

ATTACHMENT 7

PUBLIC TESTIMONY

FILE NO.: AP-12-02 and AP-12-03

REQUEST: Appeal of Planning Commission decision in CUP-12-02 and CUP-12-04 denying application to expand Water Treatment Plant and install new Raw- and Finished-water transmission line

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.

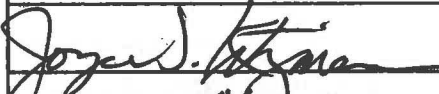
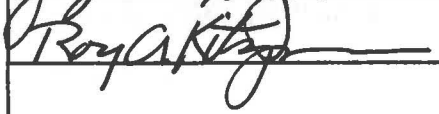
The Planning Commissioners also agreed that the LOTWP project did little to improve West Linn's aging water system and instead offered a false sense of security, delaying vital improvements that the City of West Linn needs.

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.

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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)
	Joyce S. Kitzmann	19480 Wilderness Dr.	rajskitzmann@gmail.com
	Roy A. Kitzmann	19480 Wilderness Dr.	rajskitzmann@gmail.com

Help Save West Linn



Pelz, Zach

From: Gary Hitesman [ghitesman@gmail.com]
Sent: Thursday, January 03, 2013 2:22 AM
To: Pelz, Zach
Subject: AP-12-02/AP-12-04: Conditions of Approval are Reasonable.

Zach,

Have all the previous testimonies and figures I submitted been placed into the record? If so, please provide the link.

Also, It should be placed into the record that Ms. Beery suppressed previously submitted testimony, or in the least, presented a bias towards submitting information to the PC in a UN-timely fashion equal to other submissions and with a bias favoring the applicant. The figures submitted during my presentation should have been handed out to PC members and the public along with all the other testimony, but was not.

I believe residents are entitled to an apology by Ms. Beery and an admission that #1)the application process has, again, been invalidated, and #2.) Citizen participation has been suppressed by the actions of Ms. Beery and the West Linn City Manager, Chris Jordan.

Gary Hitesman

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

From: Gary Hitesman <ghitesman@gmail.com>
Date: Thu, Jan 3, 2013 at 2:03 AM
Subject: Re: Conditions of Approval are Reasonable.
To:
Cc:

There are two precedents that should prevail in supporting the Planning Commission decision to deny the applicant.

#1 **The Holiday Inn CUP 10-03**. The PC approval of the project was overturned and denied based on the single argument, argued by John Kovash and supplied with data that he requested I provide.(In itself an underhanded and unethical move on both our parts.) The Conditions of Approval were equal in scale to the WTF and even though the PC approved the project, the City Council saw fit to deny the City's one chance to locate a hotel in our city. It might take some digging, but I believe I still have a record of those emails. But a submittal of the CUP 10-03 decision, I believe, will provided sufficient proof that the Conditions of Approval are reasonable and fall under the "discretion" of the decision makers. If LO wanted to appeal the issue of discretion to LUBA; let them. And if the City Council sides with the applicant, then the City Council will have reversed the very same precedent they established about two years ago.

Also, I believe the Holiday Inn applicant filed other legal actions against the City and lost. It would be instructive to locate the transcripts or findings of that case, or it's final outcome, to further establish that upholding the PC decision would not be considered unreasonable by LUBA.

#2. The recent application for the **Trillium Creek Elementary School** *was passed based on many Conditions of Approval similar in scale and impact to the proposed WTF*. But the record provides residents and the City with better proof that the Conditions of Approval for CUP-12-02/04 are not excessive; but very reasonable.

With the school, the Planning Commission approved the project even though the project failed to meet CDC 55.100 by allowing the 24 foot tall play structure. When residents complained about the ill fitting and property value-reducing structure to the City; it was deemed too late to do anything about it. The City admitted they had let this "one slip" and the PC was admonished to take their own counsel and not necessarily listen to staff. (I have an email from Dir. Sonnen saying as much.) This too should be entered into the record so that a history of staff mistakes can be put into the record and raised at LUBA.

The complaint by LOT appears to me to be totally facetious. IMO, the excessive amount of code violations allowed by city staff and as promoted by Ms. Beery have misconstrued the record. The applicant never made a formal presentation and did not meet the burden of proof by thanking staff for a job well done. At least the Planning Commission did the best they could do to draw out a response from the applicant. The Conditions of Approval drafted was the best the Commission could do considering the irreverent presentation by the applicant and the favorable bias presented by staff and supported by the city manager.

The Planning Commission denied the application based on the FACT that the applicant did not meet any of the items under CDC 60. This needs to be restated! Again, the Conditions of Approval, or council discretion, is not sufficient to overturn the Commission denial. The applicant failed to provide the burden of proof, the city manager suppressed citizen's rights to present "the burden of persuasion", and the code, on several counts, was not met.

Pelz, Zach

From: chuck landskronercrm [chucklandskronercrm@hotmail.com]
Sent: Wednesday, January 02, 2013 11:23 AM
To: Dave Froode; Pelz, Zach
Subject: Re: History RE: AP-12-02 and AP-12-03

Well, you have to admit that Dave has made an extremely convincing case supported by what seems to be irrefutable evidence. I would be very surprised to hear evidence to the contrary from Zach.

From: [Dave Froode](#)
Sent: Wednesday, January 02, 2013 9:37 AM
To: zpelz@westlinnoregon.gov
Subject: History RE: AP-12-02 and AP-12-03

Please submit to record for **RE: AP-12-02 and AP-12-03**

History

Attached is a document from the Clackamas County Commissioners archives showing the beginning of the Lake Oswego Water Treatment Facility in Robinwood. In 1967, Robinwood was unincorporated and opposed the facility in 1967. Evidence of that is illustrated by the 350 signatures on a petition provided by Mary Hill from Nixon Ave. Mary was well informed. Her brother was the manager of the Robinwood Water Board.

The document is a copy of the ruling from the Board of Clackamas County Commissioners dated April 19, 1967. However, note the Clackamas County Planning Commission denied Lake Oswego permits to build the facility on Feb. 27th, 1967. LO appealed the CC PC decision and it was over turned by the County Commissioners without a public hearing or input or at least no record of the sort is available.

At the bottom of the ruling, please note the second condition for approval, "*(2) and that said treatment plant will provide for the future needs of water users in Robinwood...and Lake Oswego areas.*" As we all know, even though there was adequate time for LO to connect Robinwood residents to their facility, it never happened. In addition, at least three property owners who lived in Robinwood at the time were never told by any one the facility would provide water to their homes. One could assume, if Oswego intended this facility to be a benefit to the Robinwood residents, that fact would have been widely broadcasted. But the contrary is true, the first they heard of it was reviewing this CCC document in 2012. Those three are Mary Hill, Elenora Larsen and Monte King. We contend the beginning of this facility was based on misrepresentation and quite likely acts of manipulation. Contrary to Oswego's allegation, the facility has never been welcomed in Robinwood.

Intertie Agreement

Since the facility was installed, LO has used the intertie agreement three times as a benefit in order to obtain Conditional Use Permits from West Linn. The first two were minor alterations, this one is a complete over haul involving a new facility with expansion to four acres. How many times is one agreement going to be used to justify this facility in a residential area?

The last IGA was formed in 2003. From 2003 to 2012, the two cities supplied emergency water to each other seven times for a total of 14 times one or the other needed water. That agreement seemed to be working fine until LO decided it could no longer honor it.

With this latest project, which is actually a whole new facility to accommodate Tigard's addition, once again the intertie is back on the table to be used as a benefit to West Linn. What should be understood is during a July 2012 work session between the WL CC and the City Manager, the council was told any changes to the IGA would be minor. The WL CM said most likely just involve adding Tigard to the agreement. The CM went on to say the staff would handle it and the council would probably not have to be involved. It is important to recall that work session because this new agreement is being heralded as a cure for West Linn's emergency water needs. It is no longer a minor adjustment to an agreement that was working fine. Obviously the breach allowed LO to create a new crises and a new benefit to justify the CUP being applied for.

Corollo Report

Further evidence of this calculated manipulation is illustrated in LOT's Corollo Report along with the recent Water Resource Board report submitted by LO this past summer. The Corollo Report was a feasibility study done by LOT in 2007 to justify the project. As it turned out, from 2007 to 2012, the next five years, the numbers have changed. Oswego has reduced it's consumption by 36% due to conservation efforts. They will no longer need to increase their taking even with a build out to include the Stafford area. It would seem logical to conclude their allegation of not being able to supply emergency water to West Linn does not prove correct either.

Need and Purpose

The only reason why Oswego still wants (but not a need) to take more water from the Clackamas River is to supply Tigard with it. Tigard is not in the Clackamas River basin. Tigard can continue with Portland's Bull Run system. Tigard can changed it's charter to use the Willamette River water. Tigard can cobble on to Wilsonville's over built water system. Tigard does not have to have Clackamas River water to meet their city's needs. Yet Oswego allows Tigard to tap the Clackamas River so Tigard can pay 53% of the cost for the new facility needed by Oswego, but benefits Tigard too. Tigard wants and problems should not be West Linn's problem.

New IGA

The new IGA is not a long term solution for West Linn. It only lasts 29 years and the renewal would be LOT's decision based on water being available. Also, if the IGA is not renewed, LOT would not remove the facility in West Linn. As the West Linn Planning Commission implied, the new IGA is only temporary and possible. It is kicking the can down the road.

Conclusions

Given Oswego's track record back to 1967 demonstrating their struggles with honoring agreements, is it wise for West Linn to continue dependency on Oswego for our future needs? We think not. We would much prefer to develop solutions that are dependable and creates a long term fix.

Our options involve Clackamas River Water Board who did supply emergency water in Dec 2011. Or WL could purchase a mobile purification system called Tempest Environmental units. The unit can produce 30,000 gallons of water a day in an emergency. The cost is \$155,000.00 with grants available through Clackamas River Water Providers, Dept of Homeland Security. Last, it is time to explain to Oswego they will honor the agreement that was serving both communities since 2003. Or it might be time to remove the facility from West Linn due to the breach.

This project benefits Oswego and Tigard at West Linn expense. It was mishandled from the beginning by LOT and WL. Lets not allow their mistakes to jeopardize our community's future. It contains one false crises after another fabricated by LOT and wrongly being promoted by WL staff. The LOT Partnership will collapse under

its' own political weight and West Linn will be back to square one. At some time in the future, at least LO will be back pursuing a CUP and will certainly want to negotiate. What is on the table today, will be available in the future but at a far less cost to our community. Lets focus on them and pursue them as a united community.

Please honor the unanimous decision made by the West Linn Planning Commission. We have better choices, as do the citizens of Oswego and Tigard.

Respectfully,
David J. Froode
19340 Nixon Ave. WL.

Pelz, Zach

From: Scott Gerber [jumpin@cmn.net]
Sent: Wednesday, January 02, 2013 9:48 AM
To: Pelz, Zach
Subject: RE: Statemnet for record

Realize I left the 3 off the case # I'm sure you figured it out Just letting you know for the record Meant:
AP-12-02 and AP-12-03
Thanks
Jan

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

>From: "Pelz, Zach" <ZPELZ@westlinnoregon.gov>
>Sent: Jan 2, 2013 8:56 AM
>To: Scott Gerber <jumpin@cmn.net>
>Subject: RE: Statemnet for record

>
>Will do.
>
>Thanks,

>
>Zach

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

>
>West Linn Sustainability Please consider the impact on the environment before printing a paper copy of this email.
>Public Records Law Disclosure This e-mail is subject to the State Retention Schedule and may be made available to the public.

>
>-----Original Message-----

>From: Scott Gerber [<mailto:jumpin@cmn.net>]
>Sent: Wednesday, January 02, 2013 8:56 AM
>To: Pelz, Zach
>Subject: Statemnet for record

>
>Mr Pelz
>Can you please enter the attached to the record: RE: AP-12-02 and AP-12-0 Thank you Jan Gerber 3940 Kenthorpe Way West Linn OR
>503-744-0817

>
>

Pelz, Zach

From: Dave Froode [dfroode@comcast.net]
Sent: Wednesday, January 02, 2013 9:44 AM
To: Pelz, Zach
Subject: History Correction
Attachments: Logo.jpg

Correction. The work session referred to in History comments was June 4, 2012, not in July . **Please submit to record for *RE: AP-12-02 and AP-12-03***



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

CITY COUNCIL WORK SESSION

Monday, June 4, 2012

7:00 p.m. - Work Session - Council Chambers

1. [Call to Order](#)

[2012-06-01 City Manager Memo](#)

2. [Lake Oswego Water Intertie Intergovernmental Agreement](#)
3. [Business License/Home Occupation Fees](#)
4. [Review June 11, 2012 Agenda](#)
5. [Adjourn](#)

Thanks,
David J. Froode
19340 Nixon Ave WL

Pelz, Zach

From: Dave Froode [dfroode@comcast.net]
Sent: Wednesday, January 02, 2013 9:37 AM
To: Pelz, Zach
Subject: History RE: AP-12-02 and AP-12-03
Attachments: 001.jpg

Please submit to record for **RE: AP-12-02 and AP-12-03**

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Respectfully,
David J. Froode
19340 Nixon Ave. WL.

7

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

CLACKAMAS COUNTY
FILED

In the Matter of the Appeal of the CITY OF LAKE OSWEGO for a water treatment plant to be classified as a Conditional Use on property located on the south side of Kenthorpe Way at its easterly terminus, Robinwood Area

JDD 26 1967
COUNTY CLERK
NO. 11810

This matter coming on regularly at this time to be heard, and it appearing to the Board of County Commissioners that Deane Seeger, representing the City of Lake Oswego, has made application to the County Planning Commission to construct a water treatment plant as a Conditional Use within an R-10 Single Family Residential District, on property located as stated above, and more particularly described as Tax Lots 11-11, 11-12, 11-16, 30, 1, 32, and 33, George Walling D.L.C., Section 24, T2S, R1E, W.M., and

It further appearing to the Board that said application was heard at the regular meeting of the County Planning Commission on February 27, 1967, at which time the Commission denied the Conditional Use request, and

It further appearing to the Board that, subsequent to the Planning Commission's decision, Mr. Seeger, again representing the City of Lake Oswego, did, on the 9th day of March, 1967, file an appeal with the governing body of the County, and

It further appearing to the Board that said appeal application was heard by the Board of County Commissioners, after due notice, pursuant to the provisions of the Clackamas County Zoning Ordinance, at their regular session on Wednesday, April 5, 1967, at which time this matter was continued, and

It further appearing to the Board that subsequent to their afore-mentioned hearing, and after due consideration, the Board reached a decision on the appeal, now therefore,

IT IS HEREBY ORDERED that the appeal of the City of Lake Oswego for a water treatment plant as a Conditional Use on the above-described property be and the same is hereby approved subject to the regulations of the Clackamas County Zoning Ordinance and recommendations of the County Health Department, and (1) adequate landscaping and design so as not to detract from the residential character of the area; (2) and that said treatment plant will provide for the future needs of water users in Robinwood, Glenmorris, Marylhurst and Lake Oswego areas.

DATED this 19th day of April, 1967.

BOARD OF COUNTY COMMISSIONERS

Deane Seeger
Chairman

Fred Stegmann
Commissioner

[Signature]
Commissioner

Pelz, Zach

From: Scott Gerber [jumpin@cmn.net]
Sent: Wednesday, January 02, 2013 8:56 AM
To: Pelz, Zach
Subject: Statemnet for record
Attachments: Plant alternates.docx

Mr Pelz

Can you please enter the attached to the record: RE: AP-12-02 and AP-12-0 Thank you Jan Gerber 3940 Kenthorpe Way West Linn OR 503-744-0817

Zach –

We have reviewed the documents referenced below and we respectfully request that the staff report be revised to reflect the most recent information provided by the applicant.

City of West Linn Staff Report. Dated October 17, 2012. Finding 14, page 29.

The construction practices are designed to minimize impacts to water resources. By tunneling the RWP below the riverbed from Meldrum Bar under the Willamette River and then continuing at a depth between 60 and 34 feet under the wetlands and stream corridors in Mary S Young Park before daylighting the RWP on tax lot 200, there is no impact on overlying resources. On tax lot 200 the RWP transitions to a trench. Whereas concern about trenching is rooted in the expectation that the trench would cross and disturb a creek or wetland, the trenching process on Mapleton and Highway 43 will be **exclusively in the paved ROW** through these WRAs which will be bracketed by erosion control measures. No impacts on adjacent storm drainage channels, streamside vegetation, and water quality or water quantity are expected.

