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JANUARY 22, 2013

VIA HAND DELIVERY

West Linn City Council
22500 Salamo Road
West Linn OR 97068

Re: LOT CUP Applications AP 12-02; AP 12-03

Dear Honorable Members of the City Council:

I represent STOP in opposition to the application by Lake Oswego -Tigard Partnership to replace the existing water treatment facility located on Kenthorpe Way, as well as the application to route a 4-foot diameter water pipeline through the City of West Linn.

While other members of STOP will present a more broad overview of the specific objections that the citizens of West Linn have to this proposal, my presentation focuses instead on some of the more nuanced legal issues present in this case.

A. The Applicant Submitted What Amounts to a New CUP Application for the Water Treatment Facility; the City Council Should Remand the Matter Back to the Planning Commission.

After the Planning Commission denied the CUP permit, LOT submitted a new site plan for the water treatment facility. These plans call for a complete replacement of the old facility, with a new building being constructed in its place. However, LOT never went back and re-addressed the Design Review criteria set forth in CDC Ch. 55.

We recognize that the city has substantial latitude in determining whether an alteration in a permit proposal requires a complete re-hearing or rather can be taken up in the course of the ongoing proceeding. In this case, the changes are substantial enough that the new plans constitute a new application, particularly as it relates to the design review criteria.

B. Overview on Conditional Use Permits.

One frequently encountered argument advanced by applicants for a CUP is that the legislative determination that a particular use is a “conditional use” in a zone represents a prima facie determination that the characteristics of the proposed use are compatible with the permitted uses in the surrounding areas. *See e.g., Hannan v. Yamhill County*, 6 Or LUBA 83 (1982). LUBA and the Courts have consistently rejected that argument, and we will explain the reasoning for rejecting it, below:

When cities draft their zoning codes, they typically differentiate between three general categories of land uses: (1) uses allowed by right (aka “permitted” uses), (2) prohibited uses, and (3) conditional uses. *Permitted uses* are those uses that the city has determined, as a legislative matter, are *per se* consistent with the objectives of the zone and should be allowed by right in all cases. These uses cannot be outright denied in the particular zone in question under any circumstance.

Conversely, *prohibited uses* are those that the city has determined are always going to be inconsistent with the objectives of the zone, and cannot be allowed in that zone under any circumstance.

Conditional uses are the proverbial gray area. Whereas permitted uses are a “yes” and prohibited uses are a “no,” conditional uses are a “maybe.” This is because they are sometimes consistent with the zone and sometimes inconsistent with the zone, depending on the specifics of what is being proposed and what other uses exist in the surrounding area. In creating a list of conditional uses, the city is essentially saying that it cannot say definitively, via a legislative process, whether any particular proposal from that list should be approved or denied, and that this determination should be deferred until an applicant comes along and puts a specific proposal before the city via a quasi-judicial process.

Thus, in this manner, a conditional use permit (CUP) allows a city to consider special uses which may be essential or desirable to a particular community, but which are not allowed as a matter of right within a zoning district, through a public hearing process. A conditional use permit can provide flexibility within a zoning ordinance. Another traditional purpose of the conditional use permit is to enable a municipality to control certain uses which could have detrimental effects on the community. Examples of common uses allowed with a conditional use permit include churches, public or private schools, public building or utility structures, parking lots, temporary subdivision sales offices, and community care and health care facilities.

Consideration of a CUP is always a discretionary act. *See, e.g., CDC 10.020* (“The approval of a conditional use (CDC 10.060) is discretionary with the Planning Commission.”). Most importantly, a conditional use may be approved or denied. There is no presumption that a proposed conditional use application should be allowed with conditions. DLCD has described the CUP process in a manual entitled “An Introductory Guide to Land Use Planning For Small Cities and Counties in Oregon, January 2007. In this manual, DLCD states “The decision maker can approve the request, deny it, or approve it with conditions, based on criteria in the zoning ordinance.”

The City of West Linn's code reflects this paradigm by using the word "may" as opposed to shall in the definition of conditional use: "a use which may be permitted by the approval authority * * *." CDC 02.030 (Emphasis added). CDC 60.070 states that "The Planning Commission shall approve, approve with conditions, or deny an application for a conditional use, * * *, or to enlarge or alter a conditional use based on findings of fact with respect to each of the following criteria: * * *." Similarly, the Comprehensive Plan states that a conditional use is "[a] proposed use of land which *might be allowed* after the city planning commission has determined that the proposed use is appropriate for the site, compatible with surrounding uses, is supported by public facilities, and is of overall benefit to the community and meets all other relevant criteria."

In this case, the applicant states that "[b]y allowing a major utility as a use conditionally permitted within the R-10 zone, temporary construction impacts are contemplated so long as the compatibility and benefits criteria are satisfied." See Memorandum from Joel Komarek *et al* to City of West Linn, Dec. 10, 2012, at p. 2. We disagree. With the sole exception being the Campus Industrial (CI) zone, the City of West Linn allows Major Utilities in *all* of its zoning districts. That is a very common practice, since typically it will be the city itself that is the applicant for a major utility, and the drafters of the code want to give *themselves* as much flexibility as possible. Nonetheless, the decision to make a major utility a conditional use in any given zone is, at best, merely a recognition that the discussion of compatibility and impacts should take place in a quasi-judicial setting, as opposed to legislatively declaring *every* major utility to be *per se* compatible or *per se* inappropriate. It is, in this regard, a decision to make a utility a conditional use merely grants the Planning Commission and City Council the flexibility to address the merits of any given application on a case-by-case process.

But that flexibility does not require the city of grant an approval in every case. In fact, the Code's definition of "major utility"¹ recognizes that the primary impact on the community may likely occur during construction, and the CUP may be denied for that reason. The code distinguishes between major and minor utilities, with minor utility being use permitted by right

¹ The Project Consists of two Separate "Major Utilities," the pipeline and the treatment plan. The Code contrast between "major" and "minor utilities, as follows

Utility, major. A utility facility or service that will have, or the installation of which will have, a significant impact on the surrounding uses or the community in terms of generating or disrupting traffic, interfering with access to adjacent properties, creating noise or causing adverse visual effects. "Major utility" includes, but is not limited to, a substation, pump station, water storage tank, sewer plant, transmission lines for water, drainage or sewerage collection systems, gas or electric, or other similar use.

Utility, minor. A utility facility or service that will have, or the installation of which will have, a minor impact on the surrounding uses or on the community in terms of generating or disrupting traffic or access to adjacent properties, creating noise or causing adverse visual effects. "Minor utility" includes, but is not limited to, overhead or underground electric, telephone or cable television poles and wires, distribution lines for electric, gas, water, drainage or sewerage collection systems, or other similar use.

in most every zone, while major utilities are conditional uses in virtually every zone (except the GI zone, where they are permitted by right, and the CI zone, where they are prohibited). A “Major Utility” is defined as “[a] utility facility or service that will have, or the installation of which will have, a significant impact on the surrounding uses or the community in terms of generating or disrupting traffic, interfering with access to adjacent properties, creating noise or causing adverse visual effects. Thus, as an example, a water transmission line can be considered a “major utility” (as opposed to a minor utility) merely on the basis that the construction impacts are deemed to be significant enough. And because it is a conditional use (as opposed to a permitted use), any specific proposal can be denied if the broad, subjective criteria are not met.

For this reason, temporary construction impacts may be sufficient reason to deny a conditional use application. Combine that with the uncertainty of the geologic stability of the area and of the other concerns raised by the neighbors, and it is clear that the application should be denied.

C. Quasi-Judicial Land Use Cases Do Not Form “Precedent” for Other Unrelated Cases.

The most recent Staff Report suggests that the Council’s interpretation of CDC 60.070 “may set precedent” for future quasi-judicial decision-making.” See Staff Report at p. 3. However, as early as 1969, Oregon courts recognized that a governing body is not necessarily bound to decide a matter in the same manner as a previous governing body. In *Archdiocese of Portland v. Washington County*, 254 Or 77, 87-8, 458 P2d 682 (1969), the court stated:

“Implicit in the plaintiff’s contention is the assumption that the Board of County Commissioners of Washington County is bound by the action of previous Boards of County Commissioners in that county. This assumption is not sound. Each Board is entitled to make its own evaluation of the suitability of the use sought by an applicant. The existing Board is not required to perpetuate errors of its predecessors. Even if it were shown that the previous applications were granted by the present Board, there is nothing in the record to show that the conditions now existing also existed at the time the previous applications were granted.”

Alexanderson v. Clackamas County, 126 Or App 549, 869 P2d 873, *rev den*, 319 Or 150, 877 P2d 87 (1994). See also *Okeson v. Union County*, 10 Or LUBA 1, 2 (1983) (“Indeed, to require consistency for that sake alone would run the risk of perpetuating error.”); *Reeder v. Clackamas County*, 20 Or LUBA 238 (1990); *BenjFran Development v. Metro Service Dist.*, 17 Or LUBA 30, 46-47 (1988); *S & J Builders v. City of Tigard*, 14 Or LUBA 708, 711-712 (1986) (Past pattern of applying approval standards in one manner to five similarly-situated applicants does not mean that the City cannot change course and apply different approval standards to the sixth applicant).

LUBA has stated, in dicta, that “[A]rbitrary and inconsistent interpretation of approval criteria in deciding applications for land use permits may provide a basis for remand. See *Friends of Bryant Woods Park v. City of Lake Oswego*, 26 Or LUBA 185, 191 (1993), *aff’d* 126 Or App

205, 868 P2d 24 (1994) (although local legislation may be susceptible of more than one interpretation, local government may not "arbitrarily * * * vary its interpretation"). *See also Smith v. Clackamas County*, 25 Or LUBA 568, 570 n1 (1993). However, that rule of how only applies to the interpretation itself, not to how rigorous a standard is applied to any given set of facts. Furthermore, there is no violation of this rule unless "there is an indication that different interpretations are the product of a design to act arbitrarily or inconsistently from case to case." *Greer v. Josephine County*, 37 Or LUBA 261 (1999). Thus, the rule of law does not prevent a city from changing previously-stated interpretations; it merely prohibits the arbitrary flip-flopping of interpretations on a case-by-case basis. Certainly, if there is a rational basis in law or fact to treat certain types of land uses differently than others, due to the scale of impacts or other public policy reasons, the rule is not triggered.

Finally, in terms of precedent, even if we were concerned about setting precedent, the precedent we would want to avoid is the notion that another community could site its major utilities (such as a sewer treatment plant) in West Linn despite the fact that these utilities would primarily serve other communities, such as Stafford. Other jurisdictions should cite their major facilities within their own boundaries.

D. The "Community Need" and "Public Benefit" Standards are Highly Subjective and Can Be Applied More or Less Rigorously In Any Given Case.

In a similar vein, LOT complains that the City of West Linn has never applied its CUP approval criteria as rigorously as the Planning Commission did in its decision under appeal. However, the City has never considered a proposal of this magnitude. There is no rule of law that says that the CUP criteria have to be applied as rigorously when considering small, inconsequential projects as compared to large-scale projects with high levels of impacts and ramifications. In fact, the very nature of the conditional use process recognizes, as an example, that a small, 100-person church may be compatible with a neighborhood, but a large-scale, 2000-person church is *not* compatible with the neighborhood.

In this regard, the City of West Linn has never had to consider the effect of the installation of a large 4-foot diameter water pipeline across a large section of the City.

Truth be told, both the "community need" standard and the "public benefit" standard are extremely subjective in nature, and call for an exercise of judgment by the City Council. LUBA will not lightly substitute its judgment for that of the Council regardless how it rules.

E. The "Public Benefit" Standard Should Be Defined On A Sliding Scale; Commensurate with the Degree of Public Impact and Lost Opportunity.

The applicants assert that the large, industrial-scale water treatment facility and associated water transmission pipeline should be evaluated under the same interpretive standard for "public benefit" as a 7-11 or a small elementary school. We believe that the interpretation / application of public benefit standard *should, as a policy matter*, involve a balancing between the degree of impact vs. the amount of benefit. In other words, the greater the impact, the greater degree of public benefit that should be demanded by the City before a CUP is approved.

In addition, the applicant is wrong when it asserts that the mitigation it will provide is a public benefit. To the contrary, Code's "public benefit" standard contemplates that *the use itself* be the benefit to the public, not the mitigation required of the developer of that use. The mitigation required by the Code should not be considered to be a "public benefit" because improvements required by the zoning code are merely intended to mitigate the impacts of development. As an analogy, if a motorist smashes into your car, the fact that his insurance will repair the damage on your car is not a benefit to you, especially considering all of the inconvenience and hassle associated with filling out reports, acquiring a rental car, etc. Likewise, in this case, the Robinwood neighborhood is being asked to shoulder the burden of three years of construction, and the fact that the streets will be repaired at the end of that ordeal offers little solace to the community.

F. The Project Provides Insufficient Public Benefit to Warrant Approval of the Project.

The applicant has stated that it will provide a number of public benefits to the citizens of West Linn. We briefly address each one of these individually below:

1. Applicant's proffered benefit No.1: New Intergovernmental Agreement

Counter: *The issue of a new IGA is separate from the alleged benefits provided by the proposed land use. Moreover, the proposed "new IGA" is short term, with emergency water being available to West Linn if it is available to Tigard and Lake Oswego. The existing IGA has served both communities well. Given the conclusions of the Carollo report, it will serve both communities in to the future. In the event Lake Oswego wishes to discuss a new design in the future, the new IGA will be available to West Linn. In addition, West Linn will need to upgrade their system at significant costs to West Linn in order to connect to the new intertie.*

2. Applicant's proffered benefit No. 2: Upgraded Water Treatment plant allows West Linn to Replace Bolton Reservoir without service interruptions.

Counter: *The replacement for Bolton Reservoir can be built at a different location, accomplishing the same goal.*

3. Applicant's proffered benefit No.3: Upgrading seismically vulnerable pipes serving the intertie will provide the City of West Linn long Term access to Bull Run Water.

Counter: *This so-called "benefit" is not needed by the city. Alternative solutions exist that would have less impact than LOT's plan. Moreover, the argument that LOT makes – namely that in order to receive the benefit of better pipes, we must allow an entirely new facility in an area where the facility does not belong – is flawed because West Linn can fix seismically vulnerable pipes on its own without adding another seismically vulnerable 4-foot diameter pipe to the equation.*

4. **Applicant's proffered benefit No. 4:** Payment of one-time \$5 Million dollar gratuity

Counter: *Is West Linn for sale?*

5. **Applicant's proffered benefit No. 5:** LOT will repave streets and provide sidewalks along Mapleton Dr.

Counter: *Resurfacing streets after LOT destroys them is mitigation, not a benefit. Citizens on Mapleton do not desire sidewalks in any event. In addition, several other streets, including Nixon, Elmran, and Cedar Oak, will also be heavily used and likely damaged but are not in the list to be resurfaced. This offsets any benefit achieved by repaving Mapleton.*

6. **Applicant's proffered benefit No. 6:** Cooperative public works agreement will be negotiated that will result in the removal of a small portion of asbestos cement pipe.

Counter: *Not a benefit to West Linn because the city will need to replace the asbestos cement pipe in any event. This is a six inch pipe that is in the way of LOT's new four foot pipe. In addition, West Linn is being asked to pay for half the cost of this one pipe's replacement.*

7. **Applicant's proffered benefit No. 7:** Improvements to Mary S. Young State Park.

Counter: *\$90,000 payment for plant restoration is mitigation; new parking lot is not desired by residents and will create more problems than it solves. Moreover, MSY Park is state owned and only leased by the city. Many citizens from all over the metro area use this park. It is not a benefit to only West Linn.*

8. **Applicant's proffered benefit No. 8:** Construction Management Plan ("CMP").

Counter: *Making the neighbors' life less miserable during construction than it otherwise might without a CMP is not a benefit; it is mitigation.*

9. **Applicant's proffered benefit No. 9:** LOT 1.5 million dollar loss mitigation fund

Counter: *Too paltry of a number and too discretionary to be considered a serious benefit to the community. The risks that exist to property owners are three perils that are commonly not coverage by the normal Home Owners Insurance Policy. They are: a) underground water, b) repeated seepage, and c) flood surface water. Moreover, it is at best only secondary coverage which is only allowed for ten years, and is controlled by LOT.*

G. The "Overall Needs of the Community" Should Focus Generally on West Linn, and Specifically on the Robinwood Neighborhood.

CDC 60.070(A)(3) seeks to ensure that the “granting of [a CUP] proposal will be consistent with the overall needs of the community.” Thus, in this case, the applicant must demonstrate that there is an unmet “overall need” in the community for a new water treatment plant and associated pipeline.

In a related context, LUBA has stated that the phrase “public need for a use” is a difficult matter to define. *Ruef v. City of Stayton*, 7 Or LUBA 219 (1983). Nonetheless, LUBA stated in *Ruef* that the focus needs to be on the need for that use, not a need for the incidental benefits or mitigation (such as landscaping and buffering) that a proposed use may provide.

Viewed in this light, a “community need” is something that reflects the community’s desires, attitudes, and welfare. In a typical case, the proposed land use will serve the citizens in the community, and therefore identifying an overall community need for a facility is a straightforward exercise. In this case, however, the proposal is unusual because a different city is asking to build a utility that will primarily serve citizens of Tigard and Lake Oswego. It becomes much less clear that the citizens of West Linn have an “overall need” the facility that LOT seeks approval for.

The term “community” should be defined, at the very minimum, as the City of West Linn. The Planning Commission adopted this interpretation. While we agree with the Planning Commission’s interpretation, we believe the City Council could define the term “community” even more narrowly as the area surrounding general vicinity of the project which will be impacted thereby. In this matter, the City Council would recognize that the people that will bear the burdens of the project should be served by the use.

The use of the term “community” in various other contexts in the Code supports the conclusion that its focus is on a relatively small geographic area. For example, the code defines the term “major utility” in terms of impacts on either surrounding uses or the community: “A utility facility or service that will have, or the installation of which will have, a significant impact on the surrounding uses or the community in terms of generating or disrupting traffic, interfering with access to adjacent properties, creating noise or causing adverse visual effects.” Thus, while a community is something more broad than the immediately surrounding land uses, it is still measured on a scale that reflects the citizens that could potentially be impacted by traffic, noise, and visual effects.

In this case, the Community needs are reflected in the Comprehensive Plan, and reflect the following:

- A need to prevent incompatible development;
- A need to protect the environment and natural resources;
- A need to ensure that the Lake Oswego Water Treatment Facility remains compatible with the surrounding residential areas and provides benefits to Robinwood’s residents as well as those of Lake Oswego.

Thus, the term “community” should not be interpreted as the region in general, as the applicant desires. If that were the intent of the code, the code would have used the more broad term “public need.” By focusing instead on a “community” need, the wording suggests geographic limitations on what groups of folks should be considered. Whether it is West Linn or Robinwood is debatable, but it is certainly not Lake Oswego or Tigard.

In a recent staff report, staff gave examples of conditional uses (including schools, religious institutions, post offices and fire and police stations), and noted that the city's code doesn't explicitly stop conditional uses from being used by non-West Linn residents. However, staff misses the point: those uses can all be denied under CDC 60.070(A)(3) if the proposal is not “consistent with the overall needs of the community.” Thus, in the unlikely event that an applicant proposed a school in West Linn but informed the City that all of the students would be from Lake Oswego and Tigard, it seems rather obvious that the West Linn could deny the school on the grounds that it not meet the “overall needs of the [West Linn] community.”

At the end of the day, the Planning Commission is correct that LOT failed to prove a nexus between the proposed facility and the overall needs of the citizens of West Linn. While they identified some minor tangential potential benefits to the City of West Linn, nothing they offered in any way mitigates the high degree of impact on the community. The bottom line is this: if they want a new water treatment plant, they should put it somewhere in Lake Oswego.

H. The Design Review Criteria Are Not Met.

After the Planning Commission denied the application, the applicant submitted a revised site plan for the water treatment facility. However, to our knowledge, staff has not gone back and drafted a new staff report to re-address whether or not the *new revised* application complies with the applicable Design review criteria. This issue is briefed in more detail by Mr. Gary Hitesman, in his letter dated 21 January, 2013.

I. If the Application is Approved, the City Should Demand that LOT Improve Highway 43 to TSP Standards.

The Standards for Conditional Use Permits authorize the City to impose conditions of approval to ensure compatibility and to offset the impacts of the development. CDC 60.070(C).²

² C. The Planning Commission may impose conditions on its approval of a conditional use which it finds are necessary to assure the use is compatible with other uses in the vicinity. These conditions may include, but are not limited to, the following:

1. Limiting the hours, days, place, and manner of operation.
2. Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor, and dust.
3. Requiring additional setback areas, lot area, or lot depth, or width.
4. Limiting the building height, size or lot coverage, or location on the site.
5. Designating the size, number, location and design of vehicle access points.
6. Requiring street right-of-way to be dedicated and the street to be improved including all steps necessary to address future street improvements identified in the adopted Transportation System Plan.

In this case, the Robinwood Neighborhood Plan includes Goals and policies directed at ensuring that Willamette Drive is improved to meet TSP Standards.

GOAL 1: Willamette Drive shall provide superior transportation facilities for all modes of transportation.

Policies:

1.1 Provide continuous and wide pedestrian facilities on both sides of Willamette Drive.

* * * * *

1.3 Beautify the length of Willamette Drive with a comprehensive and consistent streetscape.

1.4 Provide a continuous bike lane along Willamette Drive.

These policies support the conclusion that Willamette Drive should be upgraded as part of the project to include bike lanes, pedestrian facilities, and landscaping.

