

June 9, 2026

VIA EMAIL

Hearings Officer Tommy Brooks
c/o Steve Koper, Community Development Director
West Linn Community Development Department
skoper@westlinnoregon.gov

RE: Appeal (“AP 26-01”) of planning commission decision in CUP-25-02/DR-25-02/WAP-25-01, approval of an operation facility for City of West Linn Public Works (the “Approval”)

Hearings Officer Brooks:

My firm represents the City of West Linn (“City”) as the City’s special land use counsel and it is in this capacity that I am writing this letter to you. Specifically, I am retained on this project to counsel the City as the reviewer of this application. This letter addresses written testimony received by the City during the first open record period following the May 27, 2026 hearing, regarding various procedural claims relative to the planning commission’s decision on the application and the City’s position on each claim.

1. Roberta Schwarz email sent May 31, 2026, subject “AP-26-01 Additional testimony that rebuts the Applicant’s” and Ed Schwarz email sent June 2, 2026, subject “AP-26-01 – Additional Testimony Related to the Disqualification of Planning Commissioner Jason Evans.”

These letters posit the same arguments regarding planning commissioner Jason Evans’ residency as were made in attorney Andrew Mulkey’s second letter submitted into the record on May 27, 2026. The City’s letter submitted on June 3, 2026 (“City Letter”) contains arguments and conclusions addressing Mr. Mulkey’s letter, and the same arguments and conclusions apply to these emails.

2. Resubmitted letters from Andrew Mulkey.

Ed and Roberta Schwarz provided letters from their attorney Andrew Mulkey that were previously submitted into the record on May 27, 2026. The City addressed those letters verbally at the May 27 hearing and in the City Letter, and therefore will not address them again here.

3. Mike Kapigian letter dated June 2, 2026, subject “CUP-25/DR-25-02/WAP-25-01.”

This letter reiterated Mr. Kapigian’s claims made in his oral testimony on May 27, 2026. The City addressed his claims in the City Letter, and therefore need not re-address them here.

4. Teresa Cummings letter dated June 3, 2026, subject “Addendum to Letter in support of AP-26-01 – the appeal of CUP-25-02/DR-25-02/WAP-25-01.”

Ms. Cummings argues that the City Council violated City Charter by failing to involve the utility advisory board in making decisions regarding utility rates. This land use decision-making process is not the right forum to raise the issue; nor is review of the utility advisory board an approval criterion for this decision. In her letter, Ms. Cummings made numerous other claims, all of which failed to identify a particular approval criterion that was not met, or land use procedure that was not followed. Therefore, this letter does not address those arguments.

5. Karie Oakes email dated June 3, 2026, subject “Comments for the record of AP-26-01.”

Ms. Oakes claims that because Commissioner Evans arrived late to the March 4, 2026 planning commission hearing, and the city attorney did not ask him to individually disclose conflicts of interest, ex parte contacts, or bias, the public was not afforded the opportunity to challenge these matters and its rights were thereby prejudiced. Putting aside as irrelevant Commissioner Evans’ arrival time, the city attorney was not required to prompt the Commissioner for disclosure of conflicts of interest, ex parte contacts, or bias. Regardless, any error that may have arisen due to the city attorney’s failure to afford the public an opportunity to challenge ethical disclosures are cured by the hearings officer’s de novo review of the application. A de novo review means that the hearings officer considers the application without being bound by the planning commission’s decision, as if reviewing the application for the first time. As a result, any conflicts of interest, ex parte contacts, or bias that may have influenced the decision-making of any planning commissioner is remedied by this fresh review.

Sincerely,



Ashleigh K. Dougill

AKD/kkb