Water Resources Area and Habitat Conservation Area Technical Memorandum.
Dated June 15, 2012, page 7.

Areas Outside of MSY Park and OPRD Parcels

No impacts will occur to WRAs located outside of MSY Park. **All work will occur within existing roadways.** Pipeline crossings of existing stream culverts will occur either above or below the existing culverts so that no modifications to the culverts are needed.

It appears the staff report is no longer accurate based on the most recent plans from the applicant. These plans were made available by applicant to the neighborhood ahead of **Open House October 10, 2012.** PDF 119101620-EVA-1-FW.9.17.12. These plans show the following:

- The HDD work areas crossing Trillium Creek in front of Tax Lot 21E24BC400 and 21E24BC 500 are **outside the paved road area** and within the **WRA**.
- The open cut work area crossing Heron Creek in front of tax lot 21E24AC2500 is also **outside the paved road area** and within the **WRA**. In addition this alignment of the transmission pipeline is at the toe of a hillside that was the site of a recent slide.

These two areas are both outside the paved roadway and in WRA's. They are NOT the only locations on Mapleton where the most recent transmission line alignment indicates it will fall outside the paved area. **We request City staff review the waterline alignment as surveyed by the applicant to assess the new impacts.**

Thank you for your time.

Pelz, Zach

From: Walters, Rebecca [Rebecca.Walters@adp.com]
Sent: Wednesday, January 02, 2013 8:05 AM
To: Pelz, Zach
Subject: Appeal AP1202 and AP1203 Transmission Line - Construction Outside Paved Area
Attachments: outside of paved area10.23.12.pdf

Mr. Zach Pelz:

We have reviewed the City's Staff report and other documents with respect to the Lake Oswego/Tigard partnership's water treatment plant and pipeline construction project CUP 12-04, which now has new appeal numbers AP1202 and AP1203. We respectfully request that the staff report be revised to reflect the most recent information provided by the applicant. Attached is a memo indicating a few areas of concerns and the documents that are in conflict.

It now appears that construction of the Transmission Line on Mapleton will occur outside the paved roadway and in at least two locations it will be in Water Resources Areas (WRA's). **We request City staff review the waterline alignment as surveyed by the applicant to assess the new impacts and update the Staff Report findings.**

Please advise when you have this information in the public record before the City Council hearing scheduled for Monday, January 14, 2013.

Thank you,

Rebecca Walters

This message and any attachments are intended only for the use of the addressee and may contain information that is privileged and confidential. If the reader of the message is not the intended recipient or an authorized representative of the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail and delete the message and any attachments from your system.

Pelz, Zach

From: Dave Froode [dfroode@comcast.net]
Sent: Wednesday, January 02, 2013 6:47 AM
To: Pelz, Zach
Subject: Small Angry Group

Please enter this in the the council record for **RE: AP-12-02 and AP-12-0.**

We very much resent being labeled a "small angry group", "small noisy group", "fear mongers" and spreading lies". In the last three years those that oppose the LOT Partnership are marginalized and vilified by city employees from Oswego, Tigard and even West Linn. We citizens do not appreciate it when employees who are supposed to be serving our community, try to beat us up with our own tax dollars and then label the opposition in a disrespectful manner.

Some city employees claim to be representing the entire community, not just a small group impacted by the project. Those city employees really need to get out of their work cubicles more to determine what the citizens do want. Yes, we understand there is a process with rules. Two of which require the project to: 1) meet the code and 2) be a benefit to the community. The bottom line is who better to define what benefits this entire community then the people who live here?

Those who oppose this project in West Linn include a large number of West Linn citizens, seven Neighborhood Associations, the West Linn Riverfront Association, over 100 business people along Hwy 43, and members from Waterwatch Oregon, Trout Unlimited and Coastal Conservation Association. Citizens from surrounding communities denounce it. The summation constituting a bit more then a small group.

Know the new political climate in Lake Oswego opposes this project. Ask them. We did!

On top of all of the political opposition, the West Linn Planning Commission objectively voted unanimously to deny the permits and truly represented the whole community.

But those **few city employees** who label are right about two things. We are very angry and we will be very noisy. As one leader from Lake Oswego put it, "whether or not you are a small group, you are very effective!" Considering we are up against three cities with their paid professionals, we will take that as a compliment.

As for spreading lies and fear, that is not at all necessary when you speak the truth.

David J. Froode
19340 Nixon Ave WL

I would like to address some of the relevant issues of the Lake Oswego-Tigard Water Treatment Plant project proposed for West Linn.

Most people can agree with the goal of cooperation to enhance regional partnerships that foster the best management of our water and other resources. The disagreement is with the "ONLY solution" the Lake Oswego-Tigard Partnership has considered. The "ONLY solution" is not the least cost either short term or long term, nor is it the most sustainable or environmentally sensitive.

If it does not meet these basic criteria ... who does it benefit?

It does not benefit the rate payers in Lake Oswego or Tigard whose water bills will continue to climb to pay for this expensive solution. It does not benefit the residents of West Linn who are impacted for three years while LOT builds this ill placed treatment plant and constructs 3 miles of large pipe it does not need. It certainly does not benefit the larger regional community. We all expect a higher level of accountability when it comes to our natural resources.

A "solution" that was acceptable 50 years ago, does not guarantee it is the best solution today. The simple fact that the site now requires approximately 1000 auger cast piles to mitigate significantly unstable soils should raise the question "Is this the best site for an **\$80 million dollar** water treatment plant"

By considering an alternative solution that includes a new water intake structure close to the Willamette River and a treatment plant in Lake Oswego, (e.g. Foothills or the **12 acre** West end building site), the tangible and immediate benefits far outweigh any that have been identified with the current project.

The alternative solution:

- Eliminates over 3 miles of 42-inch and 48-inch pipe. Instantly reducing the bottom line by several million dollars reduces carbon emissions to create and install the pipe and significantly reduces the overall life cycle costs, **simply** by having less system to monitor and maintain.
 - Increases environmental stewardship of our regional water resources by reducing the stress on the Clackamas, **simply** by using the more abundant Willamette River just like Wilsonville and Dasani Bottling Company have done in the past few years.
 - Maintains the Regional Partnership and Intertie by **simply** preserving the existing 24-inch transmission line in Hwy 43 that serves Lake Oswego residents all the way to Marylhurst and is already connected with West Linn's water system.

The benefits are obvious and the choice is **simple**.

Jan Gerber
3940 Kenthorpe Way, West Linn

rec. 12/31/2012
JP

-A recommendation in favor of-
West Linn, Lake Oswego, Tigard Water Plant Expansion

There is probably nothing that is more important or fundamental to any community than water. An adequate water supply benefits the West Linn community as a whole.

Having read the highly charged citizen testimonials on the City of West Linn website, the testimonials appear to be from people that live on Mapleton Drive/S. Kenthorpe Way near the existing water plant. The testimonials are decidedly against the water plant expansion. This seems to be a vocal "not in my backyard under any circumstances" minority of West Linn's population. However, the City must consider the needs and water requirements of all the 25,000+ West Linn residents.

The water purification plant has been supplying water on S. Kenthorpe Way/Mapleton Drive since 1968 with a 2' pipe. Since it has been silently operating for 45 years with out incident, I would not expect any apocalyptic class event in the future as a result of an additional 4' pipeline.

I believe it is to West Linn's benefit to allow Lake Oswego to build the plant expansion for the following reasons:

1. Redundancy is always good engineering practice.

All airliners have at least two engines, so that if one fails the aircraft can still fly home. **Redundancy.**

Fiber optics normally is laid in a ring, with data sent in two directions. If a backhoe cuts the fiber optics ring no data is lost. **Redundancy**

It is to West Linn's best interest to have water coming from two separate pumping stations, through two separate pipelines, along two separate routes. **Redundancy.**

All pipelines need periodic maintenance and eventual replacement. Wouldn't it be nice to have the option of shutting off our existing 2' pipe for maintenance, working at a leisurely pace rather than a frantic race against time? **Redundancy.**

Currently, West Linn/L.O.'s water pipe, coming out of the ground under the bridge on the McLoughlin side, as our only pipe, is completely vulnerable to a high speed Saturday Night drunk driver coming at the riser at an angle, from the Portland direction. **Redundancy.**

Redundancy benefits the West Linn community as a whole.

2. West Linn is incrementally growing and will need more water in the future.

Regretfully all those beautiful rolling meadows are slowly being transformed into R-5 and R-10 homes. We will need more water capacity in the future for those houses. The value of overcapacity of the new pipe demonstrates forethought and planning. A little more steel for a larger than necessary pipe is extremely cheap and will be of value to the City's future. Hopefully this would free up more water from the existing 2' pipe for West Linn's use.

Overcapacity will greatly benefit the West Linn community as a whole, in the future.

3. As Tom Peterson used to say "Free is a very good price".

The only expansion cost to West Linn is a zoning change on four empty lots, owned by Lake Oswego,

surrounding the existing water treatment plant. They are supplying all of the money and the extra pipe full of water. Lake Oswego will also pay The City of West Linn a franchise fee for the pipe under the West Linn right of way.

With reduced revenue and budget constraints, if we don't allow Lake Oswego to expand the plant, West Linn will eventually need to replace our reservoir. West Linn faces a significant 12 Million Dollar expenditure to upgrade our existing, aging, at capacity, water system if we fail to allow L.O. to expand the plant. Those expenses will be reflected in a 30% rate increase over a 25% water rate increase totaling 55%.

Cost Savings benefits the West Linn community as a whole.

4. Environmental Benefit

We currently have asbestos/concrete pipe in the ground under Mapleton Drive, which Lake Oswego has offered to replace at their expense. They also have offered to help with the asbestos/concrete pipe under S. Kenthorpe Way.

L.O. has committed themselves to other diverse improvements, landscaping and aesthetics in the affected area. Laying the pipeline at night for negligible disruption to local business, and full consideration of local residents needs as well. Mapleton Drive will be completely repaved! What's not to like?

Environmental benefit to the West Linn community as a whole.

5. Local governments as well as individuals can accomplish amazing things when they work together for mutual benefit.

The most efficient and cost effective decision would be to simply to expand an existing plant. We have been successfully working with L.O. for 45 years to bring water to our communities. There is no reason to nullify a working mutually beneficial working relationship.

We have all painfully witnessed, at the federal level, what happens when two self interested parties are committed to the failure of the opposing party: gridlock. Cooperation yields many benefits that extend well beyond the immediate consideration.

A cooperative working relationship with The City of Lake Oswego benefits the West Linn community as a whole.

A small but vocal band of local residents are currently blocking the construction of critical infrastructure that will benefit the whole of West Linn, Lake Oswego and Tigard for the next 50+ years because they will be temporarily be inconveniences by road and water plant construction.

Let us view the larger picture, allowing Lake Oswego to expand the plant before there is a critical need to ration water, raise water rates for renovation and expansion of the West Linn water system.

Respectfully Submitted,

Dennis Belles
West Linn, Or

Pelz, Zach

From: Dave Froode [dfroode@comcast.net]
Sent: Monday, December 31, 2012 10:58 AM
To: kmolluski@westlinnoregon.com; Pelz, Zach
Subject: Fwd: Procedure question RE: AP-12-02 and AP-12-03

West Linn City Council:

It is my understanding the Mayor or the Council will determine how much time each citizen will have to provide public testimony for the land use appeal tentatively scheduled for Jan 14, 2013. Would one of you advise me of this decision so I can inform others?

We would also appreciate knowing the time allowed to our attorney who will speak on our behalf? STOP is an organized opposition to the Oswego/Tigard project.

Thank you.

David Froode
STOP, LLC State of Oregon
503-697-4876

Pelz, Zach

From: Dave Froode [dfroode@comcast.net]
Sent: Monday, December 31, 2012 10:39 AM
To: Pelz, Zach
Subject: RE: AP-12-02 and AP-12-03 Leadership

Zach

Please submit this to the council hearing.

Thanks, Dave

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

What a good leader should not do is abandon the flock. But more important, not leave the gate open so the predators can attack the flock. This has happened over the past three years and Lake Oswego/Tigard have taken full advantage of West Linn's ineptness to protect it's citizens and the interests of this community.

High performance leaders are trustworthy. Trust is the basis for all the relationships in our lives. Without trust, it's impossible to create healthy and productive environments. Be aware that others are watching you ... assessing your values system and integrity. People want to be assured that their trust, followed closely by their respect is being placed in a safe place -- your hands -- and that they are indeed wise to follow where you lead.

A good leader gets work done through others. When delegating the responsibility to do the task, it is good to include the authority to perform the task. The City Council appointed seven solid citizens who live in West Linn and are willing to lend their resources for the betterment of West Linn. These seven people serving on the West Linn Planning Commission had no vested interests in this project and were totally objective as they were thorough in their evaluation of the merits of the project.

It is obvious this project does not meet the city code in a variety of ways as clearly pointed out by the Planning Commission. It equally apparent the project is not a benefit to this community but would instead impose substantial hardships. There was overwhelming evidence that served as the basis for the Planning Commission's unanimous decision to deny the permits. The City Council should honor this decision. To do any thing less would denigrate the Planning Commission and this community.

Sincerely,
David J. Froode
19340 Nixon Ave
WL 97068

Pelz, Zach

From: Vicky and Pat [patvicsmith@q.com]
Sent: Monday, December 31, 2012 9:07 AM
To: Pelz, Zach
Subject: AP-12-02 and AP-12-03 - Lake Oswego Appeal

Follow Up Flag: Follow up
Flag Status: Completed

Zach -

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

In the applicant's submittal regarding the appeal of the Planning Commission unanimous denial of CUP-12-02/DR-12-04 and CUP-12-04/DR-12-14/MISC-12-10/WA-12-03/WR-12-01, the applicant has made some significant assertions that do not appear to be supported by the materials they submitted. Specifically:

- The City has never before imposed rigorous "community need" obligations on other conditional uses seeking to locate in residential zones within the City.
- An evaluation of recent West Linn Planning Commission rulings demonstrates that the public benefit standard applied to the proposed plant expansion and pipeline applications was unreasonably rigorous when measured against all recent Planning Commission rulings. Good public policy dictates that consistent application of land use plan policies and regulations results in reliable and predictable decision-making.

We were lead to understand that land-use applications cannot be compared and even if they could, it does not appear that the City of West Linn has ever received a land use application for projects of this geographic or dollar magnitude or duration. In fact in the Planning Commission Meeting Minutes of Nov. 1, 2012, pg. 13, City Of West Linn's Counsel affirmed this. Specifically, "The code had to be implemented on a case by case basis. The City could only impose conditions on each development approval that related to the nature of the project being proposed itself (the Nolan test.)"

How will you be addressing the applicant's assertions in your staff report?

Thank You.

Water plant project needs an alternative plan

Created on Thursday, 27 December 2012 03:00 | Written by [Jan Gerber](#) | 

I would like to address some of the relevant issues of the Lake Oswego-Tigard water treatment plant project proposed for West Linn.

Most people can agree with the goal of cooperation to enhance regional partnerships that foster the best management of our water and other resources. The disagreement is with the “only solution” the Lake Oswego-Tigard Partnership has considered. The “only solution” is not the least cost either short term or long term, nor is it the most sustainable or environmentally sensitive.

If it does not meet these basic criteria ... who does it benefit?

It does not benefit the ratepayers in Lake Oswego or Tigard whose water bills will continue to climb to pay for this expensive solution. It does not benefit the residents of West Linn who are impacted for three years while LOT builds this ill-placed treatment plant and constructs three miles of large pipe it does not need. It certainly does not benefit the larger regional community. We all expect a higher level of accountability when it comes to our natural resources.

A “solution” that was acceptable 50 years ago, does not guarantee it is the best solution today. The simple fact that the site now requires approximately 1,000 auger cast piles to mitigate significantly unstable soils should raise the question: “Is this the best site for an \$80 million dollar water treatment plant?”

By considering an alternative solution that includes a new water intake structure close to the Willamette River and a treatment plant in Lake Oswego (e.g., Foothills or the 12-acre West End Building site), the tangible and immediate benefits far outweigh any that have been identified with the current project.

The alternative solution:

n Eliminates more than three miles of 42-inch and 48-inch pipe. Instantly reducing the bottom line by several million dollars, reduces carbon emissions to create and install the pipe and significantly reduces the overall lifecycle costs, simply by having less system to monitor and maintain.

n Increases environmental stewardship of our regional water resources by reducing the stress on the Clackamas, simply by using the more abundant Willamette River just like Wilsonville and Dasani Bottling Company have done in the past few years.

n Maintains the regional partnership and intertie by simply preserving the existing 24-inch transmission line in Highway 43 that serves Lake Oswego residents all the way to Marylhurst and is already connected with West Linn’s water system.

