



## Memorandum

**Date:** February 13, 2015

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

**From:** Chris Jordan, City Manager *CJ*

**Subject:** Miscellaneous Items

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### February 19 Meeting

The Council is scheduled to meet at 5:00 on February 19 to discuss the resignation of Mayor Kovash. City Attorney Tim Ramis will advise the Council on the process in the Charter and the Council Rules. Attached to this memorandum are sections from those two documents.

### Upcoming Council Meetings

We have been working on the agendas for the upcoming Council meetings. The tentative agenda list includes work sessions on:

- Tri City Service District
- Robinwood Station
- Stafford Hamlet
- A Joint Meeting with the Planning Commission
- Evaluation of City-owned Property
- Emergency Operations

This list makes for very full work sessions through the next two months. Please let me know if the Council wants to move these items around.

After these work sessions, the Council will be occupied by Citizens Budget Committee meetings.

### Regional Wastewater

Attached are two letters we received from Clackamas County regarding regional wastewater issues. We plan to discuss wastewater issues on March 2.

Please let me know if you have any questions.

Attachment

## **COUNCIL RULES SECTIONS**

**Filling Vacancies on the Council.** Upon declaring a vacancy on the City Council, the Council will fill the vacancy under provisions of the City Charter. The vacancy will be advertised and applications will be accepted. After the filing deadline has passed, the Council may conduct public interviews of applicants. The Council will make a decision to fill the vacancy in a public meeting.

**Presiding Officer.** The Mayor shall be the Presiding Officer and conduct all meetings, preserve order, enforce the rules of the Council and determine the order and length of discussion on any matter before the Council, subject to these rules. The Council President shall preside in the absence of the Mayor. The Presiding Officer shall not be deprived of any of the rights and privileges of a Councilor. In case of the absence of the Mayor and the Council President, the City Manager shall call the meeting to order and the Council shall elect a chairperson for the meeting by majority vote.

## **CHARTER SECTIONS**

### **Chapter III**

#### **FORM OF GOVERNMENT**

##### **Section 12. Qualifications.**

- (a) A candidate for City office shall be a qualified elector under the State Constitution and shall have resided in the City during the twelve months immediately before being elected or appointed to the office. "City" means the area inside the City limits at the time of the election or appointment. Elected City officers, subsequent to their election or appointment, shall continue to be residents of the City during their entire term of office.
- (b) No person may be a candidate at a single election for more than one elective City office.
- (c) An elected officer may be employed in a City position that is substantially volunteer in nature. Whether the position is so may be decided by the Municipal Court or in some other manner, whichever the Council prescribes.
- (d) Except as subsection (c) of this section provides to the contrary, the Council is the final judge of the election and qualifications of its members.
- (e) The qualifications of appointed officers of the City are as the Council prescribes or authorizes.

## Chapter IV

### COUNCIL

#### **Section 17. Mayor's Functions at Council Meetings.**

The Mayor shall preside over Council deliberations and shall have a vote on all questions before the Council. The Mayor shall preserve order, enforce the rules of the Council, and determine the order of business under the rules of the Council.

#### **Section 18. President of the Council.**

At the first meeting of each year, the Council shall elect a President from its membership. In the Mayor's absence from a Council meeting, the President shall preside over it. Whenever the Mayor is unable to perform the functions of the office, the President shall act as Mayor.

## Chapter V

### POWERS AND DUTIES OF OFFICERS

#### **Section 22. Mayor.**

The Mayor shall:

- (a) Sign all records of proceedings approved by the Council.
- (b) Have no veto power.
- (c) Sign all ordinances passed by the Council. Failure of the Mayor or the President of the Council to sign an ordinance shall not invalidate it.
- (d) Endorse the bond after the Council approves a bond of a City officer or a bond for license, contract or proposal.
- (e) [Deleted 05-16-06; NOTE: This pertained to Council liaisons to City departments.]
- (f) Appoint, with the approval of the Council, the boards, commissions and committees provided by the rules of the Council. Members of the Planning Commission and Budget Committee shall have a minimum of six months residency in the City prior to appointment, unless otherwise provided by State law, and shall meet attendance requirements as set by ordinance.