At the planning Commission hearing, there was a discussion of whether the City can demand the applicant improve Highway 43 to TSP standards. Staff indicated that the case of *Dolan v. City of Tigard* prohibited the City from demanding transportation improvements in this case. However, the city attorney countered staff, acknowledging that *Dolan* no longer applies to exactions that do not involve the dedication of land. *West Linn Corporate Park v. City of West Linn*, 349 Or 58, 86-7 (2010). In this case, the demand to make on or off site road improvements is the equivalent of a demand for money, which is not subject to the takings clause of the state or Federal constitutions.

Conclusion.

I will close with three thoughts unrelated to the analysis above. First, LOT's attorney, Mr. Edward J. Sullivan, made it a point to emphasize in his verbal presentation to the Council that LOT had many "experts" on their side. Granted, it is true that the citizens of West Linn, who overwhelmingly oppose this project, cannot compete with the purchasing power of LOT when it comes to buying expert testimony. In fact, when STOP attempted to find a geologist to review the work of LOT's hired guns, we were told by every firm we called that they were either working for LOT or wanted to be working for LOT! We learned that most firms would not take on a project opposed to LOT, Lake Oswego, or Tigard for fear of being blackballed by the

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7. Requiring participation in making the intersection improvement or improvements identified in the Transportation System Plan when a traffic analysis (compiled as an element of a conditional use application for the property) indicates the application should contribute toward.
 8. Requiring landscaping, screening, drainage, and surfacing of parking and loading areas.
 9. Limiting the number, size, location, height, and lighting of signs.
 10. Limiting or setting standards for the location and intensity of outdoor lighting.
 11. Requiring berming, screening, or landscaping and the establishment of standards for their installation and maintenance.
 12. Requiring and designating the size, height, location, and materials for fences.
 13. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, and drainage areas.

government contractor community. As we learned, local governments seem to be the only folks with any money these days, so many engineering firms are keeping their doors open via public works projects. These firms told us that they would not risk the ire which would surely be generated by the local government for opposing any large-scale gravy-train project. Nonetheless, Planning Commissioner Axelrod is a geologist and he found significant problems with the expert testimony prepared by LOT's experts. In fact, LOT's experts looked like deer in the headlights as they withered through his strenuous cross examination. There can be no doubt that LOT's other experts would have suffered similar embarrassment if put to the test in the same manner. For these reasons, LOT's expert testimony should be given little to no weight.

Second, the Council should not kid itself: despite what LOT states, a vote in *favor* of this application is a clear vote in favor of developing Stafford. LOT states that its comprehensive plan prohibits this from happening, but we all know how easy it would be for Lake Oswego to amend its plan if it wanted to.

Second, if I'm reading the tea leaves correctly, it may be the case that the newly-elected City of Lake Oswego City Council are getting cold feet from this expensive project. This Council will undoubtedly have noticed a lack of testimony in support of the project from the new Lake Oswego City Council, even though some of the Lake Oswego Councilors attended West Linn's public hearing. Therefore, it would seem to be politically imprudent to waste political capital wedding yourself to an unpopular idea that may die a natural death anyway. A much safer approach is simply to deny the appeals, uphold the Planning Commission's decision, and draft additional findings in support of that decision.

Thank you for your time and attention to this matter.

Sincerely,

ANDREW H. STAMP, P.C.

Andrew H. Stamp

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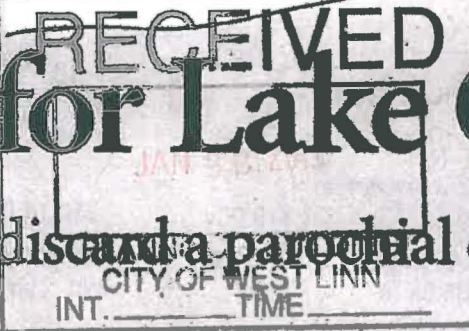












Open the taps for Lake Oswego, Tigard

West Linn City Council should discard a parochial decision by planning commission

John Q. Public — or, more specifically, John Q. West Linn — can't toddle over to Lake Oswego and take a dip in the city's signature water body, a prohibition city leaders cemented last year by barring access even from public property. Gotta look out for public safety, you know.

Now comes Lake Oswego, with Tigard in tow, with a proposal to update the city's water treatment plant, which happens to be in West Linn. The West Linn Planning Commission told the Lake Oswego-Tigard Water Partnership to jump in a lake back in November, but West Linn's City Council will consider the matter itself. It's been holding public hearings this week and may come to a decision later this month.

The term "poetic justice" comes to mind; but it's hard to take much pleasure in Lake Oswego's predicament. The water project seems reasonable enough, the plant that would be updated has been in West Linn for decades, and the position taken by the West Linn Planning Commission is extreme.

Lake Oswego's water plant sits near Mary S. Young Park and brings water from the Clackamas River to Lake Oswego faucets. The proposal would boost capacity from 16 million

gallons per day to 38 million gallons per day, allowing Lake Oswego to modernize and Tigard, which now buys expensive Portland water, to find a new source. The proposal also includes the installation of larger pipes along Highway 43.

People who live near the plant are concerned about construction-related disruptions. They're also less than enthusiastic about the replacement of the existing plant with a larger version, though the Lake Oswego-Tigard Water Partnership says the footprint will expand by only 9 percent. These concerns are understandable and not at all surprising.

What is surprising, though, is the sweeping NIMBY treatment West Linn's planning commission gave the proposal, most notably through its interpretation of "community" as used by the city's development code.

To receive the necessary approval under the code, the water project would have to be "consistent with the overall needs of the community." Calling the criterion's language "ambiguous," the commission last fall decided to interpret it with the following result. Community refers only to West Linn — not any nearby towns — and a facility consistent with that

community's needs should be "designed and sized to serve the needs of the residents and land uses in the city." Though the proposed plant would provide millions of gallons of emergency backup capacity for West Linn, the commission decided, "its primary purpose is to serve residents in Lake Oswego and Tigard" and "the scale is regional in nature."

This parochial view would make better sense if Lake Oswego and Tigard had proposed to build a water treatment plant where none existed. But Lake Oswego has operated the plant since 1968, and it's only natural that the city would want to update it to accommodate growth and, yes, even regional cooperation.

It's not as if West Linn opposes all regional facilities, after all. The city partners with Oregon City and Gladstone to provide drinking water, according to a Jan. 3 report by West Linn planning staff. The three cities also team up for sewage treatment. Both the water treatment and sewage plants, the report notes, are in Oregon City.

In the spirit of the very same regional cooperation that benefits West Linn, the City Council should allow a reasonable expansion of Lake Oswego's water treatment plant.

Letter to the Editor

Subject: Open tap for Lake Oswego and Tigard

I must respond to the editorial of the 16th. A little history. This plant was denied in 1967 by the Clackmas Planning Commission the over turned by the county board with a condition LO was to supply water to the Glenmorrie, Marylhurst and Robinwood. Not one ounce of water was delivered to Robinwood other than emergencies after annexing to West Linn.

The conditional use approvals by West Linn were for minor changes. For starts this is not an expansion this is an new plant!

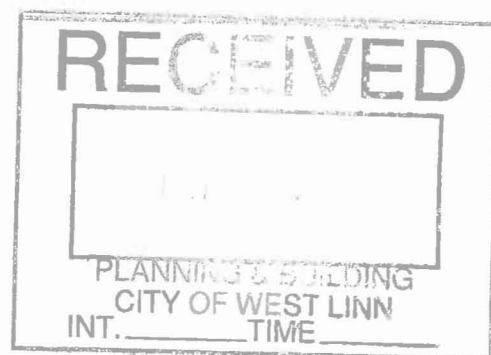
All we get is the continued inter-tie for up to 22 hours a day six days a week of truck traffic and construction.

The Tri City Service District and the Southfork plant are jointly owned and supply service only to the owners. The LO plant is located in a city that is not supplied on a daily bases.

Lake Oswego and Tigard get all of the benefits and We get little.

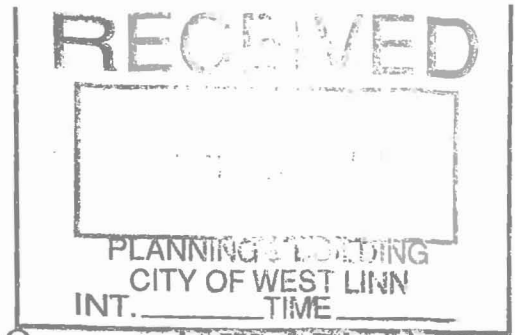
Robert Stowell
2606 Maria Ct.
West Loin, Oregon 97068

503-636-3915



Letter to the Editor

Subject: Open tap for Lake Oswego, Tigard



I must respond to the editorial of January 16th 2013. Once again West Linn is treated as a second class citizen in the metro area. To begin, this so called expansion of the water treatment plant is in reality a construction of a new plant.

How about a little history. In 1967 The Clackmas County Planning Commission denied the application to build this plant at it's present location supporting the overwhelming local opposition. The Clackmas County Board over turned the denial. A condition of approval was they were to supply water to the Glenmorrie, Marylhurst and Robinwood. Not one drop of water has been supplied to Robinwood other than emergency after annexing to West Linn. The conditional use aprovals by West Linn were for minor changes. This is a complete NEW PLANT

As far as NIMBY only look to Lake Oswego for not seriously looking at other sights. Remember the Street car issue. West Linn wasn't even invited to even be an observer let alone have any input. This project would have effected are bus commute quickly into Portland. LO wants the Foothills area to be residential not industrial. The seismic stability is considerably better there than in West Linn. LO has never paid one cent to West Linn in all these years and the \$50000.00 is more like a bribe. After all why must they give up tax producing property that we have never had.

All West Linn gets is the continued Inter-ti for up to 22 hours a day six days a week of truck traffic and construction. This will be the entire length of 43 from Laurel in Lake Oswego to Mapleton in West Linn plus trunks from Mapleton to 205. Not much for almost 3 years of construction. Not much of a benefit. How about improving 43 in West Linn up to our Traffic System Plan and Conceptual Plan, at least that would be a real benefit.

The Tri City Service District is jointly owned by West Linn, Oregon City and

Gladstone and serves only those cities. The Southfork Water Treatment Plant is jointly owned by Oregon City and West Linn and supply's water to them. The LO plant is the only one I know of that is located in a city that it does not supply water to on a daily bases.

Every community refers to community as their community not the region.

Our Planning Commission did it's job representing West Linn citizens, Lets hope Our City Council does the same.

Lake Oswego and Tigard get all the benefits. West Linn gets little!

Robert Stowell
2606 Maria Ct.
West Linn, Oregon 97068
503-636-3915

Pelz, Zach

From: David Newell [davidbnewell@yahoo.com]
Sent: Tuesday, January 22, 2013 9:59 AM
To: Pelz, Zach; Wyatt, Kirsten; Jordan, Chris
Subject: Re: Draft LOT Hearing Protocol

Zach,

Please enter this into the record, and forward to the City Council with confirmation please:

West Linn City Council,

As the former Robinwood Neighborhood Association (RNA) Vice President, I was tasked with assisting the RNA in its communications and negotiations with the Lake Oswego Tigard Water Partnership (LOTWP). I am grateful for the assistance the West Linn council gave the Neighborhood in its travails. The budgeting of planning help, as well as the hiring of a negotiator were extremely beneficial. I am also thankful for the services of Greg McKenzie, who assisted in getting "New Faces" to the table which were more productive.

The purpose of this note, is to continue to register my opposition to both LOTWP applications, but also give some specific additional requirements that you could add to the Conditions of Use, which would make the plant expansion and construction more bearable, and under which I would be able to endorse.

These requests focus in two specific areas: Additional controls and oversight of the construction process, and additional rehabilitation and upgrading of specific city infrastructure that will be directly impacted by construction, and thus appropriate for improvement by LOTWP. It has long been my opinion, contrary to many of my neighbors, that although the residents of the RNA, and specifically those on Kenthorpe and Mapleton, will unduly carry the burden of construction in lieu of the residents whose water it will primarily serve, there exists a compensation point where that burden would be fairly addressed and the additional constraints make the project bearable.

Specifically, the reason additional controls and oversight of the project are needed is because past performance is the best indicator of future behavior, and the incompetence job of the LOTWP Public Relations, and Public Outreach program, though much improved with the introduction of Norm Eder, indicates that returning to the staff that caused the headaches and constant missteps of the past few years will only continue the acrimony in the neighborhood.

This can simply not continue. Any analysis of this project must surely recognize that LOTWP has made the development of their water system delay any consideration of improving West Linn's by consuming the community arena of dialogue for an extended period of time. The ultimate limited resource of any policy body is time. The LOTWP, through it's hubris, has surely negatively impacted our city by handcuffing the city from solving its own problems. Therefore, it is well within the City's rights to demand additional oversight over the project from here on out, regardless of the strength of the construction management plan, on order to protect it's interests and protect the rights of its citizens.

With regards to increased oversight, I have 2 proposals that I would like addressed, if final approval is regrettably granted:

The first is the appointment of an Independent firm or individual to oversee the project's communication and public relations between the RNA and the LOTWP that would report to the City of West Linn, and not the LOTWP. This entity or individual should be paid for by LOTWP, but hired and by West Linn. While negotiations between the two parties floated the possibility of an Ombudsman to act as a neutral observer over the summer, I have regrettably come to the conclusion, that so long as the LOTWP is communicating directly to neighbors in the RNA, the acrimony will not subside, and thus it is necessary to put these roles under the control of West Linn, and not the Partnership.

The second proposal is a codification, inclusion, and slight alteration of the Insurance Fund that LOTWP planned to self fund, to act as GAP insurance for residents in the event of a cataclysmic incident at the plant that damaged their homes and wasn't covered by their Homeowners Insurance. This has always been an absolute issue for the RNA. Without it, no expansion of the plant will ever be acceptable to the residents. The terms of the years (10) and amount of the fund (1.5 Million) seem reasonable to me, given the improved safety features an updated modern plant will entail. What is needed is independent oversight of the fund, perhaps with inclusion on the hearing board of a local leader like Mike Gates, who could reasonably be expected to represent West Linn's residents fairly.

In addition to added controls and oversight over the project, a further examination of the benefits to the community is needed to earn my endorsement.

From the beginning, an understanding has always been communicated from the council and senior city staff to the RNA, that upon receipt of funds from LOTWP for the purpose of benefit, whether in the form of a franchise fee revenue stream, a license fee, or other methods of payment, an intergovernmental agreement would be drafted and presented to the council and the RNA, to codify that a substantial amount of those payments would be designated for improvements within the RNA boundaries. Specifically, the RNA has been reasonable in their requests for that disbursement. When meeting with the City's appointed negotiator for the size of those fees, representatives of the RNA repeatedly made clear their request for such a formula to be codified, but also refrained from asking for funds for projects not already listed on approved Master Plan documents as a High Priority. It is reasonable that the draft agreement between the City of West Linn and the LOTWP directs these funds to Water system improvements and Highway 43. I seek surety that these funds will be directed as promised into the RNA boundaries, and not in lieu of other payments that would rightfully be the RNA's fair share of deferred maintenance backlog, which should be added to payments from this source to allow Robinwood to "catch up" to development that has improved property values in other parts of the city.

The size of the 5 million dollar payment from LOTWP seems reasonable, the result of a vigorous negotiation, and I can certainly see the positives from both points of view to receiving a lump sum, instead of an ongoing revenue stream. Given the size of the proposed development I think additional infrastructure projects though, are needed to better balance the scale of the burden of construction and the benefits to West Linn and her residents.

Four additional projects that are within the purview of Goal 12.1.a: "a. Evaluate land development projects to determine possible adverse traffic impacts and to ensure that all new development contributes a fair share toward on-site and offsite transportation system improvement remedies. " are reasonable to add as conditions to the application. In my experience as former chair of the West Linn Transportation Service Plan, additional remedies would add significant long term benefit to the community.

First, the walking trail on Highway 43 from Mary S Young Park to with Old River Drive should be redesigned and improved to include better safety between the park and Old River Drive. This is a core bicycling and pedestrian connection for our city between our central park and a key fitness and recreation bicycle corridor.

Second, although resisted by residents, Mapleton and Kenthorpe should be rebuilt to full city standards, including sidewalks. Nothing will better improve the property values of the homes on the streets than making them more walkable and better connecting them to the Robinwood Neighborhood as a whole.

Third, The LOTWP should be responsible for the entire reconstruction of the Mapleton-43 intersection as indicated in the Highway 43 concept plan. This would allow residents on Mapleton increased pedestrian access to the shops and business across the highway, and give them additional compensation in the form of improved property values due to walkability.

Finally, Lake Oswego and Tigard should express written support of the elevation of system wide improvements to Highway 43 in West Linn in regional and state transportation planning, and dedicate persistent funds to assist West Linn in the acquisition of transportation dollars in the form of increased regional lobbying.

David Newell

Pelz, Zach

From: Karie Oakes [kariooke@aol.com]
Sent: Tuesday, January 22, 2013 9:58 AM
To: CWL Council
Cc: Pelz, Zach
Subject: AP-12-02 and AP-12-04
Attachments: Oakes_CC_LOTWP_1_22_12.doc

Please submit myattached letter to the record.

Thank you,
Karie Oakes

Karie Oakes
1125 Marylhurst DR
West Linn, OR 97068

West Linn City Council
January 22, 2013

Re: AP-12-02 and Ap-12-04 appealing
CUP-12-02/DR-12-04 and CUP-12-04/DR-12-14/MISC-12-10/WA-12-03/WR-12-01

Dear Council:

The Council should affirm the West Linn Planning Commission's final decisions denying the above referenced project applications and make additional findings that the criteria for the Parks Design Review Class II and the Water Resource Area Protection Permit are not satisfied.

These criteria apply to Mary S. Young Park and the two co-joined greenway properties that the City of West Linn leased for park use from the Oregon Parks and Recreation Department.

56.100 Approval Standards Class II Parks & Natural Area Design Review

C. Relationship to the natural environment

2.a. Areas of the park that include Type I and II lands shall protect all heritage, significant and non-significant trees Groundcover and bushes, etc., shall be protected and may only be disturbed to allow the construction of trails or accessing and repairing utilities. Exemptions permitted under CDC 55.100(B)(2)(c) through (f) shall apply.

4. Structures shall not be located in areas subject to slumping and sliding.

56.100(C)(2)(a) is not satisfied because the raw water pipeline will be constructed in Type I and II lands and will remove non-significant trees.

56.100(C)(4) is not satisfied because the applicant does not provide evidence that the area in the floodplain of the Willamette river where the raw water pipe would exit from the ground is stable and not subject to slumping and sliding. The raw water pipe travels 7.5 feet underground for 20 feet through land with slope greater than 25%.

32.050 Approval Criteria for Water Resource Area Protection

C. Development shall be conducted in a manner that will minimize adverse impact on water resource areas. Alternatives which avoid all adverse environmental impacts associated with the proposed action shall be considered first. For unavoidable

adverse environmental impacts, alternatives that reduce or minimize these impacts shall be selected. If any portion of the water quality resource area is proposed to be permanently disturbed, the applicant shall prepare a mitigation plan as specified in CDC 32.070 designed to restore disturbed areas, either existing prior to development or disturbed as a result of the development project, to a healthy natural state.

32.050(C) is not satisfied because the applicant did not prepare a mitigation plan for the permanently disturbed land in the water resource area where the raw water pipe and the treated water pipe are proposed.

The applicant contends that by boring under the protected water resource areas for construction of the pipes that the water resource is not disturbed and therefore does not mitigate. The applicant argues that there is no discernible guidance in the West Linn Community Development Code (CDC) as to what constitutes 'disturbance' and cites an interpretation of it made by the Planning Director.

I argue that 32.050(C) refers to a disturbance as that which is "permanently disturbed." Chapter 32 describes the protected water resource area as the land in which the resource is located and transition area land. It does not separate out the land beneath it or the land above it. Precedent is set by all the land use applications that had to apply for and mitigate construction of underground water pipe, sewer pipe, utilities and or storm water facilities in the protected water resource area. The raw water and treated water pipes permanently disturb the protected water resource area by their very existence.

Pelz, Zach

From: Webmaster
Sent: Tuesday, January 22, 2013 9:57 AM
To: Pelz, Zach
Cc: Sonnen, John
Subject: FW: Water. water never where I

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

From: Maharg Patrick [mailto:pmaharg@gmail.com]
Sent: Saturday, January 19, 2013 10:46 AM
To: vedwards@oregonian.com
Cc: Webmaster
Subject: Water. water never where I

Ms. Edwards,

Could you clarify just what West Linn gets for it's trouble from this 'LOT' water grab?

you wrote "the director of the project, pointed to the four million gallons of water per day IN CASE OF AN EMERGENCY'

What does WL get normally w/o an emergency? What do we get for WEST LINN'S water. our streets impeded, our lives disrupted?

Let the people of WL decide. There is a case of ethical right and wrong here!! Our water, our streets our clarity of intention and our Little City.

Don't let entitled LO walk away with our treasure

Patrick Maharg MD

Pelz, Zach

From: Dave Robinson [drcanes14@gmail.com]
Sent: Tuesday, January 22, 2013 9:35 AM
To: Pelz, Zach
Subject: LOT written testimony

January 22,2013

Respectfully submitted to: West Linn City Council
From: Dave and Mary Robinson 3960 Mapleton Dr.

We love West Linn, we've lived here for thirty years and raised our children here,in our opinion there is not a better town.

We oppose LOT

RE: West Linn Transportation System Plan and Hwy43 Conceptual Design

Hwy 43 as well as Mapleton, Nixon, Elram, Cedaroak ,Kennthorp and River Road will be impacted by construction and construction traffic at levels they have never experienced, codes were written to be followed,

LO City Council would NEVER allow that to happen in their City.

Example:The Sisters of the Holy Names at Marylhurst, were forced to spend Millions to upgrade Hwy 43 and River Road if their application was to be approved for the retirement center. They had no construction occurring on either Hwy 43 or River Road by were forced to build the seven lane road(4 driving lanes ,two turn lanes one bus lane) to nowhere. LOT response on why they would not bring our roads to code, that would bring the project way over cost.

