  
**Sent:** Friday, October 26, 2012 1:12 PM  
**To:** CWL CCI; Sonnen, John; Pelz, Zach; jheisler@ci.oswego.or.us; CWL Planning Commission  
**Cc:** kevinbryck@comcast.net; Newell, David; chucklandschroner@hotmail.com; ericjones2009@aol.com; dfroode@comcast.net; patvicsmith@msn.com; lamontking@comcast.net; noelblake@comcast.net; mutschler2@comcast.net; Stowell5050@aol.com; President RNA; shanonmv@comcast.net; jnorb@comcast.net; roberta.schwarz@comcast.net; juliecmcadams@yahoo.com; javahag@comcast.net; kappa@dekka.com; murbobr@q.com; annaw@hevanet.com; bniedermeyer@msn.com; quetzal.verapaz@gmail.com; cdavidson@hfflp.com; tessamess@gmail.com; cinkauffman@yahoo.com; clan.mccarthy@yahoo.com; darryl\_walters@comcast.net; francisco.varela@comcast.net; 2emblens@comcast.net; glgavin@comcast.net; thorfinn@comcast.net; justjoanmail@yahoo.com; kenhanawa@yahoo.com; liselotte@dekka.com; mark.ellsworth@comcast.net; Drs.mutschler@gmail.com; CouncilDistribution@ci.oswego.or.us; drcanes14@gmail.com; miatippner@gmail.com; mike@workflowpro.net; munixinc2000@yahoo.com; hitesman@q.com; councilmail@tigard-or.gov; Natalie Cooper; ryhimm@hotmail.com; rcozby@hotmail.com; rickveda22@yahoo.com; sreid\_229@msn.com; smedbery@yahoo.com; norahs1344@yahoo.com; spgavin63@gmail.com; butterqueen@comcast.net; tdavisson@gmail.com; thom.holder@comcast.net; valariesabo5@hotmail.com; viktoriyac@gmail.com; flyartcreations@comcast.net; hendersonjj@comcast.net; sfhopkins9@aol.com; sistephe@gapac.com; hawkey88@comcast.net; jumpin@cmn.net; gwensieben@att.net; yvonne.davis@tqs.com; Karie Oakes  
**Subject:** CUP- 12-02\_CUP-12-04\_CCI meeting request  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Commission for Citizen Involvement,

First; Thank you for having a TV set up in the Lobby. I gave up my seat in the council chambers to a resident of Robinwood and grabbed another empty chair before I realized who I was sitting next to. Luckily, I was soon asked to testify and removed myself from a very uncomfortable situation. I was able to remain informed by self-sequestering myself to the lobby without having to go back and sit next to the Darth-Vader-Incarnate.

Second, I am highly critical of the process city staff embark on when it comes to planning and the almost hostile-like zeal our very own city manager goes after neighborhoods; destroying everything that gets in the way of development and private party interests.

Recently, I feel overly compelled to comment on the water treatment plant conditional use process. 'This' THING is out-of-control?! The cities of LO and Tigard have been afforded to ~literally~ rape us and you guys act as if nothing beyond the normal pale of planning is going on. In the meantime, citizen participation is censored.

- Or, as Greg McKenzie put it, HE controls who goes to meetings and who doesn't! How is that "facilitation"?
- Where in the Comprehensive Plan does it validate "facilitation"?
- Where in the Comprehensive Plan does it establish this procedure as meeting the intent of ORS 197?
- How do the actions of an unsupervised city manager meet with the intent of Goal One?
- What process are the cities following?
- What is Ms. Beery, a city paid consultant, hiding?

- Why are WL residents being sued by L.O.? That appears to me to be very, very rude and damaging toward citizen participation. The City has a plot there to. Is the City being sued too?
- Who is looking out for the people of West Linn? Please don't say Kovash! That would be devastatingly heart-breaking.

I believe your actions and that of the cities is unprecedented, horribly wrong, and damaging to citizens in Oregon. IMO, this water plant fiasco is the most egregious act of sanctioned municipal terrorism that I have yet to witness.

Attached is the website description of what the CIC says you are doing.

In August of 2008, the City Council created the Commission for Citizen Involvement (CCI). The CCI is authorized to enhance the City's citizen involvement efforts as they relate to the land use planning process. The CCI is directed to meet on a continuing and as needed basis to review and evaluate the City's existing processes to ensure that citizens are informed and given appropriate opportunities to participate in the land use planning process. The City's Planning Commissioners make up the membership of the CCI.

The stated purpose of the CCI is to evaluate the effectiveness of the City's citizen involvement programs as they relate to land use planning and to advise and make recommendations to the City Council and city staff on how they can be improved upon.

The CCI is also authorized to meet with the City Council at least once per year with an update on its activities and to make any formal recommendations, if necessary. The City's CCI satisfies the regulatory requirements for local governments under Statewide Planning Goal 1 and furthers the policies outlined in the City's Comprehensive Plan.

Current Commission members:

Chair Michael Babbitt  
 Vice Chair Gail Holmes  
 Christine Steel  
 Holly Miller  
 Robert Martin  
 Russell Axelrod  
 Thomas Frank

Is the CCI OK with that description? Is the CCI regulatory requirement being met? I have read the Oregon Revised Statutes on Citizen Involvement Committees and I DO DECLARE! ;-)

I propose the following agenda, despite the lack of enforcement statutes allows, and request a public meeting to hear the many grievances circulating about the City at this time. (Either I afford the City an opportunity to right the many wrongs you yourselves have allowed or I just go ahead with executing ORS 197.319.)

1. Why is your committee named something other than what the Statute says you are?
2. Who is managing this process? They are demonstrably displaying a lack of experience in planning and enacting inappropriate citizen participation activities.
3. I am drafting up a current petition to submit another ORS 197.320 and seek your advice on how I might best avail my concerns regarding this fubared process Jane Hiesler, Joel Komerack, and Chris Jordan have released onto one of the largest neighborhoods in our City. I also want to know why city police show up at a planning session where the public

- has been invited because Jane Heisler called to say she feared unspecified and unsubstantiated reprisals from me and another Robinwood resident?
4. I seek an understanding of what ex parte is and isn't. I contend the Beery dictate is an attack on the constitution and our constitutional right to bear grievances.
  5. From a planning perspective, I am incensed on how our own City treats it's residents. I think the following is antithesis of what is transpiring ---->
    - "**as needed basis** to review and evaluate the City's existing processes **to ensure that citizens are informed** and given **appropriate** opportunities to participate in the land use planning process."
    - I want to discuss "as-needed", "ensure that citizens are informed", and "appropriate".
    - I will also request that the code be revised to say residents, not citizens. Because the lack luster civility from our city manager and LO has appeared to have destroyed all the credibility and integrity of small town stewardship and municipal governance.
  6. And the guy from Tigard? That guy appears to walk around like he loathes the public! In the least, he is a buzz killer. And the councilor from Tigard who appears to be picking fights with residents of Robinwood is inappropriate! Can you make this stop?! I am equally disgusted by all the suits and hired guns that stand in gangs at city hall and wearily look at us that object to this neighborhood genocide. Who are they? What companies do they represent? They do not sign in and they do not announce themselves. They should be required to have badges with company logos emblazoned on their horribly unfashionable sports jackets. Are these apparent thugs getting paid for loitering around public venues? Despite my own personal disgust at this waste of public resources, I appreciated how one suit "saved" a seat for the late-arriving project architect. It was equally cute and adorable as it was apparently gay. I'd be gay to if i was getting paid to show up and intimidate the public-at-large. (On second thought, I would not stoop that low.)
  7. I want to know: Are you guys running a Gulag and we just don't know it yet? Pardon my lack of respect. It happens when the City purposefully takes the act of planning and willfully transforms the profession into a three-ring circus.

I will wait, just a tad, for your response. Given the city's previous laggard response on citizen involvement and your own terrible legacy, I don't suspect to really hear back from you guys. But if you do, I would appreciate the courtesy.

Thank you, to some, for your consideration, patience with my theatrics, and your volunteerism,

GARY Hitesman

On Fri, Oct 26, 2012 at 10:27 AM, Gary Hitesman <[ghitesman@gmail.com](mailto:ghitesman@gmail.com)> wrote:  
Planning Director John Sonnen and LOT,

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Gary Hitesman



## Pelz, Zach

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**From:** Sonnen, John  
**Sent:** Friday, October 26, 2012 1:17 PM  
**To:** Shroyer, Shauna; Mollusky, Kathy; Pelz, Zach  
**Subject:** FW: See & copy video from last night immediately

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

John Sonnen, Planning Director  
Planning and Building, #1524

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:** Gary Hitesman [mailto:ghitesman@gmail.com]  
**Sent:** Friday, October 26, 2012 1:15 PM  
**To:** Sonnen, John; CWL Planning Commission  
**Cc:** Natalie Nahey Cooper; Oakes Karie; Henderson Jenne; kevinbryck@comcast.net; Newell, David; chucklandskronercrm@hotmail.com; ericjones2009@aol.com; dfroode@comcast.net; patvicsmith@msn.com; lamontking@comcast.net; noelblake@comcast.net; mutschler2@comcast.net; Stowell5050@aol.com; President RNA; shanonmv@comcast.net; jnorb@comcast.net; roberta.schwarz@comcast.net; juliecmcadams@yahoo.com; javahag@comcast.net; kappa@dekka.com; murbobr@q.com; annaw@hevanet.com; bniedermeyer@msn.com; quetzal.verapaz@gmail.com; cdauidson@hfflp.com; tessamess@gmail.com; cinkauffman@yahoo.com; clan.mccarthy@yahoo.com; darryl\_walters@comcast.net; francisco.varela@comcast.net; 2emblens@comcast.net; glgavin@comcast.net; thorfinn@comcast.net; justjoanmail@yahoo.com; kenhanawa@yahoo.com; liselotte@dekka.com; mark.ellsworth@comcast.net; Drs.mutschler@gmail.com; drcanes14@gmail.com; miatippner@gmail.com; mike@workflowpro.net; munixinc2000@yahoo.com; ryhimm@hotmail.com; rcozby@hotmail.com; rickveda22@yahoo.com; sreid\_229@msn.com; smedbery@yahoo.com; norahs1344@yahoo.com; spgavin63@gmail.com; butterqueen@comcast.net; tdavisson@gmail.com; thom.holder@comcast.net; valariesabo5@hotmail.com; viktoriyac@gmail.com; flyartcreations@comcast.net; sfhopkins9@aol.com; sistephe@gapac.com; hawkey88@comcast.net; jumpin@cmn.net; yvonne.davis@tqs.com; Rebecca.Walters@adp.com  
**Subject:** Re: See & copy video from last night immediately

Please discuss your security policies with me ASAP!

----- Forwarded message -----

From: <[postmaster@westlinnoregon.gov](mailto:postmaster@westlinnoregon.gov)>  
Date: Fri, Oct 26, 2012 at 1:15 PM  
Subject: Undeliverable: CUP- 12-02\_CUP-12-04\_CCI meeting request  
To: [ghitesman@gmail.com](mailto:ghitesman@gmail.com)

### Delivery has failed to these recipients or distribution lists:

[cwl\\_cci@westlinnoregon.gov](mailto:cwl_cci@westlinnoregon.gov)

Your message wasn't delivered because of security policies. Microsoft Exchange will not try to redeliver this message for you. Please provide the following diagnostic text to your system administrator.

## Diagnostic information for administrators:

Generating server: [ci.west-linn.or.us](http://ci.west-linn.or.us)

[cwl\\_cci@westlinnoregon.gov](mailto:cwl_cci@westlinnoregon.gov)

#550 5.7.1 RESOLVER.RST.AuthRequired; authentication required ##

## Original message headers:

Received: from [barracuda.westlinnoregon.gov](http://barracuda.westlinnoregon.gov) (10.1.1.36) by  
[CWL-EX1.ci.west-linn.or.us](http://CWL-EX1.ci.west-linn.or.us) (10.1.1.9) with Microsoft SMTP Server id  
8.3.213.0; Fri, 26 Oct 2012 13:15:29 -0700  
X-ASG-Debug-ID: 1351282310-0394fb0e06b0420001-aAcxdy  
Received: from [mail-ie0-f172.google.com](http://mail-ie0-f172.google.com) ([mail-ie0-f172.google.com](http://mail-ie0-f172.google.com)  
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X-Barracuda-Envelope-From: [ghitesman@gmail.com](mailto:ghitesman@gmail.com)  
X-Barracuda-Apparent-Source-IP: 209.85.223.172  
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Subject: CUP- 12-02\_CUP-12-04\_CCI meeting request  
From: Gary Hitesman <[ghitesman@gmail.com](mailto:ghitesman@gmail.com)>  
X-ASG-Orig-Subj: CUP- 12-02\_CUP-12-04\_CCI meeting request  
To: <[cwl\\_cci@westlinnoregon.gov](mailto:cwl_cci@westlinnoregon.gov)>, "Sonnen, John" <[JSONNEN@westlinnoregon.gov](mailto:JSONNEN@westlinnoregon.gov)>,  
"Pelz, Zach" <[zpelz@westlinnoregon.gov](mailto:zpelz@westlinnoregon.gov)>, <[jheisler@ci.oswego.or.us](mailto:jheisler@ci.oswego.or.us)>,  
<[cwl\\_planningcommission@westlinnoregon.gov](mailto:cwl_planningcommission@westlinnoregon.gov)>  
CC: <[kevinbryck@comcast.net](mailto:kevinbryck@comcast.net)>, <[dnewell@alum.mit.edu](mailto:dnewell@alum.mit.edu)>,  
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<[kenhanawa@yahoo.com](mailto:kenhanawa@yahoo.com)>, <[liselotte@dekka.com](mailto:liselotte@dekka.com)>, <[mark.ellsworth@comcast.net](mailto:mark.ellsworth@comcast.net)>, <[Drs.mutschler@gmail.com](mailto:Drs.mutschler@gmail.com)>, <[CouncilDistribution@ci.oswego.or.us](mailto:CouncilDistribution@ci.oswego.or.us)>, <[drcanes14@gmail.com](mailto:drcanes14@gmail.com)>, <[miatippner@gmail.com](mailto:miatippner@gmail.com)>, <[mike@workflowpro.net](mailto:mike@workflowpro.net)>, <[munixinc2000@yahoo.com](mailto:munixinc2000@yahoo.com)>, <[hitesman@q.com](mailto:hitesman@q.com)>, <[councilmail@tigard-or.gov](mailto:councilmail@tigard-or.gov)>, Natalie Cooper <[n.nahey.4.coopers@comcast.net](mailto:n.nahey.4.coopers@comcast.net)>, <[ryhimm@hotmail.com](mailto:ryhimm@hotmail.com)>, <[rcozby@hotmail.com](mailto:rcozby@hotmail.com)>, <[rickveda22@yahoo.com](mailto:rickveda22@yahoo.com)>, <[sreid.229@msn.com](mailto:sreid.229@msn.com)>, <[smedbery@yahoo.com](mailto:smedbery@yahoo.com)>, <[norahs1344@yahoo.com](mailto:norahs1344@yahoo.com)>, <[spgavin63@gmail.com](mailto:spgavin63@gmail.com)>, <[butterqueen@comcast.net](mailto:butterqueen@comcast.net)>, <[tdavisson@gmail.com](mailto:tdavisson@gmail.com)>, <[thom.holder@comcast.net](mailto:thom.holder@comcast.net)>, <[valariesabo5@hotmail.com](mailto:valariesabo5@hotmail.com)>, <[viktoriyac@gmail.com](mailto:viktoriyac@gmail.com)>, <[flyartcreations@comcast.net](mailto:flyartcreations@comcast.net)>, <[hendersonjj@comcast.net](mailto:hendersonjj@comcast.net)>, <[sfhopkins9@aol.com](mailto:sfhopkins9@aol.com)>, <[sistephe@gapac.com](mailto:sistephe@gapac.com)>, <[hawkey88@comcast.net](mailto:hawkey88@comcast.net)>, <[jumpin@cmn.net](mailto:jumpin@cmn.net)>, <[gwensieben@att.net](mailto:gwensieben@att.net)>, <[yvonne.davis@tqs.com](mailto:yvonne.davis@tqs.com)>, Karie Oakes <[karieokee@aol.com](mailto:karieokee@aol.com)>

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X-Barracuda-Start-Time: 1351282310

X-Barracuda-URL: <http://10.1.1.36:8000/cgi-mod/mark.cgi>

X-Virus-Scanned: by bsmtpd at [westlinnoregon.gov](http://westlinnoregon.gov)

X-Barracuda-Spam-Score: 0.00

X-Barracuda-Spam-Status: No, SCORE=0.00 using global scores of TAG\_LEVEL=3.0

QUARANTINE\_LEVEL=2.9 KILL\_LEVEL=1000.0 tests=HTML\_MESSAGE

X-Barracuda-Spam-Report: Code version 3.2, rules version 3.2.2.112460

Rule breakdown below

pts	rule name	description
0.00	HTML_MESSAGE	BODY: HTML included in message

Return-Path: [ghitesman@gmail.com](mailto:ghitesman@gmail.com)

X-ExProperty: MjA6VlRfVUk00jE-

X-ExProperty: MTM6VlRfVUk00jA-

X-ExProperty: MTI6VlRfVUk00jE-

X-ExProperty: NzpWVF9VSTQ6MA--

X-ExProperty: NjpWVF9VSTQ6MA--

X-ExProperty: NTpWVF9VSTQ6MA--

X-ExProperty: MjpwVF9CU1RSOmdoaXRlc21hbokBnbW7PpbC5jb20-

X-ExProperty: MjpwVF9VSTQ6MQ--

Final-Recipient: [rfe822:cwl\\_cci@westlinnoregon.gov](mailto:rfe822:cwl_cci@westlinnoregon.gov)

Action: failed

Status: 5.7.1

Diagnostic-Code: smtp;550 5.7.1 RESOLVER.RST.AuthRequired; authentication required