The benefits are obvious and the choice is simple.

Jan Gerber is a resident of West Linn.



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Planning commission put WL first

Created on Thursday, 27 December 2012 03:00 | Written by [Robert Stowell](#) | 

I found the letter interesting from Brian Hawkins and the Citizen's View by Greg DiLoreto supporting the LOT water project. In checking, neither one of them live anywhere near the proposed project. I also take exception to Brian's comment a small band, we are many from all over West Linn. They will experience little or no disruption in their lives for up to three years.

Greg talks about the night work on Highway 43 not being a bother. The construction on 43 will affect about one mile from Mapleton to the north city limits. According to their application, about 150 feet will be done per night. I estimate this will take about 35 nights. They estimate about eight trucks an hour or about 78 per night for a total of 2,886 just for West Linn. This doesn't include the pipe construction from our city limits to Laurel Drive in LO. This could be another 5,200 trucks on 43. Noise levels that will be allowed with no attempt to lower will be dumping of gravel on the pavement, in the trench or loading of material into trucks. There are many residence on 43, which includes at least 25 from Marylhurst Drive to the city limits that either face or back up to 43. This includes two care facilities. Not much sleep for any of us on or near 43.

I hope they and others read the findings of the planning commission. They would find their reasons were sound. CDC 60.070 A3 talks about overall community need. CDC60.060 A 7 uses the term "benefit." The planning commission found it reasonable to include the concept of "benefit" here and in the Robinwood plans addressing the overall needs of the community.

The planning commission pointed out that community refers to West Linn only not the region.

The intertie that exists will work no matter where LOT builds this new plant, and it is a new plant. LO needs to supply water to the Marylhurst area and the 27" pipe is already there to the intertie with West Linn. The water allotted to West Linn is only for a number of years, then what? The benefit is gone! Where is the value to West Linn?

Greg writes about the shortcomings of our water system, however this project will not solve any of those issues.

The Robinwood Neighborhood Association and the Great Neighbors Committee worked hard on a mitigation list to offer something of value to our neighborhood and West Linn with little to show for it from LOT or our planning staff. In closing I want to thank our planning commission for listening to us here in West Linn and putting us first.

Robert Stowell is a resident of West Linn.



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Council should listen to planning commission

Created on Thursday, 27 December 2012 03:00 | Written by [William More](#) | 

The West Linn Planning Commission's seven experienced members got it right when they unanimously denied the applications submitted by the LOT Water Partnership for a water treatment plant expansion and pipeline construction along Highway 43. The commission rightly decided that these projects are not in West Linn's best interest and are not in conformity with our community development code.

Please read the final decision on the city's website below.

westlinnoregon.gov/planning/construct-water-pipeline-mary-s-young-park-lake-oswego-water-treatment-plant-kenthorpe-way-

Additionally, seven West Linn neighborhood associations, specifically

Sunset, Parker Crest, Robinwood, Bolton, Hidden Springs, Savanna Oaks and Barrington Heights, all oppose this project along with the West Linn Riverfront Association.

The environmental group Waterwatch Oregon is litigating against Lake Oswego, and local members of Coastal Conservation Association and the Trout Unlimited have also expressed opposition due to the negative environmental impact to the Clackamas River.

Businesses along Highway 43 and many West Linn residents are strongly against these projects due to the financial and personal harm that it will cause. Hundreds have spoken out.

These projects will severely impinge on West Linn's residents and businesses with no real benefits being provided to the community, in addition to not being in conformity with our community development code.

The city planning commission clearly understood and wisely and unanimously denied these applications.

We urge the city council to listen to their experts on the planning commission and also the voices of our neighborhood associations, other groups and our citizens by unanimously rejecting this proposal.

William More

West Linn



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We need a reliable water system

Created on Thursday, 27 December 2012 03:00 | Written by [Warren Okuns](#) | 

If anyone in West Linn wonders why we must solve our water problems by voting “yes” to replace our rusty pipes and expanding Lake Oswego’s water plant – just think about the October fire at West Linn High. The \$2.5 million fire was put out by Tualatin Valley Fire & Rescue using water drawn from our water system. It’s not enough to have water. Firefighters need water pressure to put out fires. Without it, our firefighters would have had to put out the call for a volunteer bucket brigade. The high school fire drew water from the 100-year-old Bolton Reservoir through our leaky and rusty pipes. We depended on Lake Oswego’s water plant to provide us with backup supply and pressure if our own system proved inadequate. We need its update just as much as we need new pipes. There are those trying to convince us we can just limp along with the status quo. Taking their advice puts property at risk, likely raises insurance rates and costs all of us more money when we do tomorrow what we should do today.

Warren Okuns

West Linn



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Council must deny water plant project

Created on Thursday, 27 December 2012 03:00 | Written by [Tom Sieben](#) | 

The West Linn City Council will soon be voting on permits for a Lake Oswego-Tigard (LOT) water plant to be built in the Robinwood neighborhood. An unseen consequence of approval of this very complicated project would be allowing LOT to provide water for development in Stafford.

References to needing water for Stafford can be found on 13 pages of the Carollo report, the foundational engineering study which justifies the need for increasing Lake Oswego's take from the Clackamas from 16 million gallons a day to 38 million gallons a day. More recently, LOT's application to the Oregon Water Resources Board also mentions water for Stafford. Finally, they admitted in testimony before the West Linn Planning Commission that two million gallons a day of water from their new plant would go to development in Stafford. This was one reason the planning commission voted 7-0 to deny the project application.

In West Linn's comprehensive plan, council goal nine clearly states opposition to urbanization of the Stafford triangle and promotes policies retaining that area as a rural buffer between West Linn and its neighbors.

The choice is obvious: West Linn's City Council must vote to deny the LOT water plant project.

Tom Sieben

Mapleton Drive



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December 26, 2012

Dear Councilors:

We're 27-year residents of 3910 Mapleton Drive who will be out of town January 14 when you consider an application to expand Lake Oswego's water treatment capacity in our neighborhood and trench a four-foot-in-diameter pipe up our street and down Highway 43 to Lake Oswego. Please consider our written concerns about their plan to create a profit center to sell water to other cities in the area.

Our neighborhood has been dealing with this threat to our property values and safety for more than two years. We've been bribed, sued, lied to and mediated, attended dozens of meetings and have responded with unanimous objection and presentations to West Linn's Planning Commission. We were pleased when that body of thoughtful citizens applied common sense, wisdom and city code requirements in their unanimous rejection of the applications. We were pleased but not relieved because we knew Lake Oswego would appeal the decision to you.

Because you have sequestered yourselves from the controversy, it's difficult to know where to begin in this stage. It's tempting to let you review our depositions to the Planning Commission and their deliberations and rationale for rejecting the applications. Will you do so? It would save us all many, many hours covering the same ground. But if we must, we will start anew and it will take several sessions to hear us all out. Hoping that you'll seize the first option, we'll take a new tack this time; we'll call it...

A Tale of Two Water Treatment Plants

By a surprising coincidence one of us had to study the effects of two water treatment plants last November. The first were the debilitating effects of two years of bullying by the City of Lake Oswego and the portent of three more years of industrial construction, heavy truck traffic and pipeline installation in our residential neighborhood, followed by many years of fears of treatment plant effluents and potential pipeline breakage. The second were the hazardous effects of treatment plant chemicals on Oregon National Guardsmen protecting the reconstruction of a plant in Qarmat Ali, Iraq in 2003.

As a member of the jury in the 19-day trial of a defense contractor's lack of action to protect the soldiers from the plant's known carcinogens, one of us joined other members with the unanimous verdict that KBR was negligent and caused serious emotional trauma and probably shortened the soldiers' life spans by exposure to the untended chemicals. The jury awarded the 12 plaintiffs \$85,000,000 and gave the contractor the message that our society expects businesses to not only meet contract terms but to do no harm in the process.

We expect no less of our representatives.

It may be as the city's planning staff determined, that Lake Oswego's plans for their expanded treatment plant meet several of the city's construction codes. However, it is a fact that the city's Planning Commission found that the plans failed to meet CDC section 60.070A)(1), section 60.070(A)(2),

subsection 60.070(A)(3) and 60.070(A)(7). We expect our elected representatives to acknowledge and support the Planning Commission's findings.

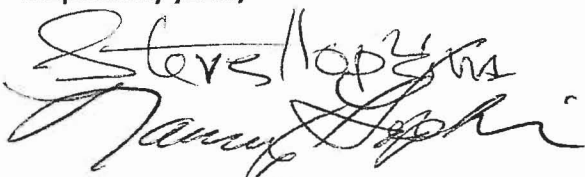
Just as in the case of the Qarmat Ali water treatment plant, negligence or "failure to take reasonable precautions to avoid injury to persons or property" in the Lake Oswego water treatment plant case, may result in serious physical and financial damage in the future.

The existing plant rests uneasily on such unstable ground that LO's plan calls for supporting new construction with hundreds of pilings. West Linn lies between two known earthquake faults. Geologists have found past slide evidence near the plant. There is no known record of four-foot-in-diameter water pipes in residential areas in this country but there is ample evidence of them rupturing elsewhere in the last few years. A small water line broke on Mapleton Drive in December and took two days to fix. How long would it take to repair a pipe pumping 38 million gallons of water a day—and what could the damage be? What effect will three years of construction have on homeowners' property values? How safe will our children be navigating our narrow street with thousands of dirt-filled dump trucks? How will trenching up Highway 43 affect city businesses? We see no benefit to our neighborhood in this plan—is there really any benefit to the city that justifies all the potential physical and financial damage?

These are just a few of the concerns and questions the City Council should consider before rejecting the applications. As residents of West Linn, we expect our representatives to protect our interests before supporting another city's efforts to make money at our expense. You don't need to buy into their scheme to sell water to Tigard, the Stafford Triangle and other cities. You don't need to get sucked into their four-foot pipe. You don't need the legacy of caring more for another city's residents than your own. You don't need the potential liability of proven negligence in years to come.

We ask that you side with the residents along Mapleton Drive, seven active neighborhood associations and the city's Planning Commission who have all voted to oppose Lake Oswego's plan.

Respectfully yours,

Handwritten signatures of Steve and Nancy Hopkins in black ink. The signature for Steve Hopkins is on top, and the signature for Nancy Hopkins is below it.

Steve and Nancy Hopkins

3910 Mapleton Drive

503/635-7465

Pelz, Zach

From: Sonnen, John
Sent: Monday, December 31, 2012 8:29 AM
To: Pelz, Zach
Subject: FW: lot

John Sonnen, Planning Director
Planning and Building, #1524

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

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

From: Kovash, John
Sent: Wednesday, December 26, 2012 4:12 PM
To: Sonnen, John
Subject: lot

Ex parte contacts;

Nov. 9, talked with a couple from the Robinwood area. They knew very little about LOT and did not have opinion.

Sep 24, talked with a couple that lived very close to LO and highway 43. From past experience were concerned about noise and suggested a 24/7 hot line for complaints from folks like them.

John

 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

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: Shroyer, Shauna
Sent: Wednesday, December 26, 2012 8:46 AM
To: Pelz, Zach
Subject: FW: File No. AP 12-20 and AP 12-03 A Battle Looms

Shauna Shroyer, Administrative Assistant
Planning, #1557

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: Dave Froode [mailto:dfroode@comcast.net]
Sent: Monday, December 24, 2012 8:10 AM
To: Shroyer, Shauna; froode dave
Subject: File No. AP 12-20 and AP 12-03 A Battle Looms

Please submit the following in to record.

Following is an article from the Lake Oswego Review supplied by the West Linn Tidings supported by the Corollo Report from 2007 and Water Resources Board by the City of Lake Oswego.

Conclusions

1. Since this article and Corollo Report were written, Oswego has implemented their water conservation plan with significant results that benefit their community. Reported by Water Resources Board, "*Conservation impacts in Lake Oswego...in the third year of the tiered rate water program the actual reductions were 36%.*" Oswego **does not need** to take more water except to pursue the additional build out **to include Stafford area and provide water to Tigard.** (1) (3)
2. Oswego enters in to a partnership with Tigard bringing 60,000 people to deplete a resource not capable of sustaining the demand in the future. Tigard is is not in the Clackamas River basin.
3. Tigard **does have alternatives** for water with Wilsonville or Bull Run. See Tigard Charter below. (2)
4. This is not a question of any community losing their water rights. Both Tigard and Oswego have created a false crisis. Both cities have better alternatives.
5. The long term answer for this need is for **all regional communities** is to begin using the plentiful Willamette River as a source of water as opposed to jeopardizing the Clackamas River in the future.

A Showdown Looms On the Clackamas River Over Drinking Water limited river water may pit fish against utilities

By Lee van der Voo, 2007

The Lake Oswego Review
(news photo)

Vern Uyetake / Lake Oswego Review

A state law prompting higher water levels in the Clackamas River may one day force water users to trade their green lawns for the survival of endangered species.

Those water users include Lake Oswegans and much of urban Clackamas County, where four water utilities draw drinking water from a gradually strained Clackamas River.

Projections show those utilities can't continue to draw water at current levels, shoulder growth in the region and still leave enough water for endangered fish. In the Clackamas River, fall and spring Chinook salmon, Coho salmon and winter steelhead are protected.

With a 2005 law putting fish first, the stage is set for a Klamath-style battle over water rights in Clackamas County unless proper planning staves it off.

But this time it won't be farmers fighting for water for crops, as is the case on the Klamath River.

On the Clackamas River, residents in cities like Lake Oswego will be fighting fish protections for drinking water if planning doesn't force them to balance consumption with wildlife needs.

Creating conflict

On the Clackamas River, water providers are nervous.

On the river's path from the rain-filled Timothy Lake near Mount Hood to the Willamette River, four utilities tap water serving 250,000 customers.

With growth projections forecasting another 500,000 to 700,000 people in Clackamas County by 2040, the demand for drinking water on the Clackamas will exceed the river's ability to support fish in the next two decades, according to Joel Komarek, city engineer for Lake Oswego who oversees the city's water utility.

Under a new law, approved by the Oregon Legislature in 2005, the Oregon Department of Fish and Wildlife now gives advice on how to "maintain persistence," or protect, fish species on rivers before water rights for utilities are approved. The Oregon Water Resources Department, which used to renew water rights by postcard, can restrict water rights based on ODFW's advice.

On the Clackamas River, "They're going to be pushing for higher flows than what has been thought of as necessary to support fish. Those increased flows are going to create conflict between sensitive species and drinking water supplies," Komarek said.

A review of applications for new water rights on the Clackamas recently caused ODFW to recommend a 62 percent increase in flows needed to support fish during the summer. A 25 percent increase was suggested for winter. County utilities, when they heard the news, put pending applications for water on hold.

They sought a model of the recommended flows from Portland State University, which predicts problems.

The model shows that the water required to support fish, particularly during migration periods, has already fallen shy of targets on some hot weather days. If the new flow targets are implemented, the study shows, water customers will be forced to save water for fish.

"We're going to potentially have to restrict access for up to 16 percent, potentially for 43 days," Komarek said, if the suggested flows become conditions.

Some call the new regulations "a catastrophe." Others say there is no impact to drinking water, just a question as to whether peak summer uses like lawn watering should trump a species' right to survival.

If the recommendations become rule, Lake Oswego would share its impacts with three other utilities.

The South Fork Water Board, which serves West Linn and Oregon City and Clackamas River Water, a county utility, both draw water from the Clackamas River.

The North Clackamas County Water Commission also draws water from the river, supplying the Oak Lodge Water District and the Sunrise Water Authority, which serve Damascus, Milwaukie and the Mount Scott Water District.

If conflicts over water emerge, those with the most recent water rights would be tapped to reduce consumption, not those who use the most water.

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

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

The South Fork Water Board has the most senior water rights in Clackamas County followed by Clackamas River Water. The North Clackamas County Water Commission would fall behind Lake Oswego, regardless of how much water is used here.

NCCWC Manager Dan Bradley called the brewing impacts of the 2005 law "a catastrophe."

"It's definitely more perilous for the junior water right holder," Bradley said, referring to his utility's mostly secondary rights to water.

Farmers, which account for about 30 percent of water rights on the Clackamas River, are exempt from the law.

"That's one of the reasons we don't think its very fair. It is fish recovery on the backs of municipalities," Bradley said.