The \$5 million dollar offer is a joke, it would not even cover replacing 2 traffic lights, let alone our roads,water needs, and is certainly not worth ruining our wonderful community.

We agree with the City Planning Commission and all opposing public testimony.

West Linn is not a second class city to LO, they treat our citizens with disrespect as they do our government officials.

Pelz, Zach

From: Wyatt, Kirsten
Sent: Tuesday, January 22, 2013 9:04 AM
To: Pelz, Zach
Subject: FW: CUP 12-02 and CUP 12-04

Importance: High

Kirsten Wyatt, Assistant City Manager
Administration, #1428

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

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

From: Terry L Pennington, CBC [mailto:tpenn@teleport.com]
Sent: Tuesday, January 22, 2013 9:04 AM
To: Wyatt, Kirsten
Subject: CUP 12-02 and CUP 12-04
Importance: High

I concur with the findings of the West Linn Planning Commission that the application and the Staff Report regarding CUP 12-02 and CUP 12-04 failed to meet the burden of proof that's required in CDC 60.070.

I feel that for the reasons stated in Norm King's written testimony submitted for this hearing that the permit should be denied.

Terry and Karyn Pennington

19065 Trillium Drive

West Linn, OR 97068-1675

Pelz, Zach

From: Sonnen, John
Sent: Tuesday, January 22, 2013 8:40 AM
To: Pelz, Zach
Subject: FW: Water, water neverwhere

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: Tuesday, January 22, 2013 8:39 AM
To: Mollusky, Kathy; Sonnen, John
Subject: FW: Water, water neverwhere

For the record...

From: Maharg Patrick [<mailto:pmaharg@gmail.com>]
Sent: Thursday, January 17, 2013 6:34 PM
To: Webmaster
Cc: Hall, Lori
Subject: Water, water neverwhere

Jan 17, 2013,

West Linn City Counsel

Is the City of West Linn governed by, for and with the will of the People The Common Good is NOT represented in the process of deliberation by your(our) counsel.

It matters not about 'access, noise; etc -as these are very local concerns. What matters is the will of the people of all West Linn.. There is a time tested, valid means of learning collective will: THE VOTE!!

Only a few could attend the meeting-we have young children, work long hours and have other pressing responsibilities

Not only are we all 'left out' of these meetings, but OUR concerns are ignored. Is this a democratic way.??

We live here, work here, and really care. If you CARE, please let us(we all the people) have our way.

Sincerely,

Patrick Maharg MD

2450 Michael dr

West Linn, OR 97068

(503)723-4250

cc: Lori Hall-The Tidings

Pelz, Zach

From: Sonnen, John
Sent: Tuesday, January 22, 2013 8:08 AM
To: Pelz, Zach
Subject: FW: Plea from your citizens
Attachments: GuntherstoWestLinn.pdf; ATT00001.htm

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: Frank, Thomas
Sent: Monday, January 21, 2013 8:53 PM
To: Sonnen, John
Subject: Fwd: Plea from your citizens

For the record

Begin forwarded message:

From: "sportsfam5@comcast.net" <sportsfam5@comcast.net>
Subject: Plea from your citizens
Date: January 21, 2013 8:24:56 PM PST
To: "Kovash, John" <jkovash@westlinnoregon.gov>, "Carson, Jody" <jcarson@westlinnoregon.gov>, "Frank, Thomas" <tfrank@westlinnoregon.gov>, "Tan, Jennifer" <jtan@westlinnoregon.gov>, "Jones, Michael" <mjones@westlinnoregon.gov>

Hello,

Please read our attached letter to you regarding the application from Lake Oswego and Tigard for a water treatment plant.

Thank you,
Steve and Dawn Gunther

CITY OF
West Linn
Councilor Thomas Frank
tfrank@westlinnoregon.gov
West Linn City Councilor
22500 Salamo Rd
West Linn, OR 97068
P: (503) 657-0331
F: (503) 650-9041
Web: 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.

Jan. 21, 2013
West Linn City Council
Re: LOT Application

Dear City Councilors,

Please uphold the planning commission's denial of the Lake Oswego-Tigard proposal to expand the water treatment facility on Kenthorpe Drive in West Linn.

We believe that the commissioners made the right decision because the LOT project's detrimental effects on the affected neighborhood and street infrastructure far outweigh any benefit associated with the seldom used water inter tie for an emergency water supply for West Linn. We believe that the planning commission correctly interpreted the comprehensive plan and community development code guidelines, goals and policies.

Please keep the city's own following goals in mind during your deliberations.

Goal 2, Section 1, policy #8 - "Protect residentially zoned areas from the negative impacts of commercial, civic, and mixed use development and other incompatible land uses."

Goal 2, Section 3, policy #4- "Protect surrounding residential areas from adverse effects of commercial development in terms of loss of privacy, noise, lights and glare."

Goal 2, Section 3, policy #4e - "Require any redevelopment of existing land or buildings be completed in a manner which confirms to the adopted neighborhood plan."

Goal 2, Section 4 on industrial development – "West Linn does not contain any additional lands suitable for large scale industrial development."

Goal 7 on areas subject to natural disasters and hazards – "Protect life and property from flood, earthquake, and other geological hazards and terrorist threats or attacks."

It seems logical to us that if you vote to approve the LOT application that you will have broken every one of these stated goals along with the Community Development Code 60.070 A- 3.

Please refer to the city's own comprehensive plan's specific goals, policies and recommendations if you need more legal reasons to deny the application. They were written to help you protect our West Linn community.

Thank you,

Steve and Dawn Gunther
18665 Nixon Ave.
West Linn, OR 97068

Pelz, Zach

From: Sonnen, John
Sent: Monday, January 21, 2013 12:02 PM
To: Pelz, Zach
Subject: FW: The Future of West Linn
Attachments: ATT00001.htm

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: Kovash, John
Sent: Monday, January 21, 2013 12:02 PM
To: Sonnen, John
Subject: Fwd: The Future of West Linn

For the record. John

Sent from my iPad

Begin forwarded message:

From: "William J. More" <williamjmore@lynnpropertiesllc.com>
To: "Kovash, John" <jkovash@westlinnoregon.gov>
Subject: The Future of West Linn

January 21, 2013

Dear Mayor Kovash:

The City Council and the City of West Linn are at a key cross road for its future.

You can listen to the majority of your citizens, the seven neighborhood associations and almost all of the businesses along Highway 43 and support the City Planning Commission's unanimous rejections of the LOT conditional use requests because they failed to satisfy the CDC requirements as stated in their decisions attached hereto, and then present to your constituents a long term plan for the improvement of our water system that the citizens can support.

Or you can go against the will of the entire City Planning Commission, the CDC requirements, a majority of your constituents, seven neighborhood associations and almost all of the businesses along Highway 43 and attempt to relinquish valuable West Linn rights and, in the process, harm many of your constituents.

Creating an intelligent and comprehensive plan that permanently solves our water problems would be visionary and gain you the respect and support of all of your constituents.

Ignoring the will of a majority of the citizens, the unanimous vote of the City Planning Commission, the CDC requirements, the seven neighborhood associations and almost all of the businesses along Highway 43, while harming many of your constituents, would bring the City Council disdain, and guarantee substantial future opposition from your citizens and neighbors; and, as a result, future bond issues will never be supported by a majority of the citizens because the City Council will never be able to regain the trust and support of its constituents.

We urge you to please not follow the advice of some of the members of the City's staff, some who do not even live in West Linn, and some who have different vested interests than your constituents, as you were elected by the citizens of West Linn, and not elected by the city's paid staff, or by the citizens of Lake Oswego or Tigard.

We urge you to please not allow protracted litigation and public dispute to ensue causing this fight to continue for years to come as it will create great indefinite, long term and irreconcilable divisions for the entire city.

We want visionary City Councilors and a visionary City Council that will develop long term meaningful solutions for West Linn.

I urge you to please not disappoint your constituents and sustain the unanimous decisions of the City Planning Commission.

William J. More
Robinwood Shopping Center

P. S. If the City Council created an intelligent, comprehensive, long term plan that solved our water problems, I and others would personally commit to rally businesses and most of our residents around that proposal, and any other future meaningful City Council proposals.

cc: City Council file regarding the appeal re: CUP-12-02/DR-12-04 and CUP-12-04/DR-12-14/Misc-12-10/WA-12-03/WR-12-01

Enc: West Linn Planning Commission/Final Decision Notice
CUP-12-04/DR-12-14/MISC-12-10/WA-12-03/WR-12-01
West Linn Planning Commission/Final Decision Notice
CUP-12-02/DR-12-04



Pelz, Zach

From: Sonnen, John
Sent: Monday, January 21, 2013 12:00 PM
To: Pelz, Zach
Subject: FW: The Future of West Linn
Attachments: West Linn City Planning Commission Decisions.pdf; ATT00001.htm

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: Frank, Thomas
Sent: Monday, January 21, 2013 11:59 AM
To: Sonnen, John
Subject: Fwd: The Future of West Linn

For the record.

Begin forwarded message:

From: "William J. More" <williamjmore@lynnpropertiesllc.com>
Subject: **The Future of West Linn**
Date: January 21, 2013 9:05:33 AM PST
To: "mail@thomasafrank.com" <mail@thomasafrank.com>

Councilor Frank,

I know that you have recused yourself from the decision regarding the Water Treatment Plant and the related work on Highway 43, but since you are on the City Council, I wanted to send to you a copy of an email and letter that I have personally sent to the other councilors.

As a businessman I have learned through the years to think long term, and to address problems with meaningful solutions that will hold for the long term.

West Linn has water problems and water needs, but what LOT has proposed is not a meaningful and long term solution for West Linn's water problems, and only brings West Linn grief and pain, and certainly is not in the community's best interest.

I sincerely hope that West Linn's City Council looks at the big picture as to what is in West Linn's best interest and that all of the Councilors work together to come up with a long term plan to permanently solve our water problems.

Please know that if that occurred, I and many other businessmen and residents would strongly support such a plan, and do everything that we could to help you and the other Councilors “put to bed” a nagging problem for our city.

Thank you,

Bill More

January 21, 2013

Dear Councilors:

The City Council and the City of West Linn are at a key cross road for its future.

You can listen to the majority of your citizens, the seven neighborhood associations and almost all of the businesses along Highway 43 and support the City Planning Commission’s unanimous rejections of the LOT conditional use requests because they failed to satisfy the CDC requirements as stated in their decisions attached hereto, and then present to your constituents a long term plan for the improvement of our water system that the citizens can support.

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We urge you to please not follow the advice of some of the members of the City's staff, some who do not even live in West Linn, and some who have different vested interests than your constituents, as you were elected by the citizens of West Linn, and not elected by the city's paid staff, or by the citizens of Lake Oswego or Tigard.

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William J. More
Robinwood Shopping Center

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Enc: West Linn Planning Commission/Final Decision Notice
CUP-12-04/DR-12-14/MISC-12-10/WA-12-03/WR-12-01
West Linn Planning Commission/Final Decision Notice
CUP-12-02/DR-12-04

CITY OF
West Linn

Councilor Thomas Frank
tfrank@westlinnoregon.gov
West Linn City Councilor
22500 Salamo Rd
West Linn, OR 97068
P: (503) 657-0331
F: (503) 650-9041
Web: westlinnoregon.gov



Pelz, Zach

From: Sonnen, John
Sent: Monday, January 21, 2013 11:19 AM
To: Pelz, Zach
Subject: FW: Editorial
Attachments: Letter to Editor Jan 16.odt; ATT00001.htm

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: Frank, Thomas
Sent: Monday, January 21, 2013 11:19 AM
To: Sonnen, John
Subject: Fwd: Editorial

for the record.

Begin forwarded message:

From: "Stowell5050@aol.com" <Stowell5050@aol.com>
Subject: Editorial
Date: January 21, 2013 10:22:41 AM PST
To: "Frank, Thomas" <tfrank@westlinnoregon.gov>

Welcome to the City Council. I am sure you have read the Editorial appearing in the Oregonian on the 16th. Two letters were in the Saturday paper. Attached is the letter I first submitted, but was too long.

CITY OF
West Linn
Councilor Thomas Frank
tfrank@westlinnoregon.gov
West Linn City Councilor
22500 Salamo Rd
West Linn, OR 97068
P: (503) 657-0331
F: (503) 650-9041
Web: westlinnoregon.gov



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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.

Pelz, Zach

From: Jeff Tichenor [jeff.tichenor@yahoo.com]
Sent: Monday, January 21, 2013 10:32 PM
To: Pelz, Zach
Subject: LOT treatment plant and pipeline
Attachments: tichenor.PDF

Hello Zach,

Please find attached letter to West Linn City Council regarding my concerns about LOT treatment plant and pipeline project. Please include this letter as written testimony for CUP-12-02 and CUP-12-04 and distribute to city council members.

Thank you.

-Jeff Tichenor
3438 Chelan Dr.

Attention West Linn City Council,

When it comes to water, West Linn may soon take a walk in Lake Oswego's shoes.

Think about this.

Lake Oswego will eventually abandon their water plant if they are not allowed to upgrade it. This won't happen today, maybe not tomorrow but it will be abandoned eventually. When they do West Linn will have to look for a new source for backup water. All are expensive and all will mean building a pipeline through other jurisdictions.

Across the Willamette River to Oregon City? South to Wilsonville? West through Stafford and Tualatin. North to Lake Oswego? To Portland via the east side communities of Gladstone and Milwaukie?

How many agencies will we have to get permits from? How many right of way fees will be imposed on us?

Then there is the Bolton Reservoir. Leaving our long-standing partnership with Lake Oswego means a larger reservoir. What West Linn neighborhood will you put that in?

I hope the City Council considers this and then says yes to the water plant expansion.

Sincerely,



Jeff Tichenor
3438 Chelan Dr.
West Linn

Pelz, Zach

From: Sonnen, John
Sent: Monday, January 21, 2013 10:02 AM
To: Pelz, Zach
Subject: FW: The Future of West Linn
Attachments: West Linn City Planning Commission Decisions.pdf

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: Jones, Michael
Sent: Monday, January 21, 2013 9:38 AM
To: City Council; Sonnen, John
Cc: Wyatt, Kirsten
Subject: FW: The Future of West Linn

For the record.

Mike

mjones@westlinnoregon.gov
503.344.4683

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

Save the Salmon

Before you print, think about the ENVIRONMENT 



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

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: William J. More [williamjmore@lynnpropertiesllc.com]
Sent: Monday, January 21, 2013 8:15 AM
To: Jones, Michael
Subject: The Future of West Linn

January 21, 2013

Dear Councilor Jones:

The City Council and the City of West Linn are at a key cross road for its future.

You can listen to the majority of your citizens, the seven neighborhood associations and almost all of the businesses along Highway 43 and support the City Planning Commission's unanimous rejections of the LOT conditional use requests because they failed to satisfy the CDC requirements as stated in their decisions attached hereto, and then present to your constituents a long term plan for the improvement of our water system that the citizens can support.

Or you can go against the will of the entire City Planning Commission, the CDC requirements, a majority of your constituents, seven neighborhood associations and almost all of the businesses along Highway 43 and attempt to relinquish valuable West Linn rights and, in the process, harm many of your constituents.

Creating an intelligent and comprehensive plan that permanently solves our water problems would be visionary and gain you the respect and support of all of your constituents.

Ignoring the will of a majority of the citizens, the unanimous vote of the City Planning Commission, the CDC requirements, the seven neighborhood associations and almost all of the businesses along Highway 43, while harming many of your constituents, would bring the City Council disdain, and guarantee substantial future opposition from your citizens and neighbors; and, as a result, future bond issues will never be supported by a majority of the citizens because the City Council will never be able to regain the trust and support of its constituents.

We urge you to please not follow the advice of some of the members of the City's staff, some who do not even live in West Linn, and some who have different vested interests than your constituents, as you were elected by the citizens of West Linn, and not elected by the city's paid staff, or by the citizens of Lake Oswego or Tigard.

We urge you to please not allow protracted litigation and public dispute to ensue causing this fight to continue for years to come as it will create great indefinite, long term and irreconcilable divisions for the entire city.

We want visionary City Councilors and a visionary City Council that will develop long term meaningful solutions for West Linn.

I urge you to please not disappoint your constituents and sustain the unanimous decisions of the City Planning Commission.

William J. More
Robinwood Shopping Center

P. S. If the City Council created an intelligent, comprehensive, long term plan that solved our water problems, I and others would personally commit to rally businesses and most of our residents around that proposal, and any other future meaningful City Council proposals.

cc: City Council file regarding the appeal re: CUP-12-02/DR-12-04 and CUP-12-04/DR-12-14/Misc-12-10/WA-12-03/WR-12-01

Enc: West Linn Planning Commission/Final Decision Notice
CUP-12-04/DR-12-14/MISC-12-10/WA-12-03/WR-12-01
West Linn Planning Commission/Final Decision Notice
CUP-12-02/DR-12-04

WEST LINN PLANNING COMMISSION
FINAL DECISION NOTICE
CUP-12-02/DR-12-04

**IN THE MATTER OF THE PROPOSAL FOR A CONDITIONAL USE PERMIT AND CLASS
II DESIGN REVIEW FOR THE PROPOSED EXPANSION OF THE CITY OF LAKE
OSWEGO WATER TREATMENT PLANT AT 4260 KENTHORPE WAY**

On April 18, 2012 the West Linn Planning Commission conducted a duly noticed public hearing to consider the request by the Lake Oswego-Tigard Water Partnership (Partnership) to expand an existing water treatment plant at 4260 Kenthorpe Way. The applicable review criteria for the Conditional Use and Class II Design Review standards are found in the West Linn Community Development Code (CDC). The approval criteria for Conditional Uses are located in Chapter 60 of the CDC. The approval criteria for Design Review are found in Chapter 55 of the CDC. The hearing was conducted pursuant to the provisions of CDC Chapter 99.

The hearing was continued to April 25 and again to May 2. On May 16, 2012 the applicant submitted a written request to suspend the applications for the expansion of the water treatment plant to allow additional work in several areas of concern identified during the public hearing, and to allow procedural consolidation of these applications with a planned additional related application for a pipeline to serve the expanded treatment plant. The Commission granted this request and suspended the hearing on May 16, 2012.

On October 17, 18 and 25, 2012, the Planning Commission reconvened and conducted a duly noticed public hearing. The Commission record consists of all materials from the previous hearings together with the record of the reconvened hearing.

The hearing commenced with a staff report presented by Zach Pelz, Associate Planner. Dennis Koellermeier, Ed Sullivan, Jon Holland, Carrie Richter and other representatives from the Partnership presented for the applicant. The Commission then opened the hearing to the public, heard a significant amount of testimony and received written argument and evidence. A member of the public requested that the record be left open pursuant to ORS 197.763(6)(b) based on new evidence submitted at the continued hearing. The Commission granted this request, leaving the record open for seven days for all parties to respond to the new evidence. The applicant waived the additional seven day open record period provided by ORS 197.763(6)(e).

When the Commission reconvened the hearing on November 1, 2012, the applicant responded with rebuttal, followed by questions from the Planning Commission for City staff. The hearing was then closed, and the Planning Commission deliberated to a decision.

Following deliberations, a motion was made, seconded, and unanimously passed to deny the application on the following grounds:

Finding 1: The Planning Commission finds that the applicant failed to satisfy CDC 60.070(A)(3) – *“The granting of the proposal will provide for a facility that is consistent with the overall needs of the community.”* In reaching this decision, the Planning Commission determines that the language of this criterion is ambiguous, and requires interpretation. As such, the Planning Commission makes the following interpretations and findings:

- A. The term “community” refers to the community to which the Comprehensive Plan and CDC apply, which is limited to the City of West Linn. It does not mean the larger region. A “facility that is consistent with the overall needs of the community” is one that is designed and sized to serve the needs of the residents and land uses in the city. Although the water treatment plant both as it currently functions and as proposed currently does and could continue to provide a supply of water to West Linn in the event of an emergency through an existing intertie with the West Linn water system, its primary purpose is to serve residents in Lake Oswego and Tigard, and therefore is inconsistent with the intent to meet the overall needs of West Linn residents. There is no guarantee that the expanded treatment plant would provide water to West Linn for any given period of time or by making water available on an emergency or backup basis. Specifically, in conclusion, the scale of the proposal is regional in nature and therefore violates the intent that facilities in West Linn have the primary purpose and be of a scale to serve the community of West Linn.
- B. The Commission interprets the term “overall needs” as used in this criterion to mean that the facility must provide a benefit to the community for the duration of that facility’s existence in the community and commensurate with the impacts of the proposed facility. As discussed above, there is no demonstration that a need for water will be met by the expanded facility and yet it was abundantly clear from overwhelming public testimony that the proposal will have significant short term and long term impacts on the immediate neighborhood. Although the term “benefit” does not appear in this criterion, the term “overall needs” can be interpreted to include an enhancement to the community that offsets any impacts the proposed development creates, resulting in a net benefit. In addition, the applicant presented a portion of its application using the term “benefits” to demonstrate compliance with this criterion. Public testimony also relied on the term. Similarly, the Robinwood Neighborhood Plan, referenced in the Staff Report as part of Finding No. 10 in discussing compliance of the application with CDC 60.070(A)(7) uses the term “benefit.” The Planning Commission finds that it is reasonable to include the concept of “benefit” as articulated here and in the Robinwood Neighborhood Plan as addressing the “overall needs of the community” criterion given the significant impacts of the project on the Robinwood Neighborhood.
- C. The applicant’s offer to potentially provide 4 million gallons per day (mgd) as an emergency water supply (as expressed in a proposed inter-governmental agreement (IGA) signed by the Cities of Lake Oswego and Tigard) to the City of West Linn until the year 2041, amounted to, at most, a temporary benefit to the City of West Linn and could therefore not be characterized as providing a facility that meets the overall needs of the community. Further, the offered IGA indicates that the Partnership can provide and will endeavor to provide 4 mgd of emergency

water to West Linn; this provides no certainty that water will be available in the event of an emergency, consequently it does not satisfy a need, and as such a community need per 60.070(A)(3) was not satisfied.