----- Forwarded message -----

From: Gary Hitesman <[ghitesman@gmail.com](mailto:ghitesman@gmail.com)>

To: <[cwl\\_cci@westlinnoregon.gov](mailto:cwl_cci@westlinnoregon.gov)>, "Sonnen, John" <[JSONNEN@westlinnoregon.gov](mailto:JSONNEN@westlinnoregon.gov)>, "Pelz, Zach" <[zpelz@westlinnoregon.gov](mailto:zpelz@westlinnoregon.gov)>, <[jheisler@ci.oswego.or.us](mailto:jheisler@ci.oswego.or.us)>, <[cwl\\_planningcommission@westlinnoregon.gov](mailto:cwl_planningcommission@westlinnoregon.gov)>

Cc: <[kevinbryck@comcast.net](mailto:kevinbryck@comcast.net)>, <[dnewell@alum.mit.edu](mailto:dnewell@alum.mit.edu)>, <[chucklandskronercrm@hotmail.com](mailto:chucklandskronercrm@hotmail.com)>, <[ericjones2009@aol.com](mailto:ericjones2009@aol.com)>, <[dfroode@comcast.net](mailto:dfroode@comcast.net)>, <[patvicsmith@msn.com](mailto:patvicsmith@msn.com)>, <[lamontking@comcast.net](mailto:lamontking@comcast.net)>, <[noelblake@comcast.net](mailto:noelblake@comcast.net)>, <[mutschler2@comcast.net](mailto:mutschler2@comcast.net)>, <[Stowell5050@aol.com](mailto:Stowell5050@aol.com)>, <[anthonymbracco@yahoo.com](mailto:anthonymbracco@yahoo.com)>, <[shanonmv@comcast.net](mailto:shanonmv@comcast.net)>, <[jnorb@comcast.net](mailto:jnorb@comcast.net)>, <[roberta.schwarz@comcast.net](mailto:roberta.schwarz@comcast.net)>, <[juliecmcadams@yahoo.com](mailto:juliecmcadams@yahoo.com)>, <[javahag@comcast.net](mailto:javahag@comcast.net)>, <[kappa@dekka.com](mailto:kappa@dekka.com)>, <[murbobr@q.com](mailto:murbobr@q.com)>, <[annaw@hevanet.com](mailto:annaw@hevanet.com)>, <[bniedermeyer@msn.com](mailto:bniedermeyer@msn.com)>, <[quetzal.verapaz@gmail.com](mailto:quetzal.verapaz@gmail.com)>, <[cdavidson@hfflp.com](mailto:cdavidson@hfflp.com)>, <[tessamess@gmail.com](mailto:tessamess@gmail.com)>, <[cinkauffman@yahoo.com](mailto:cinkauffman@yahoo.com)>, <[clan.mccarthy@yahoo.com](mailto:clan.mccarthy@yahoo.com)>, <[darryl\\_walters@comcast.net](mailto:darryl_walters@comcast.net)>, <[francisco.varela@comcast.net](mailto:francisco.varela@comcast.net)>, <[2emblens@comcast.net](mailto:2emblens@comcast.net)>, <[glgavin@comcast.net](mailto:glgavin@comcast.net)>, <[thorfinn@comcast.net](mailto:thorfinn@comcast.net)>, <[justjoanmail@yahoo.com](mailto:justjoanmail@yahoo.com)>, <[kenhanawa@yahoo.com](mailto:kenhanawa@yahoo.com)>, <[liselotte@dekka.com](mailto:liselotte@dekka.com)>



<[mark.ellsworth@comcast.net](mailto:mark.ellsworth@comcast.net)>, <[Drs.mutschler@gmail.com](mailto:Drs.mutschler@gmail.com)>, <[CouncilDistribution@ci.oswego.or.us](mailto:CouncilDistribution@ci.oswego.or.us)>, <[drcanes14@gmail.com](mailto:drcanes14@gmail.com)>, <[miatippner@gmail.com](mailto:miatippner@gmail.com)>, <[mike@workflowpro.net](mailto:mike@workflowpro.net)>, <[munixinc2000@yahoo.com](mailto:munixinc2000@yahoo.com)>, <[hitesman@q.com](mailto:hitesman@q.com)>, <[councilmail@tigard-or.gov](mailto:councilmail@tigard-or.gov)>, Natalie Cooper <[n.nahey.4.coopers@comcast.net](mailto:n.nahey.4.coopers@comcast.net)>, <[ryhimm@hotmail.com](mailto:ryhimm@hotmail.com)>, <[rcozby@hotmail.com](mailto:rcozby@hotmail.com)>, <[rickveda22@yahoo.com](mailto:rickveda22@yahoo.com)>, <[sreid\\_229@msn.com](mailto:sreid_229@msn.com)>, <[smedbery@yahoo.com](mailto:smedbery@yahoo.com)>, <[norahs1344@yahoo.com](mailto:norahs1344@yahoo.com)>, <[spgavin63@gmail.com](mailto:spgavin63@gmail.com)>, <[butterqueen@comcast.net](mailto:butterqueen@comcast.net)>, <[tdavisson@gmail.com](mailto:tdavisson@gmail.com)>, <[thom.holder@comcast.net](mailto:thom.holder@comcast.net)>, <[valariesabo5@hotmail.com](mailto:valariesabo5@hotmail.com)>, <[viktoriyac@gmail.com](mailto:viktoriyac@gmail.com)>, <[flyartcreations@comcast.net](mailto:flyartcreations@comcast.net)>, <[hendersonjj@comcast.net](mailto:hendersonjj@comcast.net)>, <[sfhopkins9@aol.com](mailto:sfhopkins9@aol.com)>, <[sistephe@gapac.com](mailto:sistephe@gapac.com)>, <[hawkey88@comcast.net](mailto:hawkey88@comcast.net)>, <[jumpin@cmn.net](mailto:jumpin@cmn.net)>, <[gwensieben@att.net](mailto:gwensieben@att.net)>, <[yvonne.davis@tqs.com](mailto:yvonne.davis@tqs.com)>, Karie Oakes <[karieokee@aol.com](mailto:karieokee@aol.com)>

Date: Fri, 26 Oct 2012 13:11:50 -0700

Subject: CUP- 12-02\_CUP-12-04\_CCI meeting request

Dear Commission for Citizen Involvement,

First; Thank you for having a TV set up in the Lobby. I gave up my seat in the council chambers to a resident of Robinwood and grabbed another empty chair before I realized who I was sitting next to. Luckily, I was soon asked to testify and removed myself from a very uncomfortable situation. I was able to remain informed by self-sequestering myself to the lobby without having to go back and sit next to the Darth-Vader-Incarnate.

Second, I am highly critical of the process city staff embark on when it comes to planning and the almost hostile-like zeal our very own city manager goes after neighborhoods; destroying everything that gets in the way of development and private party interests.

Recently, I feel overly compelled to comment on the water treatment plant conditional use process. 'This' THING is out-of-control?! The cities of LO and Tigard have been afforded to ~literally~ rape us and you guys act as if nothing beyond the normal pale of planning is going on. In the meantime, citizen participation is censored.

- Or, as Greg McKenzie put it, HE controls who goes to meetings and who doesn't! How is that "facilitation"?
- Where in the Comprehensive Plan does it validate "facilitation"?
- Where in the Comprehensive Plan does it establish this procedure as meeting the intent of ORS 197?
- How do the actions of an unsupervised city manager meet with the intent of Goal One?
- What process are the cities following?
- What is Ms. Beery, a city paid consultant, hiding?
- Why are WL residents being sued by L.O.? That appears to me to be very, very rude and damaging toward citizen participation. The City has a plot there to. Is the City being sued too?
- Who is looking out for the people of West Linn? Please don't say Kovash! That would be devastatingly heart-breaking.

I believe **your** actions and that of the cities is unprecedented, horribly wrong, and damaging to citizens in Oregon. IMO, this water plant fiasco is the most egregious act of sanctioned municipal terrorism that I have yet to witness.

Attached is the website description of what the CIC says you are doing.

In August of 2008, the City Council created the Commission for Citizen Involvement (CCI). The CCI is authorized to enhance the City's citizen involvement efforts as they relate to the land use planning process. The CCI is directed to meet on a continuing and **as needed basis** to review and

evaluate the City's existing processes to ensure that citizens are informed and given appropriate opportunities to participate in the land use planning process. The City's Planning Commissioners make up the membership of the CCI.

The stated purpose of the CCI is to evaluate the effectiveness of the City's citizen involvement programs as they relate to land use planning and to advise and make recommendations to the City Council and city staff on how they can be improved upon.

The CCI is also authorized to meet with the City Council at least once per year with an update on its activities and to make any formal recommendations, if necessary. The City's CCI satisfies the regulatory requirements for local governments under Statewide Planning Goal 1 and furthers the policies outlined in the City's Comprehensive Plan.

Current Commission members:

Chair Michael Babbitt  
Vice Chair Gail Holmes  
Christine Steel  
Holly Miller  
Robert Martin  
Russell Axelrod  
Thomas Frank

Is the CCI OK with that description? Is the CCI regulatory requirement being met? I have read the Oregon Revised Statutes on Citizen Involvement Committees and I DO DECLARE! ;-)

I propose the following agenda, despite the lack of enforcement statutes allows, and request a public meeting to hear the many grievances circulating about the City at this time. (Either I afford the City an opportunity to right the many wrongs you yourselves have allowed or I just go ahead with executing ORS 197.319.)

1. Why is your committee named something other than what the Statute says you are?
2. Who is managing this process? They are demonstrably displaying a lack of experience in planning and enacting inappropriate citizen participation activities.
3. I am drafting up a current petition to submit another ORS 197.320 and seek your advice on how I might best avail my concerns regarding this fubared process Jane Hiesler, Joel Komerack, and Chris Jordan have released onto one of the largest neighborhoods in our City. I also want to know why city police show up at a planning session where the public has been invited because Jane Heisler called to say she feared unspecified and unsubstantiated reprisals from me and another Robinwood resident?
4. I seek an understanding of what ex parte is and isn't. I contend the Beery dictate is an attack on the constitution and our constitutional right to bear grievances.
5. From a planning perspective, I am incensed on how our own City treats it's residents. I think the following is antithesis of what is transpiring ---->
  - "as needed basis to review and evaluate the City's existing processes to ensure that citizens are informed and given appropriate opportunities to participate in the land use planning process."
  - I want to discuss "as-needed", "ensure that citizens are informed", and "appropriate".
  - I will also request that the code be revised to say residents, not citizens. Because the lack luster civility from our city manager and LO has appeared to have destroyed all the credibility and integrity of small town stewardship and municipal governance.



6. And the guy from Tigard? That guy appears to walk around like he loathes the public! In the least, he is a buzz killer. And the councilor from Tigard who appears to be picking fights with residents of Robinwood is inappropriate! Can you make this stop?! I am equally disgusted by all the suits and hired guns that stand in gangs at city hall and wearily look at us that object to this neighborhood genocide. Who are they? What companies do they represent? They do not sign in and they do not announce themselves. They should be required to have badges with company logos emblazoned on their horribly unfashionable sports jackets. Are these apparent thugs getting paid for loitering around public venues? Despite my own personal disgust at this waste of public resources, I appreciated how one suit "saved" a seat for the late-arriving project architect. It was equally cute and adorable as it was apparently gay. I'd be gay to if i was getting paid to show up and intimidate the public-at-large. (On second thought, I would not stoop that low.)
7. I want to know: Are you guys running a Gulag and we just don't know it yet? Pardon my lack of respect. It happens when the City purposefully takes the act of planning and willfully transforms the profession into a three-ring circus.

I will wait, just a tad, for your response. Given the city's previous laggard response on citizen involvement and your own terrible legacy, I don't suspect to really hear back from you guys. But if you do, I would appreciate the courtesy.

Thank you, to some, for your consideration, patience with my theatrics, and your volunteerism,

GARY Hitesman

On Fri, Oct 26, 2012 at 10:27 AM, Gary Hitesman <[ghitesman@gmail.com](mailto:ghitesman@gmail.com)> wrote:  
Planning Director John Sonnen and LOT,

I understand the videographer left the tape running last night for hours after the PC adjourned. I am interested in the staff discussion that took place in the public meeting hall. The tape has now been changed and edited on graticus. I request that the portion be placed back onto the web for everyone to hear/see.

I have indicated I have the intent to file an appeal on this CUP request. A public records request will eventually be made, as that was what Ms. Beery said she would allow.

Mr. Sonnen,

This type of thing has happened before but only in the opposite case. In that instance, Patti Galle was mistreated and recorded "after the gavel".(Apologies to Ms. Galle.) Regardless, the tape aired on WFTV the very next day after Ms. Kirsten Wyatt ran the tape down to Oregon City and instructed the facility to run the tape immediately. This was highly unusual as the City was forwarding tapes, on average, 7 days after. Needless to say, Ms. Galle was mistreated and maligned that night by some of the very same people who were involved in that incident. Only after her lawyers were successful in pressuring Chris Jordan did the chastened City Manager walk a revised tape back down to the Studio. (This is part of the record.)

Please explain to me why the City will maintain the right to suppress this information? And why are LO representatives and West Linn lawyers so nasty and needlessly so 'curt'? I'm talking about cherished homes and venerated neighborhoods and appropriate land use. What is West Linn and Ms. Beery talking about?

Gary Hitesman



On Fri, Oct 26, 2012 at 10:58 AM, gwen sieben <[gwensieben@att.net](mailto:gwensieben@att.net)> wrote:

When I viewed the uncut version the total length of video was 6 hours. The edited version is just under 2 hours. Sounds like Kevin Bryck has the whole thing, so we just have to get that out to the public, if indeed the interesting conversation past the 2 hour point reveals anything we can use.

--- On Fri, 10/26/12, Gary Hitesman <[ghitesman@gmail.com](mailto:ghitesman@gmail.com)> wrote:

From: Gary Hitesman <[ghitesman@gmail.com](mailto:ghitesman@gmail.com)>

Subject: Re: See & copy video from last night immediately

To: "Natalie Nahey Cooper" <[n.nahey.4.coopers@comcast.net](mailto:n.nahey.4.coopers@comcast.net)>

Cc: "gwen sieben" <[gwensieben@att.net](mailto:gwensieben@att.net)>, "Oakes Karie" <[karieokee@aol.com](mailto:karieokee@aol.com)>, "Henderson Jenne" <[hendersonjj@comcast.net](mailto:hendersonjj@comcast.net)>, "kevinbryck@comcast.net" <[kevinbryck@comcast.net](mailto:kevinbryck@comcast.net)>, "dnewell@alum.mit.edu" <[dnewell@alum.mit.edu](mailto:dnewell@alum.mit.edu)>, "chucklandskronercrm@hotmail.com" <[chucklandskronercrm@hotmail.com](mailto:chucklandskronercrm@hotmail.com)>, "ericjones2009@aol.com" <[ericjones2009@aol.com](mailto:ericjones2009@aol.com)>, "dfroode@comcast.net" <[dfroode@comcast.net](mailto:dfroode@comcast.net)>, "patvicsmith@msn.com" <[patvicsmith@msn.com](mailto:patvicsmith@msn.com)>, "lamontking@comcast.net" <[lamontking@comcast.net](mailto:lamontking@comcast.net)>, "noelblake@comcast.net" <[noelblake@comcast.net](mailto:noelblake@comcast.net)>, "mutschler2@comcast.net" <[mutschler2@comcast.net](mailto:mutschler2@comcast.net)>, "Stowell5050@aol.com" <[Stowell5050@aol.com](mailto:Stowell5050@aol.com)>, "anthonymbracco@yahoo.com" <[anthonymbracco@yahoo.com](mailto:anthonymbracco@yahoo.com)>, "shanonmv@comcast.net" <[shanonmv@comcast.net](mailto:shanonmv@comcast.net)>, "jnorb@comcast.net" <[jnorb@comcast.net](mailto:jnorb@comcast.net)>, "roberta.schwarz@comcast.net" <[roberta.schwarz@comcast.net](mailto:roberta.schwarz@comcast.net)>, "juliecmcadams@yahoo.com" <[juliecmcadams@yahoo.com](mailto:juliecmcadams@yahoo.com)>, "javahag@comcast.net" <[javahag@comcast.net](mailto:javahag@comcast.net)>, "kappa@dekka.com" <[kappa@dekka.com](mailto:kappa@dekka.com)>, "murbobr@q.com" <[murbobr@q.com](mailto:murbobr@q.com)>, "annaw@hevanet.com" <[annaw@hevanet.com](mailto:annaw@hevanet.com)>, "bniedermeyer@msn.com" <[bniedermeyer@msn.com](mailto:bniedermeyer@msn.com)>, "quetzal.verapaz@gmail.com" <[quetzal.verapaz@gmail.com](mailto:quetzal.verapaz@gmail.com)>, "cdavidson@hfflp.com" <[cdavidson@hfflp.com](mailto:cdavidson@hfflp.com)>, "tessamess@gmail.com" <[tessamess@gmail.com](mailto:tessamess@gmail.com)>, "cinkauffman@yahoo.com" <[cinkauffman@yahoo.com](mailto:cinkauffman@yahoo.com)>, "clan.mccarthy@yahoo.com" <[clan.mccarthy@yahoo.com](mailto:clan.mccarthy@yahoo.com)>, "darryl.walters@comcast.net" <[darryl.walters@comcast.net](mailto:darryl.walters@comcast.net)>, "francisco.varela@comcast.net" <[francisco.varela@comcast.net](mailto:francisco.varela@comcast.net)>, "2emblens@comcast.net" <[2emblens@comcast.net](mailto:2emblens@comcast.net)>, "glgavin@comcast.net" <[glgavin@comcast.net](mailto:glgavin@comcast.net)>, "thorfinn@comcast.net" <[thorfinn@comcast.net](mailto:thorfinn@comcast.net)>, "justjoanmail@yahoo.com" <[justjoanmail@yahoo.com](mailto:justjoanmail@yahoo.com)>, "kenhanawa@yahoo.com" <[kenhanawa@yahoo.com](mailto:kenhanawa@yahoo.com)>, "liselotte@dekka.com" <[liselotte@dekka.com](mailto:liselotte@dekka.com)>, "mark.ellsworth@comcast.net" <[mark.ellsworth@comcast.net](mailto:mark.ellsworth@comcast.net)>, "Drs.mutschler@gmail.com" <[Drs.mutschler@gmail.com](mailto:Drs.mutschler@gmail.com)>, "drcanes14@gmail.com" <[drcanes14@gmail.com](mailto:drcanes14@gmail.com)>, "miatippner@gmail.com" <[miatippner@gmail.com](mailto:miatippner@gmail.com)>, "mike@workflowpro.net" <[mike@workflowpro.net](mailto:mike@workflowpro.net)>, "munixinc2000@yahoo.com" <[munixinc2000@yahoo.com](mailto:munixinc2000@yahoo.com)>, "ryhimm@hotmail.com" <[ryhimm@hotmail.com](mailto:ryhimm@hotmail.com)>, "rcozby@hotmail.com" <[rcozby@hotmail.com](mailto:rcozby@hotmail.com)>, "rickveda22@yahoo.com" <[rickveda22@yahoo.com](mailto:rickveda22@yahoo.com)>, "sreid\_229@msn.com" <[sreid\\_229@msn.com](mailto:sreid_229@msn.com)>, "smedbery@yahoo.com" <[smedbery@yahoo.com](mailto:smedbery@yahoo.com)>, "norahs1344@yahoo.com" <[norahs1344@yahoo.com](mailto:norahs1344@yahoo.com)>, "spgavin63@gmail.com" <[spgavin63@gmail.com](mailto:spgavin63@gmail.com)>, "butterqueen@comcast.net" <[butterqueen@comcast.net](mailto:butterqueen@comcast.net)>, "tdavisson@gmail.com" <[tdavisson@gmail.com](mailto:tdavisson@gmail.com)>, "thom.holder@comcast.net" <[thom.holder@comcast.net](mailto:thom.holder@comcast.net)>, "valariesabo5@hotmail.com" <[valariesabo5@hotmail.com](mailto:valariesabo5@hotmail.com)>, "viktoriyac@gmail.com" <[viktoriyac@gmail.com](mailto:viktoriyac@gmail.com)>, "flyartcreations@comcast.net" <[flyartcreations@comcast.net](mailto:flyartcreations@comcast.net)>, "sfhopkins9@aol.com" <[sfhopkins9@aol.com](mailto:sfhopkins9@aol.com)>, "sistephe@gapac.com" <[sistephe@gapac.com](mailto:sistephe@gapac.com)>, "hawkey88@comcast.net" <[hawkey88@comcast.net](mailto:hawkey88@comcast.net)>, "jumpin@cmn.net" <[jumpin@cmn.net](mailto:jumpin@cmn.net)>, "yvonne.davis@tqs.com" <[yvonne.davis@tqs.com](mailto:yvonne.davis@tqs.com)>, "Rebecca.Walters@adp.com" <[Rebecca.Walters@adp.com](mailto:Rebecca.Walters@adp.com)>