"I think it's headed for being a catastrophe and I think the only way to make it workable is to take the 'maintaining persistence' language out of the bill."

That bill, called House Bill 3038, passed the Legislature in 2005 as a compromise between municipal water utilities and an environmental group called WaterWatch, a 22-year-old water policy watchdog with offices in Portland and Medford.

Early successes in court put WaterWatch in a bargaining position. A ruling in the group's favor by the Oregon Court of Appeals was already offering stricter protections for fish in the legal arena because the group's challenge of a water right on a defunct paper mill in Coos Bay found footing in a state statute that said water rights must be developed within five years.

"The cities didn't like that because they thought it called into question these dormant water rights that they've essentially been squatting on for years," said John DeVoe, executive director of WaterWatch.

HB3038, a compromise between the utilities and WaterWatch, allowed the utilities to hang onto unused water rights for 20 years. In exchange, they had to show that endangered and sensitive fish species "maintained persistence," or were protected, before developing unused rights.

NCCWC's Bradley, who was active in talks about HB3038 when it was being drafted, said discussion about 'maintaining persistence' in 2005 differed sharply from the conditions he's so far seen emerge from the new law.

He said currently Clackamas County utilities are watching a pending request for water rights on the Willamette River to see how HB3038 might affect the neighboring Tualatin Valley Water District before going forward with applications of their own.

As the law takes hold, Bradley said an effort to scale it back seems inevitable for utilities.

"They're all watching to see what happens to us on the Clackamas River. We sort of volunteered to be the guinea pig," said Bradley, in part because WaterWatch has named fish survival on the Clackamas River as a top priority.

"It depends on how HB3038 is interpreted and how 'maintaining persistence' is interpreted by ODFW," what the response from utilities might be.

He said some utility managers talk of attacking the "maintaining persistence" language during the next legislative session. Others think court battles will come before then, laying the groundwork for new law.

Meanwhile, Bradley said he doesn't see the need for sudden and radical change in water law and that suggested flow levels in the Clackamas River seem arbitrary.

In the past, he said, "Every year the Water Resources Department would send us a card and say, 'Do you want to renew it?' and we'd say 'yes' and send it back. That's how water rights have been done since 1909."

Planning would avert clash. For WaterWatch's DeVoe, postcard renewal is part of the problem. In the past, he said, the Oregon Water Resource Department did not subtract unused water rights from stream flows before approving new rights. "On many streams, they've given away this water more than once," he said. In Clackamas County, DeVoe said, "The river just doesn't have that much more to give."

"The question is are we just going to do what we've always done and go back to the river and ask it to provide more water? ... The Clackamas may have the last run of self-sustaining wild Coho salmon in the Columbia Basin. Is that something we have to give up or not? We say no. We shouldn't be putting that at risk."

He says conservation needs to be taken seriously and, if it is, no real conflict exists between drinking water and water for fish.

Pointing to the six-week gap between suggested fish flows and summer water use, DeVoe said, "What we're really talking about is not drinking water at all, it's lawn watering."

In Lake Oswego, Komarek sees potential for conservation.

"There will have to be some restrictions. We will have to make a quantum leap in conservation relative to what we do today. Lake Oswego will have to develop and initiate a number of programs to limit consumption, particularly during those high-use periods," he said.

City officials are currently at work on a plan that could include pricing water differently in the summer, offering rebates for water-saving plumbing, restricting lawn watering during droughts, offering water-saving kits to residents and other conservation measures.

The plan is based, in part, on an effective conservation program in Tigard, where water is costly, purchased wholesale from Portland because the city has no utility of its own.

A potential water partnership with Tigard is also being discussed. In the exchange, Lake Oswego would get more capital funding for its system and Tigard would pay less for water.

The arrangement would also give Lake Oswego a catalyst to connect to water sources to the west, which could help the city stave off problems if clashes over water play out on the Clackamas River.

"It's not an issue right now, but it will become an issue as growth continues to occur," said Komarek. "It is all a function of how quickly these 500,000 people come into the Portland Metropolitan area.

"It's going to be incumbent upon us, in terms of planning, to start thinking about that day."

* Statewide, agriculture accounts for about roughly 75 percent of water rights.

* Farmers account for an estimated 30 percent of water users on the Clackamas River.

* WaterWatch considers the Clackamas, Rogue, McKenzie, Chetco and Coquille rivers, as well as sensitive streams on the Oregon coast, most at risk for loss of wildlife if municipal water rights are extended indiscriminately.

* Statewide, utilities are pursuing more than 100 undeveloped water rights.

Supplied by:

Lori Hall
West Linn Tidings
400 2nd St., PO Box, 548
Lake Oswego, OR 97034
503-636-1281 ext. 103
lhall@westlinntidings.com

(1) References to needing water for Stafford can be found on 13 pages of the Carollo report, the foundational engineering study which justifies the need for increasing Lake Oswego's take from the Clackamas from 16 million gallons a day to 38 mgd. More recently LOT's application to the Oregon Water Resources Board also mentions water for Stafford. Finally they admitted in testimony before the West Linn Planning Commission (WLPC) that 2mgd of water from their new plant would go to development in Stafford. This was one reason the WLPC voted 7-0 to deny the project application.

(2) CITY CHARTER

CHARTER of the CITY OF TIGARD OREGON

1962 Effective January 1, 1963
(Amendments through September 21, 1999 Election)

Referred to the voters and adopted November 6, 1999

Section 51.

The City of Tigard shall not use the Willamette

River as a drinking water source for its citizens


unless the question of using the Willamette River as a drinking water source has been approved by not less than fifty percent (50%) of voters voting in a City wide election. (Measure 34-8, September 21, 1999 election).

http://www.tigard-or.gov/business/municipal_code/docs/charter.pdf

(3) <http://portlandtribune.com/lor/48-news/115098-west-linn-tualatin-fight-staffords-urban-reserve-designation>

Thank you,
David J. Froode
19340 Nixon Ave
West Linn

Water project has overwhelming opposition

Created on Thursday, 20 December 2012 03:00 | Written by [Chuck Landskronererm](#) | 

The West Linn Planning Commission final decision notice states, in part, as follows: “Community need” as set forth in CDC 60.070 (a) and (b) concludes that criterion is not satisfied both based on the analysis above and because of the significant (emphasis added) opposition expressed by the residents and local business owners throughout the hearing process.”

Add to this the overwhelming opposition of the neighborhood associations in West Linn, to this industrial expansion on residential property, then you will know that Mr. Hawking’s letter to the editor, and Mr. DiLoreto’s Citizen’s View of Dec. 13 are both factually incorrect, in that (1) there is not a small band of West Linn citizens and (2) Mr. Diloreto has absolutely no understanding of why neighbors of the treatment facility and proposed pipeline are concerned.

Chuck Landskronererm

West Linn



Comment using...

Facebook social plugin

Share 0 Send Like 0

Residents' concerns misplaced about water plant

Created on Thursday, 20 December 2012 03:00 | Written by [Jack Smith](#) | 

I would like to support and comment on the Lake Oswego-Tigard water treatment plant project from several perspectives.

I have been a resident of the Robinwood neighborhood since 1974, and for the first eight years I owned a home on Kenthorpe Way directly opposite the water treatment plant. I have a great bunch of neighbors in the area and one of the best was the treatment plant itself. It was quiet, friendly, attractive and a great place for my daughters to play. The all-hours attendant and lighting gave us a sense of security.

The planned enlargement should continue those qualities as well as improving the park-like area and perhaps providing much needed public access from Kenthorpe to Mapleton for pedestrians.

It dismays me to see so much negativity from the neighborhood about the project to enlarge the capacity to serve neighboring cities. The provision of potable water is one of the most important functions of local government. I am a professional civil engineer with a career in water resources, and a MBA with studies in real estate.

One of the reasons we initially moved to Kenthorpe Way was because of the plant (once I learned this "industrial" facility was merely a fresh water treatment plant and not a sewerage plant). I believe residents' concern about property values are misplaced.

I believe the opposition is well intended but misinformed about the true effects of the project. For example, I now live on Ridgewood Way, and not long ago, the city of West Linn replaced the main waterline in front of my house. I never lost access to my driveway and the impact on us was minimal, as will be the larger pipeline the city wants to build for the enlarged plant.

The best thing the neighborhood could do to improve immediate impact on property values is to remove the ugly signs of opposition. Remember, construction is temporary and the real estate is long term. And it would not hurt to improve relationships with our city neighbors. We may need their reciprocal cooperation some day.

Jack Smith is a resident of West Linn.




Comment using...

Facebook social plugin

Share 0 Send Like 0

Pipeline construction can be well-managed

Created on Thursday, 13 December 2012 10:00 | Written by [Brian Hawkins](#) | 

A small band of West Linn citizens is in overdrive putting a scare into us about what the Lake Oswego and Tigard water project means for Highway 43 motorists and businesses. You'd think that, reading those anonymous mailings, the world will end when this large but perfectly ordinary project moves its first shovel of dirt.

The truth is that unless you make a steady habit of driving the Highway 43 between 8 at night and 5 in the morning, you may not notice much of a difference once pipeline construction begins. If your business is open during those hours, the construction crews will make sure customers have access to your property at all times. And let's not forget that this is pipeline construction. The pipe will be laid at a rate of 50 feet or more per night.

In addition to nighttime construction, ODOT requires that all equipment and supplies be stored off the road during the day. This means that all lanes will be unobstructed during the day.

So how about daytime traffic from the water plant construction itself?

Yes, over the life of the project thousands of trips will be made, but during the most intensive few months of construction, traffic will add only one-third of one percent to existing traffic loads on the state highway.

We should not kid ourselves. Pipeline construction will be a temporary inconvenience for residents. Construction of the water treatment plant will be a headache for the closest neighbors. This is why we should insist that the city of West Linn enforce every promise made by the LO Tigard Water Partnership in its construction management plan.

The doomsday language used by opponents is irresponsible and simply out of proportion with the facts.

Brian Hawkins

West Linn

'I support the Lake Oswego-Tigard project'

Created on Thursday, 13 December 2012 03:00 | Written by [Greg DiLoreto](#) | 

I am a 27-year resident of West Linn, a licensed professional engineer, the current national president of the American Society of Civil Engineers, the chief executive officer of Oregon's second largest water utility and a former member of the West Linn Utility Advisory Board, and I was greatly disappointed in the recent planning commission decision regarding the expansion of the Lake Oswego water treatment plant and the finding that it would not provide a community benefit to West Linn residents.

West Linn's water system is in trouble and its reliability in question. With the 24-inch pipeline across the I-205 bridge as our only water supply connection we are at risk of having no water. A recent engineering study points out that our 100-year-old Bolton Reservoir sits atop an ancient landslide and several faults. The study also calls attention to evidence of recent slope movement and so this key asset, that holds almost 50 percent of our total water storage, will not likely survive even a moderate earthquake. Our 2008 water master plan called attention to the seismic vulnerability of these key assets and provided three options to increase our reliability, the least expensive of which is to partner with our neighbors Lake Oswego and Tigard in the expansion of their water treatment plant, saving \$11.6 million in needed capital spending.

In 2008, the city council at that time, directed our staff to pursue this lowest cost option. Without this option West Linn residents would need a 30 percent rate increase (based on the city's chief financial officer's analysis) to provide the reliability and improvements our system needs, as opposed to the 18 percent increase we will be asked to vote on next year. If either of our key supply assets is out of service, where will we get water for fire protection, sanitation and drinking water?

Yes, with construction of vital public infrastructure comes inconvenience and temporary disruption of our daily lives, so I can understand why neighbors of the treatment facility and proposed new pipelines are concerned. But, in my opinion, a project that corrects our supply reliability problem at the lowest cost for our community outweighs the temporary inconvenience.

West Linn is not an island but is part of the Portland metro region and we will need regional partnerships if we are to afford the necessary infrastructure we need to maintain our quality of life. The Lake Oswego-Tigard project, if approved, will result in a water supply more resilient to earthquakes, floods, source contamination events and potential terrorist attack than exists for any other supply today. This is a great deal for our community and the region. I support the Lake Oswego-Tigard project and hope that as the appeal of this decision comes before the city council they will overturn the planning commission's decision recognizing that this project provides a communitywide benefit and is necessary to the long-term health and safety of all West Linn residents.

Greg DiLoreto, professional engineer and Diplomat, Water Resources Engineer, is a West Linn resident.

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Created on Thursday, 13 December 2012 03:00 | Written by [Greg DiLoreto](#) | 

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Greg DiLoreto, professional engineer and Diplomat, Water Resources Engineer, is a West Linn resident.

Subject: Robinwood BA and LOT

COC Board,

I just had coffee with Jane Heisler (of LOTWP) this morning. She is still trying to find some way to promote their project in the Robinwood Area and she wanted to talk with me as the Chair of the Robinwood Business Association. As many of you know, I have always been willing to listen where this project is concerned, because I cannot be certain of what will happen (or not happen) with it. If the project moves forward, better to be in a position to negotiate. If it stalls, so be it. I'm not an advocate either way. Of course, many think the project is dead already. I for one, recall that error from every Halloween movie. Jason is never dead.

That being said, she has some ideas about assisting businesses during Construction and I think they are good ones. But, I also told her that she cannot get approvals or permissions for anything from the RBA directly. It has to be funneled through the WL COC and its Board.

I can share the gist of her ideas with you at the next meeting, if you wish to discuss it. Perhaps we can add an Agenda item.

Thanks! And if we don't speak before Tuesday, everyone have a very Merry Christmas!

-Thomas

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

From: Linda Neace [mailto:neace26@gmail.com]

Sent: Tuesday, December 18, 2012 8:53 AM

To: Mike Piazza; Bob Seibert; Huot, Cory :MP Mgr. Pharmacy; Gail Holmes; Bill Lorenz; Thomas Boes; Ryan Bellacov; Kerr, Chris; Jones, Michael; harry@harrywaller.com; chamberinfo@westlinnchamber.com

Subject: RE: Board

Meeting cancelled today! I am sick again with what ever I have.

Review the stats that Christina mailed out. The amount for the Christmas Party is not up to date, there is additional money to be added, a final tally will come out next week.

I want to wish you all a very Merry Christmas and Happy New Year!

Remind all of you about the 27th of December for our Christmas get together at Allium, watch the posting on our email blast.

At that time we will honor Mike Watters as "Business Person of the Year", he was not able to attend our Christmas Party and we will present it to him there.

--

Linda Neace

Pelz, Zach

From: Gary Hitesman [ghitesman@gmail.com]
Sent: Wednesday, December 19, 2012 2:47 PM
To: Pelz, Zach; CouncilDistribution@ci.oswego.or.us
Subject: AP-12-02 & AP-12-03 Citizen Request for a reasonable scheduling of the council hearing.

19 December 2012

To the West Linn Planning Department and City of Lake Oswego,
I was notified by email that LO had filed to appeal CUP 12-02 and CUP 12-03 on December 10, 2012. Three issues:

#1) I was just notified yesterday, December 18, from a neighbor, that the City Manager was complaining about having to notify over 1200 people with standing that the hearing would commence on January 14, 2013, directly after the holidays.

It is my observation that the appeal is wholly without merit and the CM's unilateral decision to hurry up the appeal does not adhere to the intent of the West Linn Community Development Code, the Comprehensive Plan, nor Coordination of Land Use Decisions as legislated under ORS 197. There are three components of citizen involvement that must be upheld prior to the council hearing and that which is negated by the CM's hasty and unjustified scheduling. One; the application has already surpassed the time limitations set forth in CDC 55.040. Given the over 4000 pages of documentation and the new evidence presented at the PC hearing, residents are not being afforded the proper amount of time to process the changes proposed by the applicant and misses the intent of citizen participation. Two; previous testimony, including mine[CDC 01.060.A.] along with statements from the LO attorney Ms. Richter have proven the application contradicts the West Linn Comprehensive Plan and the City is moving ahead despite violating the process that the application should have undergone. Three; Many of the Neighborhood Associations have participated in discussions and they have not been afforded the opportunity nor intention, as provided under ORS 197, to participate in this land use decision.

In my opinion, this project cannot move forward. But this has happened before and the City still went ahead by covering it's mistakes(aka Holiday Inn). Given the holidays, recent tragedies in our own community, and the vulgarity of the application by LO, it appears reasonable that the community and those persons with standing be granted additional time to coordinate and process the appeal the applicant wants to move forward with. Looking at the NA schedules and those NA's that have participated in the past, a date set in mid March would be more appropriate and in keeping with the intent of ORS 197.