- D. To determine if a need is met, one cannot evaluate the end result independent of the means to achieve that result. Potential benefits provided by the facility in terms of emergency water supply, must exceed the impacts/costs borne by residents, business operators and those relying on Highway 43 during the construction period which as noted above constitute a portion of the “community” identified in this criterion. West Linn residents and business owners testifying at the hearing indicated that the construction of the proposed project over the course of 32 months, entailing 86 truck trips per day on what is now a low volume (Mapleton Drive currently experiences 350 average trips per day) residential street without sidewalks, would generate noise, cause disruption, diminish the livability of the area, pose a safety risk for children walking through a construction zone to reach the school bus, and potentially slow emergency response times, thus jeopardizing public safety and potentially diminishing the ability to sell a dwelling along the affected streets and likely impeding property owners’ ability sell their property if necessary as well as depressing property values. Further, business owners testified that impacts during the construction would be detrimental to their businesses. In the event the proposed project caused businesses along Highway 43 to close or relocate the impact could last until vacant storefronts are filled.

The temporary construction impacts, as well as the ongoing risks associated with the storage and transmission of 38 mgd of water in a seismically hazardous area of the City outweighed the temporary benefits that would accrue to West Linn residents with the approval of the facility

Moreover, the Partnership’s offer to self insure by providing a \$1.5 million risk management fund, in addition to the Partnership’s municipal insurance coverage, in the event of damage to property due to a failure in the proposed project the amount was inadequate to cover the potential significant property loss to surrounding homes in the event of a large failure, the 10 year duration is too limited and, absent a third party administering the fund, there is no certainty that the applicant would pay legitimate claims.

- E. Finally, the Commission finds that the term “community need” should be interpreted by taking into consideration the sentiment of citizen participants engaged in the pending quasi-judicial land use hearing. Despite the recommendation in the adopted 2008 West Linn Water System Master Plan, to improve the supply reliability of the West Linn-Lake Oswego emergency water intertie, “community need” as set forth in CDC 60.070(A)(3) the Commission concludes this criterion is not satisfied both based on the analysis above, and because of the significant opposition to the Partnership’s proposal expressed by residents and local business owners throughout the hearing process.

Finding 2: The Planning Commission finds that the application is not consistent with CDC Section 60.070(A)(2) – *“The characteristics of the site are suitable for the proposed use*

considering size, shape, location, topography, and natural features.” The Planning Commission disagrees with the Partnership’s testimony regarding the suitability of the Water Treatment Plant site given the potential for seismically induced liquefaction and lateral spreading of soils in this area as well as the potential for slope failure north and east of the plant. The Planning Commission referred to a deep-seated pre-historic landslide, illustrated on plate 2A (p. 30/50) of the June 20, 2012, Kleinfelder report in Section 8, of the Partnership’s submittal materials for the Raw- and Finished-water pipeline, north and east of the Water Treatment Plant site, as evidence that the area is subject to liquefaction and lateral movement. In addition, the Planning Commission concluded that the presence of this pre-historic deep-seated landslide demonstrates that a buttress of more consolidated and stable soils is not present to the east of the Water Treatment Plant site and Raw- and Finished-water pipeline alignment, contrary to information presented by the Partnership attesting this buttress was present. Additionally, the Planning Commission is not convinced by evidence supplied by the Partnership to the contrary, that the proposed design of these facilities would enable them to withstand a magnitude 9.0 Cascadia Subduction Zone seismic event in this area.

In addition, given the significant impacts of the project as discussed above under Finding 1, and the aesthetic impacts discussed below under Finding 4, although the existing plant has been a good neighbor, the site is not suitable to accommodate the proposed expansion.

Finding 3: The Planning Commission finds that the Partnership’s proposal is not consistent with CDC Section 60.070(A)(7) (*“The use will comply with the applicable policies of the comprehensive plan*) and the West Linn Comprehensive Plan based upon the following findings:

- A. The Partnership’s proposal is inconsistent with Goal 2, Section 1, Policy 8 of the Comprehensive Plan, which states *“Protect residentially zoned areas from the negative impacts of commercial, civic, and mixed-use development, and other potentially incompatible land uses.”* The overwhelming testimony from affected nearby and neighboring property owners was consistent in describing that both the temporary 32-month construction period and the permanent scale and operational requirements of the proposed expansion would not be compatible with the surrounding residentially zoned neighborhood, which is comprised of established single family residences. Although the existing plant was uniformly described as a “good neighbor” the new building would be significantly larger, more industrial in appearance and would have exterior lighting that would be more invasive than the current plant. Based on the Applicant’s revised site plan, the buffering and setbacks are not sufficient to adequately protect the neighborhood from the dominant appearance of the project. Significantly more chemicals must be brought to the site to treat the greatly increased water being processed, and such chemicals are potentially hazardous putting nearby residents at increased risk. As discussed above, the Planning Commission also finds that the greatly increased size of the proposed plant presents a greater risk of significant property damage to the homes that could be impacted by a major earthquake and/or landslide event. In all of these respects, the Commission finds that the proposal is not consistent with the Policy’s clear requirement that residentially zoned areas be protected from such intrusions.

- B. The Partnership's proposal is inconsistent with the February 5, 2003, West Linn City Council Goal number 9 (contained on p. 2/117 of the Comprehensive Plan) to, *"Oppose urbanization of the Stafford Triangle and pursue policies that would permanently retain that area as a rural buffer between West Linn and neighboring communities."* The Planning Commission finds that the Council goals are incorporated into and were adopted and acknowledged as part of the West Linn Comprehensive Plan. Although titled "goals" and not policies, the Commission finds that these Council goals are the adopted policy objectives of the elected governing body of the City, and must be applied in the context of this review. The Planning Commission finds that, despite assertions that policies contained in the Lake Oswego Comprehensive Plan oppose development of the Stafford Triangle, the inclusion of portions of the Stafford Triangle in the Partnership's initial feasibility analysis (which allocated approximately 2 mgd of future water to the area) demonstrates that the project could facilitate development of the Stafford Triangle contrary to the West Linn Comprehensive Plan.
- C. The Partnership's proposal also fails to satisfy the following additional West Linn City Council Goals dated February 5, 2003 (contained on page 2/117 of the West Linn Comprehensive Plan) *Goal 1: Maintain and protect West Linn's quality of life and livability.* See Finding 1(C). The Partnership's proposal fails to protect residents' quality of life and livability by closing Mapleton Drive to through traffic between 7am and 7pm and by creating a potentially hazardous situation for pedestrians travelling through the construction work zone on Mapleton Drive. In addition, 86 new construction-related trips on Mapleton Drive would add delay and potential safety risks for residents in this area and therefore jeopardize their quality of life and livability;
- Goal 2: Actively support and encourage West Linn's neighborhood associations and promote citizen involvement in civic life. Establish and maintain policies that give neighborhoods real control over their future;*
- Goal 6: Promote land use policies, both locally and regionally, that are based on the concepts of sustainability, carrying capacity, and environmental quality;and*
- Goal 11: Assert through both planning and policy that compatibility with existing development should be a primary goal in West Linn's land use process.*

Finding 4: The Planning Commission finds that the Partnership's proposal fails to satisfy CDC Section 60.070(A)(1) – *The site size and dimensions provide, a) adequate area for the needs of the proposed use; and, b) adequate area for aesthetic design treatment to mitigate any possible adverse effect from the use on surrounding properties and uses* - in that the Partnership's proposal creates safety concerns for children walking along Mapleton Drive to and from school during the estimated 32 month construction period for the proposed project.

The proposal constitutes a replacement of an existing plant with what is essentially a new, much larger plant. The subject site in a residential area is not adequate for the large

replacement plant because of the disruption to the neighborhood during the proposed 32 month construction period.

As noted above under Finding 3, the failure of the proposed project to meet the Comprehensive Plan Policy requiring the protection of residential areas from incompatible uses is not met, further demonstrating that the proposal does not contain adequate area for an industrial building of the size and scale proposed here.

This decision will become effective 14 days from the date of mailing of this final decision as identified below. Those parties with standing (i.e., those individuals who submitted letters into the record, or provided oral or written testimony during the course of the hearings, or signed in on an attendance sheet or testimony form at either of the hearings, or who have contacted City Planning staff and made their identities known to staff) may appeal this decision to the West Linn City Council within 14 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code. Such appeals would require a fee of \$400 and a completed appeal application form together with the specific grounds for appeal to the Planning Director prior to the appeal-filing deadline.


MICHAEL BABBITT CHAIR
WEST LINN PLANNING COMMISSION

11-26-17
DATE

Mailed this 27th day of November, 2012.

Therefore, this decision becomes effective at 5 p.m., December 11, 2012.

WEST LINN PLANNING COMMISSION

FINAL DECISION NOTICE

CUP-12-04/DR-12-14/MISC-12-10/WA-12-03/WR-12-01

IN THE MATTER OF THE PROPOSAL FOR A CONDITIONAL USE, CLASS II DESIGN REVIEW, CLASS II PARKS DESIGN REVIEW, FLOOD MANAGEMENT AREA, WATER RESOURCES AREA AND WILLAMETTE RIVER GREENWAY PERMIT FOR THE PROPOSED INSTALLATION OF A WATER TRANSMISSION LINE FROM THE CITY LIMITS UNDER THE WILLAMETTE RIVER, THROUGH MARY S. YOUNG STATE PARK TO THE CITY'S NORTHERN BOUNDARY BORDERING THE CITY OF LAKE OSWEGO VIA MAPLETON DRIVE AND HIGHWAY 43

On October 17, 18 and 25, and November 1, 2012 the West Linn Planning Commission conducted a duly noticed public hearing to consider the request by the Lake Oswego-Tigard Water Partnership (Partnership) to install a water transmission line through the City of West Linn. The applicable review criteria for the Conditional Use, Class II Design Review, Class II Parks Design Review, Flood Management Area, Water Resources Area and Willamette River Greenway standards are found in the West Linn Community Development Code (CDC). The approval criteria for Conditional Uses are located in Chapter 60 of the CDC. The approval criteria for Design Review are found in Chapter 55 of the CDC. The approval criteria for Parks Design Review are found in Chapter 56 of the CDC. The approval criteria for Flood Management Areas are found in Chapter 27 of the CDC. The approval criteria for Water Resource Areas are found in CDC Chapter 32. The approval criteria for the Willamette River Greenway are found in CDC Chapter 28. The hearing was conducted pursuant to the provisions of CDC Chapter 99.

On May 16, 2012 the applicant submitted a written request to suspend a related application for the expansion of a water treatment plant to allow additional work in several areas of concern identified during the public hearing, and to allow the water treatment plant application to be considered concurrently with the application for a pipeline to serve the expanded treatment plant. The Commission granted this request and suspended the hearing on May 16, 2012.

On October 17, 18 and 25, and November 1, 2012 the Planning Commission reconvened and conducted a duly noticed public hearing to consider both this application and the related application for the expanded water treatment plant. The Commission record consists of all materials from the previous hearings together with the record of the reconvened hearing.

The hearing commenced with a staff report presented by Zach Pelz, Associate Planner. Dennis Koellermeier, Ed Sullivan, Jon Holland, Carrie Richter and other representatives from the Partnership presented for the applicant. The Commission then opened the hearing to the public, heard a significant amount of testimony and received written argument and evidence. A member of the public requested that the record be left open

pursuant to ORS 197.763(6)(b) based on new evidence submitted at the continued hearing. The Commission granted this request, leaving the record open for seven days for all parties to respond to the new evidence. The applicant waived the additional seven day open record period provided by ORS 197.763(6)(e).

When the Commission reconvened the hearing on November 1, 2012, the applicant responded with rebuttal, followed by questions from the Planning Commission for City staff. The hearing was then closed, and the Planning Commission deliberated to a decision.

Following deliberations, a motion was made, seconded, and unanimously passed to deny the applications on the following grounds:

Finding 1: The Planning Commission finds that the applicant failed to satisfy CDC Subsection 60.070(A)(3) – *“The granting of the proposal will provide for a facility that is consistent with the overall needs of the community.”* In reaching this decision, the Planning Commission determines that the language of this criterion is ambiguous, and requires interpretation. As such, the Planning Commission makes the following interpretations and findings:

- A. The term “community” refers to the community to which the Comprehensive Plan and CDC apply, which is limited to the City of West Linn. It does not mean the larger region. A “facility that is consistent with the overall needs of the community” is one that is designed and sized to serve the needs of the residents and land uses in the city. Although Lake Oswego’s existing water transmission line, both as it currently functions and as proposed, could continue to provide a supply of water to West Linn in the event of an emergency through an existing or replacement intertie with the West Linn water system, its primary purpose is to serve residents in Lake Oswego and Tigard, and therefore is inconsistent with the intent to meet the overall needs of West Linn residents. As noted in Finding 1(B), there is no guarantee that the proposed water transmission line would provide water to West Linn for any given period of time or by making water available on an emergency or backup basis. The scale of the proposal is regional in nature and therefore violates the intent that facilities in West Linn have the primary purpose and be of a scale to serve the community of West Linn.
- B. The applicant’s offer to potentially provide 4 million gallons per day (mgd) as an emergency water supply (as expressed in a proposed inter-governmental agreement (IGA) signed by the Cities of Lake Oswego and Tigard) to the City of West Linn until the year 2041, amounts to, at most, a temporary benefit to the City of West Linn and could therefore not be characterized as providing a facility that meets the overall needs of the community. Further, the offered IGA indicates that the Partnership can provide and will endeavor to provide 4 mgd of emergency water to West Linn; this provides no certainty that water will be available in the event of an emergency, consequently it does not satisfy a need, and as such a community need per Subsection 60.070(A)(3) is not satisfied.
- C. The Commission interprets the term “overall needs” as used in this criterion to mean that the facility must provide a benefit to the community for the duration of

that facility's existence in the community. Further, to determine if a need is met, one cannot evaluate the end result independent of the means to achieve that result. The Commission interprets the term "overall needs" to include an enhancement to the community that offsets any impacts the proposed development creates, resulting in a net benefit. Potential benefits provided by the facility, in terms of emergency water supply, must exceed the impacts/costs borne by residents, business operators and those relying on Highway 43 during the construction period, which as noted above, constitute a portion of the "community" identified in this criterion. The applicant's proposal uses the term "benefits" and provides a list of proposed amenities and improvements to the West Linn water system to demonstrate compliance with this criterion. Public testimony also relied on the term. Similarly, the Robinwood Neighborhood Plan, referenced in the Staff Report as part of Finding No. 10 in discussing compliance of the application with CDC 60.070(A)(7) uses the term "benefit." The Planning Commission finds that it is reasonable to include the concept of "benefit" as articulated here and in the Robinwood Neighborhood Plan as addressing the "overall needs of the community" criterion given the significant impacts of the project on the Robinwood Neighborhood.

West Linn residents and business owners testifying at the hearing indicated that the construction of the proposed project over the course of 32 months, entailing 86 truck trips per day on what is now a low volume (Mapleton Drive currently experiences 350 average trips per day) residential street without sidewalks, would generate noise, cause disruption, diminish the livability of the area, pose a safety risk for children walking through a construction zone to reach the school bus, and potentially slow emergency response times, thus jeopardizing public safety and potentially diminishing the ability to sell a dwelling along the affected streets, if necessary, as well as depressing property values. Further, business owners testified that impacts during the construction would be detrimental to their businesses. In the event the proposed project caused businesses along Highway 43 to close or relocate the impact could last until vacant storefronts are filled.

The temporary construction impacts, as well as the ongoing risks associated with the storage and transmission of 38 mgd of water in a seismically hazardous area of the City outweighed the temporary benefits that would accrue to West Linn residents with the approval of the facility. While the Partnership's offer to self insure by providing a \$1.5 million risk management fund, in addition to the Partnership's municipal insurance coverage, in the event of damage to property due to a failure in the proposed project is appreciated, the amount is inadequate to cover the potential significant property loss to surrounding homes in the event of a large failure, the 10 year duration is too limited and, absent a third party administering the fund, there is no certainty that the applicant would pay legitimate claims.

As discussed above, there is no demonstration that a need for water will be met by the proposed facility and yet it was abundantly clear from overwhelming public testimony that the proposal will have significant short term impacts and long term impacts (e.g., noise, heavy truck traffic, loss of property tax revenue) on the immediate neighborhood and those using Highway 43.

Finally, the Commission finds that the term “community need” should be interpreted by taking into consideration the sentiment of citizen participants engaged in the pending quasi-judicial land use hearing. Despite the recommendation in the adopted 2008 West Linn Water System Master Plan, to improve the supply reliability of the West Linn-Lake Oswego emergency water intertie, “community need” as set forth in CDC 60.070(A)(3) the Commission concludes this criterion is not satisfied both based on the analysis above, and because of the significant opposition to the Partnership’s proposal expressed by residents and local business owners throughout the hearing process indicating that the impacts exceed the potential benefits.

Finding 2: The Planning Commission finds that the application is not consistent with CDC Section 60.070(A)(2) – *“The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and natural features.”* The Planning Commission disagrees with the Partnership’s testimony regarding the suitability of the proposed water transmission line alignment to accommodate the 42- to 48-inch diameter pipe conveying up to 38 mgd given the potential for seismically induced liquefaction and lateral spreading of soils in this area as well as the potential for slope failure north and east of the proposed pipeline alignment. The Planning Commission referred to a deep-seated pre-historic landslide, illustrated on plate 2A (p. 30/50) of the June 20, 2012, Kleinfelder report in Section 8, of the Partnership’s submittal materials for the Raw- and Finished-water pipeline, north and east of the Water Treatment Plant site, as evidence that the area is subject to liquefaction and lateral movement. In addition, the Planning Commission concluded that the presence of this pre-historic deep-seated landslide demonstrates that a buttress of more consolidated and stable soils is not present to the east of the Water Treatment Plant site and Raw- and Finished-water pipeline alignment, contrary to information presented by the Partnership indicating that a buttress is present. Additionally, the Planning Commission is not convinced by evidence supplied by the Partnership to the contrary, that the proposed design of these facilities would enable them to withstand a magnitude 9.0 Cascadia Subduction Zone seismic event in this area.

In addition, given the significant impacts of the project as discussed above under Finding 1, and the impacts discussed below under Finding 4, the site is not suitable to accommodate the proposed water transmission line.

Finding 3: The Planning Commission finds that the Partnership’s proposal is not consistent with CDC Section 60.070(A)(7) (*“The use will comply with the applicable policies of the comprehensive plan*) and the West Linn Comprehensive Plan based upon the following findings:

- A. The Partnership’s proposal is inconsistent with Goal 2, Section 1, Policy 8 of the Comprehensive Plan, which states *“Protect residentially zoned areas from the negative impacts of commercial, civic, and mixed-use development, and other potentially incompatible land uses.”* The overwhelming testimony from affected nearby and neighboring property owners was consistent in describing that both the temporary 32-month construction period and the permanent scale and operational requirements of the proposed expansion would not be compatible with the

surrounding residentially zoned neighborhood, which is comprised of established single family residences. Although the existing Lake Oswego water treatment facility, including the existing water transmission line was uniformly described as a “good neighbor” the proposed water transmission line would be significantly larger than the current line. As discussed above, the Planning Commission also finds that the greatly increased size of the proposed transmission line presents a greater risk of significant property damage to the homes that could be impacted by a major earthquake and/or landslide event. In all of these respects, the Commission finds that the proposal is not consistent with the Policy’s clear requirement that residentially zoned areas be protected from such intrusions.

- B. The Partnership’s proposal is inconsistent with the February 5, 2003, West Linn City Council Goal number 9 (contained on p. 2/117 of the Comprehensive Plan) to, *“Oppose urbanization of the Stafford Triangle and pursue policies that would permanently retain that area as a rural buffer between West Linn and neighboring communities.”* The Planning Commission finds that the Council goals are incorporated into and were adopted and acknowledged as part of the West Linn Comprehensive Plan. Although titled “goals” and not policies, the Commission finds that these Council goals are the adopted policy objectives of the elected governing body of the City, and must be applied in the context of this review. The Planning Commission finds that, despite assertions that policies contained in the Lake Oswego Comprehensive Plan oppose development of the Stafford Triangle, the inclusion of portions of the Stafford Triangle in the Partnership’s initial feasibility analysis (which allocated approximately 2 mgd of future water to the area) demonstrates that the project could facilitate development of the Stafford Triangle contrary to the West Linn Comprehensive Plan.
- C. The Partnership’s proposal also fails to satisfy the following additional West Linn City Council Goals dated February 5, 2003 (contained on page 2/117 of the West Linn Comprehensive Plan) *Goal 1: Maintain and protect West Linn’s quality of life and livability.* See Finding 1(C). The Partnership’s proposal fails to protect residents’ quality of life and livability by closing Mapleton Drive to through traffic between 7am and 7pm and by creating a potentially hazardous situation for pedestrians travelling through the construction work zone on Mapleton Drive. In addition, 86 new construction-related trips on Mapleton Drive would add delay and potential safety risks for residents in this area and therefore jeopardize their quality of life and livability;
- Goal 2: Actively support and encourage West Linn’s neighborhood associations and promote citizen involvement in civic life. Establish and maintain policies that give neighborhoods real control over their future;*
- Goal 6: Promote land use policies, both locally and regionally, that are based on the concepts of sustainability, carrying capacity, and environmental quality; and*
- Goal 11: Assert through both planning and policy that compatibility with existing development should be a primary goal in West Linn’s land use process.*


Finding 4: The Planning Commission finds that the Partnership’s proposal fails to satisfy CDC Section 60.070(A)(1) – *The site size and dimensions provide, a) adequate area for the*

needs of the proposed use; and, b) adequate area for aesthetic design treatment to mitigate any possible adverse effect from the use on surrounding properties and uses - in that the Partnership's proposal calls for construction and heavy equipment in the streets without sidewalks that creates safety concerns for children walking along Mapleton Drive to and from school during the estimated 32 month construction period for the proposed project.