Date: Friday, October 26, 2012, 10:51 AM

I also saved the link around that time( 9:22AM) and the tape had already been changed.

On Fri, Oct 26, 2012 at 10:46 AM, Natalie Nahey Cooper <[n.nahey.4.coopers@comcast.net](mailto:n.nahey.4.coopers@comcast.net)> wrote:

Mike & I have a copy of the video as of 9:15am, on our hard drive.

Does anyone know what time the video was edited & the "after hours strategy discussion" was deleted?

If the video was edited AFTER 9:15am, we have a saved copy that we can distribute tonight. (I wont have access to the copy of the video we saved on our hard drive until this evening, so I am unable to view it to determine if it is uncut until this evening.)

We will follow up, tonight unless someone else managed to get a copy of the unedited video.

I would also be very interested to know the content of the "after-adjournment strategy" discussion by the staff. I hope it was a discussion among the staff & there were no lawyers or other representatives for LOT present.



Why would the staff have a strategy discussion if they are impartial.....?

Thanks,  
Natalie

Natalie Nahey Cooper  
Sent from my iPhone

On Oct 26, 2012, at 10:05 AM, gwen sieben <[gwensieben@att.net](mailto:gwensieben@att.net)> wrote:

I watched the beginning of the post-adjournment section but had to unplug to relocate. Now it's gone. W anyone who kept a copy or was able to watch be able to transcribe it or summarize it?

--- On Fri, 10/26/12, Jenne Henderson <[hendersonjj@comcast.net](mailto:hendersonjj@comcast.net)> wrote:

From: Jenne Henderson <[hendersonjj@comcast.net](mailto:hendersonjj@comcast.net)>

Subject: Re: See & copy video from last night immediately

To: "Karie Oakes" <[karieokee@aol.com](mailto:karieokee@aol.com)>

Cc: "[kevinbryck@comcast.net](mailto:kevinbryck@comcast.net)" <[kevinbryck@comcast.net](mailto:kevinbryck@comcast.net)>, "[dnewell@alum.mit.edu](mailto:dnewell@alum.mit.edu)" <[dnewell@alum.mit.edu](mailto:dnewell@alum.mit.edu)>, "[chucklandskronererm@hotmail.com](mailto:chucklandskronererm@hotmail.com)" <[chucklandskronererm@hotmail.com](mailto:chucklandskronererm@hotmail.com)>, "[ericjones2009@aol.com](mailto:ericjones2009@aol.com)" <[ericjones2009@aol.com](mailto:ericjones2009@aol.com)>, "[dfroode@comcast.net](mailto:dfroode@comcast.net)" <[dfroode@comcast.net](mailto:dfroode@comcast.net)>, "[patvicsmith@msn.com](mailto:patvicsmith@msn.com)" <[patvicsmith@msn.com](mailto:patvicsmith@msn.com)>, "[lamontking@comcast.net](mailto:lamontking@comcast.net)" <[lamontking@comcast.net](mailto:lamontking@comcast.net)>, "[noelblake@comcast.net](mailto:noelblake@comcast.net)" <[noelblake@comcast.net](mailto:noelblake@comcast.net)>, "[mutschler2@comcast.net](mailto:mutschler2@comcast.net)" <[mutschler2@comcast.net](mailto:mutschler2@comcast.net)>, "[Stowell5050@aol.com](mailto:Stowell5050@aol.com)" <[Stowell5050@aol.com](mailto:Stowell5050@aol.com)>, "[anthonymbracco@yahoo.com](mailto:anthonymbracco@yahoo.com)" <[anthonymbracco@yahoo.com](mailto:anthonymbracco@yahoo.com)>, "[shanonmv@comcast.net](mailto:shanonmv@comcast.net)" <[shanonmv@comcast.net](mailto:shanonmv@comcast.net)>, "[jnorb@comcast.net](mailto:jnorb@comcast.net)" <[jnorb@comcast.net](mailto:jnorb@comcast.net)>, "[ghitesman@gmail.com](mailto:ghitesman@gmail.com)" <[ghitesman@gmail.com](mailto:ghitesman@gmail.com)>, "[roberta.schwarz@comcast.net](mailto:roberta.schwarz@comcast.net)" <[roberta.schwarz@comcast.net](mailto:roberta.schwarz@comcast.net)>, "[juliecmcadams@yahoo.com](mailto:juliecmcadams@yahoo.com)" <[juliecmcadams@yahoo.com](mailto:juliecmcadams@yahoo.com)>, "[javahag@comcast.net](mailto:javahag@comcast.net)" <[javahag@comcast.net](mailto:javahag@comcast.net)>, "[kappa@dekka.com](mailto:kappa@dekka.com)" <[kappa@dekka.com](mailto:kappa@dekka.com)>, "[murbobr@q.com](mailto:murbobr@q.com)" <[murbobr@q.com](mailto:murbobr@q.com)>, "[annaw@hevanet.com](mailto:annaw@hevanet.com)" <[annaw@hevanet.com](mailto:annaw@hevanet.com)>, "[bniedermeyer@msn.com](mailto:bniedermeyer@msn.com)" <[bniedermeyer@msn.com](mailto:bniedermeyer@msn.com)>, "[quetzal.verapaz@gmail.com](mailto:quetzal.verapaz@gmail.com)" <[quetzal.verapaz@gmail.com](mailto:quetzal.verapaz@gmail.com)>, "[cdavidson@hfflp.com](mailto:cdavidson@hfflp.com)" <[cdavidson@hfflp.com](mailto:cdavidson@hfflp.com)>, "[tessamess@gmail.com](mailto:tessamess@gmail.com)" <[tessamess@gmail.com](mailto:tessamess@gmail.com)>, "[cinkauffman@yahoo.com](mailto:cinkauffman@yahoo.com)" <[cinkauffman@yahoo.com](mailto:cinkauffman@yahoo.com)>, "[clan.mccarthy@yahoo.com](mailto:clan.mccarthy@yahoo.com)" <[clan.mccarthy@yahoo.com](mailto:clan.mccarthy@yahoo.com)>, "[darryl\\_walters@comcast.net](mailto:darryl_walters@comcast.net)" <[darryl\\_walters@comcast.net](mailto:darryl_walters@comcast.net)>, "[francisco.varela@comcast.net](mailto:francisco.varela@comcast.net)" <[francisco.varela@comcast.net](mailto:francisco.varela@comcast.net)>, "[2emblens@comcast.net](mailto:2emblens@comcast.net)" <[2emblens@comcast.net](mailto:2emblens@comcast.net)>, "[glgavin@comcast.net](mailto:glgavin@comcast.net)" <[glgavin@comcast.net](mailto:glgavin@comcast.net)>, "[thorfinn@comcast.net](mailto:thorfinn@comcast.net)" <[thorfinn@comcast.net](mailto:thorfinn@comcast.net)>, "[justjoanmail@yahoo.com](mailto:justjoanmail@yahoo.com)" <[justjoanmail@yahoo.com](mailto:justjoanmail@yahoo.com)>, "[kenhanawa@yahoo.com](mailto:kenhanawa@yahoo.com)" <[kenhanawa@yahoo.com](mailto:kenhanawa@yahoo.com)>, "[liselotte@dekka.com](mailto:liselotte@dekka.com)" <[liselotte@dekka.com](mailto:liselotte@dekka.com)>, "[mark.ellsworth@comcast.net](mailto:mark.ellsworth@comcast.net)" <[mark.ellsworth@comcast.net](mailto:mark.ellsworth@comcast.net)>, "[Drs.mutschler@gmail.com](mailto:Drs.mutschler@gmail.com)" <[Drs.mutschler@gmail.com](mailto:Drs.mutschler@gmail.com)>, "[drcanes14@gmail.com](mailto:drcanes14@gmail.com)" <[drcanes14@gmail.com](mailto:drcanes14@gmail.com)>, "[miatippner@gmail.com](mailto:miatippner@gmail.com)" <[miatippner@gmail.com](mailto:miatippner@gmail.com)>, "[mike@workflowpro.net](mailto:mike@workflowpro.net)" <[mike@workflowpro.net](mailto:mike@workflowpro.net)>, "[munixinc2000@yahoo.com](mailto:munixinc2000@yahoo.com)" <[munixinc2000@yahoo.com](mailto:munixinc2000@yahoo.com)>, "[n.nahey.4.coopers@comcast.net](mailto:n.nahey.4.coopers@comcast.net)" <[n.nahey.4.coopers@comcast.net](mailto:n.nahey.4.coopers@comcast.net)>, "[ryhimm@hotmail.com](mailto:ryhimm@hotmail.com)" <[ryhimm@hotmail.com](mailto:ryhimm@hotmail.com)>, "[rcozby@hotmail.com](mailto:rcozby@hotmail.com)" <[rcozby@hotmail.com](mailto:rcozby@hotmail.com)>, "[rickveda22@yahoo.com](mailto:rickveda22@yahoo.com)" <[rickveda22@yahoo.com](mailto:rickveda22@yahoo.com)>, "[sreid\\_229@msn.com](mailto:sreid_229@msn.com)" <[sreid\\_229@msn.com](mailto:sreid_229@msn.com)>, "[smedbery@yahoo.com](mailto:smedbery@yahoo.com)" <[smedbery@yahoo.com](mailto:smedbery@yahoo.com)>, "[norahs1344@yahoo.com](mailto:norahs1344@yahoo.com)" <[norahs1344@yahoo.com](mailto:norahs1344@yahoo.com)>, "[spgavin63@gmail.com](mailto:spgavin63@gmail.com)" <[spgavin63@gmail.com](mailto:spgavin63@gmail.com)>, "[butterqueen@comcast.net](mailto:butterqueen@comcast.net)" <[butterqueen@comcast.net](mailto:butterqueen@comcast.net)>, "[tdavisson@gmail.com](mailto:tdavisson@gmail.com)" <[tdavisson@gmail.com](mailto:tdavisson@gmail.com)>, "[thom.holder@comcast.net](mailto:thom.holder@comcast.net)" <[thom.holder@comcast.net](mailto:thom.holder@comcast.net)>, "[valariesabo5@hotmail.com](mailto:valariesabo5@hotmail.com)" <[valariesabo5@hotmail.com](mailto:valariesabo5@hotmail.com)>, "[viktoriyac@gmail.com](mailto:viktoriyac@gmail.com)" <[viktoriyac@gmail.com](mailto:viktoriyac@gmail.com)>, "[flyartcreations@comcast.net](mailto:flyartcreations@comcast.net)" <[flyartcreations@comcast.net](mailto:flyartcreations@comcast.net)>, "[sfhopkins9@aol.com](mailto:sfhopkins9@aol.com)" <[sfhopkins9@aol.com](mailto:sfhopkins9@aol.com)>, "[sistephe@gapac.com](mailto:sistephe@gapac.com)" <[sistephe@gapac.com](mailto:sistephe@gapac.com)>, "[hawkey88@comcast.net](mailto:hawkey88@comcast.net)" <[hawkey88@comcast.net](mailto:hawkey88@comcast.net)>, "[jumpin@cmn.net](mailto:jumpin@cmn.net)" <[jumpin@cmn.net](mailto:jumpin@cmn.net)>, "[gwensieben@att.net](mailto:gwensieben@att.net)" <[gwensieben@att.net](mailto:gwensieben@att.net)>, "[yvonne.davis@tqs.com](mailto:yvonne.davis@tqs.com)" <[yvonne.davis@tqs.com](mailto:yvonne.davis@tqs.com)>,



"[Rebecca.Walters@adp.com](mailto:Rebecca.Walters@adp.com)" <[Rebecca.Walters@adp.com](mailto:Rebecca.Walters@adp.com)>

Date: Friday, October 26, 2012, 9:58 AM

Hmmmmm.....it doesn't seem to be there anymore. It cuts off right when Commissioner Babbitt says "We're adjourned."

I would really be interested in hearing it and I hope you had success copying it.

Thanks for your support in this fight,

Jenne

On Oct 26, 2012, at 8:27 AM, Karie Oakes <[kariookee@aol.com](mailto:kariookee@aol.com)> wrote:

Hi all,

The videographer left the tape running last night for hours after the PC adjourned. You might be interested in the staff discussion with Pam Berry about strategy. I am trying to copy it now but it is slow, estimating 1 hr and 40 minutes. If someone has a quicker method, you may want to copy. At least listen in for info. It's like being a fly on the wall. ASAP!!! I made the mistake of notifying the City of the error last night, not thinking that it would be posted before editing.

Karie

## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Friday, October 26, 2012 1:09 PM  
**To:** Pelz, Zach  
**Subject:** FW: Citizen Request 17572 - Lake Oswego Tigard Water Partnership

This does not appear to qualify now, but keep it in the record for the CC consideration

John Sonnen, Planning Director  
Planning and Building, #1524

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**From:** Webmaster  
**Sent:** Friday, October 26, 2012 1:08 PM  
**To:** Sonnen, John  
**Subject:** Citizen Request 17572 - Lake Oswego Tigard Water Partnership

A new Citizen Request has been submitted to the Citizen Support Center, and assigned to you for prompt response. Please use the online Citizen Support Center to respond to this Citizen Request. As a reminder, your response will be included in the online tracking system for this Citizen Request. Thank you.

<b>Original Request</b>	<b>10/26/2012</b>	Reference Number:	<b>17572</b>
<b>SummaryDate:</b>		Status:	<b>Assigned</b>
<b>Name:</b>	<b>Megan Bowes</b>	Source:	<b>online</b>
<b>Email:</b>	<b><u>megan.bowes@jadaman.com</u></b>	Assigned To:	<b>jsonnen</b>
<b>Phone:</b>	<b>5037440710</b>	Assigned Group:	<b>Planning</b>
<b>Topic</b>	<b><u>Lake Oswego Tigard Water Partnership</u></b>		
<b>Request Details:</b>	I strongly urge the West Linn Planning Commission to vote against the Lake Oswego Tigard Water Partnership. This is a residential community with CC&Rs stating such. Our city government should be looking out for the best interests of our residents and our city. Intruding on a recognized residential neighborhood for the benefit of two outside cities does not meet that goal. It appears we have many legal grounds to stand on. I strongly urge you to do so. Stand up for what is right for our city and its residents. Sincerely, Megan M. Bowes		
<b>Comment:</b>			

Thank you for using the Citizen Support Center. The City of West Linn welcomes your continued involvement with City affairs.

## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Thursday, October 25, 2012 8:11 AM  
**To:** Pelz, Zach  
**Subject:** FW: Lake Oswego water project  
**Attachments:** image88a752.gif@ea093d55.b9a24a3a

John Sonnen, Planning Director  
Planning and Building, #1524

[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:** Kovash, John  
**Sent:** Thursday, October 25, 2012 7:52 AM  
**To:** Sonnen, John  
**Subject:** FW: Lake Oswego water project

Please add to the ex parte contact file. It does not influence me in this matter.  
John

 Mayor John Kovash  
[jkovash@westlinnoregon.gov](mailto:jkovash@westlinnoregon.gov)  
West Linn Mayor  
22500 Salamo Rd  
West Linn, OR 97068  
P: (503) 657-0331  
F: (503) 650-9041  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

[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:** Jones, Michael  
**Sent:** Wednesday, October 24, 2012 3:52 PM  
**To:** Sonnen, John  
**Cc:** City Council  
**Subject:** FW: Lake Oswego water project

Please add this to the file as ex parte contact. I did read the first sentence but stopped at that point. It will not influence my ability to make a decision.