## Chapter VII

### VACANCIES IN OFFICE

#### **Section 30. Vacancies: Occurrence.**

The office of a member of the Council becomes vacant:

- (a) Upon the incumbent's:

- (1) Death;
  - (2) Adjudicated incompetence; or
  - (3) Recall from the office; or
- (b) Upon declaration by the Council of the vacancy in case of the incumbent's:
- (1) Failure, following election or appointment to the office, to qualify for the office within ten days after the time for the term of office to begin;
  - (2) Absence from the City for 30 days without the Council's consent or from all meetings of the Council within a 60-day period;
  - (3) Ceasing to reside in the City;
  - (4) Ceasing to be a qualified elector under State law;
  - (5) Conviction of a public offense punishable by loss of liberty; or
  - (6) Resignation from the office.

**Section 31. Vacancies: Filling.**

- (a) If less than one year remains in the term of the person who held that vacant office, the vacancy shall be filled by appointment by a majority vote of the remaining Council members. The appointee shall serve the remainder of the unexpired term.
- (b) If one or more years remain in the term of the person who held that vacant office, the vacancy shall be filled at the next available May or November election. The person elected shall serve the remainder of the unexpired term. A majority of the remaining Council members shall fill the vacancy by appointment for an interim period until a special election may be held to fill the remainder of the unexpired term. (Amended 09-17-13)
- (c) During a Council member's disability to serve on the Council or during a member's absence from the City, a majority of the remaining Council members may by appointment fill the vacancy *pro tem*.



**BOARD OF COUNTY COMMISSIONERS**

**PUBLIC SERVICES BUILDING**  
2051 KAEN ROAD | OREGON CITY, OR 97045

February 11, 2015

Dear Wastewater Partners,

Last summer the BCC charged Michael Read, the acting interim Director of Water Environment Services (WES) to evaluate the needs of both CCSD#1 and Tri-City service districts. The request for an evaluation was primarily driven by questions regarding the capacity of the system. Both the RiverHealth Advisory Committee for CCSD#1 and the Tri-City Advisory Committee were recently convened and given an update as to the initial findings.

The Board of County Commissioners recently received their update and it was recommended that the Regional Wastewater Treatment Capacity Advisory Committee be convened to discuss what steps, if any, be pursued regarding the current challenges facing the solids handling process improvements that have been twice deferred, the last being in 2012.

Recently however, communications and misunderstandings have been circulating. No decisions have been made with regards to new rates or projects that each respective advisory body has not previously approved. At both the RiverHealth Advisory Board and Tri-City Advisory Committee meetings requests for information were made and our staff are taking the necessary steps in preparation for the aforementioned upcoming meetings and to provide answers to previously raised questions.

It has been a long standing goal for both advisory bodies to meet regularly, be provided updates, and seek advisory direction and approval for ongoing operations, implementation of previously approved capital improvement plans, and review of financial reports.

Outlined below are the membership of the advisory boards and committees, and a brief description of their purpose and activities.

Tri-City Advisory Committee

- First formed in 1990, the Tri-City Advisory Committee is made up of the City Managers of the member cities of the Tri-City service district (West Linn, Gladstone, and Oregon City) and the Director of Water Environment Services.
- The Committee was formed to
  - review, discuss and make recommendations on proposed long-range capital improvement plans;
  - review and make recommendations upon the District's annual budget and rate setting; and
  - perform other projects assigned by the Board of County Commissioners, suggested by the Director or initiated by the Advisory Committee, consistent with the effective operation of the District.

- This committee generally meets 2 – 4 times a year. Recent meeting topics include capital improvement plans, rate changes, and master planning efforts.

#### RiverHealth Advisory Board

- Formed in 2008, the RiverHealth Advisory Board was a merger of the North Clackamas Surface Water Management Citizens Advisory Committee and the Citizens Advisory Committee. The Board is made up of representatives from the Cities of Damascus, Milwaukie and Happy Valley, and five representatives from unincorporated Clackamas County.
- The Board's purpose is to:
  - review, discuss and make recommendations on staff developed and proposed long-range capital improvement plans regarding wastewater collection and treatment and watershed management;
  - review and make recommendations on annual budgets and rate setting; and
  - performs other projects assigned by the Board of County Commissioners, and/or suggested by the Director consistent with the effective operation of the District.
- This board generally meets bi-monthly. Recent meeting topics include capital improvement plans, Hoodland master plan, and potential rate impacts.