#2) Also, the staff at Planning have yet again appeared to have missed a critical step in the process of evaluating a conditional use application;

"60.090 ADDITIONAL CRITERIA FOR TRANSPORTATION FACILITIES (TYPE II)

A. Construction, reconstruction, or widening of highways, roads, bridges or other transportation facilities that are (1) not designated in the adopted West Linn Transportation System Plan ("TSP") or (2) not designed and constructed as part of an approved, active, development order are allowed in all zoning districts subject to the conditional use and all other applicable provisions of the CDC and satisfaction of all of the following criteria:"

The application involves reconstruction of other transportation facilities (i.e. roads) and was not designated in the adopted West Linn TSP. Because of staff oversight, required criteria was not proposed let alone mentioned and both projects do not meet the following criteria. And unlike the Holiday Inn Appeal that proceeded on despite staff errors, an independent review has not been thoroughly conducted to warrant that this appeal proceed as proposed by the CM until this matter is clarified.

#3) There is a perceptible bias that the WL council will overturn the decision of the PC regardless of the process. The whole process has been hampered by a considerable lack of transparency and the City Staff and CM have taken a direct role in smoothing the way for this project to be awarded.(There is an apparent perception that the City of West Linn City Manager, who has too much authority and not enough oversight under the current City Charter, has a conflict of interest with this application and applicant and is hindering proper and due public participation.) Too much time has been fettered away by the City of LO and West Linn despite an inadequate bond issuance and commitments made to a third party city. When you consider staffs' findings and the desperate need of the applicant to maintain it's schedule, the West Linn City council realizes it neither has the resources nor capital to uphold the PC decision at LUBA. It is far better to side with the applicant who appears to have unlimited resources at there avail; and push the burden of persuasion back onto those people with standing. It is a far easier task, under the expedited schedule set by the WL CM to have the WL CC plug the holes that the applicant created when they did not provide the burden of proof. This is exactly what the council will do when it brings the kangaroo appeals hearing into session in January 2013.

Gary Hitesman

West Linn Resident with standing acting independently



Memorandum

Date: December 14, 2012

To: John Sonnen, Planning Director

From: Chris Jordan, City Manager 

Subject: Items for the Record for AP 12-02 and AP 12-03

In accordance with the City Charter requiring the Council to solicit input from West Linn citizens regarding the performance of the City Manager, in November the City Council received several letters related to my performance. A number of the letters specifically discuss the projects that are the subjects of the two appeals.

Assistant City Attorney Megan Thornton has reviewed the letters received by the Council and has recommended that the attached correspondence be entered into the record for AP 12-02 and AP 12-03 as they may constitute ex parte' contact for members of the City Council.

Please let me know if you have any questions.

Attachment

cc: City Council (memo only)
Megan Thornton (memo only)

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 6:25 PM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>

Submitted on Friday, November 2, 2012 - 18:24 Submitted by user: Submitted values

are:

First Name: Karlene

Last Name: Norby

Email Address: jorb@comcast.net

Street Address: 4040 Kenthorpe Way

City: West Linn

State: OR

ZIP: 97068

Phone Number: 5037203780

Comments: Mr Jordan has made several judgement errors that make it impossible to support his continuance as City Manager. Most of what he does is, of course, fine. The problem comes in however when he sets rules to support whatever cause he is behind. These rules are in either in violation of state law or violate the spirit of fairness. I would like the City Manager to be above doing that. His support for the LOTWP has been incredibly over the top, He and his assistant Wyatt have made this town more, not less fractured. This town needs to have new management that the citizens can trust. The new City Council needs to have someone that works for the citizens. He needs to be let go.

The results of this submission may be viewed at:

<http://westlinnoregon.gov/node/11302/submission/5945></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 3:56 PM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>

Submitted on Friday, November 2, 2012 - 15:55 Submitted by user:

joan.bouchard Submitted values are:

First Name: Joan

Last Name: Bouchard

Email Address: joan.bouchard@comcast.net Street Address: 18950 Nixon Ave

City: West Linn

State: OR

ZIP: 97068

Phone Number: 503 752-2878

Comments:

I cannot access the evaluation form so I cannot address the specific criteria the City Council will be using, but I want to say that I am disappointed about how Chris has handled the LOT Water Project. I believe he has not served the people of West Linn well on this issue. A specific example is the IGA which he negotiated with the City Managers of Lake Oswego and Tigard about LOT Project. It was very clear at the Planning Commission meeting on Nov 1 that the IGA did not adequately protect the long term interests of the citizens of West Linn.

He has not worked well with the Robinwood Neighborhood Association and the business communities in the Robinwood area. They do not trust him, they do not believe he has the best interest of the city in mind and that he is more interested in his long term political and professional career than in the best interest of, at least, this part of the city. I also believe he did not adequately guide and support his staff during this project as their recommendation for approval of this project demonstrated numerous financial, engineering, environmental and political consequences which were not competently and adequately addressed in their report.

The results of this submission may be viewed at:

<http://westlinnoregon.gov/node/11302/submission/5941></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 3:18 PM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>

Submitted on Friday, November 2, 2012 - 15:18 Submitted by user: Submitted values

are:

First Name: Sam

Last Name: Stephens

Email Address: spadeflush@comcast.net

Street Address: 3990 Mapleton Dr.

City: West Linn

State: OR

ZIP: 97068

Phone Number: 503-675-1175

Comments: I rate Mr. Jordan's performance as West Linn City Manager as poor.

He has shown very poor judgment in his dealings with West Linn residents in regard to the LOTWP's effort to build a new water treatment plant in West Linn. We all know that he lives in Lake Oswego. West Linn citizens continually asked for meetings with him and the City Council to discuss the plant which he usually ignored. Sometimes he engaged in stall tactics to delay these requests. Sometimes he flat out refused them. He has not represented the City of West Linn and its citizens. Instead, he has championed the efforts of his home city of Lake Oswego to build a plant in West Linn that West Linn citizens clearly don't want. Please do not discount or dismiss these comments and assertions as unsubstantiated. Chris Jordan has a conflict of interest in this matter and he should have recognized it at the outset. He should have recused himself from the issue completely, or gone out of his way to demonstrate his commitment to the West Linn and its citizens. He did neither. This shows incredibly poor judgment on his part.

Whether his bias is real or imagined does not make a difference. In these matters, appearances count. If he shows such poor judgment in such a high profile issue such as this, then he is probably also failing us in other matters. I have no confidence in his ability to represent the best interests of West Linn or its citizens. Further, I believe his behavior has damaged the credibility of the West Linn City Council and its ability to represent and advocate for the citizens of West Linn. Unfortunately, I believe we need to find a new city manager as soon as possible. And Mr. Jordan must be relieved of his position immediately, before he can do any more damage.

The results of this submission may be viewed at:

<http://westlinnoregon.gov/node/11302/submission/5939></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 3:14 PM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>

Submitted on Friday, November 2, 2012 - 15:14 Submitted by user: Submitted values are:

First Name: Pete
Last Name: Bedard
Email Address: pete.bedard@gmail.com
Street Address: 19431 Wilderness Drive
City: West Linn
State: OR
ZIP: 97068
Phone Number: 503-635-5464

Comments:

First, I want an email confirmation that this information has been entered in the record. I also want to know the total number of evaluations your firm received.

Second, let me say that this should be handled by an independent third party.

This is like the fox guarding and making the rules for the chicken coup.

Third, the city of West Linn should fire and sue your firm just like the city of Forest Grove did. Your firm's inability to provide accurate information to our inept city council has cost the citizens of West Linn a considerable amount of tax monies. I for one want to see it paid back.

That being said, Chris Jordan does everything in his power to make sure it is not easy for the citizens of West Linn to evaluate him.

Why is the opportunity for the citizens to evaluate Chris Jordan buried on the bottom of the City Manager's web page instead of being prominently placed on the City Home page?

Why is there only a small notice on the bottom left corner of page 8 of the West Linn Tidings. Why is it in the November 1st edition when the evaluations are due by November 2nd?

Why didn't the city council announce the opportunity at a council meeting?

Why wasn't the Robinwood Neighborhood Association president informed so he could have announced it at our October 9th meeting.

Why wasn't I notified in the city of West Linn Update newsletter I receive with my monthly water bill?

Why wasn't the opportunity posted on the bulletin board at city hall for everyone to see? I'm sure everyone that attended the LOTWP hearings on October 17, 18, 25 and November 1 would have liked to have known this.

The answer to these questions is that Chris Jordan is a Lake Oswego resident who doesn't have the best interest of the citizens of West Linn in mind. He doesn't want the very people who he has disenfranchised to participate in his evaluation. He has assembled a staff that does what he wants instead of doing the best job for the citizens of West Linn.

The West Linn planning commission on Thursday evening, November 1, unanimously DENIED the LOTWP applications for the proposed expansion of the water treatment plant and the pipeline. I believe one of the planning commissioners used the word "appalled" when speaking to the Chris Jordan hired planning department and city attorney. The commissioners cited several areas of the CDC that the applicants hadn't meet yet the applications were approved by Jordan's subordinates. The commissioners voted 7-0 for denial yet the planning department and city attorney saw it differently. Wow.

One can only hope that the citizens of West Linn vote in a new mayor and the rest of the city council opens there eyes, as the planning commission did, and fire Chris Jordan.

Bottom line, Chris Jordan needs to go.

Pete Bedard
19431 Wilderness Drive
West Linn, OR 97068
503-635-5464

The results of this submission may be viewed at:
<http://westlinnoregon.gov/node/11302/submission/5938>



CITY OF
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Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 2:34 PM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>

Submitted on Friday, November 2, 2012 - 14:34 Submitted by user: Submitted values

are:

First Name: Ken
Last Name: Hanawa
Email Address: kenhanawa@yahoo.com
Street Address: 4191 Mapleton Drive
City: West Linn
State: OR
ZIP: 97068
Phone Number: 5036809780

Comments:

My exposure to our city manager - Chris Jordan's activities this year has been via the Lake Oswego/Tigard water treatment project. Although Mr. Jordan should have recused himself entirely from any involvement in this project from the beginning due to his conflict of interest - being a resident of L.O. standing to benefit directly from the approval of the project and also having been the assistant City Manager in L.O. during the last attempt at water treatment expansion, he has done exactly the opposite taking a very active position in supporting and advocating for the project in public and in his professional capacity. His influence over the city staff who are also strongly advocating for the project despite a lack of scrutiny and due diligence required for such an imposition within our city - is readily apparent. The creation of an entirely new director position within his staff and promoting Chris Kerr to that position immediately following Mr. Kerr's preparation of the first staff report on the project - which in essence was a summary of the applicants positions with a glowing recommendation to approve on behalf of the city staff, is appalling. And Mr. Jordan behavior towards the citizens of West Linn in curbing their rights in the process and attempting to limit community influence in the process is reprehensible.

Chris Jordan should be fired from his position as West Linn's city manager at the earliest possible time. Furthermore, the position of West Linn city manager should in future have a requirement that it only be filled by a resident of West Linn to avoid such conflicts of interest and borderline criminal behavior within our city government.

- Ken Hanawa

The results of this submission may be viewed at:
<http://westlinnoregon.gov/node/11302/submission/5936></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 2:05 PM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

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Submitted on Friday, November 2, 2012 - 14:05 Submitted by user: Submitted values

are:

First Name: Mark

Last Name: Mutschler

Email Address: drs.mutschler@gmail.com

Street Address: 4993 Mapleton Dr.

City: West Linn

State: OR

ZIP: 97068

Phone Number: 5036550519

Comments:

I think that Mr. Jordan is doing a good job of managing the city finances and future planning. I am pleased that he was able to oversee the passage of the Police Station project with community task forces and public input.

I hope that he will be as successful getting a water resources improvement into fruition. I live on Mapleton Drive where the Lake Oswego water plant is being remodeled. I support the improvement of the plant and I have no problem with having it in my neighborhood, nor do I consider the inconvenience of underground work in front of my house a life-changing problem. I do think that Mr. Jordan should seek adequate compensation from L.O.T. in the form of combined infrastructure work and an access fee that can be used to help fund West Linn's needed water work.

There does seem to be inadequate attention from the city staff for oversight of the L.O.T. plant project. This seems to be because there is a cap on the funds able to be charged to LOT. There should be a mechanism for adequate compensation for a major expenditure of staff time for these unusually large projects and I wish Mr. Jordan had been able to use the Development Code to do so, and definitely suggest improvements for the future.

The results of this submission may be viewed at:

<http://westlinnoregon.gov/node/11302/submission/5933></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 1:51 PM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>

Submitted on Friday, November 2, 2012 - 13:50 Submitted by user: Submitted values

are:

First Name: Scott

Last Name: Gerber

Email Address: jumpin@cmn.net

Street Address: 3940 Kenthorpe Way

City: West Linn

State: OR

ZIP: 97068

Phone Number: 503 744 0817

Comments: Chris Jordan needs to go. He has consistently shown lack of foresight and fairness in dealing with the citizens of West Linn. His faulty impletation of the "exparte contact" rule in the LOT case caused a myriad of problems and was nothing short of an intention to shut out citizen input.

His overall bias toward LOT is obvious and well known and not fitting for a person in his position. He certainly has an agenda; unfortunately West Linn is not its main priority

The results of this submission may be viewed at:

<http://westlinnoregon.gov/node/11302/submission/5932></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 12:40 PM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

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Submitted on Friday, November 2, 2012 - 12:39 Submitted by user: Submitted values

are:

First Name: Jenne

Last Name: Henderson

Email Address: hendersonjj@comcast.net

Street Address: 4130 Mapleton Drive

City: West Linn

State: OR

ZIP: 97068

Phone Number: 503-636-6368

Comments: I am a resident who lives on Mapleton Drive and have been dealing with the proposed water treatment plant expansion and pipeline for over two years. I have been extremely disappointed with how the city of West Linn has handled this application. The citizens were prevented from asking questions and discussing their concerns with the city council members for over a year due to ex parte communication concerns, yet Lake Oswego was invited to present the benefits to the city council. I was told that the city staff were advised by the city attorney about the ex parte concern, but I believe that the city manager had an agenda and made the process difficult for the citizens because he is supporting the project. I am dismayed that city staff, whose salaries are paid for by the citizens, who behave in this manner.

The results of this submission may be viewed at:

<http://westlinnoregon.gov/node/11302/submission/5929></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 11:27 AM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>

Submitted on Friday, November 2, 2012 - 11:26 Submitted by user: Submitted values are:

First Name: Joel

Last Name: La Follette

Email Address: joel@royaltreatmentflyfishing.com Street Address: 21570 Willamette Dr

City: West Linn

State: OR

ZIP: 97068

Phone Number: 503 850 4397

Comments: Not impressed with the handling of this water plant issue by anyone on the city staff. This whole affair seems underhanded and predetermined. I have zero faith in city hall at this time. West Linn is bowing to outside interests and not protecting the interests of it's citizens.

The results of this submission may be viewed at:

<http://westlinnoregon.gov/node/11302/submission/5927></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 10:14 AM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>

Submitted on Friday, November 2, 2012 - 10:14 Submitted by user: Submitted values

are:

First Name: Grant

Last Name: Johnstone

Email Address: grantjohnstone@yahoo.com

Street Address: 19161 Willamette Drive

City: West Linn

State: OR

ZIP: 97068

Phone Number: 503-699-2929

Comments:

I am very disappointed! It seems we've lost our local representative government. I feel our city does whatever it wants without regard for what the residents want. In fact, I wonder who they are serving, because they seem to navigate around the clear will of the residents. I will provide two quick examples:

1) The water plant that is planned on Mapleton has arguably little benefit to the residents of West Linn and clear detriment and adverse financial impact to local businesses and property values. Despite the public outcry, the city appears to have disregarded the will of the local residents.

2) The last police bond was defeated for the third time, and instead of cutting police services, the city imposed new street and park usage fees.

This was clearly a disregard for the vote and voice of the people. Even if the city leadership thinks it knows best, bi-passing the vote breeds distrust in the city leadership. Frankly, I feel our city is seriously over-policed.

We have two brand new police cars issuing silly driving tickets within a single one-mile stretch of road in West Linn. The police have huge pensions, salaries, and benefits, (and now a brand new police station), and they are so numerous they are relegated to issuing traffic violations that amount to little more than toll taxes for passing through our city. Instead of protecting our local residents, they feel like thugs who are out to harass the very people who they say they are protecting. In short, most residents feel over policed in West Linn and harassed by their local police and the multiple versions of the vote failed because people didn't want more police, but the city leadership disregarded this repeated and clear message and did what they wanted.