Thanks-Mike

[mjones@westlinnoregon.gov](mailto:mjones@westlinnoregon.gov)  
503.344.4683

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Save the Salmon

Before you print, think about the ENVIRONMENT 



Councilor Michael Jones  
[mjones@westlinnoregon.gov](mailto:mjones@westlinnoregon.gov)  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, Oregon 97068  
P: (503) 657-0331  
F:  
Web:

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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.

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**From:** Paula Novak [toursbypaula@comcast.net]  
**Sent:** Wednesday, October 24, 2012 3:35 PM  
**To:** Jones, Michael  
**Subject:** Lake Oswego water project

Please don't support this project. This will ruin the quality of life for West Linn residents. Not only will the small business owners suffer but the residents as well. My memory is still very fresh about the Oregon City bridge closure. What a nightmare that was. Because of that closure I didn't frequent or support Oregon City businesses. Let Lake Oswego figure out another way to deal with their water issues without ruining our City.

Paula Novak  
5695 Summit St  
West Linn, OR 97068



bridge closure. What a nightmare that was. Because of that closure I didn't frequent or support Oregon City businesses. Let Lake Oswego figure out another way to deal with their water issues without ruining our City.

Paula Novak  
5695 Summit St  
West Linn, OR 97068

## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Wednesday, October 24, 2012 3:53 PM  
**To:** Pelz, Zach  
**Subject:** FW: Lake Oswego water project  
**Attachments:** image88a752.gif@ea093d55.b9a24a3a

John Sonnen, Planning Director  
Planning and Building, #1524

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

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**From:** Tan, Jennifer  
**Sent:** Wednesday, October 24, 2012 3:54 PM  
**To:** Jones, Michael; Sonnen, John  
**Cc:** City Council  
**Subject:** RE: Lake Oswego water project

I received this same e-mail and it did not bias me.  
Thank you,  
Jenni

 Councilor Jennifer Tan  
[itan@westlinnoregon.gov](mailto:itan@westlinnoregon.gov)  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, OR 97068  
P: (503) 657-0331  
F: (503) 650-9041  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

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.

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**From:** Jones, Michael  
**Sent:** Wednesday, October 24, 2012 3:51 PM  
**To:** Sonnen, John  
**Cc:** City Council  
**Subject:** FW: Lake Oswego water project

Please add this to the file as ex parte contact. I did read the first sentence but stopped at that point. It will not influence my ability to make a decision.

Thanks-Mike

[mjones@westlinnoregon.gov](mailto:mjones@westlinnoregon.gov)  
503.344.4683

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Save the Salmon



Councilor Michael Jones  
[mjones@westlinnoregon.gov](mailto:mjones@westlinnoregon.gov)  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, Oregon 97068  
P: (503) 657-0331  
F:  
Web:

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---

**From:** Paula Novak [[toursbypaula@comcast.net](mailto:toursbypaula@comcast.net)]  
**Sent:** Wednesday, October 24, 2012 3:35 PM  
**To:** Jones, Michael  
**Subject:** Lake Oswego water project

Please don't support this project. This will ruin the quality of life for West Linn residents. Not only will the small business owners suffer but the residents as well. My memory is still very fresh about the Oregon City bridge closure. What a nightmare that was. Because of that closure I didn't frequent or support Oregon City businesses. Let Lake Oswego figure out another way to deal with their water issues without ruining our City.

Paula Novak  
5695 Summit St  
West Linn, OR 97068



## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Monday, October 22, 2012 10:15 AM  
**To:** Pelz, Zach  
**Subject:** FW: HWY 43

John Sonnen, Planning Director  
Planning and Building, #1524

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.

-----Original Message-----

**From:** Tan, Jennifer  
**Sent:** Monday, October 22, 2012 10:04 AM  
**To:** Huey Meeker  
**Cc:** Kovash, John; Carson, Jody; Cummings, Teri; Kerr, Chris; Wyatt, Kirsten; Sonnen, John  
**Subject:** RE: HWY 43

Dear Dr. Meeker,  
Thank you for your e-mail. It is nice to hear from you. Currently, the project is a land use case that is being heard by our Planning Commission. I let our City's Economic Development Director Chris Kerr know of your concerns and he would be happy to discuss with you in more detail. Chris can be reached via e-mail at [ckerr@westlinnoregon.gov](mailto:ckerr@westlinnoregon.gov).

Thank you,  
Jenni Tan

Councilor Jennifer Tan  
<mailto:jtan@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>

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**From:** Huey Meeker [[champignac99@yahoo.com](mailto:champignac99@yahoo.com)]  
**Sent:** Thursday, October 18, 2012 10:12 AM  
**To:** Tan, Jennifer  
**Cc:** Kovash, John; Carson, Jody; Cummings, Teri  
**Subject:** HWY 43

Dear Members of The Council:

As a business owner in West Linn I am writing to express my concern about the water project construction on HWY 43 next year.

I am sure you have thought about the traffic and the congestion it may create and how it will slow down businesses on this road. I like to know what plan you have to deal with this and how to minimize the damage it will bring to all businesses. For most of us, our business is our only source of income and the economy in the last few years has not been in our favor.

I welcome your thought on this matter.

Sincerely,

Huey Meeker, MD

## Pelz, Zach

---

**From:** Kerr, Chris  
**Sent:** Monday, October 22, 2012 9:18 AM  
**To:** Pelz, Zach  
**Subject:** FW: HWY 43

for future CC file

Chris Kerr, Economic Development Director Economic Development, #1538

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-----Original Message-----

**From:** Wyatt, Kirsten  
**Sent:** Monday, October 22, 2012 9:18 AM  
**To:** Kerr, Chris  
**Subject:** FW: HWY 43

Kirsten Wyatt, Assistant City Manager  
Administration, #1428

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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.

-----Original Message-----

**From:** Tan, Jennifer  
**Sent:** Saturday, October 20, 2012 10:27 PM  
**To:** Wyatt, Kirsten  
**Subject:** FW: HWY 43

Hi Kirsten,

Can you help me with what I can say as to the plan for traffic and congestion? Or should I just let Dr. Meeker know that at this time the Planning Commission is hearing this case and traffic mitigation will be discussed at that time. Thanks.

Jenni

Councilor Jennifer Tan  
<mailto:jtan@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.  
Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public. \_\_\_\_\_  
From: Huey Meeker [champignac99@yahoo.com]  
Sent: Thursday, October 18, 2012 10:12 AM  
To: Tan, Jennifer  
Cc: Kovash, John; Carson, Jody; Cummings, Teri  
Subject: HWY 43

Dear Members of The Council:

As a business owner in West Linn I am writing to express my concern about the water project construction on HWY 43 next year.

I am sure you have thought about the traffic and the congestion it may create and how it will slow down businesses on this road. I like to know what plan you have to deal with this and how to minimize the damage it will bring to all businesses. For most of us, our business is our only source of income and the economy in the last few years has not been in our favor.

I welcome your thought on this matter.

Sincerely,

Huey Meeker, MD

## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Thursday, October 18, 2012 6:20 PM  
**To:** Pelz, Zach  
**Subject:** FW: Ex-parte disclosure LOT  
**Attachments:** imagea6a535.gif@fad81e93.40224d17

John Sonnen, Planning Director  
Planning and Building, #1524

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:** Tan, Jennifer  
**Sent:** Thursday, October 18, 2012 4:08 PM  
**To:** Sonnen, John  
**Cc:** City Council  
**Subject:** Ex-parte disclosure LOT

Hi John,

Can you add to ex-parte contact disclosure record for the LOT land use application? Each of these interactions were very short and did not bias me in any way. I have listed the contact name, month of occurrence, and location.

Thanks,  
Jenni

Amy Ellsworth - Sunset Primary School September  
League of Women's Voters Interviewer - 1 interview question in September  
Norm King - Robinwood Starbucks Coffee outreach September  
Jim O'Toole - Robinwood Starbucks Coffee outreach October  
Mike Taylor - West Linn City Hall October

 Councilor Jennifer Tan  
[jtan@westlinnoregon.gov](mailto:jtan@westlinnoregon.gov)  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, OR 97068  
P: (503) 657-0331  
F: (503) 650-9041  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

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

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## Pelz, Zach

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**From:** Kerr, Chris  
**Sent:** Wednesday, September 26, 2012 1:14 PM  
**To:** Pelz, Zach  
**Subject:** FW: Request for LOT Intertie Information

For ultimate CC file – exparte

Chris Kerr, Economic Development Director  
*Economic Development, #1538*

*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:** Jordan, Chris  
**Sent:** Monday, September 24, 2012 8:27 AM  
**To:** Wyatt, Kirsten; Kerr, Chris  
**Subject:** FW: Request for LOT Intertie Information

Chris Jordan, City Manager  
*Administration, #1422*

*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:** lamontking@comcast.net [mailto:lamontking@comcast.net]  
**Sent:** Saturday, September 22, 2012 5:03 PM  
**To:** Jordan, Chris  
**Cc:** Carson, Jody; Jones, Michael; Kovash, John; Cummings, Teri; Tan, Jennifer  
**Subject:** Request for LOT Intertie Information

Hi Chris,

Back in May of this year we found out that both LO and WL utilized the water intertie sevans time each during the past ten years. In order to determine the value of this agreement I asked you for dates and amounts of water transferred during those episodes. You told me that I would personally have to pay for city staff to provide this information. I assumed that LO was our primary back up in the event of an emergency such as the problem with our intake last winter, when Southfork went offline for several weeks. I just completed a tour of the four water treatment plants on the Clackamas with The Clackamas River Water Providers and discovered that LO is just one of our back ups in the event of an emergency. When our intake was damaged, the plant operator at Southfork called CRS(Clackamas River Water) and they almost immediately began diverting water to West Linn. There were several days when we still needed more and we did get LO water but, 90-95% of the water we received was not from LO. We have current intertie agreements with two other providers that are networked into many more providers including the City of Portland without involving LO. So how much benefit will be getting from our current or new agreement with LO and isn't their benefit of equal value?

The other issue is virtually every water provider utilizes intertie agreements with their neighbors. Do we have a real risk of LO cancelling our intertie agreement if the plant expansion doesn't move forward?

Best Regards,

Lamont



## Pelz, Zach

---

**From:** Jordan, Chris  
**Sent:** Monday, September 24, 2012 8:30 AM  
**To:** Pelz, Zach  
**Cc:** Sonnen, John; City Council  
**Subject:** FW: Request for LOT Intertie Information

Zach --

Because this e-mail pertains in part to the pending land use applications of the Lake Oswego-Tigard water partnership, please include it in the record for those two applications.

Thank you.

Chris

Chris Jordan, City Manager  
Administration, #1422

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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:** lamontking@comcast.net [mailto:lamontking@comcast.net]  
**Sent:** Saturday, September 22, 2012 5:03 PM  
**To:** Jordan, Chris  
**Cc:** Carson, Jody; Jones, Michael; Kovash, John; Cummings, Teri; Tan, Jennifer  
**Subject:** Request for LOT Intertie Information

Hi Chris,

Back in May of this year we found out that both LO and WL utilized the water intertie sevens time each during the past ten years. In order to determine the value of this agreement I asked you for dates and amounts of water transferred during those episodes. You told me that I would personally have to pay for city staff to provide this information. I assumed that LO was our primary back up in the event of an emergency such as the problem with our intake last winter, when Southfork went offline for several weeks. I just completed a tour of the four water treatment plants on the Clackamas with The Clackamas River Water Providers and discovered that LO is just one of our back ups in the event of an emergency. When our intake was damaged, the plant operator at Southfork called CRS(Clackamas River Water) and they almost immediately began diverting water to West Linn. There were several days when we still needed more and we did get LO water but, 90-95% of the water we received was not from LO. We have current intertie agreements with two other providers that are networked into many more providers including the City of Portland without involving LO. So how much benefit will be getting from our current or new agreement with LO and isn't their benefit of equal value?

The other issue is virtually every water provider utilizes intertie agreements with their neighbors. Do we have a real risk of LO cancelling our intertie agreement if the plant expansion doesn't move forward?

Best Regards,

Lamont

## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Monday, August 13, 2012 11:05 AM  
**To:** Pelz, Zach  
**Subject:** FW: Lot  
**Attachments:** image9a4be0.gif@100315f7.c19b4fc1

Please add to the record

John Sonnen, Planning Director  
*Planning and Building, #1524*

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:** Kovash, John  
**Sent:** Monday, August 13, 2012 10:55 AM  
**To:** Sonnen, John  
**Subject:** Lot

On August 11 I attended the LOT Open House at their WL plant. I was given a tour of the plant by plant management. I talked with several citizens in company with LOT personnel and the questions asked concerned qualifications of contractors and the benefits available to WL

John Kovash.

 Mayor John Kovash  
[jkovash@westlinnoregon.gov](mailto:jkovash@westlinnoregon.gov)  
West Linn Mayor  
22500 Salamo Rd  
West Linn, OR 97068  
P: (503) 657-0331  
F: (503) 650-9041  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

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.

## Pelz, Zach

---

**From:** Walters, Rebecca [Rebecca.Walters@adp.com]  
**Sent:** Monday, June 25, 2012 9:14 AM  
**To:** Pelz, Zach  
**Subject:** RE: June 18 City Council Work Session re: briefing on Lake Oswego/Tigard Project  
**Attachments:** image001.gif

Good Morning Mr. Pelz:

Below you have a bulleted item regarding a meeting on June 27<sup>th</sup>. Can you send me the time and details of this meeting so I can send to our neighbors.

Thanks,  
Rebecca Walters

---

**From:** Pelz, Zach [mailto:ZPELZ@westlinnoregon.gov]  
**Sent:** Friday, June 15, 2012 12:17 PM  
**To:** lamontking@comcast.net; noelblake@comcast.net; Kevinbryck@comcast.net; Walters, Rebecca (DS); shannonmv@comcast.net; patvicsmith@q.com; Boes, Thomas; President RNA; chucklandskronercrm@hotmail.com; charles.c.heath@ubs.com; dfroode@comcast.net; sharonlperry@comcast.net; carol.ellsworth@comcast.net; patvicsmith@msn.com; gwensieben@att.net; tessamess@gmail.com; lamontking@comcast.net; thom.holder@intel.com; caraher@hevanet.com; jnorb@comcast.net; chucklandskronercrm@hotmail.com; shanonmv@comcast.net; kenhanawa@yahoo.com; Walters, Rebecca (DS); noelblake@comcast.net; ericjones2009@aol.com; annaw@hevanet.com; rcozby@hotmail.com; yvonne.davis00@gmail.com; flyartcreations@comcast.net; hendersonjj@comcast.net; hitesman@q.com; Stowell5050@aol.com; hopkinsn@comcast.net; sfhopkins9@aol.com; kevinbryck@comcast.net; karen\_lucas@comcast.net; SarahRoseRealtor@comcast.net; Diloreto, Greg; President RNA; dfroode@comcast.net; vicepresident@hiddenspringsna.org; President HSNA; Secretary@hiddenspringsna.org; clay0403@hotmail.com; curt.sommer@comcast.net; McKnight.Andrea@pdx.sysco.com; DJheff1@gmail.com; presidentrna@gmail.com; RNAGNC@gmail.com; tomjmill@aol.com; n.nahey.4.coopers@comcast.net  
**Cc:** Spir, Peter  
**Subject:** June 18 City Council Work Session re: briefing on Lake Oswego/Tigard Project

Good afternoon,

The agenda for the June 18, 2012 City Council Work Session is now available [online](#). We wanted to provide some additional detail about item #2. This email will be forwarded using City email lists related to this project, and we greatly appreciate your assistance in disseminating it broadly.

The below detailed agenda has been reviewed and approved by Robinwood Neighborhood Association leadership, and the RNA is currently working on the testimony portion of the meeting. Please contact David Newell at [dnewell@alum.mit.edu](mailto:dnewell@alum.mit.edu) if you have any questions about the RNA presentation. The Work Session will begin at 6:00 p.m. in Council Chambers; the 'Robinwood Neighborhood Association Briefing on Lake Oswego/Tigard Project' is the first item on the agenda.

Thank you.

### West Linn City Council Work Session

#### *Robinwood Neighborhood Association Briefing on Lake Oswego/Tigard Project*

June 18, 2012

#### 1. Introduction (2 minutes) – Mayor Kovash

- Discusses why we are meeting tonight (specifically mentioning citizen e-mails received by councilors requesting a meeting) and how the Council will be referring much to the attorney to ensure that we are not saying or doing things that will put the Council in jeopardy of not being able to hear an appeal. The Council's role tonight is simply to listen.
- 2. Legal Issues (5 minutes) – Chris Crean**
    - Explanation of Oregon land use law and the process that must be followed. Include discussion of ex parte' and bias. Why, by following these laws, we are meeting the spirit and letter of Goal 1 because the most transparent process is that which allows all to speak and be heard at the same time – both proponents and opponents of a project.
    - Current status of LOT land use application. Why was applicant allowed to suspend consideration of the application? If LOT decides to consolidate the applications, what legal provision allows this to happen?
    - Explanation that all interested parties will have the opportunity to participate in this process – at the proper time and proper venue, meaning PC hearing or CC hearing on appeal.
  - 3. Testimony (20 minutes) – organized by the Robinwood Neighborhood Association (RNA)**
    - Who speaks and what issues they wish to address is at the discretion of the RNA. The City's attorney will monitor the statements in an effort to ensure the continued neutrality of Council members.
  - 4. Thank you from Councilors (5 minutes)**
  - 5. Conclusion and wrap-up – Mayor Kovash (1 minute)**
    - Process and schedule from here.
    - Greg McKenzie to meet with neighborhood on June 27 at West Linn Lutheran Church – downstairs meeting room.
    - Facilitated sessions expected to occur between partnership and neighborhood.
    - Planning Commission to continue hearing on application(s) at a date to be noticed.