Moreover, while the applicant failed to provide an analysis of these impacts, the Commission finds that proposed night-time work on Highway 43 would have adverse effects to residences upslope from Highway 43. Similarly, the Commission finds that noise impacts associated with the 24- to 48-hour continuous "pullback" phase of the horizontal directional drilling (HDD) operation is expected to generate noise levels of 55 to 61 dBA and would have adverse impacts on surrounding properties.

The proposed pipeline alignment is not adequate for the large replacement water transmission line because of the disruption to the neighborhood during the proposed 32 month construction period.

This decision will become effective 14 days from the date of mailing of this final decision as identified below. Those parties with standing (i.e., those individuals who submitted letters into the record, or provided oral or written testimony during the course of the hearings, or signed in on an attendance sheet or testimony form at either of the hearings, or who have contacted City Planning staff and made their identities known to staff) may appeal this decision to the West Linn City Council within 14 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code. Such appeals would require a fee of \$400 and a completed appeal application form together with the specific grounds for appeal to the Planning Director prior to the appeal-filing deadline.



MICHAEL BABBITT CHAIR
WEST LINN PLANNING COMMISSION

11-26-12

DATE

Mailed this 27th day of November, 2012.

Therefore, this decision becomes effective at 5 p.m., December 11, 2012.

January 21, 2013

Dear Councilor Jones:

The City Council and the City of West Linn are at a key cross road for its future.

You can listen to the majority of your citizens, the seven neighborhood associations and almost all of the businesses along Highway 43 and support the City Planning Commission's unanimous rejections of the LOT conditional use requests because they failed to satisfy the CDC requirements as stated in their decisions attached hereto, and then present to your constituents a long term plan for the improvement of our water system that the citizens can support.

Or you can go against the will of the entire City Planning Commission, the CDC requirements, a majority of your constituents, seven neighborhood associations and almost all of the businesses along Highway 43 and attempt to relinquish valuable West Linn rights and, in the process, harm many of your constituents.

Creating an intelligent and comprehensive plan that permanently solves our water problems would be visionary and gain you the respect and support of all of your constituents.

Ignoring the will of a majority of the citizens, the unanimous vote of the City Planning Commission, the CDC requirements, the seven neighborhood associations and almost all of the businesses along Highway 43, while harming many of your constituents, would bring the City Council disdain, and guarantee substantial future opposition from your citizens and neighbors; and, as a result, future bond issues will never be supported by a majority of the citizens because the City Council will never be able to regain the trust and support of its constituents.

We urge you to please not follow the advice of some of the members of the City's staff, some who do not even live in West Linn, and some who have different vested interests than your constituents, as you were elected by the citizens of West Linn, and not elected by the city's paid staff, or by the citizens of Lake Oswego or Tigard.

We urge you to please not allow protracted litigation and public dispute to ensue causing this fight to continue for years to come as it will create great indefinite, long term and irreconcilable divisions for the entire city.

We want visionary City Councilors and a visionary City Council that will develop long term meaningful solutions for West Linn.

I urge you to please not disappoint your constituents and sustain the unanimous decisions of the City Planning Commission.

William J. More
Robinwood Shopping Center

P. S. If the City Council created an intelligent, comprehensive, long term plan that solved our water problems, I and others would personally commit to rally businesses and most of our residents around that proposal, and any other future meaningful City Council proposals.

cc: City Council file regarding the appeal re: CUP-12-02/DR-12-04 and CUP-12-04/DR-12-14/Misc-12-10/WA-12-03/WR-12-01

Enc: West Linn Planning Commission/Final Decision Notice
CUP-12-04/DR-12-14/MISC-12-10/WA-12-03/WR-12-01
West Linn Planning Commission/Final Decision Notice
CUP-12-02/DR-12-04

WEST LINN PLANNING COMMISSION

FINAL DECISION NOTICE

CUP-12-02/DR-12-04

IN THE MATTER OF THE PROPOSAL FOR A CONDITIONAL USE PERMIT AND CLASS II DESIGN REVIEW FOR THE PROPOSED EXPANSION OF THE CITY OF LAKE OSWEGO WATER TREATMENT PLANT AT 4260 KENTHORPE WAY

On April 18, 2012 the West Linn Planning Commission conducted a duly noticed public hearing to consider the request by the Lake Oswego-Tigard Water Partnership (Partnership) to expand an existing water treatment plant at 4260 Kenthorpe Way. The applicable review criteria for the Conditional Use and Class II Design Review standards are found in the West Linn Community Development Code (CDC). The approval criteria for Conditional Uses are located in Chapter 60 of the CDC. The approval criteria for Design Review are found in Chapter 55 of the CDC. The hearing was conducted pursuant to the provisions of CDC Chapter 99.

The hearing was continued to April 25 and again to May 2. On May 16, 2012 the applicant submitted a written request to suspend the applications for the expansion of the water treatment plant to allow additional work in several areas of concern identified during the public hearing, and to allow procedural consolidation of these applications with a planned additional related application for a pipeline to serve the expanded treatment plant. The Commission granted this request and suspended the hearing on May 16, 2012.

On October 17, 18 and 25, 2012, the Planning Commission reconvened and conducted a duly noticed public hearing. The Commission record consists of all materials from the previous hearings together with the record of the reconvened hearing.

The hearing commenced with a staff report presented by Zach Pelz, Associate Planner. Dennis Koellermeier, Ed Sullivan, Jon Holland, Carrie Richter and other representatives from the Partnership presented for the applicant. The Commission then opened the hearing to the public, heard a significant amount of testimony and received written argument and evidence. A member of the public requested that the record be left open pursuant to ORS 197.763(6)(b) based on new evidence submitted at the continued hearing. The Commission granted this request, leaving the record open for seven days for all parties to respond to the new evidence. The applicant waived the additional seven day open record period provided by ORS 197.763(6)(e).

When the Commission reconvened the hearing on November 1, 2012, the applicant responded with rebuttal, followed by questions from the Planning Commission for City staff. The hearing was then closed, and the Planning Commission deliberated to a decision.

Following deliberations, a motion was made, seconded, and unanimously passed to deny the application on the following grounds:

Finding 1: The Planning Commission finds that the applicant failed to satisfy CDC 60.070(A)(3) – *“The granting of the proposal will provide for a facility that is consistent with the overall needs of the community.”* In reaching this decision, the Planning Commission determines that the language of this criterion is ambiguous, and requires interpretation. As such, the Planning Commission makes the following interpretations and findings:

- A. The term “community” refers to the community to which the Comprehensive Plan and CDC apply, which is limited to the City of West Linn. It does not mean the larger region. A “facility that is consistent with the overall needs of the community” is one that is designed and sized to serve the needs of the residents and land uses in the city. Although the water treatment plant both as it currently functions and as proposed currently does and could continue to provide a supply of water to West Linn in the event of an emergency through an existing intertie with the West Linn water system, its primary purpose is to serve residents in Lake Oswego and Tigard, and therefore is inconsistent with the intent to meet the overall needs of West Linn residents. There is no guarantee that the expanded treatment plant would provide water to West Linn for any given period of time or by making water available on an emergency or backup basis. Specifically, in conclusion, the scale of the proposal is regional in nature and therefore violates the intent that facilities in West Linn have the primary purpose and be of a scale to serve the community of West Linn.
- B. The Commission interprets the term “overall needs” as used in this criterion to mean that the facility must provide a benefit to the community for the duration of that facility’s existence in the community and commensurate with the impacts of the proposed facility. As discussed above, there is no demonstration that a need for water will be met by the expanded facility and yet it was abundantly clear from overwhelming public testimony that the proposal will have significant short term and long term impacts on the immediate neighborhood. Although the term “benefit” does not appear in this criterion, the term “overall needs” can be interpreted to include an enhancement to the community that offsets any impacts the proposed development creates, resulting in a net benefit. In addition, the applicant presented a portion of its application using the term “benefits” to demonstrate compliance with this criterion. Public testimony also relied on the term. Similarly, the Robinwood Neighborhood Plan, referenced in the Staff Report as part of Finding No. 10 in discussing compliance of the application with CDC 60.070(A)(7) uses the term “benefit.” The Planning Commission finds that it is reasonable to include the concept of “benefit” as articulated here and in the Robinwood Neighborhood Plan as addressing the “overall needs of the community” criterion given the significant impacts of the project on the Robinwood Neighborhood.
- C. The applicant’s offer to potentially provide 4 million gallons per day (mgd) as an emergency water supply (as expressed in a proposed inter-governmental agreement (IGA) signed by the Cities of Lake Oswego and Tigard) to the City of West Linn until the year 2041, amounted to, at most, a temporary benefit to the City of West Linn and could therefore not be characterized as providing a facility that meets the overall needs of the community. Further, the offered IGA indicates that the Partnership can provide and will endeavor to provide 4 mgd of emergency

water to West Linn; this provides no certainty that water will be available in the event of an emergency, consequently it does not satisfy a need, and as such a community need per 60.070(A)(3) was not satisfied.

- D. To determine if a need is met, one cannot evaluate the end result independent of the means to achieve that result. Potential benefits provided by the facility in terms of emergency water supply, must exceed the impacts/costs borne by residents, business operators and those relying on Highway 43 during the construction period which as noted above constitute a portion of the “community” identified in this criterion. West Linn residents and business owners testifying at the hearing indicated that the construction of the proposed project over the course of 32 months, entailing 86 truck trips per day on what is now a low volume (Mapleton Drive currently experiences 350 average trips per day) residential street without sidewalks, would generate noise, cause disruption, diminish the livability of the area, pose a safety risk for children walking through a construction zone to reach the school bus, and potentially slow emergency response times, thus jeopardizing public safety and potentially diminishing the ability to sell a dwelling along the affected streets and likely impeding property owners’ ability sell their property if necessary as well as depressing property values. Further, business owners testified that impacts during the construction would be detrimental to their businesses. In the event the proposed project caused businesses along Highway 43 to close or relocate the impact could last until vacant storefronts are filled.

The temporary construction impacts, as well as the ongoing risks associated with the storage and transmission of 38 mgd of water in a seismically hazardous area of the City outweighed the temporary benefits that would accrue to West Linn residents with the approval of the facility

Moreover; the Partnership’s offer to self insure by providing a \$1.5 million risk management fund, in addition to the Partnership’s municipal insurance coverage, in the event of damage to property due to a failure in the proposed project the amount was inadequate to cover the potential significant property loss to surrounding homes in the event of a large failure, the 10 year duration is too limited and, absent a third party administering the fund, there is no certainty that the applicant would pay legitimate claims.

- E. Finally, the Commission finds that the term “community need” should be interpreted by taking into consideration the sentiment of citizen participants engaged in the pending quasi-judicial land use hearing. Despite the recommendation in the adopted 2008 West Linn Water System Master Plan, to improve the supply reliability of the West Linn-Lake Oswego emergency water intertie, “community need” as set forth in CDC 60.070(A)(3) the Commission concludes this criterion is not satisfied both based on the analysis above, and because of the significant opposition to the Partnership’s proposal expressed by residents and local business owners throughout the hearing process.

Finding 2: The Planning Commission finds that the application is not consistent with CDC Section 60.070(A)(2) – *“The characteristics of the site are suitable for the proposed use*

considering size, shape, location, topography, and natural features.” The Planning Commission disagrees with the Partnership’s testimony regarding the suitability of the Water Treatment Plant site given the potential for seismically induced liquefaction and lateral spreading of soils in this area as well as the potential for slope failure north and east of the plant. The Planning Commission referred to a deep-seated pre-historic landslide, illustrated on plate 2A (p. 30/50) of the June 20, 2012, Kleinfelder report in Section 8, of the Partnership’s submittal materials for the Raw- and Finished-water pipeline, north and east of the Water Treatment Plant site, as evidence that the area is subject to liquefaction and lateral movement. In addition, the Planning Commission concluded that the presence of this pre-historic deep-seated landslide demonstrates that a buttress of more consolidated and stable soils is not present to the east of the Water Treatment Plant site and Raw- and Finished-water pipeline alignment, contrary to information presented by the Partnership attesting this buttress was present. Additionally, the Planning Commission is not convinced by evidence supplied by the Partnership to the contrary, that the proposed design of these facilities would enable them to withstand a magnitude 9.0 Cascadia Subduction Zone seismic event in this area.

In addition, given the significant impacts of the project as discussed above under Finding 1, and the aesthetic impacts discussed below under Finding 4, although the existing plant has been a good neighbor, the site is not suitable to accommodate the proposed expansion.

Finding 3: The Planning Commission finds that the Partnership’s proposal is not consistent with CDC Section 60.070(A)(7) (*“The use will comply with the applicable policies of the comprehensive plan*) and the West Linn Comprehensive Plan based upon the following findings:

- A. The Partnership’s proposal is inconsistent with Goal 2, Section 1, Policy 8 of the Comprehensive Plan, which states *“Protect residentially zoned areas from the negative impacts of commercial, civic, and mixed-use development, and other potentially incompatible land uses.”* The overwhelming testimony from affected nearby and neighboring property owners was consistent in describing that both the temporary 32-month construction period and the permanent scale and operational requirements of the proposed expansion would not be compatible with the surrounding residentially zoned neighborhood, which is comprised of established single family residences. Although the existing plant was uniformly described as a “good neighbor” the new building would be significantly larger, more industrial in appearance and would have exterior lighting that would be more invasive than the current plant. Based on the Applicant’s revised site plan, the buffering and setbacks are not sufficient to adequately protect the neighborhood from the dominant appearance of the project. Significantly more chemicals must be brought to the site to treat the greatly increased water being processed, and such chemicals are potentially hazardous putting nearby residents at increased risk. As discussed above, the Planning Commission also finds that the greatly increased size of the proposed plant presents a greater risk of significant property damage to the homes that could be impacted by a major earthquake and/or landslide event. In all of these respects, the Commission finds that the proposal is not consistent with the Policy’s clear requirement that residentially zoned areas be protected from such intrusions.

- B. The Partnership's proposal is inconsistent with the February 5, 2003, West Linn City Council Goal number 9 (contained on p. 2/117 of the Comprehensive Plan) to, *"Oppose urbanization of the Stafford Triangle and pursue policies that would permanently retain that area as a rural buffer between West Linn and neighboring communities."* The Planning Commission finds that the Council goals are incorporated into and were adopted and acknowledged as part of the West Linn Comprehensive Plan. Although titled "goals" and not policies, the Commission finds that these Council goals are the adopted policy objectives of the elected governing body of the City, and must be applied in the context of this review. The Planning Commission finds that, despite assertions that policies contained in the Lake Oswego Comprehensive Plan oppose development of the Stafford Triangle, the inclusion of portions of the Stafford Triangle in the Partnership's initial feasibility analysis (which allocated approximately 2 mgd of future water to the area) demonstrates that the project could facilitate development of the Stafford Triangle contrary to the West Linn Comprehensive Plan.
- C. The Partnership's proposal also fails to satisfy the following additional West Linn City Council Goals dated February 5, 2003 (contained on page 2/117 of the West Linn Comprehensive Plan) *Goal 1: Maintain and protect West Linn's quality of life and livability.* See Finding 1(C). The Partnership's proposal fails to protect residents' quality of life and livability by closing Mapleton Drive to through traffic between 7am and 7pm and by creating a potentially hazardous situation for pedestrians travelling through the construction work zone on Mapleton Drive. In addition, 86 new construction-related trips on Mapleton Drive would add delay and potential safety risks for residents in this area and therefore jeopardize their quality of life and livability;
- Goal 2: Actively support and encourage West Linn's neighborhood associations and promote citizen involvement in civic life. Establish and maintain policies that give neighborhoods real control over their future;*
- Goal 6: Promote land use policies, both locally and regionally, that are based on the concepts of sustainability, carrying capacity, and environmental quality;and*
- Goal 11: Assert through both planning and policy that compatibility with existing development should be a primary goal in West Linn's land use process.*

Finding 4: The Planning Commission finds that the Partnership's proposal fails to satisfy CDC Section 60.070(A)(1) – *The site size and dimensions provide, a) adequate area for the needs of the proposed use; and, b) adequate area for aesthetic design treatment to mitigate any possible adverse effect from the use on surrounding properties and uses* - in that the Partnership's proposal creates safety concerns for children walking along Mapleton Drive to and from school during the estimated 32 month construction period for the proposed project.

The proposal constitutes a replacement of an existing plant with what is essentially a new, much larger plant. The subject site in a residential area is not adequate for the large

replacement plant because of the disruption to the neighborhood during the proposed 32 month construction period.

As noted above under Finding 3, the failure of the proposed project to meet the Comprehensive Plan Policy requiring the protection of residential areas from incompatible uses is not met, further demonstrating that the proposal does not contain adequate area for an industrial building of the size and scale proposed here.

This decision will become effective 14 days from the date of mailing of this final decision as identified below. Those parties with standing (i.e., those individuals who submitted letters into the record, or provided oral or written testimony during the course of the hearings, or signed in on an attendance sheet or testimony form at either of the hearings, or who have contacted City Planning staff and made their identities known to staff) may appeal this decision to the West Linn City Council within 14 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code. Such appeals would require a fee of \$400 and a completed appeal application form together with the specific grounds for appeal to the Planning Director prior to the appeal-filing deadline.



MICHAEL BABBITT CHAIR
WEST LINN PLANNING COMMISSION

11-26-12
DATE

Mailed this 27th day of November, 2012.

Therefore, this decision becomes effective at 5 p.m., December 11, 2012.

WEST LINN PLANNING COMMISSION

FINAL DECISION NOTICE

CUP-12-04/DR-12-14/MISC-12-10/WA-12-03/WR-12-01

IN THE MATTER OF THE PROPOSAL FOR A CONDITIONAL USE, CLASS II DESIGN REVIEW, CLASS II PARKS DESIGN REVIEW, FLOOD MANAGEMENT AREA, WATER RESOURCES AREA AND WILLAMETTE RIVER GREENWAY PERMIT FOR THE PROPOSED INSTALLATION OF A WATER TRANSMISSION LINE FROM THE CITY LIMITS UNDER THE WILLAMETTE RIVER, THROUGH MARY S. YOUNG STATE PARK TO THE CITY'S NORTHERN BOUNDARY BORDERING THE CITY OF LAKE OSWEGO VIA MAPLETON DRIVE AND HIGHWAY 43

On October 17, 18 and 25, and November 1, 2012 the West Linn Planning Commission conducted a duly noticed public hearing to consider the request by the Lake Oswego-Tigard Water Partnership (Partnership) to install a water transmission line through the City of West Linn. The applicable review criteria for the Conditional Use, Class II Design Review, Class II Parks Design Review, Flood Management Area, Water Resources Area and Willamette River Greenway standards are found in the West Linn Community Development Code (CDC). The approval criteria for Conditional Uses are located in Chapter 60 of the CDC. The approval criteria for Design Review are found in Chapter 55 of the CDC. The approval criteria for Parks Design Review are found in Chapter 56 of the CDC. The approval criteria for Flood Management Areas are found in Chapter 27 of the CDC. The approval criteria for Water Resource Areas are found in CDC Chapter 32. The approval criteria for the Willamette River Greenway are found in CDC Chapter 28. The hearing was conducted pursuant to the provisions of CDC Chapter 99.

On May 16, 2012 the applicant submitted a written request to suspend a related application for the expansion of a water treatment plant to allow additional work in several areas of concern identified during the public hearing, and to allow the water treatment plant application to be considered concurrently with the application for a pipeline to serve the expanded treatment plant. The Commission granted this request and suspended the hearing on May 16, 2012.

On October 17, 18 and 25, and November 1, 2012 the Planning Commission reconvened and conducted a duly noticed public hearing to consider both this application and the related application for the expanded water treatment plant. The Commission record consists of all materials from the previous hearings together with the record of the reconvened hearing.

The hearing commenced with a staff report presented by Zach Pelz, Associate Planner. Dennis Koellermeier, Ed Sullivan, Jon Holland, Carrie Richter and other representatives from the Partnership presented for the applicant. The Commission then opened the hearing to the public, heard a significant amount of testimony and received written argument and evidence. A member of the public requested that the record be left open

pursuant to ORS 197.763(6)(b) based on new evidence submitted at the continued hearing. The Commission granted this request, leaving the record open for seven days for all parties to respond to the new evidence. The applicant waived the additional seven day open record period provided by ORS 197.763(6)(e).

When the Commission reconvened the hearing on November 1, 2012, the applicant responded with rebuttal, followed by questions from the Planning Commission for City staff. The hearing was then closed, and the Planning Commission deliberated to a decision.