So for me, I don't trust our city leadership. I don't trust our police. You have created a serious adversity between you (the city leadership) and your citizenry. If you wonder why you don't hear more outcry, I will tell you.

When the recent vote for a police station was placed on the ballots, people who favored the police station (police, city workers and city leaders, and their families) could openly voice their support with banners, posters, and editorials. But those who might oppose the police station honestly feared retaliation and retribution from the police either by active harassment or passive means of failure to protect. Meaning, speaking up to support the city and police has obvious advantages, but speaking out against the city and the police can bring down serious harm.

You wield greater power than you realize, and you have abused this power and responsibility in the worst ways I've ever witnessed. I couldn't be more disappointed.

The results of this submission may be viewed at:
<http://westlinnoregon.gov/node/11302/submission/5922>



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Linn**

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Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 9:20 AM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

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Submitted on Friday, November 2, 2012 - 09:20 Submitted by user: Submitted values are:

First Name: Robert

Last Name: Stowell

Email Address: stowell15050@aol.com

Street Address: 2606 Maria Ct.

City: West Linn

State: OR

ZIP: 97068

Phone Number: 503-636-3615

Comments: It's time for a change. He has shown where his loyalty is. All through this LOTWP issue has been with them. He has put every road block in our way to even approach you the members of the council. Just before the ap was turned in we heard from the city's lawyers you could talk with us, only this came to late after you all set down with LOT and talked about this project. I feel he has lead you around to what he wants rather than what is the best interest of those who pay the bills. Your job is to work for us not others outside this city.

The results of this submission may be viewed at:

<http://westlinnoregon.gov/node/11302/submission/5920></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 9:18 AM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>

Submitted on Friday, November 2, 2012 - 09:18 Submitted by user: Submitted values

are:

First Name: Micheal

Last Name: McCarthy

Email Address: clan.mccarthy@yahoo.com

Street Address: 6705 Summerlinn Way

City: West Linn

State: OR

ZIP: 97068

Phone Number: 503-344-4489

Comments: Mr. Jordan needs to be recalled. He does not have the best interest of the citizens of West Linn in mind when conducting his job. He is only politically and financially motivated for himself. He has handled the Lake Oswego/Tigard Water Treatment Plant facility expansion with complete disregard for the City of West Linn he is supposed to be working for. This project will disrupt all of West Linn and he has shown complete disregard for high level of impact this project will have on the community and it's citizens. He needs to go!

The results of this submission may be viewed at:

<http://westlinnoregon.gov/node/11302/submission/5919></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 7:48 AM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>
Submitted on Friday, November 2, 2012 - 07:47 Submitted by user: Submitted values are:

First Name: David
Last Name: Froode
Email Address: dfroode@comcast.net
Street Address: 19340 Nixon Ave
City: West Linn
State: OR
ZIP: 97068
Phone Number: 503-697-4876

Comments:

During the past ten years I have had many encounters with the city manager. Most were good. However in the past two years this has taken a serious turn for the worse. He was told in a recent meeting if we felt manipulated, that would be a disconnect. He crossed the line and the trust was broken. I am not at all pleased with the methods he employed to deal with those of us who took issue with the LOT project. I will say the same for the city council.

On Nov 1 those of us who sat in the audience for the Planning Commission hearing witnessed the ineptness of the staff employed by the City of West Linn to protect the interests of it's citizens. The staff grossly neglected to fill in the gaps or address so many issues enabling LOT to proceed unchallenged. However given the overwhelming performance of the Planning Commission many of the issues were answered. But the question remains, why does the planning commission have to do the job the staff should be doing?
The answer rests in how the city is managed.

Any process that enables a neighboring city to invade and cause the heartache and hardship LOT has, is evil. It is un American and just plain wrong. What has happened over the past two years to citizens of West Linn should not have ever been allowed. But the city manager and council did little to prevent it.

In fact, in some instances manipulated the citizens to marginalize them. This is when the citizens are forced to hold their elected officials and city employees accountable. And we will! It is time for the city manager to update his resume and seek employment elsewhere. He can take the planning staff with him.

As for the city council, your tasks are before you.

The results of this submission may be viewed at:
<http://westlinnoregon.gov/node/11302/submission/5913></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 7:41 AM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>
Submitted on Friday, November 2, 2012 - 07:40 Submitted by user: Submitted values

are:

First Name: Yvonne
Last Name: Davis
Email Address: yvonne.davis00@gmail.com
Street Address: 4226 Mapleton
City: West Linn
State: OR
ZIP: 97068
Phone Number: 503 635 3242

Comments:

Mr. Jordan appears to consider WL to be his personal fiefdom. His disdain for the taxpayers in his own city is obvious. Under his administration West Linn's residents have been muzzled and marginalized. Backroom deals and cronyism rule. What he hasn't been fired yet is beyond me. And yes, I do live on Mapleton and how WL staff has handled that whole LOT fiasco is influencing my opinion of the entire city's integrity.

The results of this submission may be viewed at:

<http://westlinnoregon.gov/node/11302/submission/5912></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 7:33 AM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>

Submitted on Friday, November 2, 2012 - 07:33 Submitted by user: Submitted values are:

First Name: scott

Last Name: andersson

Email Address: sandersson@acecomputerrepair.biz Street Address: 19125 Willamette dr

City: West Linn

State: OR

ZIP: 97068

Phone Number: 5036571842

Comments:

Put the roads and police to vote, unconstitutional to level taxes in utility bills Put LOT nightmare to citizen vote

The results of this submission may be viewed at:
<http://westlinnoregon.gov/node/11302/submission/5911></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 6:54 AM.
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>

Submitted on Friday, November 2, 2012 - 06:54 Submitted by user: Submitted values

are:

First Name: Cindy

Last Name: Kauffman

Email Address: cinkauffman@yahoo.com

Street Address: 3993 mapleton Dr.

City: West Linn

State: OR

ZIP: 97068

Phone Number: 503-636-4413

Comments: Very disappointed in the performance of Chris Jordon, we need someone with West Linn's interest at the forefront not Lake Oswego's. The citizens of West Linn are speaking loud and clear about our view of the LOT and feel our City manager is not on our side when he should be.

The results of this submission may be viewed at:

<http://westlinnoregon.gov/node/11302/submission/5909></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 1:24 AM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>

Submitted on Friday, November 2, 2012 - 01:24 Submitted by user: Submitted values

are:

First Name: Jack

Last Name: Norby

Email Address: jnorb@comcast.net

Street Address: 4040 Kenthorpe Way

City: West Linn

State: OR

ZIP: 97068

Phone Number: 503 720-4733

Comments: Chris Jordan has many biases against the citizens of West Linn as the LOTWP project has exposed. He is not for the citizens of West Linn but whatever agenda will get him promoted to his next job. I don't trust him to work for West Linn and I know many people who feel the same way. He needs to be replaced.

The results of this submission may be viewed at:

<http://westlinnoregon.gov/node/11302/submission/5906></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 12:56 AM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>

Submitted on Friday, November 2, 2012 - 00:56 Submitted by user: Submitted values

are:

First Name: Eric

Last Name: Jones

Email Address: ericjones2009@aol.com

Street Address: 4310 Mapleton Drive

City: West Linn

State: OR

ZIP: 97068

Phone Number: 503-636-1355

Comments:

The city manager has repeatedly tried to direct, control, and influence the land use process for the Lake Oswego-Tigard Water Partnership (LOT) water plant and pipeline applications, thus denying West Linn citizens and Robinwood neighborhood residents a fair and open process to air concerns and address code issues. For over a year, the city manager held citizens at arms-length and refused to let them speak to their elected council at meetings or elsewhere. The delay in implementing the council's direction to hire an independent planner to help the RNA develop reasonable mitigations for the project and his control over the various city attorneys that have been involved in the process (several of whom have displayed obvious bias toward the applicant and against residents) both represent part of a long strategy to derail active citizen involvement in the land use process, something that the West Linn charter, comp plan, and CDC each calls for. His hiring of the facilitator Greg McKenzie (who was hostile toward the neighborhood behind the scenes) bought time for the applicant and was designed to go nowhere. The city manager is untrustworthy and not representing the interests of West Linn citizens. He should be at least reprimanded and placed on probation and at best terminated.

Please confirm receipt of this comment and its inclusion in the evaluation process.

Thank you,

Eric Jones

The results of this submission may be viewed at:
<http://westlinnoregon.gov/node/11302/submission/5904></p>

Ted Naemura

From: West Linn City Manager's Performance Evaluation [webmaster@westlinnoregon.gov]
Sent: Friday, November 02, 2012 12:16 AM
To: Ted Naemura
Subject: West Linn City Manager's Performance Evaluation

<p>

Submitted on Friday, November 2, 2012 - 00:16 Submitted by user: Submitted values

are:

First Name: Lamont

Last Name: King

Email Address: lamontking@comcast.net

Street Address: 4257 Kenthorpe Way

City: West Linn

State: OR

ZIP: 97068

Phone Number: 503-636-0189

Comments: Chris Jordan needs to be replaced. In my opinion, he has sided with LOT on the Water Treatment Plant and tried to manipulate the process in their favor. Chris has proven to me to be dishonest and not to be trusted to look out for the best interests of West Linn.

The results of this submission may be viewed at:

<http://westlinnoregon.gov/node/11302/submission/5902></p>

10/17/12 Presented to Planning Commission
Oral Testimony by Glenda Waddle

Robinwood Shopping Center, LLC
19363 Willamette Drive #108
West Linn, Oregon 97068
503-636-9000 Office
503-387-3082 Facsimile

Re: CUP-12-02/12-04; CUP 12-04/DR-12-14

Dear West Linn Planning Commission Members:

We are the owners of the Robinwood Shopping Center consisting of 70,831 square feet of retail space and fourteen retail tenants. The Center is across the street from the major water project construction. Our tenants along with all of the other many retailers, service providers and restaurants along Highway 43, and all of the residents of the area in general, especially the Mapleton neighborhood, will be seriously, permanently and devastatingly economically harmed by the proposed Lake Oswego/Tigard water projects. At the outset, let me provide context: These are not West Linn projects. These are projects two other cities want West Linn to approve to benefit their residents and businesses.

The basic premise ought to be that Lake Oswego and Tigard create no net detriment to West Linn residents and businesses. Obviously, West Linn is those cities' preferred option. But is it the fairest option to West Linn residents and businesses who will bear the entire brunt of these projects?

To permit these projects to move forward as proposed will cause irreparable economic harm to the businesses and residents in the area, permanently harm our neighborhoods and negatively impact the quality of life in West Linn. What alternatives were considered and if they were, why were they rejected? If the main reason is cost to Lake Oswego and Tigard, then why was the cost to West Linn residents and property owners not given equal consideration, especially when Lake Oswego and Tigard are asking West Linn to accommodate facilities benefitting non-West Linn residents?

Chapter 60 (Conditional Uses) of the West Linn Community Development Code states clearly that the purpose of that chapter is to provide the **standards** under which conditional uses may be permitted, enlarged or altered, and how development conditions can be met.

More specifically, Chapter 60.070, Approval Standards and Conditions, states that the Planning Commission shall approve or deny an application for a conditional use based on findings of fact with respect to addressing of the following criteria as stated below.

1. The characteristics of the site are suitable for the proposed use considering location etc.

Location- Clearly the proposed locations for the Water Treatment Plant upgrade and the water pipeline expansion in a residential neighborhood are not suitable. These projects should not be occurring in the middle of a residential neighborhood as they are going to cause havoc on the entire neighborhood community.

Additionally, these projects should not be obstructing a key heavily trafficked commercial road and commuting corridor that services West

Linn citizens and businesses, adding 15,400 truck trips and 50,000 additional construction-related vehicles. This will be a “Business Killer”, and therefore, a “Jobs Killer”.

Due to the admitted increase of heavy truck/construction traffic, Highway 43 is going to be a multi-year bottle-neck. This will cause retail customers to re-route, harming all businesses along Highway 43. Patronage (and jobs) along Highway 43 will simply go elsewhere.

Imagine heavy construction-related activity with these additional truck trips and vehicles for a couple of years and you get a glimpse of the problem. Throw in active road construction intermittently blocking one of the City’s main roads.

And when you block a key artery, it stops the flow through the entire artery, just like a heart attack, and everything dies due to loss of the blood (or constricted traffic flow). This is simply the wrong location for these projects.

2. The granting of the proposal will provide for a facility that is consistent with the overall needs of the community.

- a. Economic Hardship- Construction related to both the plant upgrade and the pipeline expansion will have a devastating economic impact on all of the businesses and jobs in the surrounding areas, as stated above, something that to date has not been even considered. These local businesses are only now finally starting to show signs of recovery after enduring an

extremely challenging economic climate over the past four years. **Causing serious economic harm to many of the local businesses that service and have serviced the area for many years and killing the jobs of our local citizenry is certainly not consistent with the overall needs of the community.**

- b. Insufficient Notice-**There was insufficient notification with regards to the potential impacts of these proposed projects. In the Staff Report for the Planning Commission it states that “between December 2011 and January 2012, the applicant visited each business and multi-family complex along the Highway 43 portion of the alignment to deliver a letter and informational packet about the project.” Irrespective of what Lake Oswego/Tigard state, the management of the Robinwood Shopping Center and none of our 14 tenants, all of which oppose this project, have ever been visited or received any materials. We will gladly produce affidavits substantiating this. The staff report alludes “to a Good Neighbor Agreement.” There has been no effort directed to us or our tenants at any such discussion.
- c. Quality of Life-** The location of the proposed projects will definitely degrade the quality of life of everyone who either lives or works nearby, due to multiple years of loud construction noise, all day - daily heavy truck traffic and general traffic and access disruption.
- d. Legal Intimidation-**What is perhaps the most egregious issue is the fact that many of our neighbors in Mapleton have been sued regarding the removal of their CC&Rs that have existed for many years – requiring them to spend thousands of dollars.

This is an inexcusable power play by parties from outside West Linn trying to push these projects on West Linn. This should be immediately stopped.

As the Planning Commission will hear, there is significant, committed opposition to this project. If what is being proposed was consistent with the overall needs of the community there would not be an outpouring against this proposal. The very fact that you have this much opposition signifies that what is being proposed is definitely not consistent with the overall needs of the community.

As discussed earlier, what is consistent with the overall needs of the community is that alternatives be found that take West Linn's interests into account. We would urge the Planning Commission to insist that Lake Oswego and Tigard meaningfully explore and implement alternative solutions. It is always easier to solve your problems on someone else's turf. The conditional use process exists to make certain that this doesn't occur when that turf will be spoiled.

Upon reflecting on the points above, it is obvious that the granting of the Lake Oswego Tigard proposal is totally inconsistent with the overall needs of the community and thus should be denied.

3. The use will comply with the applicable policies of the Comprehensive Plan.

- a. **This plan clearly does not comply with the applicable policies of the Comprehensive Plan in any meaningful way. Some of the goals of the Comprehensive Plan, and the applicant's misstatements regarding them and their failure to achieve them, are stated below.**

1. Citizen Involvement- As previously stated, the statement by the applicants that they “visited each business and multi-family complex along the Highway 43 portion of the alignment to deliver a letter and informational packet about the project” is incorrect.
2. Land Use Planning. Residential Development. Policy 8: Protect residentially zoned areas from the negative impacts of commercial, civic and mixed-use development, and other potentially incompatible land uses. **Need we say more- this proposal clearly does not protect our residential areas from the negative impacts of this industrial water treatment expansion and the pipe work that it will create.**

4. **The applicable requirements of the zone are met.**

- a. **The zoning is R-10, Single-family Residential Detached; R-4.5, Single-family Residential Attached/Duplex; GC, General Commercial.**

Allowing for the disruption of a residential area by the expansion of an industrial plant in a residential area is contrary to the Zoning.

We therefore propose the following:

1. Everyone would agree that it would be ideal if there could be an alternative solution found other than the digging up of Highway 43 and further encroaching an industrial operation into residential neighborhoods.

Some will say that everything has been analyzed and that this is the only solution, but this is definitely not the case. It is our understanding that alternatives exist, but that they have been rejected by the two cities as they have been solely focused on their plan, not a plan considering West Linn.