###

---

**West Linn** CITY OF  
 Zach Pelz, AICP  
[ZPELZ@westlinnoregon.gov](mailto:ZPELZ@westlinnoregon.gov)  
 Associate Planner  
 22500 Salamo Rd.  
 West Linn, OR 97068  
 P: (503) 723-2542  
 F: (503) 656-4106  
 Web: [westlinnoregon.gov](http://westlinnoregon.gov)

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**Pelz, Zach**

---

**From:** Sonnen, John  
**Sent:** Friday, June 15, 2012 2:46 PM  
**To:** Pelz, Zach  
**Subject:** FW: West Linn's water rights

John Sonnen, Planning Director  
Planning and Building, #1524

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-----Original Message-----

From: Jones, Michael  
Sent: Friday, June 15, 2012 1:52 PM  
To: Jerry Henderson  
Cc: Sonnen, John; Jordan, Chris  
Subject: RE: West Linn's water rights

Jerry-

What I can say is that the LOT application and proposed applications have presented one of the most challenging dilemmas that I have had to deal with in my almost ten years as either a member of the Planning Commission or City Council. That being said, I feel obligated to take every step I can to remain neutral because I think it is in the best interest of all of the citizens of West Linn that the City Council be able to hear this case (if necessary) and make a judgement based on the facts presented when the case is before us.

I hope you and John Collins establish a meaningful dialogue. Thank you for your interest in West Linn.

BTW, I have copied John Sonnen and Chris Jordan as this email does need to go into the record for the LOT case as ex parte contact.

All best-Mike

mjones@westlinnoregon.gov  
503.344.4683

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Councilor Michael Jones  
mailto:mjones@westlinnoregon.gov  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, Oregon 97068

P: (503) 657-0331

F:

Web: http://

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From: Jerry Henderson [jhenderson@smacna-columbia.org]  
Sent: Friday, June 15, 2012 1:13 PM  
To: Jones, Michael  
Cc: Collins, John; Jordan, Chris; Sonnen, John  
Subject: RE: West Linn's water rights

Understood Mike.

But again, as I mentioned at the Council meeting this is water use issue I'm raising... and not land use...so I don't believe that it is in conflict.

Have a great weekend.

...Jerry

-----Original Message-----

From: Jones, Michael [mailto:mjones@westlinnoregon.gov]  
Sent: Friday, June 15, 2012 12:55 PM  
To: Jerry Henderson  
Cc: Collins, John; Jordan, Chris; Sonnen, John  
Subject: RE: West Linn's water rights

You're most welcome Jerry.

As a friendly (and I do mean this sincerely) please do not include me in any email correspondence you have with John. I really must remain neutral.

John Sonnen-

Please include this ex parte contact in the LOT case file.

All best-Mike

mjones@westlinnoregon.gov  
503.344.4683

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From: Jerry Henderson [jhenderson@smacna-columbia.org]  
Sent: Friday, June 15, 2012 12:23 PM  
To: Jones, Michael  
Subject: RE: West Linn's water rights

Thanks again Mike!

...Jerry

-----Original Message-----  
From: Jones, Michael [mailto:mjones@westlinnoregon.gov]  
Sent: Friday, June 15, 2012 10:28 AM  
To: Collins, John  
Cc: Jerry Henderson; Kovash, John  
Subject: RE: West Linn's water rights

Thanks so much John.

All best-Mike

mjones@westlinnoregon.gov  
503.344.4683

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From: johnc@sfwb.org [johnc@sfwb.org]  
Sent: Friday, June 15, 2012 9:17 AM  
To: Jones, Michael  
Cc: jhenderson@smacna-columbia.org; Kovash, John  
Subject: RE: West Linn's water rights

Mike,  
I would be more than happy to talk with Jerry about South Fork's water rights. I am back from the conference and Jerry is welcome to give me a call at his convenience.  
John

John D. Collins  
South Fork Water Board  
General Manager  
Office: 503- 657-6581  
Cell: 503-701-6119

"Jones, Michael" <mjones@westlinnoregon.gov>

> John and Jerry-  
>  
> You don't know each other but I do want to make an introduction.  
> John, at the last City Council meeting Jerry Henderson spoke during  
> the Community Comments portion of the meeting regarding LOT and West  
> Linn's water rights. At the end of the meeting I approached Jerry and  
> asked if he would be kind enough to speak to you. He has agreed to do  
that.  
>  
> Jerry, John Collins is the Executive Director of the South Fork Water  
Board.  
> While serving on that board I have been more than impressed with  
> John's  
expertise.  
> I really do hope you can give him a call. His work number is  
> 503.657.6581. He is out this week at a conference but should be in  
> the  
office next week.  
>  
> Thanks to both of you-Mike Jones  
>  
> mjones@westlinnoregon.gov<mailto:mjones@westlinnoregon.gov>  
> 503.344.4683  
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>  
> Councilor Michael Jones  
> mjones@westlinnoregon.gov<mailto:mjones@westlinnoregon.gov>  
> West Linn City Councilor  
> 22500 Salamo Rd

> West Linn, Oregon 97068  
> P: (503) 657-0331  
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Thank you very much for the offer to speak with me.

My concerns are regarding the amount of available water in the Clackamas River, and the ability to meet the future drinking water demands of cities in Clackamas County...even before shipping water off to Tigard.

There have been numerous articles written in the past addressing the matter, while protecting fish species at the same time including this one (link below) where Joel Komarek of LO is also quoted:

"In terms of consumption, Lake Oswego is a heavyweight, consuming hundreds of gallons more water per capita than neighbors, according to a recent study of the utility.

Yet, "whoever was there first and recorded a permit for development of the water of the state ... has priority," according to Komarek. "

[http://www.portlandtribune.com/news/story.php?story\\_id=117331077478594100](http://www.portlandtribune.com/news/story.php?story_id=117331077478594100)

After dealing with Lake Oswego for more than a year now, my belief is that they have every intention of increasing output to the fullest capacity of their permits – in advance of the South Fork Water Board exercising their full (senior) water rights. So when combined demand increases in the future, it will require the SFWB to go through the Oregon Water Resources Department to restrict LOT from water amounts they are already pumping.

This will be an expensive confrontation for SFWB, and not one that LOT will go quietly on...using its considerable resources and weight as an impediment to restriction. And even if the South Fork Water Board is certain it will prevail under statute, why would the City of West Linn and the SFWB agree to let such a valuable (and limited) resource be shipped off to a city outside of the Clackamas River basin in the first place...especially when Tigard has viable alternatives available?

[http://www.oregonlive.com/news/index.ssf/2008/09/water\\_districts\\_compete\\_for\\_a.html](http://www.oregonlive.com/news/index.ssf/2008/09/water_districts_compete_for_a.html)

So those are my questions/ concerns, and I would welcome any insight you're able to provide.

I'm sure you're busy catching up with just getting back into town. Would it be possible for me to give you call Monday afternoon?

Thanks again for the offer!

Sincerely,

R. Jerry Henderson  
Executive Director



SMACNA - Columbia Chapter  
4380 SW MacAdam Avenue, Ste. 580  
Portland, Oregon 97239-6413

**Office # - 503.220.2303**  
Fax # - 503.220.2304  
Cell # - 503.320.4900

-----Original Message-----

From: [johnc@sfwb.org](mailto:johnc@sfwb.org) [mailto:[johnc@sfwb.org](mailto:johnc@sfwb.org)]  
Sent: Friday, June 15, 2012 9:18 AM  
To: Jones, Michael  
Cc: Jerry Henderson; Kovash, John  
Subject: RE: West Linn's water rights

Mike,

I would be more than happy to talk with Jerry about South Fork's water rights. I am back from the conference and Jerry is welcome to give me a call at his convenience.

John

John D. Collins  
South Fork Water Board  
General Manager  
Office: 503- 657-6581  
Cell: 503-701-6119

"Jones, Michael" <[mjones@westlinnoregon.gov](mailto:mjones@westlinnoregon.gov)>

> John and Jerry-

>

> You don't know each other but I do want to make an introduction.

> John, at the last City Council meeting Jerry Henderson spoke during

> the Community Comments portion of the meeting regarding LOT and West

> Linn's water rights. At the end of the meeting I approached Jerry and

> asked if he would be kind enough to speak to you. He has agreed to do that.

>

> Jerry, John Collins is the Executive Director of the South Fork Water Board.

> While serving on that board I have been more than impressed with John's expertise.

> I really do hope you can give him a call. His work number is

> 503.657.6581. He is out this week at a conference but should be in the office next week.

>

> Thanks to both of you-Mike Jones

>

> [mjones@westlinnoregon.gov](mailto:mjones@westlinnoregon.gov)<<mailto:mjones@westlinnoregon.gov>>

> 503.344.4683

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>

> Councilor Michael Jones

> [mjones@westlinnoregon.gov](mailto:mjones@westlinnoregon.gov)<<mailto:mjones@westlinnoregon.gov>>

> West Linn City Councilor

> 22500 Salamo Rd

> West Linn, Oregon 97068

> P: (503) 657-0331

> F:

> Web: <<http://>>

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## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Friday, June 15, 2012 1:19 PM  
**To:** Pelz, Zach  
**Subject:** FW: West Linn's water rights

John Sonnen, Planning Director  
Planning and Building, #1524

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-----Original Message-----

**From:** Jones, Michael  
**Sent:** Friday, June 15, 2012 12:55 PM  
**To:** Jerry Henderson  
**Cc:** Collins, John; Jordan, Chris; Sonnen, John  
**Subject:** RE: West Linn's water rights

You're most welcome Jerry.

As a friendly (and I do mean this sincerely) please do not include me in any email correspondence you have with John. I really must remain neutral.

John Sonnen-

Please include this ex parte contact in the LOT case file.

All best-Mike

mjones@westlinnoregon.gov  
503.344.4683

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John D. Collins  
South Fork Water Board  
General Manager  
Office: 503- 657-6581  
Cell: 503-701-6119

"Jones, Michael" <mjones@westlinnoregon.gov>

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> Councilor Michael Jones  
> mjones@westlinnoregon.gov<mailto:mjones@westlinnoregon.gov>  
> West Linn City Councilor  
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## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Friday, June 15, 2012 11:21 AM  
**To:** Pelz, Zach  
**Subject:** FW: Ex-parte contact  
**Attachments:** imagea2f3a6.gif@88a9eaae.29274efb

John Sonnen, Planning Director  
Planning and Building, #1524

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:** Tan, Jennifer  
**Sent:** Friday, June 15, 2012 12:15 AM  
**To:** Sonnen, John  
**Cc:** Jordan, Chris; City Council  
**Subject:** Ex-parte contact

Dear John,

I'm not sure if I disclosed the ex-parte contacts related to LOTWP that John Kovash and I had at the following events. I thought that I would be conversative and send it in case I did not do so already.

Thanks,

Jenni

- May 8 - Robinwood NA meeting. John and I spoke to the NA about Council goals. A citizen brought up the LOTWP issue, and we quickly told them that we should not discuss this item.
- May 18 - At Zach's (the If I were a mayor contest student winner) classroom at Rosemont Ridge Middle School. A student brought this topic up, and we told them that we could not discuss this item.

 Councilor Jennifer Tan  
[itan@westlinnoregon.gov](mailto:itan@westlinnoregon.gov)  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, OR 97068  
P: (503) 657-0331  
F: (503) 650-9041  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

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## Pelz, Zach

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**From:** Kovash, John  
**Sent:** Saturday, May 26, 2012 8:48 AM  
**To:** Jordan, Chris; Jones, Michael  
**Cc:** City Council; Pam Beery; Kerr, Chris; Pelz, Zach; Sonnen, John  
**Subject:** RE: Ex Parte Rule Quest  
**Attachments:** image001.gif; image9b798b.gif@a37affe9.58bf4c3f

I notice this was not sent to Lamont King who initiated this issue in an email to Mike.  
We have another email from King dated 5/25, same subject.  
Chris, can we send your email below to King as I think it is a good summary of where we are.  
John

 Mayor John Kovash  
[jkovash@westlinnoregon.gov](mailto:jkovash@westlinnoregon.gov)  
West Linn Mayor  
22500 Salamo Rd  
West Linn, OR 97068  
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**From:** Jordan, Chris  
**Sent:** Thursday, May 24, 2012 1:28 PM  
**To:** Jones, Michael  
**Cc:** City Council; Pam Beery; Kerr, Chris; Pelz, Zach; Sonnen, John  
**Subject:** RE: Ex Parte Rule Quest

Mike –

The treatment application has been suspended indefinitely. At the end of the Planning Commission meeting, Pam Beery made it clear to the PC members that the rules regarding ex parte' contact remain in place for this application.

The application for the water pipes has not been submitted at this time therefore the same rules do not apply to this part of the project. However, lake Oswego has made it clear that it is their intention to consolidate the pipe project with the treatment application. Therefore, I would caution all of you regarding engaging in ex parte' contact on that project as well.

Finally, as we have said before, there is no law against the Council meeting with neighborhood representatives. However, it is clear from this e-mail and others, that the objective of the neighbors would be to lobby the Council in favor of the neighbors' position. In other words, they clearly would want to bias the Council. If individual members are biased by the neighbors' discussion – or if a councilor is perceived as biased – that councilor would need to recues themselves from an appeal hearing. Under the circumstances, Pam has previously advised against such a meeting.  
(Please see e-mails from Pam and me of February 16, 2012.)

I hope this helps.



Chris

Chris Jordan, City Manager  
Administration, #1422

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**From:** Jones, Michael  
**Sent:** Thursday, May 24, 2012 12:02 PM  
**To:** Jordan, Chris  
**Cc:** City Council  
**Subject:** FW: Ex Parte Rule Quest

I would expect all members of the Council received this. With no application submitted why can't this be discussed in an open meeting?

Thanks-Mike

[mjones@westlinnoregon.gov](mailto:mjones@westlinnoregon.gov)  
503.344.4683

><(((('>... ><(((('>... ><(((('>... ><(((('>... ><(((('>... ><(((('>... ><(((('>... ><(((('>... ><(((('>...

Save the Salmon

Before you print, think about the ENVIRONMENT 

**CITY OF**  
**West Linn**  
Councilor Michael Jones  
[mjones@westlinnoregon.gov](mailto:mjones@westlinnoregon.gov)  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, Oregon 97068  
P: (503) 657-0331  
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Web:

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---

**From:** [lamontking@comcast.net](mailto:lamontking@comcast.net) [[lamontking@comcast.net](mailto:lamontking@comcast.net)]  
**Sent:** Thursday, May 24, 2012 11:32 AM  
**To:** Jones, Michael  
**Subject:** Ex Parte Rule Quest

Hi Mike,

We have a \$249 million dollar(current estimate per joint LO-TIG Council meeting last Tuesday) industrial project going into West Linn and Chris Jordan has decided that we citizens are not entitled give our input to our elected representatives. This was due to Chris's apparent misunderstanding of the "exparte rule" that our new lawyer, Pam Beery, clarified at a council meeting several months ago. I believe she stated that once an application has been filed, all communication between parties must be disclosed. This does not mean we can't speak, just that we have to disclose what was said. I have two questions for you: first, is that the application for LOT's pipeline hasn't been filed yet and the water treatment plant has been "tabled"....can I now talk to you about the neighborhood concerns with

these projects? Secondly, if disclosure is in fact the issue, then why can't we discuss these at a regular council meeting which is recorded and available to all parties?

This is an immensely important project that will have short term(7,000-8,000 heavy duty dump trucks alone per LOT) and long term(a huge industrial facility built in the middle of a neighborhood) effects on our community and I strongly believe that our citizens should have the ability to speak with our elected representatives about it.

Best Regards,

Lamont King

## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Monday, April 30, 2012 4:23 PM  
**To:** Pelz, Zach  
**Subject:** FW: Ex-parte contact  
**Attachments:** imageb9207c.gif@e329087a.0ee645b0

John Sonnen, Planning Director  
*Planning and Building, #1524*

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**From:** Tan, Jennifer  
**Sent:** Monday, April 30, 2012 10:56 AM  
**To:** Sonnen, John  
**Cc:** City Council  
**Subject:** Ex-parte contact

Hi John,  
Can you please add the related land use applications? Thank you.

John Kovash and I were speaking at the ACC on April 25 Wednesday regarding Council goals. A citizen brought up LOTWP and the related pipe. John and I let the group know that we were unable to discuss this matter further due to it being a land use decision where we may serve as in a quasi-judicial capacity.  
Thank you,  
Jenni

CITY OF  
**West  
Linn**  
Councilor Jennifer Tan  
[itan@westlinnoregon.gov](mailto:itan@westlinnoregon.gov)  
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## Pelz, Zach

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**From:** Sonnen, John  
**Sent:** Sunday, April 29, 2012 11:21 AM  
**To:** Pelz, Zach  
**Subject:** FW: ex parte  
**Attachments:** image8407f2.gif@c6e6596a.ed434401

John Sonnen, Planning Director  
Planning and Building, #1524

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**From:** Kovash, John  
**Sent:** Saturday, April 28, 2012 5:37 PM  
**To:** Kerr, Chris  
**Cc:** Sonnen, John  
**Subject:** ex parte

Jenni and I were at the adult center on Wednesday. I think she sent the contact to you. Let me know if I am included. If not I should be. John



Mayor John Kovash  
[jkovash@westlinnoregon.gov](mailto:jkovash@westlinnoregon.gov)  
West Linn Mayor  
22500 Salamo Rd  
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## Pelz, Zach

---

**From:** Kerr, Chris  
**Sent:** Thursday, April 12, 2012 9:37 AM  
**To:** Kovash, John  
**Cc:** Pelz, Zach  
**Subject:** RE: Ex parte  
**Attachments:** image001.gif

Thanks John.

**From:** Kovash, John  
**Sent:** Thursday, April 12, 2012 9:36 AM  
**To:** Kerr, Chris  
**Subject:** Ex parte

April 9, 2012 talked with a woman whose name I do not know, in Safeway. I asked what issues were of concern to her. Said the LOT and wanted to know if we were fighting the plant. Told here is was largely a legal issue and it was going to the planning commission and to a court. Also mentioned that the city was in the process of talking with the state on the issue of putting a large pipe in the R/W of highway 43.