Following deliberations, a motion was made, seconded, and unanimously passed to deny the applications on the following grounds:

Finding 1: The Planning Commission finds that the applicant failed to satisfy CDC Subsection 60.070(A)(3) – *“The granting of the proposal will provide for a facility that is consistent with the overall needs of the community.”* In reaching this decision, the Planning Commission determines that the language of this criterion is ambiguous, and requires interpretation. As such, the Planning Commission makes the following interpretations and findings:

- A. The term “community” refers to the community to which the Comprehensive Plan and CDC apply, which is limited to the City of West Linn. It does not mean the larger region. A “facility that is consistent with the overall needs of the community” is one that is designed and sized to serve the needs of the residents and land uses in the city. Although Lake Oswego’s existing water transmission line, both as it currently functions and as proposed, could continue to provide a supply of water to West Linn in the event of an emergency through an existing or replacement intertie with the West Linn water system, its primary purpose is to serve residents in Lake Oswego and Tigard, and therefore is inconsistent with the intent to meet the overall needs of West Linn residents. As noted in Finding 1(B), there is no guarantee that the proposed water transmission line would provide water to West Linn for any given period of time or by making water available on an emergency or backup basis. The scale of the proposal is regional in nature and therefore violates the intent that facilities in West Linn have the primary purpose and be of a scale to serve the community of West Linn.
- B. The applicant’s offer to potentially provide 4 million gallons per day (mgd) as an emergency water supply (as expressed in a proposed inter-governmental agreement (IGA) signed by the Cities of Lake Oswego and Tigard) to the City of West Linn until the year 2041, amounts to, at most, a temporary benefit to the City of West Linn and could therefore not be characterized as providing a facility that meets the overall needs of the community. Further, the offered IGA indicates that the Partnership can provide and will endeavor to provide 4 mgd of emergency water to West Linn; this provides no certainty that water will be available in the event of an emergency, consequently it does not satisfy a need, and as such a community need per Subsection 60.070(A)(3) is not satisfied.
- C. The Commission interprets the term “overall needs” as used in this criterion to mean that the facility must provide a benefit to the community for the duration of

that facility's existence in the community. Further, to determine if a need is met, one cannot evaluate the end result independent of the means to achieve that result. The Commission interprets the term "overall needs" to include an enhancement to the community that offsets any impacts the proposed development creates, resulting in a net benefit. Potential benefits provided by the facility, in terms of emergency water supply, must exceed the impacts/costs borne by residents, business operators and those relying on Highway 43 during the construction period, which as noted above, constitute a portion of the "community" identified in this criterion. The applicant's proposal uses the term "benefits" and provides a list of proposed amenities and improvements to the West Linn water system to demonstrate compliance with this criterion. Public testimony also relied on the term. Similarly, the Robinwood Neighborhood Plan, referenced in the Staff Report as part of Finding No. 10 in discussing compliance of the application with CDC 60.070(A)(7) uses the term "benefit." The Planning Commission finds that it is reasonable to include the concept of "benefit" as articulated here and in the Robinwood Neighborhood Plan as addressing the "overall needs of the community" criterion given the significant impacts of the project on the Robinwood Neighborhood.

West Linn residents and business owners testifying at the hearing indicated that the construction of the proposed project over the course of 32 months, entailing 86 truck trips per day on what is now a low volume (Mapleton Drive currently experiences 350 average trips per day) residential street without sidewalks, would generate noise, cause disruption, diminish the livability of the area, pose a safety risk for children walking through a construction zone to reach the school bus, and potentially slow emergency response times, thus jeopardizing public safety and potentially diminishing the ability to sell a dwelling along the affected streets, if necessary, as well as depressing property values. Further, business owners testified that impacts during the construction would be detrimental to their businesses. In the event the proposed project caused businesses along Highway 43 to close or relocate the impact could last until vacant storefronts are filled.

The temporary construction impacts, as well as the ongoing risks associated with the storage and transmission of 38 mgd of water in a seismically hazardous area of the City outweighed the temporary benefits that would accrue to West Linn residents with the approval of the facility. While the Partnership's offer to self insure by providing a \$1.5 million risk management fund, in addition to the Partnership's municipal insurance coverage, in the event of damage to property due to a failure in the proposed project is appreciated, the amount is inadequate to cover the potential significant property loss to surrounding homes in the event of a large failure, the 10 year duration is too limited and, absent a third party administering the fund, there is no certainty that the applicant would pay legitimate claims.

As discussed above, there is no demonstration that a need for water will be met by the proposed facility and yet it was abundantly clear from overwhelming public testimony that the proposal will have significant short term impacts and long term impacts (e.g., noise, heavy truck traffic, loss of property tax revenue) on the immediate neighborhood and those using Highway 43.

Finally, the Commission finds that the term “community need” should be interpreted by taking into consideration the sentiment of citizen participants engaged in the pending quasi-judicial land use hearing. Despite the recommendation in the adopted 2008 West Linn Water System Master Plan, to improve the supply reliability of the West Linn-Lake Oswego emergency water intertie, “community need” as set forth in CDC 60.070(A)(3) the Commission concludes this criterion is not satisfied both based on the analysis above, and because of the significant opposition to the Partnership’s proposal expressed by residents and local business owners throughout the hearing process indicating that the impacts exceed the potential benefits.

Finding 2: The Planning Commission finds that the application is not consistent with CDC Section 60.070(A)(2) – *“The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and natural features.”* The Planning Commission disagrees with the Partnership’s testimony regarding the suitability of the proposed water transmission line alignment to accommodate the 42- to 48-inch diameter pipe conveying up to 38 mgd given the potential for seismically induced liquefaction and lateral spreading of soils in this area as well as the potential for slope failure north and east of the proposed pipeline alignment. The Planning Commission referred to a deep-seated pre-historic landslide, illustrated on plate 2A (p. 30/50) of the June 20, 2012, Kleinfelder report in Section 8, of the Partnership’s submittal materials for the Raw- and Finished-water pipeline, north and east of the Water Treatment Plant site, as evidence that the area is subject to liquefaction and lateral movement. In addition, the Planning Commission concluded that the presence of this pre-historic deep-seated landslide demonstrates that a buttress of more consolidated and stable soils is not present to the east of the Water Treatment Plant site and Raw- and Finished-water pipeline alignment, contrary to information presented by the Partnership indicating that a buttress is present. Additionally, the Planning Commission is not convinced by evidence supplied by the Partnership to the contrary, that the proposed design of these facilities would enable them to withstand a magnitude 9.0 Cascadia Subduction Zone seismic event in this area.

In addition, given the significant impacts of the project as discussed above under Finding 1, and the impacts discussed below under Finding 4, the site is not suitable to accommodate the proposed water transmission line.

Finding 3: The Planning Commission finds that the Partnership’s proposal is not consistent with CDC Section 60.070(A)(7) (*“The use will comply with the applicable policies of the comprehensive plan”*) and the West Linn Comprehensive Plan based upon the following findings:

- A. The Partnership’s proposal is inconsistent with Goal 2, Section 1, Policy 8 of the Comprehensive Plan, which states *“Protect residentially zoned areas from the negative impacts of commercial, civic, and mixed-use development, and other potentially incompatible land uses.”* The overwhelming testimony from affected nearby and neighboring property owners was consistent in describing that both the temporary 32-month construction period and the permanent scale and operational requirements of the proposed expansion would not be compatible with the

surrounding residentially zoned neighborhood, which is comprised of established single family residences. Although the existing Lake Oswego water treatment facility, including the existing water transmission line was uniformly described as a “good neighbor” the proposed water transmission line would be significantly larger than the current line. As discussed above, the Planning Commission also finds that the greatly increased size of the proposed transmission line presents a greater risk of significant property damage to the homes that could be impacted by a major earthquake and/or landslide event. In all of these respects, the Commission finds that the proposal is not consistent with the Policy’s clear requirement that residentially zoned areas be protected from such intrusions.

- B. The Partnership’s proposal is inconsistent with the February 5, 2003, West Linn City Council Goal number 9 (contained on p. 2/117 of the Comprehensive Plan) to, *“Oppose urbanization of the Stafford Triangle and pursue policies that would permanently retain that area as a rural buffer between West Linn and neighboring communities.”* The Planning Commission finds that the Council goals are incorporated into and were adopted and acknowledged as part of the West Linn Comprehensive Plan. Although titled “goals” and not policies, the Commission finds that these Council goals are the adopted policy objectives of the elected governing body of the City, and must be applied in the context of this review. The Planning Commission finds that, despite assertions that policies contained in the Lake Oswego Comprehensive Plan oppose development of the Stafford Triangle, the inclusion of portions of the Stafford Triangle in the Partnership’s initial feasibility analysis (which allocated approximately 2 mgd of future water to the area) demonstrates that the project could facilitate development of the Stafford Triangle contrary to the West Linn Comprehensive Plan.
- C. The Partnership’s proposal also fails to satisfy the following additional West Linn City Council Goals dated February 5, 2003 (contained on page 2/117 of the West Linn Comprehensive Plan) *Goal 1: Maintain and protect West Linn’s quality of life and livability.* See Finding 1(C). The Partnership’s proposal fails to protect residents’ quality of life and livability by closing Mapleton Drive to through traffic between 7am and 7pm and by creating a potentially hazardous situation for pedestrians travelling through the construction work zone on Mapleton Drive. In addition, 86 new construction-related trips on Mapleton Drive would add delay and potential safety risks for residents in this area and therefore jeopardize their quality of life and livability;
- Goal 2: Actively support and encourage West Linn’s neighborhood associations and promote citizen involvement in civic life. Establish and maintain policies that give neighborhoods real control over their future;*
- Goal 6: Promote land use policies, both locally and regionally, that are based on the concepts of sustainability, carrying capacity, and environmental quality; and*
- Goal 11: Assert through both planning and policy that compatibility with existing development should be a primary goal in West Linn’s land use process.*

Finding 4: The Planning Commission finds that the Partnership’s proposal fails to satisfy CDC Section 60.070(A)(1) – *The site size and dimensions provide, a) adequate area for the*

needs of the proposed use; and, b) adequate area for aesthetic design treatment to mitigate any possible adverse effect from the use on surrounding properties and uses - in that the Partnership's proposal calls for construction and heavy equipment in the streets without sidewalks that creates safety concerns for children walking along Mapleton Drive to and from school during the estimated 32 month construction period for the proposed project.

Moreover, while the applicant failed to provide an analysis of these impacts, the Commission finds that proposed night-time work on Highway 43 would have adverse effects to residences upslope from Highway 43. Similarly, the Commission finds that noise impacts associated with the 24- to 48-hour continuous "pullback" phase of the horizontal directional drilling (HDD) operation is expected to generate noise levels of 55 to 61 dBA and would have adverse impacts on surrounding properties.

The proposed pipeline alignment is not adequate for the large replacement water transmission line because of the disruption to the neighborhood during the proposed 32 month construction period.

This decision will become effective 14 days from the date of mailing of this final decision as identified below. Those parties with standing (i.e., those individuals who submitted letters into the record, or provided oral or written testimony during the course of the hearings, or signed in on an attendance sheet or testimony form at either of the hearings, or who have contacted City Planning staff and made their identities known to staff) may appeal this decision to the West Linn City Council within 14 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code. Such appeals would require a fee of \$400 and a completed appeal application form together with the specific grounds for appeal to the Planning Director prior to the appeal-filing deadline.



MICHAEL BABBITT CHAIR
WEST LINN PLANNING COMMISSION

11-26-12

DATE

Mailed this 27th day of November, 2012.

Therefore, this decision becomes effective at 5 p.m., December 11, 2012.

Pelz, Zach

From: Dave Froode [dfroode@comcast.net]
Sent: Monday, January 21, 2013 7:09 AM
To: Pelz, Zach; Mollusky, Kathy
Subject: Re: CUP Record Stafford

Please submit this to the record for

West Linn City Council

RE: AP-12-02 and AP-12-03

The LOT project is required to comply with the West Linn Comprehensive Plan WL CDC 60.070 (A)(3) **"The use will comply with the applicable policies of the comprehensive plan. "**

"Preservation of the Stafford Triangle is adopted City Policy , Council Goal # 9 of the comprehensive plan: Oppose urbanization of Stafford Triangle and pursue policies that would permanently retain that area as a rural buffer, between West Linn and neighboring communities."

Repeatedly in the Carollo Report and the application to Dept of State Lands, LOT made it clear the water from the Clackamas River is needed to serve the Stafford area in Oswego's build out. This is no red herring and in direct conflict with Goal #9.

Further, during the Planning Commission hearings, Dr Bob Martin questioned the attorney representing the LOT Partnership as to whether the water from the Clackamas River could be restricted from being used to serve the Stafford Triangle. Dr. Martin asked if Stafford could be served by other sources of water available to LOT Water Partnership thereby avoiding the use of the Clackamas River water to serve Stafford. The attorney's answer "that would be very difficult and unlikely."

LOT's Atty Ed Sullivan and several others tried spin the Stafford Triangle issue by calling it a "red herring." LOT made a fundamental strategic error. Simply, their reports do not agree. Again, the LOT Water Partnership made numerous statements in writing one of the main purposes and needs for increasing it's taking from the Clackamas River is to serve the

Stafford Triangle. There can be no denying this. One need not be a lawyer or an engineer to read and understand the English language. This obviously conflicts with the West Linn Comprehensive Plan.

Unfortunately the West Linn staff dismissed the goals as "aspirational declarations". However

the Comprehensive Plan clearly states "The goals and policies contained within this plan _ have the **force of law and the city is obligated to adhere to them** in implementing the plan. "

Through out the years, substantial efforts have been by many across our community creating the blue prints for our city. This is certainly no time to abandon it, given the magnitude this project could have on our community. Now is the time to allow the Comprehensive Plan to perform it's very purpose and to be our guiding influence for our community. The West Linn Comprehensive Plan best describes what the community believes to be it's goals and benefits. **Who better to determine this than West Linn people from yesterday, today and tomorrow?**

This project is non complying to a major proportion that can not be corrected by any condition of approval. Not only do we request the West Linn City Council honor the Planning Commission's decision, it is paramount, we as a united community abide by our Comprehensive Plan. It provides the absolutes we agreed to and are bound by.

Respectively,
David J. Froode
19340 Nixon Ave. West Linn

Pelz, Zach

From: Tan, Jennifer
Sent: Sunday, January 20, 2013 5:28 AM
To: Pelz, Zach
Cc: Jordan, Chris
Subject: Fwd: Concerns

Hi Zach,

Can you please include this in the record and send the appropriate response? Thank you.

Jenni

Sent from my iPad

Begin forwarded message:

From: Scott Gerber <jumpin@cmn.net>
Date: January 18, 2013 1:01:55 PM PST
To: "Tan, Jennifer" <jtan@westlinnoregon.gov>
Subject: Concerns
Reply-To: Scott Gerber <jumpin@cmn.net>

Councilor Tan,

Since you actually received votes from this household in the last election, I am addressing this specifically to you, but it is an all inclusive message. There have been some recent actions on the part of the council that are disturbing to me. Just prior to the LOT appeal, the council chose to draft an IGA for LOT's right of way use and take the water rate increase off the ballot. I do not understand why these issues were acted upon before the hearing even began. Quite frankly it gives the impression that you as a group had already decided the direction this thing was going to go. It seems it would have been more prudent to wait until you had made a decision. If your decision is to deny, then the IGA will be moot, and the rate increase might play a different role going into the future.

I certainly don't think it would have hurt to wait to address these issues until the project was actually approved if that were to be the decision.

I hope that you can understand why this concerns me as an opponent to this project. To a person, the council claimed no bias, and we did not challenge that. What is done is done, but I would certainly appreciate it if you would discuss this with the rest of the council and offer some basis for what seems to be poor timing if not inappropriate action. In the event of a PC overturn and a LUBA appeal, there will be some explanation needed.

Respectfully

Scott Gerber
West Linn, OR
503-744-0817



Councilor Jennifer Tan
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



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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.

Pelz, Zach

From: Kovash, John
Sent: Saturday, January 19, 2013 9:52 AM
To: Pelz, Zach; City Council
Cc: Sonnen, John; Jordan, Chris; Wyatt, Kirsten
Subject: RE: January 14 staff presentation

Council: I asked for this information primarily for slide 54 as it lists some alternative costs. I also asked staff to see if there is in the record, information on the Bolton Reservoir, its size requirements and associated estimated replacement costs with and without the intertie.

Enjoy the holiday,
John



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From: Pelz, Zach
Sent: Friday, January 18, 2013 4:57 PM
To: City Council
Cc: Sonnen, John; Jordan, Chris
Subject: January 14 staff presentation

Good evening,

Attached for your review is a copy of staff's presentation regarding the Lake Oswego-Tigard appeal from January 14.

Thanks and have a good weekend,

Zach

Zach Pelz, Associate Planner
Planning and Building, #1542

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: Kovash, John
Sent: Saturday, January 19, 2013 9:43 AM
To: Pelz, Zach; City Council
Cc: Sonnen, John; Jordan, Chris
Subject: RE: lot

FYI council. John



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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: Pelz, Zach
Sent: Friday, January 18, 2013 4:34 PM
To: Kovash, John
Cc: Sonnen, John; Jordan, Chris
Subject: RE: lot

Mr. Mayor –

The conditions of approval to the Water Treatment Plant were revised slightly to reflect new information submitted by the applicant during the Planning Commission Hearings. The version I sent previously were the original conditions of approval. Here are the latest WTP conditions of approval (pp. 8-10). The changes from the original version are tracked in red underline and strikethrough.

Sorry about the confusion,

Zach

Zach Pelz, Associate Planner
Planning and Building, #1542

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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: Pelz, Zach
Sent: Friday, January 18, 2013 4:00 PM
To: Kovash, John
Cc: Sonnen, John
Subject: RE: lot

Staff's original conditions of approval are found here:

WTP (staff report p. 20-23) conditions of approval
Pipeline (staff report p. 15-17) conditions of approval

Thanks,

Zach

From: Sonnen, John
Sent: Friday, January 18, 2013 3:53 PM
To: Pelz, Zach
Subject: FW: lot

Please reply ASAP

John Sonnen, Planning Director
Planning and Building, #1524

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From: Kovash, John
Sent: Friday, January 18, 2013 3:51 PM
To: Sonnen, John
Subject: lot

Where do I find conditions of approval? John

CITY OF
West Linn

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



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Pelz, Zach

From: Sonnen, John
Sent: Friday, January 18, 2013 9:48 AM
To: Pelz, Zach
Subject: FW: Robinwood water dispute w/ LOswego/Tigard

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: Kovash, John
Sent: Friday, January 18, 2013 9:45 AM
To: Sonnen, John
Subject: FW: Robinwood water dispute w/ LOswego/Tigard



West Linn Sustainability Please consider the impact on the environment before printing a paper copy of this email.
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From: Jordan, Chris
Sent: Thursday, January 10, 2013 10:22 AM
To: 'Chris Ling'; CWL Council
Cc: Carson, Jody
Subject: RE: Robinwood water dispute w/ LOswego/Tigard

Thank you for your e-mail to the City Council regarding the Lake Oswego-Tigard project. Because this is a land use hearing scheduled before the City Council beginning on January 14, the Council is not in a position to engage in ex parte' communications. In accordance with the adopted City Council Rules governing the procedures for land use hearings such as this, all written arguments or other documents presented to Council for consideration must be submitted to the City Manager's office by 5:00 p.m. seven calendar days prior to the date of the hearing. All other written materials must be presented in person at the hearing. However, please be assured that the Council will receive a copy of your e-mail at the hearing on January 14.

Chris Jordan, City Manager
Administration, #1422

From: Chris Ling [mailto:cling@easystreet.net]
Sent: Thursday, January 10, 2013 10:11 AM
To: CWL Council
Cc: Carson, Jody
Subject: Robinwood water dispute w/ LOswego/Tigard

Though I've been a long time resident of West Linn and have briefly met Ms. Tan and Mr. Kovash, the only councillor I am acquainted with is Jody Carson. So, I am largely unknown to the current council and I hope my invisibility does not reduce the weight of my words and opinions. My participation in civic affairs in recent years is scant but I do observe and care about what our Council, Planning Commission and City staff are doing. In most cases, I am confident that the due diligence and resulting decisions of our governing bodies and volunteers are well measured and made with the intent of furthering the welfare of our city.

- The Robinwood water matter is complex and involves huge monetary and lifestyle sacrifices for our city. Our Planning Commission has weighed the evidence and arguments and ruled against LOT and Tigard.
- I have read Mr. Norman King's letter and though am not acquainted with this former mayor, respect his judgment and honor his motives in presenting his views. LOT and Tigard have appealed the Planning Commission's decision.
- I support the Planning Commission's decision and unless there are facts and figures new to the case, recommend that the City Council also support the denial of the water treatment plant.

Very simply, please cut through the outcry and media influences and just consider the basics.

- First, I have heard, read of, and observed few demonstrations in favor of the plant's construction and plans.
- Second, there must be alternative solutions available to LOT and Tigard for the accomplishment of the water transmission and amenities that are sought from the Robinwood project. Given the scale of the opposition by residents immediately affected by the project, perhaps an alternative, despite additional cost, would be preferable and feasible?
- Third, if the plant's construction were to move forward, what commensurate, equivalent compensation and amenities would ameliorate the disruption and cost to West Linn as the project is built? There are benefits and costs to every decision and perhaps the Robinwood residents and the City of West Linn could be compensated enough to make the project's fruition possible? Or, are the proponents unwilling to shoulder that burden? If the proponents are not willing or able to compensate the affected residents and city in general for this plant's construction and operation, then another alternative must be sought by LOT and Tigard.

Every proposal cannot be prudent or necessary as planned. People do not always get what they want, no matter how hard they argue. The cost of an idea is often prohibitive. Democracy is always messy.

Chris Ling, homeowner - 24 years
25315 Swift Shore Drive, West Linn, OR 97068
voice 503.6578433
fax 503.6570390

Pelz, Zach

From: Sonnen, John
Sent: Friday, January 18, 2013 9:48 AM
To: Pelz, Zach
Subject: FW: Lake Oswego-Tigard WTP
Attachments: CPBCTC West Linn.doc

John Sonnen, Planning Director
Planning and Building, #1524

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From: Kovash, John
Sent: Friday, January 18, 2013 9:38 AM
To: Sonnen, John
Subject: FW: Lake Oswego-Tigard WTP



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From: Jodi Guetzloe Parker [<mailto:jodi@cpbctc.com>]
Sent: Wednesday, January 16, 2013 11:55 AM
To: Kovash, John
Cc: Willy Myers
Subject: Lake Oswego-Tigard WTP

Dear Sir or Madam,

I attended the West Linn City Councilors meeting on Monday, January 14th and was told via the Mayors announcement that written testimony would be accepted regarding the above named project.