#### Regional Wastewater Treatment Capacity Advisory Committee

- First formed in 2009, the Regional Wastewater Treatment Capacity Advisory Committee is made up of representatives from the Cities of Damascus, Gladstone, Happy Valley, Milwaukie, Oregon City and West Linn and a representative from unincorporated Clackamas County which is drawn from the RiverHealth Advisory Board.
- The Committee was formed to discuss significant, long-term public policy issues regarding the future of our wastewater system. The Committee provides a forum for discussion of mutual investment and management opportunities.
- This committee meets on an as needed basis when issues arise which impact both districts. Recent meeting topics include combined asset management, biosolids, energy and wastewater reuse strategies.

#### Clackamas County Service District #1 (CCSD#1), Surface Water Management Agency of Clackamas County (SWMACC) and Tri-City Service District (TCSD) Budget Committees

- These three Committees were formed pursuant to ORS Chapter 451 and are subject to Oregon's Local Budget Law which mandates that the governing body of the Districts establish budgeting committees
- The committees are made up of the Board of County Commissioners and an equal number of private citizens. The five citizen members for each budget committee are:
  - CCSD#1: Five non-elected, citizen members who are customers of CCSD#1
  - TCSD: One member from each of the Cities of Oregon City, West Linn and Gladstone, and two at-large citizen members who are wholesale customers of TCSD
  - SWMACC: Five citizen members who are customers of SWMACC

It is our intention to provide the history of these districts to allow everyone an understanding of how these districts were formed, how both the City and unincorporated representatives reached consensus and how we agreed regionally to engage in decision making that is as fair as possible.

It should be noted that Michael Read was the acting interim director of WES. He did an outstanding job but his role was temporary as he remains the District Manager for Oak Lodge Sanitary. We appreciate his contribution and we thank Oak Lodge Sanitary for allowing him to provide assistance. The acting interim

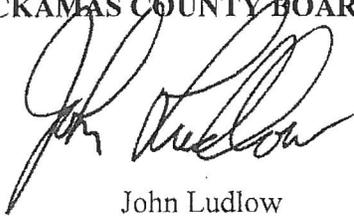
Director of WES has been handed off to the very capable hands of Greg Geist, formerly with DEQ. WES is in the final stages of recruiting a permanent director for WES.

The Board of County Commissioners has asked Commissioner Paul Savas, as liaison to WES, to serve as the primary point of contact on these issues. Greg Geist is also available for technical questions as we prepare for a regional discussion with our Clackamas County partners.

Thank you for your role in our regional partnership.

Sincerely,

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**



John Ludlow  
Chair



Jim Bernard  
Commissioner



Paul Savas  
Commissioner



Martha Schrader  
Commissioner



Tootie Smith  
Commissioner



**BOARD OF COUNTY COMMISSIONERS**

**PUBLIC SERVICES BUILDING**  
2051 KAEN ROAD | OREGON CITY, OR 97045

February 11, 2015

City of Oregon City  
Attn: City Commission  
625 Center Street  
Oregon City, OR 97045

Dear Oregon City Commissioners:

Thank you to former Mayor Neeley for his letter of December 19, 2014 about the Tri-City Service District governance. It appears that the County and City may not have the same understanding as to the history and rationale in regard to the delivery for wastewater treatment services. In engaging the issue, we would like to share our understanding of the reasons for formation of the Tri-City Service District (District), the current issues facing the District, and opportunities for conversation around these and other issues.

**History**

In 1977, the Oregon Department of Environmental Quality (DEQ) issued a building moratorium to Oregon City and Gladstone, and warned West Linn that it would face a similar restriction in less than two years, if sewer improvements were not made. Prior to this each of the cities owned and operated its own sewage treatment plant. Oregon City's was located along 99E near Clackamette Park.

The leadership of the cities during that time found that mutual investment in a business such as wastewater treatment was the most economically viable response to the moratoriums. An initial plan to form a District, including a substantial unincorporated rural area, was proposed to the County and put to a public vote, which failed. After additional consideration, the three cities proposed that the District include only their incorporated boundaries. The modified arrangement was put to a vote of the future ratepayers of those cities and passed in 1980, with the County Commission to act as the governing body.