John Kovash

 Mayor John Kovash  
[jkovash@westlinnoregon.gov](mailto:jkovash@westlinnoregon.gov)  
West Linn Mayor  
22500 Salamo Rd  
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Chris Kerr, Interim Assistant City Manager  
Administration, #1538

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## Pelz, Zach

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**From:** Sonnen, John  
**Sent:** Thursday, April 12, 2012 9:30 AM  
**To:** Pelz, Zach; Kerr, Chris  
**Subject:** FW: Ex-parte contact  
**Attachments:** imagead527e.gif@01e10d4c.e4314c9c

John Sonnen, Planning Director  
Planning and Building, #1524

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**From:** Tan, Jennifer  
**Sent:** Thursday, April 12, 2012 8:42 AM  
**To:** Sonnen, John  
**Cc:** City Council  
**Subject:** Ex-parte contact

Hi John,  
Can you please add to the application water LOTWP? Thank you.

I had the following ex-parte contact with Tom and Linda Irely on April 4. They started talking about a sign they put in their yard about LOTWP. I quickly told them that I should not be discussing this issue, and told them that I would be disclosing our very brief discussion.

John Kovash and I were speaking to residents at Tanner Spring Assisted Living on April 5. A resident brought up LOTWP. John and I let the group immediately know that we were unable to discuss this matter further due to it being a land use decision where we may serve as in a quasi-judicial capacity.

Thank you,  
Jenni

 Councilor Jennifer Tan  
[itan@westlinnoregon.gov](mailto:itan@westlinnoregon.gov)  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, OR 97068  
P: (503) 657-0331  
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## Pelz, Zach

---

**From:** Jordan, Chris  
**Sent:** Tuesday, March 20, 2012 11:48 AM  
**To:** City Council  
**Cc:** Kerr, Chris; Pelz, Zach  
**Subject:** FW: City of West Linn's responsibility to its residents  
**Attachments:** legal\_analysis.pdf

Council –

Below is Zach's response to the email that was sent to you from Mr. Heath.

Chris

Chris Jordan, City Manager  
Administration, #1422

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**From:** Pelz, Zach  
**Sent:** Tuesday, March 20, 2012 11:14 AM  
**To:** charles.c.heath@ubs.com  
**Cc:** Kerr, Chris; Jordan, Chris  
**Subject:** FW: City of West Linn's responsibility to its residents

Good morning, Mr. Heath –

Your questions below, regarding Lake Oswego's proposed water treatment plant expansion, were forwarded to my from our City Manager. Your questions focus on the City's role in this process; potential benefits to the City of West Linn; submittal of individual applications for the water treatment plant and pipeline; condemnation of private CCR's; impact on wildlife, riparian and aquatic habitat; and geological hazards.

**West Linn's role in this land use decision.** The City of West Linn's Community Development Code as well as Municipal Code and Public Works Standards provide the adopted standards and procedures which guide both public and private land development within the City of West Linn. The basic thrust of these regulations is to promote the public health, safety and welfare while ensuring the protection of public and private property rights for land owners and land users. The City's role in this matter is to review the Applicant's (Lake Oswego/Tigard Water Partnership) proposal in light of the adopted standards and land use laws contained in the Community Development Code, Municipal Code and Public Works Design Standards. The City may ultimately approve (if the proposal is consistent with all adopted standards), approve with conditions (if the proposal can be made consistent with adopted standards subject to certain conditions placed on the development) or deny (if the proposal does not or can not comply with adopted development standards). I've attached a memo from our City Attorney which provides additional detail regarding the City Council's role in this process.

**Benefits to the City of West Linn.** The City of West Linn shares an emergency intertie with the City of Lake Oswego that is able to provide water to West Linn residents during emergency events. The intertie was recently activated during a storm event that caused debris on the Clackamas River to plug West Linn's intake. Right now, the Lake Oswego Water Treatment Plant does not have the treatment capacity to supply water to this intertie during the peak summer months (July and August). What that means is that in the event of a peak season water system emergency, West Linn would only be able to rely on the approximately 4-4.25 million gallons that are stored in the City's reservoirs; that storage

capacity would last for approximately 12 hours. The benefit to West Linn from Lake Oswego's water treatment plant expansion proposal is that it could provide up to 6 million gallons of water per day during a peak season emergency.

**Submittal of individual applications for the water treatment plant and pipeline.** Our Community Development Code does not require consolidation of applications in situations where a single decision-making body (Planning Commission) is charged with hearing more than one land use decision (water plant and pipeline). The City's authority to require consolidation of applications pertains to only those situations where multiple decisions are heard by more than one decision-making body. In the case before us, the decision regarding how to submit the various proposals is left to the Applicant.

One benefit of individual submittals is that it allows staff more time to review and discuss the details associated with the project. Oregon state law requires that a City make its final decision on a land use application 120 days following the submittal of a complete application to the City. That means that all public hearings, including any appeal hearings that are heard by the City must be completed and a final decision issued within that 120 day window. If the Applicant did submit the pipeline and water treatment plant elements as one application, staff and the City's decision-making bodies would only have one, instead of two, 120-day periods to work in and therefore, our review of the plans and project details would be afforded less attention.

**Condemnation of private CCR's.** The City of West Linn has no authority over the regulation of private covenants, conditions and restrictions.

**Impact of wildlife, riparian and aquatic habitat.** The West Linn community development code includes a number of regulations that are designed to protect plant and animal habitat. On the water treatment plant site, the applicant is proposing to preserve 83 percent of the significant trees and plant more than 300 additional trees as well as using impervious surface on a portion of the site and install stormwater treatment facilities for all new impervious areas. Although we do not yet have an application for the pipeline proposal, we have discussed the potential applicability of Community Development Code Chapters 32 (protections for water resource areas) and Chapter 28 (habitat conservation) with them and expect their proposal to be submitted consistent with these and other habitat and water resource regulations.

**Geological Hazards.** The Applicant submitted a geotechnical analysis for the water treatment plant site that can be accessed [here](#). The report summarizes the preliminary findings, alternatives and preferred alternatives to mitigate potential seismic issues at the site.

Please feel free to call or email with additional questions. More information about the Water Treatment Plant proposal can be found on the City's website [here](#).

Zach

**From:** [charles.c.heath@ubs.com](mailto:charles.c.heath@ubs.com) [mailto:[charles.c.heath@ubs.com](mailto:charles.c.heath@ubs.com)]

**Sent:** Friday, March 16, 2012 9:49 AM

**To:** Kovash, John; Carson, Jody; Cummings, Teri; Tan, Jennifer; Jones, Michael

**Subject:** City of West Linn's responsibility to its residents

Dear Mr. Mayor and Council Members,

The purpose of this letter is to determine what role the City of West Linn plans to take with regard to the Lake Oswego - Tigard Water Partnership (proposed?)/(approved?) construction of a pipeline and water treatment plant within the Robinwood neighborhood. I have a number of questions for the city and hope that you may forward my concerns to the proper department for response. My apologies for the lack of information on my part, as it is possible some of the information I am seeking has already been provided to the public. However, my attendance at the Robinwood Neighborhood Association Land Use Meeting last night has raised several questions concerning West Linn's responsibility to it's citizens.

1. It appeared to me that no one from any West Linn City department including, your office, city council or planning attended the meeting. If you had, you would have seen how Lake Oswego is running roughshod over your constituents. I was at first surprised and then angry that the city apparently has no interest or feels it is powerless to impact this process. I would urge you to review the minutes and video of last night's meeting and you will see how well reasoned and reasonable the citizen input was.
2. If West Linn is receiving any kind of benefit for allowing this project to be completed it would be in the City's best interest to let its citizens know just what benefit they will see and let us know that the City is at least looking out for our best interests. From the meeting last night it is clear that Lake Oswego benefits by locating a water treatment plant in a West Linn residential neighborhood rather than within it's own city limits where there are several more suitable sites. Lake Oswego citizens will benefit from lower water rates, will not have to put up with two years of construction, and will not have an industrial use in the midst of any of its neighborhoods. (Note that Lake Oswego residents use 3 or 4 times the water per capita of the rest of the state so they could fulfill much of their "need" from conservation rather than draining the Clackamas).
3. Why is Lake Oswego able to separate the treatment plant discussion from the water pipeline conditional use? Neither one will be feasible without the other. By separating the two they try to minimize the scope of the project and dilute any opposition.
4. How is it that West Linn feels comfortable allowing Lake Oswego to come in and condemn property rights located in West Linn. Does West Linn believe Lake Oswego would allow you the same courtesy?

There are a number of specific issues regarding this conditional use including, impact on fish and other users of the Clackamas, their intention to do the very minimal of reclamation of damages to the neighborhood from the project, geological issues in a slide prone area where the pipeline and plant are being built and lack of specific insurance to cover a catastrophe should the plant cause a problem to those those located downhill from this much water. My suspicion is that even if this project is completed, the City of West Linn is not requiring anywhere near the level of concessions to compensate for the damage to your citizens as would be required of any private developer looking for a similar conditional use approval.

I sincerely hope that I am just not well informed of West Linn's work on my behalf in seeing that this project is feasible and that West Linn is being treated fairly by Lake Oswego. If the recent discussion in the paper concerning Lake Oswego's continued attempt to ban anyone other than their citizens from using a public body of water (Oswego Lake) is any indication, I fear West Linn will certainly regret getting the short end of the stick once this water pipeline and plant project is approved.

Thank you for your time.

C. Craig Heath  
19220 Nixon Avenue  
West Linn, OR 97068  
(503) 635-7353

Zach Pelz, Associate Planner  
*Planning and Building, #1542*

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## Pelz, Zach

---

**From:** Kerr, Chris  
**Sent:** Wednesday, March 14, 2012 11:10 AM  
**To:** Pelz, Zach  
**Subject:** FW: Ex Parte Contact Notes  
**Attachments:** 2012-03-12 Ex Parte Contact Notes.docx

Chris Kerr, Interim Assistant City Manager  
Administration, #1538

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**From:** Mollusky, Kathy  
**Sent:** Wednesday, March 14, 2012 11:08 AM  
**To:** City Council  
**Cc:** Kerr, Chris  
**Subject:** Ex Parte Contact Notes

Council –

Attached for your files are the notes from the impromptu meeting Monday, March 12, 2012. They have been reviewed by City Attorney Tim Ramis.

Kathy

Kathy Mollusky, City Recorder  
Administration, #1430

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## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Tuesday, March 13, 2012 2:25 PM  
**To:** Pelz, Zach; Kerr, Chris  
**Subject:** FW: Please add citizen comments to record

John Sonnen, Planning Director  
Planning and Building, #1524

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-----Original Message-----

**From:** Cummings, Teri  
**Sent:** Tuesday, March 13, 2012 2:06 PM  
**To:** Jordan, Chris; tessamess@gmail.com; Sonnen, John  
**Subject:** Please add citizen comments to record

Dear Natalie Christensen,  
It was a pleasure to meet you yesterday at the library. It means a lot to me when citizens take the time to share their views on city matters.  
Please let me know if I need to make any correction regarding your comments noted for the record to prevent ex-parte contact.

Ms Natalie Christiansen, a property owner on Mapleton voiced concerns that "this LO/Tigard situation is getting very contentious". "I honestly believed that the city would protect citizens, but it looks like my city is giving preferential treatment to other cities, especially when choosing to meet with them and not citizens . She perceives this as a "done deal". Also she worries about her property being flooded and is disappointed that the "city won't talk to us about the risk of the pipe".

I informed Ms Christensen both before and after she spoke that I would not be at liberty to discuss, debate or in any way lean toward a judgement prior to any hearing that may take place in the future.

Sincerely yours,  
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  
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## Pelz, Zach

---

**From:** Pelz, Zach  
**Posted At:** Tuesday, March 13, 2012 10:58 AM  
**Conversation:** City Council conversation with Mapleton home owners after March 12, 2012 City Council worksession  
**Posted To:** Council Correspondence  
**Subject:** City Council conversation with Mapleton home owners after March 12, 2012 City Council worksession

Group of Mapleton homeowners approached members of City Council following March 12, 2012 worksession to talk about the Lake Oswego Water Treatment Plant/pipeline project. No additional details are known at this time.



22500 Salamo Road  
West Linn, Oregon 97068  
<http://westlinnoregon.gov>

# WEST LINN CITY COUNCIL EX PARTE CONTACT NOTES March 12, 2012

**Council Present:**

Mayor John Kovash, Council President Jenni Tan, Councilor Jody Carson, Councilor Teri Cummings, and Councilor Mike Jones.

**Staff Present:**

Public Works Director Ken Worcester, City Recorder Kathy Mollusky, City Attorney Tim Ramis

After the Work Session adjourned, ten residents of the Robinwood Neighborhood asked Council to speak with them regarding the Lake Oswego Water Treatment Plant in their neighborhood. The discussion started around 7:30 pm and lasted about half an hour.

The conversation with these individuals was focused on whether their concerns related to the Water Treatment Plant and the proposed pipeline would be heard. Council members made every effort to explain that they could only speak to procedural issues and could not/would not speak to issues related to the quality or substance of the application. A great deal of the conversation was related to why the Council, and its individual members, could not speak to the quality and substance of the application. The following are some of the questions asked and the general response and tone provided by members of the Council and the City Attorney:

Q: Why did Council meet with Lake Oswego and Tigard, but not with the Robinwood Neighborhood?

A: Council replied they met with the Good Neighbor Committee a couple of times before applications were filed.

Q: The Neighbors wanted to know why Council was not helping the neighborhood.

A: Council replied they hired a Planner and mediator for the neighborhood to help them prior to the application being filed. Council explained how they must avoid bias.

Q: The Neighbors understand that Council can impose additional mitigation requirements on the Partnership.

A: City Attorney answered Council has to follow State law and West Linn's Code.

Q: The neighbors asked why would Council allow such a large water line, they feel it is out of proportion for the area.

A: City Attorney advised neighbors to meet with the Planning Department to understand the applicable code in the application so that they could challenge issues such as the pipe size.

Q: The neighbors gave Lake Oswego a list of mitigation items; Lake Oswego is ignoring this list. They asked if West Linn Planners will make Lake Oswego complete this list of items.

A: City Attorney stated the neighbors need to talk to West Linn's Planning Department to find out what criteria this project is being reviewed under and match their arguments to the criteria.

Q. Can the City approve the application in exchange for something like improvements to Highway 43?

A. The approval criteria for granting a variance is specific and only the criteria can be considered in determining a variance. Mayor explained this was a quasi-judicial process and decisions were not arbitrary.

Council explained how they have to remain neutral since they may be hearing this land use case.

Q: Why did Council meet with Lake Oswego and Tigard, but not with the Robinwood Neighborhood?

A: Council replied they met with the Good Neighbor Committee a couple of times before applications were filed.

Q: The Neighbors wanted to know why Council was not helping the neighborhood.

A: Council replied they hired a Planner and mediator for the neighborhood to help them prior to the application being filed. Council explained how they must avoid bias.

Q: The Neighbors understand that Council can impose additional mitigation requirements on the Partnership.

A: City Attorney answered Council has to follow State law and West Linn's Code.

Q: The neighbors asked why would Council allow such a large water line, they feel it is out of proportion for the area.

A: City Attorney advised neighbors to meet with the Planning Department to understand the applicable code in the application so that they could challenge issues such as the pipe size.

Q: The neighbors gave Lake Oswego a list of mitigation items; Lake Oswego is ignoring this list. They asked if West Linn Planners will make Lake Oswego complete this list of items.

A: City Attorney stated the neighbors need to talk to West Linn's Planning Department to find out what criteria this project is being reviewed under and match their arguments to the criteria.

Q. Can the City approve the application in exchange for something like improvements to Highway 43?

A. The approval criteria for granting a variance is specific and only the criteria can be considered in determining a variance. Mayor explained this was a quasi-judicial process and decisions were not arbitrary.

Council explained how they have to remain neutral since they may be hearing this land use case.



## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Friday, March 09, 2012 9:30 AM  
**To:** Pelz, Zach  
**Subject:** FW: LO-Tigard Letter  
**Attachments:** SKMBT\_C55012030907520.pdf

For the record

John Sonnen, Planning Director  
*Planning and Building, #1524*

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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:** Mollusky, Kathy  
**Sent:** Friday, March 09, 2012 8:04 AM  
**To:** Sonnen, John  
**Subject:** FW: LO-Tigard Letter

John,

Sorry, I should have sent this to you. Guess I should get my morning coffee before I do any work...

Kathy

Kathy Mollusky, City Recorder  
*Administration, #1430*

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**From:** Mollusky, Kathy  
**Sent:** Friday, March 09, 2012 8:01 AM  
**To:** Kerr, Chris  
**Subject:** FW: LO-Tigard Letter

Chris,

Mr. J asked me to have planning respond to the citizen on behalf of the City.

Thanks!

Kathy

---

**From:** Mollusky, Kathy  
**Sent:** Friday, March 09, 2012 7:34 AM  
**To:** Jordan, Chris  
**Subject:** LO-Tigard Letter

Chris,

Here is a copy of the LO-Tigard complaint sent to Council.

Kathy

March 8, 2012

Mayor and City Councilors  
City Hall  
22500 Salamo Road  
West Linn, Oregon 97068

Dear John, Jody, Teri, Mike and Jenni:

A few days ago we noticed your website report on the January 5<sup>th</sup> "Pre-application Conference Meeting" on the installation of Lake Oswego's four-foot-in-diameter pipe down Mapleton Drive. It calls for adding sidewalks the full length of both sides of our street.

When will this callous takeover of our neighborhood stop?

First, Lake Oswego assumes that they may expand their water treatment plant in our residential neighborhood despite a covenant and our universal objection to it. Now, our own city is declaring that while Lake Oswego is tearing up our street for their pipeline, sidewalks will also be installed. A stroll down our street quickly reveals that paving more of the thoroughfare will sacrifice mature trees, savage lawns and cause erosion problems.

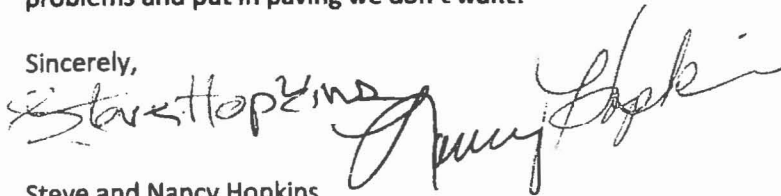
Has the City of West Linn asked Mapleton Drive property owners whether they want sidewalks on their street? You haven't asked us and we doubt that you've extended that courtesy to anyone else in our neighborhood. To help you understand the gravity of your published intention to pave more of our neighborhood, we asked our neighbors a couple days ago whether they want sidewalks.