2. If this approach is tried and it is determined that there is no alternative solution, then each group that is going to be seriously affected should be able to confer with representatives from ODOT and the cities of West Linn, Lake Oswego, and Tigard to devise an approach that can work for each group. **To date, this has certainly not been done for the business community. The objective should be “do no harm.”**

We would like to re-iterate that if the work is to be done at all, which we are strongly opposed to, it is imperative that the work and all transportation of materials etc. be done solely and exclusively during the hours of 10:00 pm to 6:00 am with special sensitivity to those owners directly impacted, as follows:

1. Since the work is supposed to be done in three hundred foot increments moving incrementally with 50 feet of work completed each day, that would mean that the noise issue- which we understand we be attenuated with noise barriers etc. - would be seriously limited per neighborhood since it would only be in each neighborhood for a limited amount of time.

2. There will be specific parties who will suffer from other factors which cannot be currently predicted. There should be some simple process for those parties to be satisfactorily compensated for their economic losses. They should not have to go through the court system.

3. Regular coordination and immediate problem-solving mechanisms need to be established, so that properties like our Center aren't left with surprises or unhappy and confused tenants and patrons. That's the core of a true "Good Neighbor Agreement."

Good faith, fairness and compliance with West Linn's land use standards should be what we should all be concerned with. No developer would be permitted to do what Lake Oswego/Tigard are proposing. Alternatives would be considered. Fair and clear conditions would be established, if the projects proceeded. The land use process doesn't allow one set of rules for applicants like Lake Oswego/Tigard and another set for the rest of us. More work needs to be done; more thought needs to be expended.

Sincerely,

Robinwood Shopping Center, LLC
William J. More

TO: West Linn Planning Commission

RE: Lake Oswego-Tigard Water Partnership, LOT Water Treatment Plant and Pipeline

Letters can be mailed to:
West Linn Planning Commission
22500 Salamo Road
West Linn, OR 97068 or emailed to
zpelz@westlinnoregon.gov

I would like to submit this letter as my recorded testimony to the West Linn Planning Commission for the meetings scheduled regarding the Lake Oswego-Tigard Water Partnership Water Treatment Plant.

The cities of Lake Oswego and Tigard are requesting a Conditional Use Permit to expand the current Water Treatment Plant on Kenthorpe Way in West Linn in order for Lake Oswego to enter into a revenue generating agreement with the city of Tigard to provide drinking water for Tigard. To do so, they need a conditional use permit.

Chapter 60 (Conditional Uses) of the West Linn Community Development Code requires that the purpose for the conditional use meets certain standards under which conditional uses may be permitted., enlarged or altered, and how development conditions can be met. More specifically, Chapter 60.070, Approval Standards and Conditions, states that the Planning Commission shall approve or deny an application for a conditional use based on findings of fact with respect to addressing of the following criteria:

1. The characteristics of the site are suitable for the proposed use considering location etc.
2. The granting of the proposal will provide for a facility that is consistent with the overall needs of the community.

In regard to the two issues above, I do not believe that there is any "community benefit" to West Linn or the Robinwood Neighborhood. Additionally, the facility is not consistent with the overall needs of the community. Most of the benefits that the LOT plan lists are either already in place (intertie) or will have to be done because the scope of this construction will destroy existing streets, pipelines and Mary S. Young State Park.

More specifically, CDC60.070 (A)(2) Shape: The "cross" shape of the applicant's property exposes residences located at the "interior corners" of the site to noise, dust, traffic and light impacts from the operation of the plant and, particularly, the same impacts from construction. The proposal is not compliant.

(Location): The site is not in compliance with 60.070(A)(2) with regards to location. The sheer scale or mass of the facility is not appropriate. The size and height lower property values, reduces privacy, attracts industrial traffic, reduces the visual experience and imposes impacts that reduce residents' quality of life. The size and mass of the WTP will be comparable to that of a Home Depot, Costco, Walmart Super Store or a similar big box store. The 3 story WTP is proposed to be a **regional** Water treatment plant. It simply does not belong in a residential neighborhood where the predominant housing type is ranch style occupied by families.

CDC60.70 (A)(2) requires that the site must be safe geologically and topographically. Engineers now know that the site is not stable due to a high liquefaction factor. The proposal is not compliant. Additionally, the location of the intertie is not a factor in location as claimed by the applicant. It will be located any place near the finished water pipeline. The location of the intertie does not determine the location of the WTP.

Also, West Linn has a policy of opposing development in the Stafford Triangle. This proposal assumes an eventual allocation use of water produced by this plant expansion to the Stafford Triangle.

60.070(A)(3) requires that the proposal provide a facility that is consistent with the overall needs of the community. West Linn provides sufficient water for itself. Other benefits claimed in the application are quite limited. The intertie already exists. Additional benefits are non-existent until West Linn expands the size of intertie. Water required during the replacement of Bolton Reservoir is only a benefit if West Linn continues to locate the reservoir in the same seismically and geotechnical impaired site.

Additionally, West Linn Citizens will have to endure 2+ years of constant construction including heavy truck traffic and loud heavy machinery noise for 11 hours EVERY weekday and 9 hours EVERY Saturday and Sunday unless we are spared some Sunday work as LOT has indicated may happen under normal conditions. If they did work on Sunday, there would be 89,472 truck hauls in the neighborhood and if they did no Sunday work whatsoever and the job finished on time and the job ends on the first day of the month on the month cited by LOT for the job ending, the total number of truck trips for the job would be 77,760. And this does not include additional vehicular traffic. Please see the attached Calculation sheet. West Linn Citizens will be subjected to this type of construction for 6 or 7 days a week ... for 2 years – all for a *Revenue Generating Agreement* between two other cities, Lake Oswego and Tigard that most likely will cause irreparable harm to the citizens of West Linn and destroy the good neighbor policies of West Linn. Please do not let them divide our community.

In addition, West Linn Citizens will have 2+ years of extremely limited access to their homes 24 hours a day, 6 to 7 days a week during this construction. The impact of this construction, especially to West Linn Senior Citizens living in this area, will be lifechanging in their daily routines. Also negatively affected will be main transportation and pedestrian routes and 24-hour emergency vehicle access. West Linn Citizens will be exposed to the possibility of reduced property values and irreparable damage to their homes because of pipeline placement and possible pipe breakage which will be the fiscal responsibility of the West Linn Citizens, not the cities of Lake Oswego or Tigard. Due to the extent of the work planned, businesses will suffer seriously with some going bankrupt and jobs in West Linn lost.

Signature *Even though almost all businesses were not aware of this project until approx. two weeks before the very last Planning Commission meeting, over 100+ businesses signed this letter of opposition. Many more would have signed had there been more time. Each signed letter was submitted to PC. and so part of record*

Additionally, the characteristics of the site are not suitable for the proposed use considering location since it is an industrial expansion in a residential area.

It does not meet the overall needs of the community since it will cause havoc on a residential neighborhood and will create economic hardship to the community due to the loss of businesses and jobs as a result of the extensive highway construction and bottleneck traffic that it will create even with highway work being done in the evening.

Based upon calculations using the information provided by the Lake Oswego Tigard report i.e. pages 10 and 11 of the Construction Management Plan, there will be an exorbitant number of additional 89,472 of truck trips, (please see calculations attached), in addition to the other construction related vehicular traffic. This will create bottle neck traffic on a highway that already had high traffic counts.

These numbers could change depending on how many Sundays they work, depending if they will work for the entire last month or only to the first of the last month (we have been conservative and calculated that they would only work to the first of the last month, and depending upon how much extra vehicular traffic this work brings to the area, which is anticipated to be significant, in addition to the extra number of vehicles used to simply bus the workers in and out each day. In addition this project very likely will not wrap up on time. Please see the calculations attached.

This will effectively route people away from the businesses in the area for an extensive amount of time and make it exceedingly difficult for residents to live their daily lives.

There also was insufficient notice to the business community. LOT states that they provided notice to businesses, but it now appears from what they are now saying that their concept of notice was in the form of some general handouts and mail outs to some businesses during the busy Christmas Holidays of 2011. Some would suspect that LOT did not want the business community involved since they chose to do what they did during the busy Christmas Holiday season. There was a total lack of any emphasis of delivering the handouts to the owners of the business, but merely to people working at the location as almost none of the business owners were aware of this proposal until a week or two ago. If LOT was sincere in their efforts to engage the local business community LOT would have gone about this differently. It would have directly contacted the owners of the businesses and discussed this matter with them straight up in a meaningful way instead of feigning contact with the business community by sending generic mail by regular deliver in the middle of the holiday season or dropping off materials to employees during the busy holiday season.

This project will devastate the quality of life for the neighborhood. Additionally, the invalidation of covenants established in 1944 by the City of West Linn to protect property zoning on Mapleton Drive is not in the best interest of the community.

The proposal also does not comply with the applicable policies of the Comprehensive Plan since, among other things, LOT has deceptively tried to state that they provided meaningful notice which temporarily and initially minimized certainly businesses involvement. The residential area and the business community on Highway 43 are not being protected from the negative impact of this development. Additionally, this proposal will create an expansion of incompatible land use.

Also, the applicable requirements of the zoning laws are not being met since the zoning is R-10, Single-family Residential Detached: R-4.5, Single-family Residential Attached/Duplex; GC, General Commercial and what is being proposed is inconsistent with this classification since the Comprehensive Plan Map lists the entire neighborhood as Low Density residential.

LOT wants it both ways. LOT exempts itself from an election to approve the easement through Mary S. Young Park because Mary S. Young is a State owned park. But then claims the improvements to the park required by ODFW benefit the citizens of West Linn. It seems that they benefit the owner....the State of Oregon. If the improvements benefit the citizens of West Linn, then shouldn't the citizens of West Linn be able to vote on the crossing of the park.

I do not believe that a redundant I205 Crossing is in the 2008 Water Master Plan, particularly at a site as bad as the Robinwood crossing. A Robinwood crossing is not a legitimate benefit to West Linn.

I urge the City Planning Commission members to please keep in mind that some of the benefits claimed by LOT are paid for by the citizens of West Linn and they are required. The costs to the citizens of West Linn which is "huge" and extensive should be included in the calculation of benefits with the required net result being positive.

Additionally, 60.070 (C)(6) says the City may require (by conditions of approval) the "street to be improved, including all steps necessary to address future street improvements identified in the adopted master plan". This plan does not do this. LOT should be required to improve the streets and sidewalks to the standards of the master plan.

60.070 (C)(7) says that the City may require that intersections should be improved to levels indicated in the master plan or fees paid in lieu. This proposal does not include any intersection improvements.

Signature _____

60.070(C)(4) allows the City to lower the building height to 2 stories so the building would be in compliance with the Robinwood Neighborhood Plan with regards to height and be more compatible with surrounding properties.

60.090(A)(1) requires that reconstruction of highways, roads, bridges etc. be consistent with the West Linn transportation plan. This plan does not do this.

Chapter 55.100(B)(6)(b) requires that the proposed structure(s) shall be compatible with the existing structures on the site and adjoining sites. Contextual design is required. The proposed water treatment plant is in no way in compliance with this paragraph. I am not sure it is even possible.

The applicant is not in compliance with In 55.100(B)(6)(c). The applicant has attempted to have a step down transition on two sides but it is not successful. The lower structures add to the bulk as they do not adopt the design features of the large building. Neither is contextual.

The LOT pipeline is not in compliance with 60.070(A)(2) with regards to location. The 42" and 48" pipelines are too large to fit into the available right of ways without damaging existing infrastructure. The construction is too invasive and creates too many unsafe conditions for residents. The size of the pipes is regarded in the community as unsafe in a residential area. The pipeline should be located elsewhere.

Unless the applicant can meet levels of allowed **impulse** sound specified in chapter 55.100(D) on highway 43 during nighttime work, the night time working hours should be limited to 6:00 PM to 9:00PM to allow residents to sleep. Regardless of the work hour impulse sound standards should be met. Chapter 60 allows the hours of work to be adjusted by condition. Keep in mind, evening work hours will not be productive for restaurants either.

Undergrounding of utilities in the right of way being improved may be conditioned under 60.070(C). The application does not propose undergrounding utilities on Mapleton, Kenthorpe or Highway 43 even when the utility is in the path of said construction. It seems that when the ground is open is a good time to underground utilities. Undergrounding utilities is a goal in the Comprehensive Plan.

West Linn government should be watching out for our best interests of the residents and businesses of West Linn. West Linn residents and businesses should not suffer or be required both directly and indirectly to subsidize the construction and operation of this plant.

Nowhere in this proposal or in conditions of approval are contracts for services required. These must be required.

LOT does not pay property taxes, and in 50 years has not paid any franchise fees or transportation fees which shows extraordinary favoritism to LOT over citizen which is unacceptable. Any conditions of approval, which we are vehemently against, must require cost recovery contracts with City and County agencies.

I strongly urge you to please reject this proposal because it will bring substantial harm to the citizens and business and jobs of West Linn because **this plan is a neighborhood killer, a business killer and a job's killer.** It will also kill the great neighborly spirit that has existed amongst all of our neighbors now for many years and permanently divide our community.

Respectively Submitted:

Signature

Address

Please print name _____

Email Address _____

Phone number _____

Calculations only for Truck Traffic. (These calculations do not include any additional vehicular traffic whatsoever, which should be significant):

- In the Brown Caldwell Lake Oswego-Tigard Water Partnership report, it states in footnote 2 at page 11 that "All truck trip volume reported is one-way (each round trip results in two (2) one-way trips). Therefore, all truck trips per hour **were doubled** to account for round trips (i.e. 2 Truck Trips per Hour X 2 = 4 Total 1 Way Truck Trips per Hour).
- All work hours were based on the typical work hours referenced in the chart (I.e. 7AM to 7 PM = 12 Hours).
- Days in the construction phase were calculated on the first of the stated month to first of the last month as seen on the chart below. If LOT was referencing from the first of the month to the last of the month, which would seem logical, this would increase the number of truck hauls by an extra thirty days of truck hauls for each period where LOT made this calculation i.e. HDD construction (via Mapleton Drive) normal and Open-cut construction on Mapleton Drive, and Open-cut construction on Highway 43 (i.e. March 1, 2014 to October 1, 2014 = 214 Days, November 1, 2014 to March 1, 2015 and June 1, 2014 to August 1, 2015).

All seven days of the week have been calculated. Lake Oswego Tigard have (LOT) has indicated that under normal conditions they will not be working on Sundays. So in those instances the calculation would need to be adjusted accordingly depending on how many Sundays that LOT did not work. If LOT did not work any Sunday at all, which is not anticipated, after deducting for all of the Sundays, the total of truck traffic hauls would be 77,760 trucks. **Please note that this is only a count of traffic for truck traffic and not any additional vehicular traffic created by the work being done.**

These calculations are based upon the job being completed timely which from experience is rare due to the invariable unforeseen circumstances that inevitably arrive. So in that instance the numbers will also need to be adjusted upward.

- **HDD Construction (via Mapleton) - Pullback** calculated at 12 one way trips per hour (again 6 Truck Trips per Hour are doubled to account for round trips) over a continuous 48 hour period. This is described in detail on **p. 10 of the Construction Management Plan.**

RWP and FWP Truck Trips

<u>Phase</u>	<u>Truck Trips Per Hour (1 way)</u>	<u>Work Hours/Day</u>	<u>Days in Construction Window</u>	<u>Total Truck Trips</u>
HDD Construction (via Mapleton) - normal	4	12	214	10,272
HDD Construction (via Mapleton) - pullback	12	-	-	576
Open-Cut Construction on Mapleton	12	12	120	17,280
Open-Cut Construction on Mapleton	16	9	426	61,344
Total number of just truck trips				89,472

If no work whatsoever is done on Sunday and the job finishes on time and the job ends on the first day of the month cited by LOT and not the last day and the job does not take longer than anticipated, the total number of truck trips for the job would be 77,760 and not 89,472. (This excludes all additional vehicular traffic.)

Chart from p. 11 of Construction Management Plan

Table 3. RWP and FWP Truck Trip Volume by Phase ¹				
Phase	Truck trips per Hour ²	Typical work hours	Anticipated start of construction window	Anticipated end of construction window
HDD construction (via Mapleton Drive) – normal	2	7 a.m. to 7 p.m.	March 2014	October 2014
HDD construction (via Mapleton Drive) – pullback	6	NA ³	NA ³	NA ³
Open-cut construction on Mapleton Drive	6	7 a.m. to 7 p.m.	November 2014	March 2015
Open-cut construction on Highway 43	8	8 p.m. to 5 a.m.	June 2014	August 2015

¹Additional daily truck trips will result from WTP construction activities which are not included in this table.