The District was then able to leverage that vote of support to obtain Clean Water Act grants that paid approximately 75% of the construction costs of the Tri-City Wastewater Treatment Plant (Plant). The remainder of the construction costs was paid by users of the system. In lieu of direct rates, the District was able to issue a general obligation bond that crossed the three cities' jurisdictional boundaries. The construction bond was the equivalent of approximately \$12 per household per month for the next 20 years, and was paid off in 2001. Since the District's inception in 1980, direct rates have only paid for operational expenses and minor asset replacement.

## **Current Issues**

The infrastructure constructed in 1980 was substantial and the District leveraged the federal grant money to maximize value to the residents of the three cities. The Plant has held sufficient capacity to support the steady growth of the three cities, and leased space to Clackamas County Service District No. 1 (CCSD#1) beginning in 1999 for a profit, allowing the District's revenue generated from ratepayers to go below the District's current operating costs. Continued growth in all three cities, with Oregon City experiencing the highest rate of growth, has now used up the original solids handling design capacity of the Plant.

CCSD#1 has invested at least \$89 million including constructing its own treatment train in 2011 and bought into the equity of the Plant through a one-time payment of \$4,000,000, which was used to subsidize district rates for the last several years. While Oregon City has shared concerns over the rate of growth for user fees, it is only in the last fiscal year that the District reached break-even status for its operational expenses. The current rate does not support capital projects.

The District does have pressing capital needs. The current demands on the Plant have put the Plant over capacity from a solids handling standpoint. To mitigate the capacity issues, in 2012 the District shifted its solids processing operations to a higher-risk strategy that has had limited success. Although less than originally envisioned, the Plant is still experiencing operational challenges caused by the stressed systems. District staff, recognizing the issue, briefed the District advisory committee (which includes representation from each partner city) regarding the possible need to adjust the phasing of the capital improvement plan to address the overloading of the solids handling infrastructure. It appears that this briefing gave rise to Oregon City's concerns, as articulated in Mayor Neeley's letter—namely the possibility of rate increases and the desire for more control over that decision.

## **Continuing the Conversation**

As the conversation moves forward, there are two key concepts that we believe should be discussed:

1. The capital needs driving the concerns are the same despite the governance structure. The federal government is no longer offering grants for this type of construction, which means future capital replacement and improvements will have to be paid by the users of the system through rates or a general obligation bond.
2. The original goal during the formation of the District—that wastewater is an economy of scale endeavor that leaves each city substantially better off over time by investing together—remains a key driver for our conversation. This issue has been exacerbated by the expense of the large infrastructure necessary to meet the requirements of the Clean Water Act.

The constituent members of the District and CCSD#1 jointly agreed to form a Regional Wastewater Treatment Capacity Advisory Committee to address exactly the issues facing the District and CCSD#1 today. Members of the Board of County Commissioners, with the support of staff, intend to bring forward these issues to that Regional committee and seek input on the best path forward. Part of our proposed conversation would include the possibility, but not the mandate, that the District consider a mutual investment strategy with CCSD#1 to minimize the rate impact to our shared constituents.

Members of the Board of County Commissioners have expressed openness to revisions to the advisory committee membership, scope and nature of input. If there is a shared desire by both Gladstone and West Linn, the Board would be willing to explore the optimal way to ensure that decisions are made for the benefit of the affected ratepayers. However, that conversation may need to run either parallel to or after the conversation regarding the pressing infrastructure needs once again facing the three cities, namely avoiding a moratorium.

We look forward to working with the representatives of the three cities and the partnering cities & stakeholders of CCSD#1 in finding a mutually agreeable way to address our shared needs, ensuring we protect human health and the environment by providing effective water quality services.

Thank you.

Sincerely,

**CLACKAMAS COUNTY BOARD OF COMMISSIONERS**



John Ludlow  
Chair



Jim Bernard  
Commissioner



Paul Savas  
Commissioner



Martha Schrader  
Commissioner



Tootie Smith  
Commissioner

cc: Cities of Gladstone and West Linn