Please see my attached letter in support of the project. I had planned on attending tonight, however the website and subsequent phone call to City Hall alerted me to the fact that the Council was able to hear the balance of testimony last evening. I appreciate the Councils time and consideration on this important and critical matter.

Please feel free to contact me with questions or concerns at the numbers listed listed below.

Regards,

Jodi Guetzloe Parker
Columbia Pacific Building Trades Council
Executive Secretary Treasurer
3535 SE 86th Ave
Portland, OR 97266
O 503 774 0546
F 503 774 2816
C 503 347 2555
Jodi@cpbctc.com

January 14, 2013

Mayor Kovash and Member of the West Linn City Council
22500 Salamo Road
West Linn, OR 97068

RE: Lake Oswego-Tigard Water Partnership.

Mayor Kovash and Members of the City Council:

I represent the Columbia Pacific Building Trades Council (CPBTC) and I am here this evening to express support for the City of Lake Oswego's efforts to expand and modernize its water treatment plant and to make needed pipeline upgrades in West Linn. The CPBTC represents 25 different crafts including heat and frost insulators, boilermakers, brick and cement masons, electricians, ironworkers, laborers and many more. We are supportive of projects that provide living wage jobs so desperately needed to support our local economy, and the Lake Oswego-Tigard Water Partnership's water system improvements will do just that.

Over the past four years of recession, our economy has suffered and unemployment has risen. The Partnership's project has the ability to create or retain 2100 to 2700 direct local jobs that our economy needs. These direct jobs will employ many professionals and trades workers that I mentioned above.

That's not the whole story, however. This project, at the current estimate of \$252 million across four communities, will create indirect and induced jobs as well. These are jobs that are created as a result of the multiplier effects of construction dollars being spent in the region. Much of this money will end up in local communities like West Linn. Construction workers will spend money when they are in the community working and these expenditures will benefit your local business community. More directly, of the 25 crafts we represent and who are members of our organizations, some who live in the City of West Linn. These skilled workers—and more—will benefit from this project. We estimate the indirect and induced jobs to be an additional 2175 jobs, or 4275 jobs total.

Public works projects like those proposed by Lake Oswego and Tigard are vital to reduce joblessness in Oregon and to promote public health, safety, and economic prosperity in local communities like West Linn. On behalf of ten thousand members of the CPBTC, I urge your support of their project.

Jodi Guetzloe Parker
Executive Secretary Treasurer

Columbia Pacific Building Trades Council
3535 SE 86th Avenue
Portland, OR 97266

Pelz, Zach

From: Sonnen, John
Sent: Friday, January 18, 2013 9:48 AM
To: Pelz, Zach
Subject: FW: West Linn City LO water project support
Attachments: West Linn City LO water project.docx

John Sonnen, Planning Director
Planning and Building, #1524

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From: Kovash, John
Sent: Friday, January 18, 2013 9:39 AM
To: Sonnen, John
Subject: FW: West Linn City LO water project support



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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: Jani Aden [<mailto:Jani.Aden@ricoh-usa.com>]
Sent: Tuesday, January 15, 2013 12:16 PM
To: Kovash, John; Pelz, Zach
Subject: Fw: West Linn City LO water project support

Mayor Kovash and Zach Pelz, Please count on my support for the LO Water plant upgrade

Jani Aden
Customer Relationship Manager

RICOH USA
12100 SW Garden Place
Portland, OR 97223
Phone: 503.603.8362

Cell: 503.810.6561
Fax: 503.968.1053
E-mail address: Jani.Aden@Ricoh-USA.com



Mayor Kovash, Zach Pelz and the
West Linn City Council
22500 Salamo Rd.
West Linn, Oregon 97068

January 15, 2013

Dear Mayor Kovash,

I am a 21 year citizen of West Linn and enjoy my community and the lifestyle that West Linn has to offer. We have friends in several areas of the city and have listened to opinions as well as facts as they have been presented through various means. Over the last few months gotten more interested in the heated battle regarding the LO water project.

In business I value redundancy and reliability when considering critical components to infrastructure and business processes. Our water supply is a critical part of what any city provides residents for a safe and viable community short and long term. Having LO/Tigard fund the upgrade of this system is needed and beneficial to WL along with the surrounding communities and allows us to prioritize our funds for other components of our water system, distribution and upgrades adding to capacity and reliability.

I recognize there will be disruption and a sacrifice by some in increased traffic, potential interference in business, (although the workers and activity may actually contribute to our local businesses) noise and other impacts that accompany any civic project, but it is for the good of the whole community. We all endured the traffic circle at Stafford and Rosemont the closure of the Old WL/OR City bridge etc. This is part of living in a thriving and healthy community.

It is unfortunate that this has turned into such a battle which seemingly stemmed from a poor initial presentation/proposal and methods and some misunderstood actions. That does not change the fact that our population is increasing and the current plant is aging and in need upgrade to support increased demand and longer term back up for West Linn greater than a few hours, we will benefit by increased reliability and water availability with the upgraded plant.

I support the water plant upgrade.

Jani Aden

Pelz, Zach

From: Sonnen, John
Sent: Friday, January 18, 2013 9:48 AM
To: Pelz, Zach
Subject: FW: LOT Water Treatment Plant

John Sonnen, Planning Director
Planning and Building, #1524

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From: Kovash, John
Sent: Friday, January 18, 2013 9:45 AM
To: Sonnen, John
Subject: FW: LOT Water Treatment Plant



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: doug willison [<mailto:dougalice@comcast.net>]
Sent: Thursday, January 10, 2013 10:11 AM
To: CWL Council
Subject: LOT Water Treatment Plant

This email will be sent to the West Linn Mayor and Councilors: January 10, 2013

Mayor and Councilors:

You may consider this letter as opposition to the proposed LOT treatment plant. We are senior citizens and have been residents of West Linn for over 41 years and reside in the Robinwood district. It would appear that construction of this proposed plant would be harmful to the city of West Linn and its residents and businesses with no advantage to the city at all. In fact, it would be extremely detrimental to all of us.

I am not an expert but I do have a geography degree from Northwestern University and feel that a water plant of this nature built in an earthquake zone subject to liquefaction would be a horrible mistake. Also consider the fact that the city would lose revenue, real estate values would drop, reimbursement from L.O.

and Tigard is almost non-existent and there is minimal benefit to West Linn. Thanks for your consideration and please deny the LOT application and protect our fine city.

Sincerely,

Douglas S. Willison & Alice L. Willison

4625 Calaroga Dr., West Linn, OR 97068

Pelz, Zach

From: Sonnen, John
Sent: Friday, January 18, 2013 9:47 AM
To: Pelz, Zach
Subject: FW: Robinwood water dispute w/ LOswego/Tigard
Attachments: Chris Ling.vcf

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: Kovash, John
Sent: Friday, January 18, 2013 9:46 AM
To: Sonnen, John
Subject: FW: Robinwood water dispute w/ LOswego/Tigard



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: Chris Ling [<mailto:cling@easystreet.net>]
Sent: Thursday, January 10, 2013 10:11 AM
To: CWL Council
Cc: Carson, Jody
Subject: Robinwood water dispute w/ LOswego/Tigard

Though I've been a long time resident of West Linn and have briefly met Ms. Tan and Mr. Kovash, the only councillor I am acquainted with is Jody Carson. So, I am largely unknown to the current council and I hope my invisibility does not reduce the weight of my words and opinions. My participation in civic affairs in recent years is scant but I do observe and care about what our Council, Planning Commission and City staff are doing. In most cases, I am confident that the due diligence and resulting decisions of our governing bodies and volunteers are well measured and made with the intent of furthering the welfare of our city.

- The Robinwood water matter is complex and involves huge monetary and lifestyle sacrifices for our city. Our Planning Commission has weighed the evidence and arguments and ruled against LOT and Tigard.
- I have read Mr. Norman King's letter and though am not acquainted with this former mayor, respect his judgment and honor his motives in presenting his views. LOT and Tigard have appealed the Planning Commission's decision.
- I support the Planning Commission's decision and unless there are facts and figures new to the case, recommend that the City Council also support the denial of the water treatment plant.

Very simply, please cut through the outcry and media influences and just consider the basics.

- First, I have heard, read of, and observed few demonstrations in favor of the plant's construction and plans.
- Second, there must be alternative solutions available to LOT and Tigard for the accomplishment of the water transmission and amenities that are sought from the Robinwood project. Given the scale of the opposition by residents immediately affected by the project, perhaps an alternative, despite additional cost, would be preferable and feasible?
- Third, if the plant's construction were to move forward, what commensurate, equivalent compensation and amenities would ameliorate the disruption and cost to West Linn as the project is built? There are benefits and costs to every decision and perhaps the Robinwood residents and the City of West Linn could be compensated enough to make the project's fruition possible? Or, are the proponents unwilling to shoulder that burden? If the proponents are not willing or able to compensate the affected residents and city in general for this plant's construction and operation, then another alternative must be sought by LOT and Tigard.

Every proposal cannot be prudent or necessary as planned. People do not always get what they want, no matter how hard they argue. The cost of an idea is often prohibitive. Democracy is always messy.

Chris Ling, homeowner - 24 years
25315 Swift Shore Drive, West Linn, OR 97068
voice 503.6578433
fax 503.6570390

Pelz, Zach

From: Sonnen, John
Sent: Friday, January 18, 2013 9:47 AM
To: Pelz, Zach
Subject: FW: Lake Oswego Tigard Water Partnership

John Sonnen, Planning Director
Planning and Building, #1524

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From: Kovash, John
Sent: Friday, January 18, 2013 9:47 AM
To: Sonnen, John
Subject: FW: Lake Oswego Tigard Water Partnership



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From: Dale Fossati [<mailto:fossatid@teleport.com>]
Sent: Wednesday, January 09, 2013 3:41 PM
To: Kovash, John
Subject: Lake Oswego Tigard Water Partnership

Mayor Kovash,

My wife and I strongly oppose the Lake Oswego Tigard water treatment plant expansion. The harm from this project far out way the benefits.

Dale and Jennifer Fossati

January 18, 2013

Dear Mr. Mayor and West Linn Council members,

As the debate surrounding the appeal of the Lake Oswego Tigard Partnership's applications for its proposed water projects has become extremely heated, with reams of additional information being submitted at the 11th hour by the applicant and their attorneys, I would like to ask each of you this very simple question.

If the situation was reversed, and West Linn was looking to expand its water supply, and we went to Lake Oswego, and we went before their Mayor, City Council, businesses, and residents, and we asked them to please approve the following plan:

- West Linn would like to build or expand a West Linn dedicated industrial water facility in the middle of one of Lake Oswego's residential neighborhoods, on a quiet street near one of their local parks; and
- West Linn also proposes to construct a large water pipeline down one of Lake Oswego's biggest and busiest commercial and commuter corridors; and
- West Linn told Lake Oswego we were very sorry, but the construction would unfortunately create a nuisance to the daily lives of a large number of Lake Oswego residents, commuters, and businesses for a 2 to 3 year period, **even** assuming the very best project management occurs and that all the contractors meet their deadlines and follow all established rules and guidelines ; and
- West Linn informs Lake Oswego that unfortunately as part of our strategy we are also going to have **to sue** some Lake Oswego residents in order to ensure we can gain access to the land we need for these projects; and
- We told Lake Oswego that we were very sorry that this site is not the best solution or location for your citizens, but for some unclear reason we did not give any serious consideration to any alternate sites for these projects when we thought up this plan.

Then after telling Lake Oswego our "plan", we the say in return for letting West Linn dig up and disrupt your city:

- We promise to give Lake Oswego some emergency water **if** we are not using all of it, **and if** we have some available water from West Linn's system to give.

Do you really in your hearts think Lake Oswego would like this deal? Do you think **their** residents and **their** local businesses would view these projects as providing "a benefit" to their community? Do you think they would want or enjoy these projects being constructed in their backyard and interfering with their daily life for a 2 to 3 year period? **NO WAY.**

This is why the West Linn Planning Commission got it 100% right in unanimously denying these applications from the applicant in October.

I argue this issue has been made overly complex and confusing on purpose by the applicant. In fact this is a very simple cost benefit analysis for our City, with a host of clear negatives versus a few very contrived and massaged positives.

I urge you not to be influenced by all the spin, money, schmoozing, bought and paid for consultant "studies", and fancy lawyers the applicant has thrown at this project - all in an effort to somehow convince you and our citizens that their water project will "benefit" our city.

Ask yourselves this, would the applicant really have to spend all this time, money, and energy to try to convince our community if this was such a "home run" project for West Linn?

Just read the applicant's statement from their own website
(<http://www.lotigardwater.org/?p=project-information#learn>)

"In August 2008, the cities of Lake Oswego and Tigard formally endorsed a partnership agreement for sharing drinking water resources and costs. Lake Oswego's water supply system is near capacity, and key facilities need expansion and upgrades. Tigard residents need a secure, dependable water source. Both cities want to keep water affordable for their customers and sharing the cost of new infrastructure to serve both communities does that."

Do you see West Linn's name mentioned here?


That is because this partnership and these projects were never conceived to benefit West Linn in any material way, no matter how shrewdly the applicant and their hired guns now try to spin or contort this basic fact to get their way.

These projects were designed and engineered to benefit two other communities, Lake Oswego and Tigard - by their own words. Let me be clear, there is absolutely nothing wrong with these two cities wanting to improve their water supplies, but why should it be West Linn's problem to shoulder all of the construction disruption and other headaches when these projects were clearly not envisioned with West Linn's goals in mind?

I urge you to please listen to all the perhaps small, but nonetheless important voices in your community that do not want this project. These are the people that filled your council chambers this week to tell you they did not want these projects. These are the people that voted for you to fight for them and their community.

Please do not let the big money, consultants, and political agendas and goals of two other neighboring communities dictate West Linn's future. The reason why we are facing this dilemma is West Linn's prior city leaders caved and allowed the initial treatment plant to be built in our city. You are better than that.

Respectfully,


2560 Woodhull Ct
West Linn, OR 97068

18 January 2013

Richard L. Halliday
1920 Haverhill Way
West Linn, OR 97068-4904

Gentlemen;

After the City Council meeting of the 15th I at first felt that the expansion of the Lake Oswego-Tigard (LOT) water treatment plant was doomed. However, after talking with other observers, I became much more concerned. They pointed out several clues that indicated that your decision may have already been made and that they expected you would approve the project. This first baffled, then irritated and then angered me.

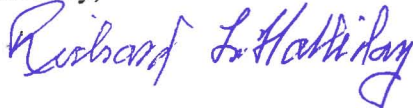
I must point out that we live in a republic, not a democracy. In a republic we citizens elect individuals to *represent* us. It would be impractical for us to make all the decisions that would be required if this were a democracy.

As citizens we have made our desires clear and we expect for you to faithfully represent us. We **do not want** the Lake Oswego-Tigard water treatment plant enlarged! It is therefore, your duty to support the Planning Commission and we citizens and to oppose this project.

I have an additional reason to oppose this proposed expansion. That expansion would allow Lake Oswego to exercise additional water rights to the Clackamas River. Those water rights are a legal fiction only lightly related to the amount of water actually in that river. One of the more probable reasons that West Linn would exercise our option (our conditional option) for additional water from the LOT facility would be insufficient water in the Clackamas River. Under those conditions they would most probably deny our request because that is when the "water rights" would exceed the actual amount of water that could be legally removed.

I most emphatically agree with the concluding speaker on Tuesday evening. If you should approve the LOT request against our wishes, then a one-time payment, even of five million dollars, is not sufficient. LOT should pay a substantial annual fee.

Sincerely,



18

January 15, 2013

TO: The West Linn City Council

13 JAN 18 11:10 44

FROM: John Surrett, 1685 Edgecliff Terrace, Lake Oswego, Oregon 97034

SUBJECT: Testimony (Revised and Resubmitted)

The Lake Oswego Tigard Water Partnership Agreement, through astronomical water rate increases to Lake Oswego water ratepayers, has already imposed such an incredible financial hardship on many long term residents (over 50% of the Lake Oswego population are seniors on fixed and reduced incomes) that many are deciding to sell their homes and move out. Several residents, including myself, have to pay their water bills in installments because they are so high. Recent bimonthly residential water bills have been in the \$450-600 range, some as high as a whopping \$800-900! In talks with the City's Water Dept. 90 percent of residential retail customers are outraged with their huge water bills. This is all driven by revenue requirements by the Partnership's current and future debt encumbrances and has nothing to do with today's actual costs of supplying water.

Opposed by many residents and not approved by voters, the rushed through deal signed in August of 2008 by the then Hammerstad Council, was initially sold to LO ratepayers as a way to address a purported "serious water shortage" and, later highly publicized, "water quality" problem.

In truth, without this project Lake Oswego annually has millions of gallons of water per day surplus. To mislead and mischaracterize Lake Oswego as having an annual water shortage is grossly wrong and is almost tantamount to fraud.

During a panel discussion with LOT Water Project representatives, Oregon Water Watch, and Robinwood neighborhood members, at a Lake Oswego Neighborhood Action Coalition (LONAC) meeting on November 6, 2010, charts showed only 6 days in 2006 had water usage over 13 mgd, in 2008, only 4 days over by that amount, and we now know that in 2011 peak use days were in the 12 mgd range. But even this episodic elevated demand is still far below the 16 mgd that our system can produce. Currently, L.O.'s winter demand for water is 3-4 mgd. Our annual average use is between 4-5 mgd. So where is this huge water shortage and what is wrong with our water quality? State of Oregon water quality reports show consistently excellent water quality—in the high 90 percent compliance range.

The lash-up with Tigard, Lake Oswegans were told, would save residents around \$20 million-- \$54 million versus \$78 million—which was the amount for Lake Oswego to go it alone to upgrade its water supply system facilities which are free and clear of debt and owned solely by Lake Oswego residents. Further, the Carollo Report said that upgrades could be accomplished with a \$5 million investment.

Under the Partnership, however, Lake Oswego's share is now in the \$140 million to \$150 million range for a total Project cost approaching \$300 million, maybe more—who knows. But, what we do know is that Lake Oswego's cost is almost 3-fold more than the original \$54 million cost by saving \$20 million through partnering with Tigard. This all for an unneeded Rolls-Royce style overbuilt system replacement.

Higher Project costs resulting in higher retail prices have greatly diminished residential customer demand for water. Over a 36% reduction is due to conservation (although the Carollo report assumed only 5% conservation by 2020). This has resulted in huge revenue reductions and, as such, creates a greater dependence on the need for the build-out of many thousand new residential hookups in the Stafford Triangle. There are numerous Stafford service area build out citations in the Carollo Report.

The Stafford build out is essential. Of the request for 38 mgd water rights to the Clackamas, 6 mgd is for Stafford. The revenue requirement to cover bond payments depends on the build out. If the rate base is not increased with new customers and more revenues, existing LO residential ratepayers will have to make up the shortage paying even higher water rates. More residents will move out, leaving a smaller and smaller pool of residents left to pay. In short, a death spiral could easily be the outcome.

West Linn doesn't want urbanization of Stafford and the West Linn City Council should agree with its Planning Commission decision not to grant conditional use permits for the Project or the build out of Stafford will assuredly occur as a necessary financing vehicle for the Project.

Tigard doesn't have a complete water supply system and no water rights to the Clackamas River. Through the Partnership, Tigard needs to have its name on Lake Oswego's water supply system assets in order by law to justify and charge system development fees to developers and others needing new water service hookups in Tigard. That is the crux of Tigard's motivation for this Project. Tigard has a blended water supply from several different water districts—including Lake Oswego which has been selling Tigard as much as one million gallons per day. So, a water shortage in Lake Oswego?

The City of Portland has a huge water supply capacity surplus. It receives over 40% of its water revenues from sales to wholesale customers—Tigard is notably one such customer. Portland has not incurred the costs cited in the Carollo report threatening to increase water prices to its wholesale customers. Portland needs to retain them (Tigard) and will price its product accordingly. Tigard has a big negotiating position with Portland to continue to receive Bull Run water at very affordable prices. Tigard knows this and the 2016 hammer which Tigard claims is looming over them to no longer receive water from Portland is a distortion/myth. Tigard's water supply contract is easily renegotiable.

There are unresolved overhanging clouds of uncertainty: a law suit challenging increased water rights, outstanding permit applications yet to be approved, Lake Oswego voter approval (required by the City Charter) of the Stafford Triangle annexation into the City—an essential ingredient for the revenue requirement to pay for the bonds. For these reasons and others, Lake Oswego has not yet issued bonds.

In conclusion, the non-voter approved Lake Oswego Tigard Water Agreement requires a thorough review by the Lake Oswego City Council. Many of the original assumptions from the Carollo Report are erroneous with overstated population forecasts and outdated revenue requirement assumptions. Coupled with these concerns are significant legal challenges. All these issues need to be addressed in a forensic-style audit by an independent expert. Therefore, all requests for any continued financing of the Agreement should be delayed until the results of an Audit are publicly known and options considered.

Thank you for your consideration of my remarks.

I agree that:

1. The Lake Oswego Tigard proposal is not consistent with the overall needs of the West Linn community.
2. The West Linn City Council should vote to uphold the unanimous decision of our West Linn Planning Commission.