They said no—**unequivocally NO!** They like the street the way it is! Only one of 25 respondents to our email survey expressed interest in a sidewalk and then only on one side of the street. **NINETY-SIX PERCENT DO NOT WANT ANY SIDEWALKS ON MAPLETON DRIVE.**

There weren't sidewalks on our street when we bought our home here 26 years ago. We raised two children next to the street without any traffic problems. Mature trees, a slope protecting part of our yard from erosion and ornamentals along the street were here when we bought the house. All will likely be sacrificed with sidewalks.

We're already angry about Lake Oswego's arrogant plan to expand their industrial plant in our residential neighborhood. Now, we're outraged that our own city brazenly plans to join them in destroying the nature of our neighborhood. Are you really going to cut down mature trees, remove ornamentals, cause erosion problems and put in paving we don't want?

Sincerely,

Handwritten signatures of Steve and Nancy Hopkins. The signature for Steve Hopkins is on the left, and the signature for Nancy Hopkins is on the right, overlapping the first one.

Steve and Nancy Hopkins  
3910 Mapleton Drive

## Pelz, Zach

---

**From:** Jordan, Chris  
**Sent:** Tuesday, February 28, 2012 11:48 AM  
**To:** Kerr, Chris; Pelz, Zach  
**Subject:** FW: Thursday, March 15, 2012, meeting at Robinwood Station  
**Attachments:** image9187aa.gif@b70d6be7.66e44560

Chris Jordan, City Manager  
Administration, #1422

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**From:** Carson, Jody  
**Sent:** Tuesday, February 28, 2012 11:31 AM  
**To:** Jordan, Chris  
**Subject:** FW: Thursday, March 15, 2012, meeting at Robinwood Station

Chris - please include this in the public record - Jody

 Councilor Jody Carson  
jcarson@westlinnoregon.gov  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, Oregon 97068  
P: (503) 657-0331  
F: (503) 650-9041  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

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**From:** [hopkins.n@comcast.net](mailto:hopkins.n@comcast.net) [hopkins.n@comcast.net]  
**Sent:** Sunday, February 26, 2012 2:08 PM  
**To:** President RNA; [kevinbryck@comcast.net](mailto:kevinbryck@comcast.net); [jkomarek@ci.oswego.or.us](mailto:jkomarek@ci.oswego.or.us); [eday@ci.oswego.or.us](mailto:eday@ci.oswego.or.us)  
**Cc:** Carson, Jody; Kovash, John; Jordan, Chris; [dfroode@comcast.net](mailto:dfroode@comcast.net); Steve Hopkins  
**Subject:** Thursday, March 15, 2012, meeting at Robinwood Station

### Gentlemen:

We're unfortunately going to be out of town for this meeting, but I do have some questions about the LO pipeline going down Mapleton Drive.

According to the City of West Linn web site, there will be sidewalks on both sides of Mapleton when the project is finished. This will require the removal of three mature trees in front of our house.

I'm about ready to change the lawn in our front yard to a garden area featuring perennials and shrubs. At the moment I'm about ready to plant shade plants, but when the trees are removed, it will be a sunny area. Before I invest the time and money into planting, I need to know what is planned in front of our house.

When the trees are removed, will the area be ready for planting (stumps and roots removed)?

Will a retaining wall be built where the sidewalk must go leaving a three-foot high bank? Will that new retaining wall match the current retaining wall on the other side of the driveway?

Will a mature shade-loving rhody be moved back into the shade after its neighboring tree is removed?

Hopefully, I will have some answers before planting season begins.

Thank you.

Nancy Hopkins  
3910 Mapleton  
West Linn, Oregon 97068  
503-635-7465

## Pelz, Zach

---

**From:** Jordan, Chris  
**Sent:** Tuesday, February 21, 2012 10:47 AM  
**To:** Kerr, Chris; Pelz, Zach  
**Subject:** Fwd: WLRA Statement

For the record because it was sent to the mayor

Sent from my iPhone

Begin forwarded message:

**From:** Dave Froode <[dfroode@comcast.net](mailto:dfroode@comcast.net)>  
**Date:** February 21, 2012 10:34:17 AM PST  
**To:** President RNA <[anthonymbracco@yahoo.com](mailto:anthonymbracco@yahoo.com)>  
**Cc:** "Jordan, Chris" <[cjordan@westlinnoregon.gov](mailto:cjordan@westlinnoregon.gov)>, "Kovash, John" <[jkovash@westlinnoregon.gov](mailto:jkovash@westlinnoregon.gov)>  
**Subject: Re: Fwd: Fwd: Fwd: Re: WLRA Statement**

Yes. Thus the letter from the WLRA in opposition.

So much for the Great Neighbor Plan Mayors Jack Hoffman and Craig Dirksen promised.

On 2/21/2012 9:08 AM, Anthony Bracco wrote:  
Hey Dave, Chris, and John

Did you here that L.O. decided to not honor ANY mitigations that we (RNA) requested due to "costs"?

Peace,

Tony

**From:** Dave Froode <[dfroode@comcast.net](mailto:dfroode@comcast.net)>  
**To:** "Jordan, Chris" <[cjordan@westlinnoregon.gov](mailto:cjordan@westlinnoregon.gov)>; "Kovash, John" <[jkovash@westlinnoregon.gov](mailto:jkovash@westlinnoregon.gov)>  
**Sent:** Monday, February 20, 2012 1:57 PM  
**Subject:** Fwd: Fwd: Fwd: Re: WLRA Statement

Dear Mayor Kovash and West Linn City Council:

On behalf of the West Linn Riverfront Association, the Board of Directors is opposed to the methods employed by Lake Oswego to expand their water treatment facility in a West Linn residential area. The WLRA requests Lake Oswego not be allowed to proceed until they have gained the approval of property owners impacted by this project.

The WLRA also asks the City of West Linn require Lake Oswego to honor all city codes affording protection to our natural resources and environment.

Finally, the WLRA strongly opposes Lake Oswego litigating against private property



owners. Good faith negotiations to arrive at amicable agreements is always preferred.

Respectively submitted,  
West Linn Riverfront Association Board of Directors  
David J. Froode, Chairperson  
Feb. 20, 2012

CC Mr Chris Jordan,  
City of West Linn

Chris Jordan, City Manager  
*Administration, #1422*

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## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Friday, February 10, 2012 3:08 PM  
**To:** Pelz, Zach  
**Subject:** FW: I would appreciate some feedback...  
**Attachments:** image887234.gif@85a34652.07fe4b38

John Sonnen, Planning Director  
Planning and Building, #1524

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**From:** Tan, Jennifer  
**Sent:** Friday, February 10, 2012 8:52 AM  
**To:** lamontking@comcast.net  
**Cc:** City Council; Sonnen, John; Kerr, Chris  
**Subject:** RE: I would appreciate some feedback...

Dear Mr. King,

Thank you for your message. I was copied on the recent response that Mike Jones sent you, and I apologize that I must also offer the same reasoning as to why I am unable to meet with you or the Committee. Given that an application has been filed with the City, I must maintain my neutrality. I kindly request that you please present the relevant issues and concerns during the hearing.

Warm regards,  
Jenni Tan

COUNCILOR JENNIFER TAN  
[jtan@westlinnoregon.gov](mailto:jtan@westlinnoregon.gov)  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, OR 97068  
P: (503) 657-0331  
F: (503) 650-9041  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

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---

**From:** [lamontking@comcast.net](mailto:lamontking@comcast.net) [[lamontking@comcast.net](mailto:lamontking@comcast.net)]  
**Sent:** Thursday, February 09, 2012 12:29 PM  
**To:** Tan, Jennifer  
**Subject:** I would appreciate some feedback...

Hi Jenny,

My name is Lamont King and I am on the Good Neighbor Committee representing the Robinwood Neighborhood Association. I am trying to reach out to members of the council to find out what is the reason for their refusal to meet with us about the LO Water Plant expansion. I have arranged meetings with Chris Jordan earlier to make it known that we wish to work with the city and do what is

best for the city. Instead, we have been shut out off the process by procedural tactics and disingenuous information. The "ex parte" rule was used for over one year to block our quest for information and the ability to sit down and discuss our concerns with the people we elected to represent us. Could you please provide me with an explanation of why we are being excluded by the city and would it be possible for you to meet with me or other on the committee to hear our issues?

Thank you for your consideration!

Lamont King

## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Friday, February 10, 2012 3:08 PM  
**To:** Pelz, Zach  
**Subject:** FW: I would appreciate some feedback...  
**Attachments:** image887234.gif@85a34652.07fe4b38

John Sonnen, Planning Director  
Planning and Building, #1524

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**From:** Tan, Jennifer  
**Sent:** Friday, February 10, 2012 8:52 AM  
**To:** lamontking@comcast.net  
**Cc:** City Council; Sonnen, John; Kerr, Chris  
**Subject:** RE: I would appreciate some feedback...

Dear Mr. King,

Thank you for your message. I was copied on the recent response that Mike Jones sent you, and I apologize that I must also offer the same reasoning as to why I am unable to meet with you or the Committee. Given that an application has been filed with the City, I must maintain my neutrality. I kindly request that you please present the relevant issues and concerns during the hearing.

Warm regards,  
Jenni Tan

 Councilor Jennifer Tan  
[jtan@westlinnoregon.gov](mailto:jtan@westlinnoregon.gov)  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, OR 97068  
P: (503) 657-0331  
F: (503) 650-9041  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

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**From:** [lamontking@comcast.net](mailto:lamontking@comcast.net) [[lamontking@comcast.net](mailto:lamontking@comcast.net)]  
**Sent:** Thursday, February 09, 2012 12:29 PM  
**To:** Tan, Jennifer  
**Subject:** I would appreciate some feedback...

Hi Jenny,

My name is Lamont King and I am on the Good Neighbor Committee representing the Robinwood Neighborhood Association. I am trying to reach out to members of the council to find out what is the reason for their refusal to meet with us about the LO Water Plant expansion. I have arranged meetings with Chris Jordan earlier to make it known that we wish to work with the city and do what is

best for the city. Instead, we have been shut out off the process by procedural tactics and disingenuous information. The "ex parte" rule was used for over one year to block our quest for information and the ability to sit down and discuss our concerns with the people we elected to represent us. Could you please provide me with an explanation of why we are being excluded by the city and would it be possible for you to meet with me or other on the committee to hear our issues?

Thank you for your consideration!

Lamont King

## Pelz, Zach

---

**From:** Sonnen, John  
**Sent:** Friday, February 10, 2012 3:07 PM  
**To:** Pelz, Zach  
**Subject:** FW: Ex-parte disclosure for LOTWP  
**Attachments:** imageb8c1f2.gif@5f32d5ae.a2114a0d

John Sonnen, Planning Director  
Planning and Building, #1524

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**From:** Tan, Jennifer  
**Sent:** Friday, February 10, 2012 9:01 AM  
**To:** Sonnen, John  
**Cc:** City Council; Kerr, Chris  
**Subject:** Ex-parte disclosure for LOTWP

Hi John,

Can you please include this communication report as part of the ex-parte disclosure record for LOTWP? Thank you.

- During my citizens' coffee outreach on Wednesday February 8, WL citizen Grey Mayo brought up the LOTWP. He only stated that he had heard various concerns about this project. I then told him that I was unable to speak about this subject to maintain neutrality.

- While in Oahu, Hawaii, on Monday January 30, I randomly met a Lake Oswego resident, Steve Fox. While casually chatting, he spoke to me about his profession, and how he had bid on work related to the LOTWP. I then told him that I was unable to discuss this subject further.

Thank you,  
Jenni

CITY OF  
**West  
Linn**  
Councilor Jennifer Tan  
[jtan@westlinnoregon.gov](mailto:jtan@westlinnoregon.gov)  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, OR 97068  
P: (503) 657-0331  
F: (503) 650-9041  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

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## Pelz, Zach

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**From:** Kerr, Chris  
**Sent:** Thursday, February 09, 2012 3:49 PM  
**To:** Pelz, Zach  
**Subject:** FW: Oswego and MSY Park  
**Attachments:** ATT00001.gif

Chris Kerr, Interim Assistant City Manager  
Administration, #1538

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**From:** Jones, Michael  
**Sent:** Thursday, February 09, 2012 3:31 PM  
**To:** Dave Froode  
**Cc:** City Council; Kerr, Chris; pam@gov-law.com  
**Subject:** RE: Oswego and MSY Park

Dave-

I apologize for taking a day or so to get back to you but I really wanted to give your email some thought. I would agree with you that you raise issues that are relevant to a land use hearing on the LOT Water Treatment Plant and that you present them when the hearing is held. That being said, given that an application has been filed with the City, I must maintain my neutrality. It is important that as a Council member I am able to hear and decide any land use appeal related to this application in a completely fair and impartial manner. I can assure you that this is as much in your best interest as it is in mine or Lake Oswego's.

I don't know if you have seen the recent email Chris Jordan sent to the RNA President. It is a letter from our attorney that explains in some detail why we are responding the way we are. It was originally for the Council's use and therefore confidential but the Council decided that the information needed to be shared. Chris is copied on this email and will forward that communication to you. To summarize at least one part, our attorney has said I need to maintain neutrality and not discuss your specific concerns and I think you would agree that following your attorney's advice is generally a pretty good course of action.

I know this issue is critically important to the City, your neighborhood, and my neighbors. I want to make sure we are all prepared to respond in the best manner possible.

Sincerely-Mike Jones  
[mjones@westlinnoregon.gov](mailto:mjones@westlinnoregon.gov)  
503.344.4683

>>((( '> . . . >((( '> . . . >((( '> . . . >((( '> . . . >((( '> . . . >((( '> . . . >((( '> . . .

Save the Salmon

Before you print, think about the ENVIRONMENT 





Councilor Michael Jones  
[mjones@westlinnoregon.gov](mailto:mjones@westlinnoregon.gov)  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, Oregon 97068  
P: (503) 657-0331  
F:  
Web:

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---

**From:** Dave Froode [dfroode@comcast.net]  
**Sent:** Wednesday, February 08, 2012 7:29 AM  
**To:** Jones, Michael  
**Subject:** Fwd: Oswego and MSY Park

Mike:

I asked Parks Director if the charter would be applied to MSY Park and Oswego installing a pipe line. You can read the answer. I do not agree. The intent of the charter was to protect our parks from situations like Wilderness Park absorbed several years ago. I would like to hear your version.

- Our city codes be they building or land use apply to MSY Park in every way. Why is Oswego an exception?
- At one point the Willamette River Greenway code was also to apply. Is that now been shoved aside?
- Our city is invested in this park with tax dollars and staff maintenance. We have many volunteers that assist in its maintenance. We have ownership. Does that not count?

Granted Ecola and Tryon are State parks and MSY is a state asset. But Canon Beach and Oswego do not have their city personnel doing maintenance in either park. Further who dare try to convince me The Friends of Tryon Creek State Park would allow Portland, West Linn or even Oswego to put a four foot pipeline through sensitive and protected areas of that park?

I am seeing way too much compromise by our city and really do not like it. The Mapleton owners have been marginalized and villified, the RNA is being ignored in spite of considerable effort to create a very reasonable Good Neighbor Plan and both mayors from Tigard and Oswego promised a Great Neighbor Plan. The more I probe this project the more I become convinced it is for Oswego's profit.

----- Original Message -----

**Subject:**Re: Oswego and MSY Park  
**Date:**Tue, 07 Feb 2012 17:27:23 -0800  
**From:**Dave Froode <[dfroode@comcast.net](mailto:dfroode@comcast.net)>  
**To:** Worcester, Ken <[Kworcester@westlinnoregon.gov](mailto:Kworcester@westlinnoregon.gov)>

How is it the West Linn Willamette River Greenway code, the watershed, and building codes apply to MSY Park, yet the charter does not?

If Ecola or Tryon were managed by the cities, those citizens might feel differently.

On 2/7/2012 4:06 PM, Worcester, Ken wrote:  
Dave,

In this case the charter would not kick in. Regardless of the intent of our charter, Mary S. Young Park is a State of Oregon asset. As such, I doubt the State would ever( or even could for that matter) relinquish complete control or authority over a State asset to a vote of one local jurisdiction. Management agreements aside, it would be like letting the townsfolk of Cannon Beach (Ecola State Park) or even Lake Oswego (Tryon Creek) vote on something that you as an Oregon resident may or may not want to see in of those parks, but you would be powerless to do anything because you were not a resident.



Ken Worcester  
[Kworcester@westlinnoregon.gov](mailto:Kworcester@westlinnoregon.gov)  
*Parks & Recreation Director*  
22500 Salamo Road, Box 1100  
West Linn, OR 97068  
P: (503) 723-2555  
F: (503) 656-4106  
Web: [westlinnoregon.gov](http://westlinnoregon.gov)

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**From:** Dave Froode [<mailto:dfroode@comcast.net>]  
**Sent:** Tuesday, February 07, 2012 11:49 AM  
**To:** Worcester, Ken  
**Subject:** Oswego and MSY Park

If Oswego runs their pipe through MSY park will the city charter kick in and call for a citizen vote? Or will the city call MSY a " state park" and not apply the charter? This is one of those issues of intent of the law vs letter of the law.

I had a letter to the editor in Oregonlive.com last week. Had 400 hits. **My Turn: West Linn resident not sold on Lake Oswego's plan to expand water facility** February 02, 2012

[http://blog.oregonlive.com/mywestlinn/2012/02/my\\_turn\\_west\\_linn\\_resident\\_not.html](http://blog.oregonlive.com/mywestlinn/2012/02/my_turn_west_linn_resident_not.html)

Thanks, Dave

---

## Pelz, Zach

---

**From:** Kerr, Chris  
**Sent:** Thursday, February 09, 2012 3:48 PM  
**To:** Pelz, Zach  
**Subject:** FW: The role of the community in WL GOVT.  
**Attachments:** imagea91a3a.gif@13074376.51d34e08

Chris Kerr, Interim Assistant City Manager  
Administration, #1538

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**From:** Jones, Michael  
**Sent:** Thursday, February 09, 2012 3:35 PM  
**To:** lamontking@comcast.net  
**Cc:** City Council; Kerr, Chris; pam@gov-law.com  
**Subject:** RE: The role of the community in WL GOVT.