Signature	Print Name	Street Address	Email (optional)
<i>John Surrency</i>	JOHN SURRENCY	1685 Edgcliff Terr. L.O.	
<i>Fredrick R. Jones</i>	Fredrick R. Jones	6267 WAYZATA CT	LO
<i>Jon Nash</i>	Jon Nash	705 Lake Forest Dr. LO	ldnash@comcast.net
<i>James Bolland</i>	James Bolland	804 Fifth St. LO	
<i>Sherry Finigan</i>	SHERRY FINIGAN	128 Condolee Dr. LO	
<i>Lisa Volpel</i>	LISA Volpel	5655 SW Kenny St, L.O. 97035	Mark.Kimball2@ frontier.com L.O. USB.
<i>Dianne Cassidy</i>	Dianne Cassidy	3601 Wren St. Lake Oswego, OR 97034	
<i>Barbara Zeller</i>	Barbara Zeller	3335 Sabina Ct. Lake Oswego OR 97035	
<i>Gail Parrick</i>	Gail Parrick	17185 CONSON CT L.O. 97034	gparrick@comcast.net
<i>David Beckett</i>	DAVID BECKETT	17738 Kelok Rd, L.O. 97034	

Help Save West Linn



I agree that:

1. The Lake Oswego Tigard proposal is not consistent with the overall needs of the West Linn community.
2. The West Linn City Council should vote to uphold the unanimous decision of our West Linn Planning Commission.

Signature	Print Name	Street Address	Email (optional)
<i>William Klammert</i>	<i>William Klammert</i>	<i>16915 BREENTREE</i>	<i>LO</i>
<i>Sidney Klammert</i>	<i>Sidney Klammert</i>	<i>16915 Breentree Ave</i>	<i>LO</i>

Help Save West Linn



Help Save West Linn



The Lake Oswego-Tigard Water Partnership (LOTWP) is trying to construct their new regional Water Treatment project in the middle of a West Linn residential neighborhood and along the Highway 43 commercial corridor.

On Nov 1st 2012, the West Linn Planning Commission voted 7-0, to deny the LOTWP application for two Conditional Use Permits, for the large industrial scale treatment plant and the 48" transmission pipeline to be placed in the middle of Highway 43 from Mary S. Young Park to Lake Oswego.

Our Planning Commission unanimously found that the project did not comply with CDC 60.070(A)(3), which states that the project must be consistent with the overall needs of the community. Simply put, the building of the industrial scale treatment plant in a residential neighborhood is bad for the West Linn community, businesses, and residents.

The Planning Commissioners also agreed that the LOTWP project did little to improve West Linn's aging water system and instead offered a false sense of security, delaying vital improvements that the City of West Linn needs.

I agree that:

1. The Lake Oswego Tigard proposal is not consistent with the overall needs of the West Linn community.
2. The West Linn City Council should vote to uphold the unanimous decision of our West Linn Planning Commission.

Pelz, Zach

From: Pelz, Zach
Sent: Thursday, January 17, 2013 11:06 AM
To: City Council
Cc: Jordan, Chris; Sonnen, John; Thornton, Megan
Subject: responses to questions from the Council

Good morning,

Since Tuesday, we've received a few questions from the Council that we'd like to provide responses to. To avoid deliberating, please send any follow-up questions or responses to me, or another member of staff only. I'll try to disseminate responses to any questions you raise, unless you specifically request otherwise, to the whole Council via email. Please see the questions and responses below.

Thanks,

Zach

1. RNA Atty. stated that this is a new application. Is this a new application?

Answer: No. The public hearing process is designed to allow an applicant an opportunity to modify proposed plans in response to testimony from the public, staff and the decision making body. This is one of the greatest benefits of the public hearing process. West Linn's CDC does not contain provisions establishing when modifications to a proposed plan require resubmittal, however, the City has historically required resubmittal where revisions would result in the application of substantial new code criteria (and where new criteria apply that were not included in the mailed and published notice of the public hearing).

In this case, removing one building and slightly reconfiguring visitor parking further reduces previously anticipated impacts (impervious area and construction duration) and does not require the application of new CDC criteria and therefore does not require resubmittal.

2. Testimony stated that this is a completely new facility and not an upgrade, especially considering the removal of the existing operations building. Is this an expansion of an existing plant or a new plant?

Answer: Because a water treatment plant exists on this site, this is considered an expansion or alteration. It would be considered a new plant if one had not previously existed on this site. Expansions of approved conditional uses are however, subject to the same review criteria as a new conditional use (CDC 60.070(A)). Staff has reviewed this application to modify/expand a conditional use relative to all the same criteria that would be applied to a new conditional use.

3. Lake Oswego did not look at alternative Water Treatment Plant sites. Is there an obligation to require an alternative site analysis?

Answer: No. Major utilities are allowed as conditional uses in all zoning districts subject to this application. Except in water resource areas, the CDC does not require that conditional use proposals evaluate alternative sites. Conditional Use applications must include a site analysis (if the land is undeveloped), a site plan, architectural drawings, a grading plan, a landscape plan, a sign plan, a circulation plan, a utility plan and a narrative responding to the applicable criteria.

CDC Chapter 32 requires that where roads, paths, trails, utilities or other similar facilities are proposed to be constructed through a water resource area, the applicant shall submit an alternatives analysis demonstrating that the proposal has the least impact to the resource area. In this case, the Partnership's pipe alignment avoids water resource areas and keeps impacts to areas already disturbed (existing streets).

Pelz, Zach

From: chuck landskronercrm [chucklandskronercrm@hotmail.com]
Sent: Thursday, January 17, 2013 10:42 AM
To: Dave Froode; Pelz, Zach; kmolluski@westlinnoregon.com; Kovash, John; Carson, Jody; Tan, Jennifer; Jones, Michael
Subject: Re: AP-12-02 and AP-12-03

Mr. Sullivan has presented absolutely no evidence that the application satisfies CDC 60.070(A)(3) which clearly states criteria for a facility such as the one being proposed is consistent with the overall needs of the community. On the contrary, there are names on the petition of those all over the entire metropolitan area that feel this application, if proposed in their neighborhood, would destroy it's livability as well.

From: Dave Froode
Sent: Thursday, January 17, 2013 7:13 AM
To: zpelz@westlinnoregon.gov ; kmolluski@westlinnoregon.com ; Kovash, John ; jcarson@westlinnoregon.gov ; jtan@westlinnoregon.gov ; Jones, Michael
Subject: RE: AP-12-02 and AP-12-03

Trust you will make sure it gets in to the record.

RE: AP-12-02 and AP-12-03

1. Why is the West Linn City Council exhausting it's political capital on a project the new LO council has indicated will be changing significantly? What you are seeing today you will not get tomorrow.
2. Did our Planning Commission, seven neighborhoods associations and over 1,000 citizens all have it wrong?
3. The WL PC cited at least nine conditions this project did not comply with. Were all nine not applicable? You only need one to deny the permits.
4. What would be the council's position if the \$5 mil. license fee had not been mentioned?
5. What will happen in the future? Will this \$5 mil. condition change the process to the extent the WL staff, WL PC, WL CC and the people will no longer need to evaluate the code if there is an adequate licensing, franchise or development fee attached to the application?
6. If WL staff and CC are going to change the CUP process, should it not be a Charter issue before the citizens of West Linn?
7. Why did you allow LOT Ed Sullivan to disparage citizens of West Linn?

Sincerely,

David J. Froode
19340 Nixon Ave. WL

Pelz, Zach

From: Jordan, Chris
Sent: Thursday, January 17, 2013 8:05 AM
To: Pelz, Zach
Subject: FW: Uphold Planning Commission Decision on Proposed LO-Tigard Water Project

Chris Jordan, City Manager
Administration, #1422

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

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From: Frank, Thomas
Sent: Wednesday, January 16, 2013 10:00 PM
To: Jordan, Chris; Sonnen, John
Subject: Fwd: Uphold Planning Commission Decision on Proposed LO-Tigard Water Project

Begin forwarded message:

From: "kkmurto@comcast.net" <kkmurto@comcast.net>
Subject: Uphold Planning Commission Decision on Proposed LO-Tigard Water Project
Date: January 16, 2013 9:26:17 PM PST
To: "Kovash, John" <jkovash@westlinnoregon.gov>, "Carson, Jody" <jcarson@westlinnoregon.gov>, "Frank, Thomas" <tfrank@westlinnoregon.gov>, "Tan, Jennifer" <jtan@westlinnoregon.gov>, "Jones, Michael" <mjones@westlinnoregon.gov>

Mayor Kovash and Council Members:

We are opposed to the Lake Oswego-Tigard water line/treatment plant proposal. Our Planning Commission earlier made to correct decision in denying this proposal, and we expect you to uphold that reasoned, courageous choice.

Their proposed water project does not benefit our City and will be a nightmare for our fellow residents and businesses in the Robinwood neighborhood. The late \$5 Million offer from Lake Oswego/Tigard is demeaning and smacks of bribery. And their project proposal is full of mistakes and errors.

We expect/urge you to come to the same decision as our Planning Commission. A reversal of that decision will be a huge step back for our City.

Thank you--

Ken and Karen Murto

5218 Summit St
West Linn, OR 97068



Councilor Thomas Frank
tfrank@westlinnoregon.gov
West Linn City Councilor
22500 Salamo Rd
West Linn, OR 97068
P: (503) 657-0331
F: (503) 650-9041
Web: westlinnoregon.gov



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Pelz, Zach

From: Jordan, Chris
Sent: Thursday, January 17, 2013 8:04 AM
To: Pelz, Zach
Subject: FW: LOT expansion

For the record

Chris Jordan, City Manager
Administration, #1422

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From: Carson, Jody
Sent: Wednesday, January 16, 2013 8:19 PM
To: Leo CONKLE
Cc: City Council; Jordan, Chris
Subject: RE: LOT expansion

thank you for your input - we will add it to the record - Jody



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

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From: Leo CONKLE [lconkle@msn.com]
Sent: Wednesday, January 16, 2013 12:15 PM
To: Carson, Jody
Subject: LOT expansion

Councilor Carson,

We have been West Linn residents for over 37 years, living at 4307 Kenthorpe Way, which is directly across the street from the Lake Oswego water treatment plant. My wife and I are both in our 80's, and are very concerned about the noise, (24hour/6), the extra traffic, the extra chemicals stored in our immediate neighborhood, the reduction in our property value that would be caused if the expansion is allowed. We implore you to consider all the testimony given, and come to the correct decision to not allow this to happen.

Considering the testimony heard on January 15th about the instability of the ground, we shudder to think what damage could be caused by the pounding of sinking nearly 1000 pilings required to support the plant & clearwell. As mentioned above, we live directly across on Kenthorpe and are very nervous about what could happen to our walls, including pictures on them and valuables on shelves; ceilings, and even house foundation, resulting from this almost "earthquake-like activity".

It is unhealthy to not get enough rest/sleep, and with development of this plant, our entire lives will be disrupted for nearly three years. Who will pay our medical costs? Constant noise for an extended period may cause tinnitus and/or hearing loss according to medical experts.

Respectfully requesting you to uphold the Planning Commissions 7 to 0 vote, we are

Maria and Leo Conkle
4307 Kenthorpe Way
West Linn, OR 97068-2115
503 636-0181

Pelz, Zach

From: Dave Froode [dfroode@comcast.net]
Sent: Thursday, January 17, 2013 7:14 AM
To: Pelz, Zach; kmolluski@westlinnoregon.com; Kovash, John; Carson, Jody; Tan, Jennifer; Jones, Michael
Subject: RE: AP-12-02 and AP-12-03

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RE: AP-12-02 and AP-12-03

1. Why is the West Linn City Council exhausting it's political capital on a project the new LO council has indicated will be changing significantly? What you are seeing today you will not get tomorrow.
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7. Why did you allow LOT Ed Sullivan to disparage citizens of West Linn?

Sincerely,
David J. Froode
19340 Nixon Ave. WL

Pelz, Zach

From: lamontking@comcast.net
Sent: Thursday, January 17, 2013 6:46 AM
To: Pelz, Zach
Cc: Carson, Jody; Jones, Michael; Tan, Jennifer; Kovash, John
Subject: LOT Rebuttal

Hi Zach,

During Mr. Sullivans' rebuttal at the CC Hearing he didn't mention the assertion that the WTP was not being expanded but but, in fact, replaced by an entirely new facility. When I went through our codes it seems that a "remodel or expansion" requires a significant portion of the existing building to remain which is not happening here. During my testimony and that of Norm Kings' we stated that this was not a remodel or an expansion and thus subject to an entirely new standard of fees and considerations. Why did you not consider this a new construction rather than merely a remodel? Our city council has a fiduciary responsibility to the citizens of West Linn to protect our interests and collect fees that are due which apparently was not done on this application. Please add this email to the record along with your response.

Lamont King

Pelz, Zach

From: Sonnen, John
Sent: Wednesday, January 16, 2013 10:21 PM
To: Pelz, Zach
Subject: FW: Uphold Planning Commission Decision on Proposed LO-Tigard Water Project

John Sonnen, Planning Director
Planning and Building, #1524

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From: Frank, Thomas
Sent: Wednesday, January 16, 2013 10:00 PM
To: Jordan, Chris; Sonnen, John
Subject: Fwd: Uphold Planning Commission Decision on Proposed LO-Tigard Water Project

Begin forwarded message:

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Subject: Uphold Planning Commission Decision on Proposed LO-Tigard Water Project
Date: January 16, 2013 9:26:17 PM PST
To: "Kovash, John" <jkovash@westlinnoregon.gov>, "Carson, Jody" <jcarson@westlinnoregon.gov>, "Frank, Thomas" <tfrank@westlinnoregon.gov>, "Tan, Jennifer" <jtan@westlinnoregon.gov>, "Jones, Michael" <mjones@westlinnoregon.gov>

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Thank you--

Ken and Karen Murto

5218 Summit St
West Linn, OR 97068



Councilor Thomas Frank
tfrank@westlinnoregon.gov
West Linn City Councilor
22500 Salamo Rd
West Linn, OR 97068
P: (503) 657-0331
F: (503) 650-9041
Web: westlinnoregon.gov



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Pelz, Zach

From: Sonnen, John
Sent: Wednesday, January 16, 2013 8:19 PM
To: Pelz, Zach
Subject: FW: Construction of LOT

John Sonnen, Planning Director
Planning and Building, #1524

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From: Frank, Thomas
Sent: Wednesday, January 16, 2013 12:12 PM
To: Jordan, Chris; Sonnen, John
Subject: Fwd: Construction of LOT

Thomas A. Frank

Sent from my iPhone

Begin forwarded message:

From: Leo CONKLE <lconkle@msn.com>
Date: January 16, 2013, 12:09:04 PM PST
To: "Frank, Thomas" <tfrank@westlinnoregon.gov>
Subject: Construction of LOT

Councilor Frank,

We have been West Linn residents for over 37 years, living at 4307 Kenthorpe Way, which is directly across the street from the Lake Oswego water treatment plant. My wife and I are both in our 80's, and are very concerned about the noise, (24hour/6), the extra traffic, the extra chemicals stored in our immediate neighborhood, the reduction in our property value that would be caused if the expansion is allowed. We implore you to consider all the testimony given, and come to the correct decision to not allow this to happen.

Considering the testimony heard on January 15th about the instability of the ground, we shudder to think what damage could be caused by the pounding of sinking nearly 1000 pilings required to support the plant & clearwell. As mentioned above, we live directly across on Kenthorpe and are very nervous about what could happen to our

walls, including pictures on them and valuables on shelves; ceilings, and even house foundation, resulting from this almost "earthquake-like activity".

It is unhealthy to not get enough rest/sleep, and with development of this plant, our entire lives will be disrupted for nearly three years. Who will pay our medical costs? Constant noise for an extended period may cause tinnitus and/or hearing loss according to medical experts.

Respectfully requesting you to uphold the Planning Commissions 7 to 0 vote, we are

Maria and Leo Conkle
4307 Kenthorpe Way
West Linn, OR 97068-2115
503 636-0181

CITY OF
West Linn

Councilor Thomas Frank
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West Linn City Councilor
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Pelz, Zach

From: Jordan, Chris
Sent: Wednesday, January 16, 2013 1:46 PM
To: Pelz, Zach
Subject: FW: Message Sent From West Linn Web Site

For the record

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: Bria Hudson [mailto:briahudson@hotmail.com]
Sent: Wednesday, January 16, 2013 1:34 PM
To: CWL Council
Subject: Message Sent From West Linn Web Site

Hi,

We live directly next door to the West Linn Water Treatment Plant on Kenthorpe Way.

We are highly against this project, but haven't been able to attend the latest meetings to voice our concern. What do I need to do to ensure our voice is heard in regard to this project? We would like it to be documented that we in no way approve this project and we are certainly not happy about the turmoil we'd be put through during the 3+ years of construction and the decline in our property value.

We live on a quiet, dead-end street and we'd like to keep it that way. We don't want 3+ years of construction, trucks and a mess while we're just trying to live our life in our home that we've worked so hard to build and maintain. This will ruin everything and completely destroy our lives and many others in this neighborhood.

How is this fair? How is it fair that if something goes wrong during construction that our insurance will be responsible to cover the damage? You are ruining lives with this project. The plan is to build a common area/park area that will be directly next to us and outside our bedroom. We don't want a park right outside our bedroom window, we don't want any of this, I don't think anyone would want that. They've been cutting down tons of trees and ruining our privacy....the main reason we bought this house 10+ years ago was because of the wooded backspace and privacy and now it's all going to be ruined.

Please help everyone effected by this project and don't let it happen. This isn't the right solution. We don't want to be exposed to construction for years and asbestos and whatever other damage is done because of this unnecessary project that will ruin our peaceful neighborhood. I feel sorry for the residents on Mapelton that were sued by LOT. This whole project stinks and is obviously not the right choice for our neighborhood.

Thank you for your time,

Chris & Bria Hudson
4160 Kenthorpe Way

Open the taps for Lake Oswego, Tigard

West Linn City Council should discard a parochial decision by planning commission

John Q. Public — or, more specifically, John Q. West Linn — can't toddle over to Lake Oswego and take a dip in the city's signature water body, a prohibition city leaders cemented last year by barring access even from public property. Gotta look out for public safety, you know.

Now comes Lake Oswego, with Tigard in tow, with a proposal to update the city's water treatment plant, which happens to be in West Linn. The West Linn Planning Commission told the Lake Oswego-Tigard Water Partnership to jump in a lake back in November, but West Linn's City Council will consider the matter itself. It's been holding public hearings this week and may come to a decision later this month.

The term "poetic justice" comes to mind, but it's hard to take much pleasure in Lake Oswego's predicament. The water project seems reasonable enough, the plant that would be updated has been in West Linn for decades, and the position taken by the West Linn Planning Commission is extreme.

Lake Oswego's water plant sits near Mary S. Young Park and brings water from the Clackamas River to Lake Oswego faucets. The proposal would boost capacity from 16 million

gallons per day to 38 million gallons per day, allowing Lake Oswego to modernize and Tigard, which now buys expensive Portland water, to find a new source. The proposal also includes the installation of larger pipes along Highway 43.

People who live near the plant are concerned about construction-related disruptions. They're also less than enthusiastic about the replacement of the existing plant with a larger version, though the Lake Oswego-Tigard Water Partnership says the footprint will expand by only 9 percent. These concerns are understandable and not at all surprising.

What is surprising, though, is the sweeping NIMBY treatment West Linn's planning commission gave the proposal, most notably through its interpretation of "community" as used by the city's development code.

To receive the necessary approval under the code, the water project would have to be "consistent with the overall needs of the community." Calling the criterion's language "ambiguous," the commission last fall decided to interpret it with the following result. Community refers only to West Linn — not any nearby towns — and a facility consistent with that

community's needs should be "designed and sized to serve the needs of the residents and land uses in the city." Though the proposed plant would provide millions of gallons of emergency backup capacity for West Linn, the commission decided, "its primary purpose is to serve residents in Lake Oswego and Tigard" and "the scale is regional in nature."

This parochial view would make better sense if Lake Oswego and Tigard had proposed to build a water treatment plant where none existed. But Lake Oswego has operated the plant since 1968, and it's only natural that the city would want to update it to accommodate growth and, yes, even regional cooperation.

It's not as if West Linn opposes all regional facilities, after all. The city partners with Oregon City and Gladstone to provide drinking water, according to a Jan. 3 report by West Linn planning staff. The three cities also team up for sewage treatment. Both the water treatment and sewage plants, the report notes, are in Oregon City.

In the spirit of the very same regional cooperation that benefits West Linn, the City Council should allow a reasonable expansion of Lake Oswego's water treatment plant.

needed convergence... big giveaway at the expense of the industry." Bed-and-breakfast Palmer of Southwest Portland via public blog My Oregon, found:

The Oregonian

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THE SHADOW OF GUNS

At the Legislature, shout-outs driven by shoot-out

SALEM —

The opening of an Oregon Legislature is a ceremonial occasion, with presentation and honoring of former governors, tribal officials, Supreme Court justices and any other names that might occur to the Senate president or House speaker.

Monday, Senate President Pe...



row for the families who lost loved ones, their friends and the broader community impacted by this tragedy, a sorrow that extends to the people of Newtown, Connecticut," said the governor. "Please join me in taking a moment of silence for the victims of gun violence everywhere — and a prayer that, together, we can lift this stain from our land."

Fifty miles north, Portland Mayor Charlie Hales was holding a news conference about the area's

just gun control," mental health services also need attention.

"My concern is this would just end up being a Second Amendment argument, which is a diversion."

Kitzhaber has said he won't be actively promoting gun control bills, but would likely sign whatever the Legislature passes. Especially, "I'm very supportive of Senator Burdick's school ban. The idea of guns in schools frightens me."

What the Legislature might send the gov-

assault weapon and oversize controls need to be federal decisions.

Prozanski plans to introduce applicants for a concealed carry through training with live gun ski did — and not just fill in

Will the session actually p... "After the Connecticut situation happened in Clackamas," he members said we need to differ from what we've been... We've been there before, 1