Lamont-

I apologize for taking a day or so to get back to you but I really wanted to give your email some thought. I would agree with you that you raise issues that are relevant to a land use hearing on the LOT Water Treatment Plant and that you present them when the hearing is held. That being said, given that an application has been filed with the City, I must maintain my neutrality. It is important that as a Council member I am able to hear and decide any land use appeal related to this application in a completely fair and impartial manner. I can assure you that this is as much in your best interest as it is in mine or Lake Oswego's.


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I know this issue is critically important to the City, your neighborhood, and my neighbors. I want to make sure we are all prepared to respond in the best manner possible.

Sincerely-Mike Jones  
[mjones@westlinnoregon.gov](mailto:mjones@westlinnoregon.gov)  
503.344.4683

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Councilor Michael Jones  
[mjones@westlinnoregon.gov](mailto:mjones@westlinnoregon.gov)  
West Linn City Councilor  
22500 Salamo Rd  
West Linn, Oregon 97068  
P: (503) 657-0331  
F:  
Web:

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**From:** [lamontking@comcast.net](mailto:lamontking@comcast.net) [[lamontking@comcast.net](mailto:lamontking@comcast.net)]  
**Sent:** Wednesday, February 08, 2012 12:28 PM  
**To:** Jones, Michael  
**Subject:** The role of the community in WL GOVT.

Hi Mike,

We spoke briefly about the water treatment plant expansion early in the process. You appear to be someone I could talk to and someone trying to make West Linn a better place. Could you please explain to me why our city government refuses to sit down and speak to the citizens in the Robinwood Neighborhood Association about their concerns with the Lake Oswego expansion. Lake Oswego has bullied the people in our neighborhood and acted like their plans were a done deal from the beginning. I have personally met with Chris Jordan and tried to work within the city on this issue. I like Chris but feel he has misled me and not allowed appropriate discussion to occur with our neighborhood and the council. For over one year he has claimed they couldn't meet with us and then last month a outside attorney, hired by the city said it was okay as long as it was disclosed.

The committee I am on represents and enjoys the full support of a recognized group of citizens in this community. Yet our own council chooses to meet with Lake Oswego and refuses to sit down with us. Lake Oswego has begun condemnation proceedings in our city and our own city leaders refuse to meet with us and hear our veiws. How do you suppose West Linn would fare if we decided to expand an industrial site in a Lake Oswego neighborhood with the goal of making a profit at their neighborhoods expense?

I would appreciate a response.

Best Regards,

Lamont King

## MEMORANDUM

TO: John Sonnen, West Linn Planning Director

FROM: Pamela J. Beery, Special Legal Counsel

SUBJECT: Legal Analysis: Proposed Lake Oswego-Tigard Water Partnership Project

DATE: December 19, 2011

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**BACKGROUND**

As the City anticipates the filing of applications for land use review of a proposed water transmission facility and treatment plant expansion, questions have developed around what communications and contacts are appropriate at this time between staff, the City Council, and others that have an interest in the potential Lake Oswego/Tigard waterline extension. Additionally, Council will meet in work session this evening to hear a presentation from the project consultant team regarding the project. In particular, the purpose of the work session is to describe the proposed project and how the project might impact a shared intertie that West Linn and Lake Oswego share for emergency water service.

The purpose of this memorandum is to clarify two points:

1. First, we discuss the scope of appropriate communications during the pre-application and application periods, and specifically what constitutes an ex parte contact and what triggers the related concern of potential decision maker bias. The concern arises because the Council could be the hearing body to consider any appeal of a decision, and because of significant community interest in the project and the accompanying water treatment plant expansion.
2. Second, this memorandum addresses the appropriate scope for the work session and Council's role in the work session and related activities as the governing body ultimately responsible for water service in West Linn, as contrasted with Council's role as a potential land use appeal hearing body.



## DISCUSSION

### 1. Council's land use decision-maker role

#### A. *Ex Parte Communications*

ORS 227.180(3) provides the statutory framework governing ex parte communications and contacts. An ex parte contact involves communication between a decision-maker and a party or other interested person regarding the subject matter of a land use matter *pending* before the decision-maker. *Carrigg v. City of Enterprise*, 48 Or. LUBA 328, 333 (2004) (emphasis added). Ex parte communications take many forms; emails, telephone calls, direct communications, meetings with the applicant or other parties, and attendance at neighborhood meetings among the many examples.

Technically, a communication is not an ex parte communication if there is no pending application awaiting approval. Directly on point here is *Richards-Kreitzberg v. Marion County*, 31 Or. LUBA 540 (1996), holding that where there was no application pending before the County, there could by definition be no ex parte contacts between an applicant and the decision maker. In this case, no application has been filed so the Mayor and Council cannot be said to be engaging in ex parte communications. However, as discussed more fully below, care needs to be taken to set clear parameters for Council activities and statements to avoid the concern of potential bias, and once an application is filed all communications must be made part of the hearing record.

Specifically, ORS 227.180(3)(a) requires that members of the decision-making body disclose "the substance of any written or oral ex parte communications *concerning the decision or action*" (emphasis added). The "decision or action" is the land use application before the decision-making body. *Claus v. City of Sherwood*, 62 Or LUBA 67 (2010). Thus, an ex parte contact cannot occur *unless* an application has been submitted to a decision-making body for a decision. In our view, the City should consider the application "submitted" as of the filing of the application with the Planning Department so that there is a clear delineation for these purposes.

As such, any communication that occurs between members of the West Linn City Council – ultimately the appeal body once a land use application is filed – and parties interested in the Lake Oswego-Tigard water project between now and when an application is filed are not ex parte communications by definition under applicable law.

Under ORS 227.180(3), once an application has been submitted, members of a governing body must disclose ex parte communications on the record when the matter comes before the Council,

and must allow an opportunity for rebuttal of any communications disclosed. The purpose of the ex parte contact statutes is to ensure that land use decisions are based on information or evidence the decision-makers receive within the public process and not based on information or evidence received outside the public process. *Carrigg v. City of Enterprise*, 48 Or. LUBA 328, 333 (2004) (citing *Opp v. City of Portland*, 38 Or. LUBA 251, 263-64, *aff'd* 171 Or. App. 417, 16 P3d 520 (2000)). As you learned in the recent *Bundy v. City of West Linn* case, placing the asserted ex parte communication in the record removes any argument that such communication was ex parte; this advice certainly carries forward throughout the proceedings on this project.<sup>1</sup>

Finally, general expressions of support or opposition to a proposed development or other pending land use action are not ex parte contacts because they include no factual or legal assertions that bear on approval criteria or on any issue material to approval of the pending application that could possibly be rebutted. *Link v. City of Florence*, 58 Or LUBA 348 (2009) (dealing with review of annexation application). Nevertheless, as discussed more fully below, the Mayor and Council should be cautious about expressing any opinions in current and future discussions so as avoid any the appearance of bias – a different legal requirement that also applies in land use decisions.

Following is a brief discussion of how ex parte communications should be handled, and some special rules concerning what constitutes an ex parte communication.

(1) Full Disclosure

Ex parte contacts are not in and of themselves unlawful. Ex parte contact does not render a decision unlawful so long as there is full disclosure. ORS 227.180(3). Such contacts are a problem only where the substance of the meeting is not disclosed during a public hearing and recorded as a part of the public record. This is an area that should be discussed carefully in the context of the present anticipated application. Council should be very clear on when an application is filed so that careful documentation can be maintained to avoid both legal and political concerns.

Disclosure must occur at the earliest possible time in the decision-making process. *Horizon Construction v. City of Newberg*, 114 Or. App. 249, 834 P.2d 523 (1992). There are two components to full disclosure: (1) placing the substance of the written or oral ex parte contact on the record and (2) a public announcement of the ex parte contact. ORS 227.180(3)(a) & (b). Both requirements are satisfied by disclosure at the initial public hearing; in the case of Council,

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<sup>1</sup> LUBA No. 2010-089 (March 8, 2011).



this would be at the beginning of the appeal hearing. We plan to help guide Council through this process.

(2) Site Visits

A site visit is not an *ex parte* contact unless it involves communication between a decision maker and a party or other interested person. *Carrigg v. City of Enterprise*, 48 Or. LUBA 328 (2004). However, site visits do invoke procedural requirements of disclosure and an opportunity to rebut any evidence obtained from the site visit. *Id.* If a site visit is conducted and conversations take place between decision makers and applicants and/or opposition that relate to the applicable approval criteria and are then used in making the final decision, or give the appearance of playing into the final decision, the content of those conversations must be disclosed *Gordon v. Polk County*, 50 Or. LUBA 502 (2005). As such, any site visits (in this case, covering a broad area including Mary S. Young Park, several streets and neighborhoods) could trigger a due process concern if Council learns information that is not part of the hearing record. Again, this is a manageable risk; Council should feel free to be well acquainted with the areas to be impacted by this project, and should then be prepared to disclose any information learned outside of the hearing process.

(3) Communications with Staff and General Comments

Under ORS 227.180(4), communications with City staff are not considered *ex parte* contacts. However, City staff may not serve as a conduit for obtaining information outside of the public process unless that information is disclosed. In practice, decision makers may freely discuss issues and evidence with staff. Where an interested party requests staff to communicate with a decision maker or other evidence is obtained through staff, and the decision maker then relies on that evidence without disclosure (or it is not otherwise included as a part of the public record such as the staff report), an *ex parte* contact problem occurs. Because an *ex parte* contact is a procedural error, the party appealing a decision must show that the *ex parte* contact was prejudicial to a substantial interest of the party. In general, evidence that a relevant *ex parte* contact was not disclosed could be regarded as enough to require remand of a decision. Again, the important advice here is that all such communications must be disclosed during the hearing.

Although *ex parte* communications cannot by definition occur prior to an application being filed as discussed above, communications can occur during this pre-application period that have the potential of creating or giving the impression of bias on the part of the Mayor or a city councilor. This potential concern is the focus of the next area of discussion.

**B. Bias**

Bias occurs where a decision-maker prejudices an application and does not reach a decision by applying the relevant standards based on the evidence and arguments presented by an applicant. *See Oregon Entertainment Corp. v. City of Beaverton*, 38 Or. LUBA 440, 445, *aff'd* 172 Or. App. 361, 19 P3d 918 (2001) (*citing Spiering v. Yamhill County*, 25 Or. LUBA 695, 702 (1993)). Local quasi-judicial decision makers are not expected to be free of bias but they are expected to (1) put whatever bias they may have aside when deciding individual permit applications and (2) engage in necessary fact finding and attempt to interpret and apply the law to the facts so that the ultimate decision is a reflection of their view of the facts and law rather than a product of any positive or negative bias the decision maker may bring to the process. *Wal-Mart Stores, Inc. v. City of Central Point*, 49 Or. LUBA 697 (2005).

The Oregon Supreme Court has recognized that elected officials must balance their role as legislators actively pursuing a “particular view of the community’s interest,” while balancing their duties as adjudicators in quasi-judicial hearings. Those roles are present in this instance as discussed more fully below. *1000 Friends of Oregon v. Wasco County Court*, 304 Or. 76, 84-85, 742 P2d 39 (1987). An important piece of assessing bias requires an understanding of the distinction between *actual* bias and the *appearance* of bias.

(1) Actual Bias

Actual bias means prejudice or prejudgment of the parties or the case to such a degree that the decision maker is incapable of being persuaded by the facts to vote another way. This can include personal bias or prejudice, or an interest in the outcome.

The standard for determining actual bias is whether the decision maker “prejudged the application and did not reach a decision by applying relevant standards based on the evidence and argument presented [during quasi-judicial proceedings].” *Oregon Entertainment Corp. v. City of Beaverton*, 38 Or. LUBA 440, 445 (2000), *aff'd* 172 Or. App. 361, 19 P.3d 918 (2001). Actual bias strong enough to disqualify a decision maker must be demonstrated in a clear and unmistakable manner. *Reed v. Jackson County*, 2010 WL 2655117, LUBA No. 2009-136 (June 2, 2010). To establish bias, LUBA has generally required evidence of a strong emotional commitment by a decision maker to approve or to defeat an application for land use approval. *Catholic Diocese of Baker v. Crook County*, 60 Or LUBA 157 (2009).

The burden of proof that a party must satisfy to demonstrate prejudgment by a local decision maker is substantial, and actual bias is very rarely established. *Roberts et. al. v. Clatsop County*, 44 Or. LUBA 178 (2003), *see also Becklin v. Board of Examiners for Engineering and Land*



*Surveying*, 195 Or. App. 186 (2004). However, the objecting party need not demonstrate that a majority of the decision makers were influenced by the bias of one decision maker to warrant a remand; the bias of one City Councilor is enough. *Halvorson Mason Corp. v. City of Depoe Bay*, 39 Or. LUBA 702 (2001).

(2) Appearance of Bias

Appearance of bias will not generally invalidate a decision. *1000 Friends of Oregon v. Wasco County Court*, 304 Or. 76, 742 P.2d 39 (1987). However, the appearance of bias may call into question a decision maker's ultimate decision. *Gooley v. City of Mt. Angel*, 56 Or. LUBA 319, FN6 (2008). As such, generalized expressions of opinions are not bias. *Space Age Fuels v. City of Sherwood*, LUBA No. 2001-064 (2001). The main objective is to maintain public confidence in public processes. Therefore, it is good practice for decision-makers to disclose any comments, communications or information that may be viewed by others as indicative of bias.

Council should take great care not to express an opinion that indicates the ultimate outcome of the application has been pre-determined in any way in all communications with persons who have any interest in this project. Though the threshold for actually proving bias is high, the significant downside of needing to address asserted bias is well worth avoiding.

**2. Council's role as policy making body**

The second issue presented by the anticipated project arises from the dual roles that Council must play. In addition to hearing any appeal in the land use proceedings affecting this project, discussed above, the Council as governing body is expected to evaluate the project as to its relationship to and impact on West Linn's water system. In this capacity, Council is not determining whether the particular water line or treatment plant expansion is consistent with the City Development Code (which Council would do in the land use appeal); rather, Council is exercising its legitimate and important role as the elected policy body for the City.

Council should not be required to abrogate its role in determining how the proposed project may affect the City's water system simply because Council would also hear any land use appeal concerning components of the project and their compliance with applicable development code provisions. Council must exercise care -- as described fully above -- in exercising its policy role because we know it is likely one or more land use hearings lay ahead.

The purpose of the work session planned for this evening is to hear an overview of the project, and in particular to consider how the project might interface with the City's emergency water intertie with the City of Lake Oswego. The benefits of such a connection could result in

significant taxpayer savings and enhancement of West Linn's water system, and Council is responsible for evaluating those aspects of the project even though a land use appeal may subsequently occur. As noted above, Council may engage in its policy role and may later hear a land use appeal, provided Council members are not biased so that they are unable to give the land use appeal a full and fair review, and provided that any ex parte contacts are fully disclosed. The minutes of the work session could be included in the appeal hearing record for the project as one method of assuring that full disclosure occurs, as an example.

Oregon courts have long recognized the multiple roles played by governing bodies, especially those in cities and counties, and have upheld the quasi-judicial decisions made by those bodies in the face of legal challenge. For example, in *MacPherson v. Department of Administrative Services*, 340 Or. 117, 130 P.3d 308 (2006)<sup>2</sup>, the Oregon Supreme Court held that:

“members [of local general-purpose governing bodies] are politically elected to positions that do not separate legislative from executive and judicial power on the state or federal model; characteristically they combine lawmaking with administration that is sometimes executive and sometimes adjudicative.” Citing *1000 Friends of Oregon v. Wasco Co. Court*, 304 Or. 76, 82, 742 P.2d 39 (1987), cert. denied 486 U.S. 1007, 108 S.Ct. 1733, 100 L.Ed.2d 197 (1988). and *Fasano v. Washington Co. Comm.*, 264 Or. 574, 580, 507 P.2d 23 (1973).

In *Beck v. City of Tillamook*, 113 Or.App. 660, 663, 833 P.2d 1327 (1992), the Oregon Court of Appeals also made this point in the context of the City's approval of a homeless shelter as a conditional use. Petitioners argued that the council was, in effect, the “sponsor” of the project that it authorized through the conditional use permit, because it had previously approved the project's application for a federal grant to provide funds for the project. In upholding the City Council's decision, the Court of Appeals stated:

“LUBA said in *Oatfield Ridge Residents Rights v. Clackamas Co.*, 14 Or. LUBA 766, 768 (1986): ‘Agency sponsorship of a project may or may not earn it the support of elected officials when they review it for conformance with land use requirements. The possibility that some may favor governmental programs does not disqualify the board for bias. The burden is on Petitioners to show clearly that the officials were incapable of making a decision on the basis of the evidence and argument.’ We agree.”

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<sup>2</sup> At issue in this case was the question of whether the governing body that enacted legislation to implement Measure 37 could later hear specific adjudicative cases under the legislation.

**Conclusion and Recommendations:**

As a legal matter, the Mayor and Council may continue to discuss the potential Lake Oswego/Tigard water project with staff, their Lake Oswego/Tigard counterparts, and other interested persons without engaging in ex parte communications so long as such communications occur *prior* to application submittal. Once an application has been filed for City approval, the Mayor and Council should avoid engaging in ex parte contacts. Such communications, even before the application is filed, should not be such that they create the appearance of bias, however, and care needs to be taken in that regard even now. Any actual bias will need to be handled by the affected Council member stepping down from participation in any appeal hearing; again here, we can help advise Council on how this should be done.

Council may have communications with staff, and the planned work session covering information about the anticipated project is appropriate and lawful.

We are happy to continue our advice and counsel as this matter moves forward and to provide whatever guidance staff and Council believe are appropriate.

cc: Honorable Mayor and Members of the City Council  
Chris Jordan, City Manager