²All truck trip volume reported is one-way (each round trip results in two (2) one-way trips)

³HDD pullback activities will occur once over a continuous 24- to 48-hour period

10/25/12 Presented to Planning Commission
Oral testimony by Cheryl Keicher/West Linn Airport

Robinwood Shopping Center, LLC
19363 Willamette Drive #108
West Linn, Oregon 97068
503-636-9000 Office
503-387-3082 Facsimile

October 25, 2012

Dear City Planning Commission:

After our presentation to the City Planning Commission this past week, I received a call from a representative of LOT who stated that I had made a mistake in my letter. He said that my statement "that this work would cause 15,400 truck trips and 50,000 additional construction-related vehicles" was a gross exaggeration that was being used by the opposition. I said that if I had made a mistake, I would immediately go on the record and have the mistake corrected. I then went straight to the materials that Lake Oswego Tigard (LOT) had prepared on this issue and did my own independent calculations.

I have attached these calculations and the method used for your review and it shows that instead of the 65,400 of truck and vehicle calculations that I had originally stated, that when calculated conservatively that the actual number of just truck trips will be anywhere from 77,760 to 89,472 trucks.

Please note that this is just for trucks trips and does not include the additional vehicle traffic and is based upon information supplied by the Lake Oswego Tigard group i.e. from written information submitted by LOT on p.10 and Table. 3. on p. 11 of their Construction Management Plan for the RWP and FWP. It does not include additional daily truck trips that will result from WTP construction activities. This fact is clearly stated in Footnote 1. of Table 3. on p. 11 of the Construction Management Plan for the RWP and FWP.

These numbers are much higher than what I and others have originally estimated. This amount of traffic will unquestionably create a huge traffic congestion nightmare, much more so than anyone has even anticipated.

As a result of the huge amount of traffic that this project will bring to Highway 43, along with all of the other problems that this project brings with it, **the expansion of the water treatment plant will unquestionably bring serious harm to the Robinwood neighborhood, and kill many businesses and jobs on Highway 43. The loss to businesses alone will be in the millions of dollars, and we certainly can ill afford to lose jobs.**

I had also stated in my letter to the City Planning Commission that the Robinwood Shopping Center had not been contacted. The representative told me that LOT had sent to me a letter in December of 2011 and that he had an affidavit to that affect. I said that I did not remember receiving anything at all, but that I would look into it, and if I was wrong, I would acknowledge it. He further stated that all of the businesses in our center had been contacted and that he had an affidavit to that effect.

He then emailed to me an affidavit stating Jeffery Selby had mailed me and certain other business owners during December of 2011 information on the project. It further stated that between the end of December and the beginning of January that Jeffrey Selby had provided representatives of businesses with an information packet which referenced future construction on Highway 43.

The next day I looked to see if I had anything at all and found nothing. I then asked an associate if he had seen anything. He searched through his files and found a letter that had been addressed to "Highway 43 Neighbor" during the Christmas Holidays dated December 20, 2011. It was a generic letter sent by regular mail on Lake Oswego Tigar stationery and referenced some work that was being considered with a

statement that “Members of our team will visit businesses and homes along Highway 43 over the next month to talk with you and your neighbors about the project.”

The fact that I did not see a general mail-out sent by regular mail in the very middle of the Christmas Holidays does not surprise me, and I can clearly understand why other business owners are not aware of this correspondence. Additionally, although the letter said that someone would visit the businesses to discuss the contents of the letter, no one has visited me or any of the businesses in our shopping center to discuss the contents of the letter.

LOT has done an outstanding job of feigning an attempt to obtain business involvement while aggressively pushing their agenda behind the business community’s back. If they were sincere in their attempts to engage my and the business community’s input in this matter, why didn’t they call me and discuss it with me, or at the very least send it to me and others by certified mail so that we would have been alerted as to its importance. If you really want to communicate with someone you do not send them generic regular mail, something that many people might immediately consider to be junk mail, in the very middle of the Christmas holidays.

I do, however, take Jeffrey Selby’s affidavit at face value that he did drop off the packets to people who are working in retail or service businesses during the middle of a holiday season. But I do not believe that dropping off packets to employees in retail or service businesses during the middle of the holiday season, many of whose businesses do not welcome any solicitation at all, and not the owners themselves, is a meaningful attempt to engage a business owner in discussions about the proposal.

Finally, he also stated that I had ignored that the highway construction work was going to be done at night. Our tenants and I are aware that the highway portion of the work is going to be done at night between the hours of 9pm to 6am. But the work to the water treatment plant will be done during the day resulting in a voluminous amount of additional traffic causing horrendous congestion which will unquestionably create huge problems for them all.

All of our tenants, and all of the businesses that I know of on Highway 43, are strongly against this proposal even with the road work being done at night. We recognize that during the work at night will be helpful, but the sheer volume of water treatment plant work that will be done during the day will bring a large amount of additional traffic to Highway 43, as demonstrated with the attachment, and is a business killer.

It does not make sense to kill our neighborhoods, businesses and jobs for any project, much less for a project that does not meaningfully benefit West Linn's citizens and divides our community in the process.

The magnitude of opposition against this project should scream out to you to immediately reject this horrendous ill-founded "Neighborhood Killer, Business Killer and Jobs Killer" plan.

We urge you to please reject this very harmful plan.

Sincerely,

William J. More
Robinwood Shopping Center

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- **HDD Construction (via Mapleton) - Pullback** calculated at 12 one way trips per hour (again 6 Truck Trips per Hour are doubled to account for round trips) over a continuous 48 hour period. This is described in detail on **p. 10 of the Construction Management Plan.**

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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.

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.

Jenni Tan

Given to Councilor Tan at her coffee
on December 12, 2012. Councilor Tan
did not review this information.





Greentree Enterprises, Inc.
8655 SW Citizens Drive
Suite 201
Wilsonville, Oregon 97070
(503) 685-5002
Fax: (503) 682-5998

West Linn City Council
22500 Salamo Road
West Linn, OR 97068

December 13, 2012

Dear West Linn City Council:

Greentree Enterprises, Inc. owns and operates the McDonald's franchise at 18850 Willamette Drive in West Linn. As a company, we do not take positions on public policy matters. Our company, therefore, does not oppose or support the Lake Oswego Tigard Water Partnership's proposal to install a water pipeline through a portion of HWY 43 in West Linn.

It was brought to our attention that an employee of our store signed and submitted a petition regarding the Conditional Use Permits under consideration for the Partnership project. I am writing to state that:

- this employee is not an owner of the organization;
- he was not granted authority to represent Greentree or McDonald's in any such matters; and
- our position is to neither oppose nor support Conditional Use Permits or this project as a whole.

After meeting with Partnership staff on November 28, 2012, I do not feel that night time construction will have a significant impact on our business.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jared H. Ray".

Jared H. Ray
Chief Financial Officer

Pelz, Zach

From: Pelz, Zach
Sent: Wednesday, December 12, 2012 2:30 PM
To: lamontking@comcast.net
Cc: Sonnen, John
Subject: RE: Re:
Attachments: image001.gif

Lamont,

The staff report will be available for public review at least 10 days prior to the appeal hearing. Your comments will be included in the record forwarded to the City Council.

Thanks,

Zach

From: lamontking@comcast.net [mailto:lamontking@comcast.net]
Sent: Wednesday, December 12, 2012 1:34 PM
To: Pelz, Zach
Cc: Sonnen, John
Subject: Re:

Thanks for the reply Zach! The analysis you did on the original application was deemed incomplete by the Planning Commission thus the 7-0 ruling against your findings. My question is will you be relying on the same interpretations of the "facts" presented by you in the original hearings or will you include the findings of the Planning Commission relative to issues presented by the appellant as a basis for appeal? There are significant shortcomings in the geologic studies presented by LOT which were overlooked by your report and some of your interpretations of code seemed to be in conflict with that offered by members of our Planning Commission.

Thanks,

Lamont

From: "Zach Pelz" <ZPELZ@westlinnoregon.gov>
To: lamontking@comcast.net
Cc: "John Sonnen" <JSONNEN@westlinnoregon.gov>
Sent: Wednesday, December 12, 2012 1:16:43 PM
Subject: RE: Re:

Lamont,

Our staff report will analyze the arguments raised by the appellant relative to facts in the record and will not advocate for a position either way. If the City Council believes the project should be approved, it will be up them to determine what conditions are necessary to make it consistent with local statutes.

Zach



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

From: lamontking@comcast.net [mailto:lamontking@comcast.net]
Sent: Wednesday, December 12, 2012 11:44 AM
To: Pelz, Zach
Cc: Carson, Jody; Cummings, Teri; Jones, Michael; Kovash, John; Tan, Jennifer
Subject: Re:

Hi Zach,

Thank you for sending me a copy of the LOT Appeal. What is your role in the process going forward? Do you advocate for the original staff report or do you advocate for the findings of the Planning Commission? Bob Martin noted in the Planning Commission findings that the pipeline should be considered "transportation" and not "transmission" thus requiring a higher standard of repair to Hwy 43 and our attorney, Pam Beery, seemed to reluctantly agree. Do you support that and will you add that as a condition of approval?

Thanks for your assistance!

Lamont

From: "Zach Pelz" <ZPELZ@westlinnoregon.gov>
To: "Zach Pelz" <ZPELZ@westlinnoregon.gov>
Cc: "John Sonnen" <JSONNEN@westlinnoregon.gov>, "Shauna Shroyer" <SShroyer@westlinnoregon.gov>
Sent: Wednesday, December 12, 2012 9:26:30 AM

Good morning,

On Monday, December 10, the Lake Oswego-Tigard Water Partnership filed an appeal of the Planning Commission's decision to deny their requests to expand their existing Water Treatment Plant at 4260 Kenthorpe Way and install new water transmission lines to service this expansion. The appeal documents submitted by the partnership can be accessed on the City's webpage [here](#). We are currently working with our City Council to determine the best date for this appeal hearing and will send a formal notice to all parties with standing once the appeal date has been scheduled.

Please feel free to contact me or to refer to the City's webpage with questions regarding these projects,

Zach



Zach Pelz, AICP
ZPELZ@westlinnoregon.gov
Associate Planner
22500 Salamo Rd.
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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: Pelz, Zach
Sent: Wednesday, December 12, 2012 1:17 PM
To: lamontking@comcast.net
Cc: Sonnen, John
Subject: RE: Re:
Attachments: image001.gif

Lamont,

Our staff report will analyze the arguments raised by the appellant relative to facts in the record and will not advocate for a position either way. If the City Council believes the project should be approved, it will be up them to determine what conditions are necessary to make it consistent with local statutes.

Zach

From: lamontking@comcast.net [mailto:lamontking@comcast.net]
Sent: Wednesday, December 12, 2012 11:44 AM
To: Pelz, Zach
Cc: Carson, Jody; Cummings, Teri; Jones, Michael; Kovash, John; Tan, Jennifer
Subject: Re:

Hi Zach,

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Thanks for your assistance!

Lamont

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To: "Zach Pelz" <ZPELZ@westlinnoregon.gov>
Cc: "John Sonnen" <JSONNEN@westlinnoregon.gov>, "Shauna Shroyer" <SShroyer@westlinnoregon.gov>
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Please feel free to contact me or to refer to the City's webpage with questions regarding these projects,

Zach

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

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Pelz, Zach

From: Dave Froode [dfroode@comcast.net]
Sent: Wednesday, December 12, 2012 12:44 PM
To: pam@gov-law.com; Sonnen, John; Jordan, Chris; Pelz, Zach
Subject: Fwd: Resolutions at RNA meeting 12/11/12
Attachments: 1212 RNA Resolutions.doc

FYI. Fresh off the RNA press. Trust this will be dealt with along with the Franchise Fee Agreement.

Thanks, Dave

Resolutions of the Robinwood Neighborhood Association December 11, 2012

1. The Robinwood Neighborhood Association resolves that the proposed Lake Oswego-Tigard Water Partnership transmission pipeline through Robinwood is a transportation project, and therefore, the public right-of-way along the entire length of any transmission pipeline project must be upgraded to the current standard as outlined in the Transportation System Plan and the Hwy 43 Conceptual Design Plan.

We find this to be in accordance with the deliberations of Planning Commissioner Bob Martin and as agreed to by acting City Attorney by Pam Beery at the November 1st, 2012 Planning Commission hearing.

Any Planning approvals must be contingent upon this condition.

2. The Robinwood Neighborhood Association formed the Great Neighbor Committee to work with Lake Oswego-Tigard Water Partnership in a rational and respectful manner to negotiate a package of mitigations and community benefits that might be acceptable to the community.

We thank the West Linn City Council for the financial support for the consultant who helped the committee and Robinwood Neighborhood Association draft and approve a comprehensive mitigation plan that reflected the values of the community.

We regret that the West Linn Planning staff did not utilize the Robinwood Neighborhood Association Mitigation plan as a framework for negotiating a mutually acceptable solution.

The Robinwood Neighborhood Association therefore resolves that the temporary Great Neighbor Committee has completed the mission plan, that we disband the temporary Great Neighbor Committee and that any unfinished and future matters may be handled by the standing Robinwood Neighborhood Association Planning Committee.

Pelz, Zach

From: brian knoche [bk.1971@hotmail.com]
Sent: Wednesday, December 12, 2012 12:11 PM
To: Pelz, Zach
Subject: Re:
Attachments: imageb09afb.gif@89b48a41.296042ab

Yeah it's never gonna happen! Get used to it.

Sent from my iPhone

On Dec 12, 2012, at 9:26 AM, "Pelz, Zach" <ZPELZ@westlinnoregon.gov> wrote:

Good morning,

On Monday, December 10, the Lake Oswego-Tigard Water Partnership filed an appeal of the Planning Commission's decision to deny their requests to expand their existing Water Treatment Plant at 4260 Kenthorpe Way and install new water transmission lines to service this expansion. The appeal documents submitted by the partnership can be accessed on the City's webpage [here](#). We are currently working with our City Council to determine the best date for this appeal hearing and will send a formal notice to all parties with standing once the appeal date has been scheduled.

Please feel free to contact me or to refer to the City's webpage with questions regarding these projects,

Zach

<imageb09afb.gif@89b48a41.296042ab>

Zach Pelz, AICP
ZPELZ@westlinnoregon.gov
Associate Planner
2250 Salamo Rd.
West Linn, OR 97068
P: (503) 723-2542
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Pelz, Zach

From: lamontking@comcast.net
Sent: Wednesday, December 12, 2012 11:44 AM
To: Pelz, Zach
Cc: Carson, Jody; Cummings, Teri; Jones, Michael; Kovash, John; Tan, Jennifer
Subject: Re:
Attachments: imageb09afb.gif@89b48a41.296042ab

Hi Zach,

Thank you for sending me a copy of the LOT Appeal. What is your role in the process going forward? Do you advocate for the original staff report or do you advocate for the findings of the Planning Commission? Bob Martin noted in the Planning Commission findings that the pipeline should be considered "transportation" and not "transmission" thus requiring a higher standard of repair to Hwy 43 and our attorney, Pam Beery, seemed to reluctantly agree. Do you support that and will you add that as a condition of approval?

Thanks for your assistance!

Lamont

From: "Zach Pelz" <ZPELZ@westlinnoregon.gov>
To: "Zach Pelz" <ZPELZ@westlinnoregon.gov>
Cc: "John Sonnen" <JSONNEN@westlinnoregon.gov>, "Shauna Shroyer" <SShroyer@westlinnoregon.gov>
Sent: Wednesday, December 12, 2012 9:26:30 AM

Good morning,

On Monday, December 10, the Lake Oswego-Tigard Water Partnership filed an appeal of the Planning Commission's decision to deny their requests to expand their existing Water Treatment Plant at 4260 Kenthorpe Way and install new water transmission lines to service this expansion. The appeal documents submitted by the partnership can be accessed on the City's webpage [here](#). We are currently working with our City Council to determine the best date for this appeal hearing and will send a formal notice to all parties with standing once the appeal date has been scheduled.

Please feel free to contact me or to refer to the City's webpage with questions regarding these projects,

Zach

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

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Pelz, Zach

From: Pelz, Zach
Sent: Wednesday, December 12, 2012 9:27 AM
To: Pelz, Zach
Cc: Sonnen, John; Shroyer, Shauna

Good morning,

On Monday, December 10, the Lake Oswego-Tigard Water Partnership filed an appeal of the Planning Commission's decision to deny their requests to expand their existing Water Treatment Plant at 4260 Kenthorpe Way and install new water transmission lines to service this expansion. The appeal documents submitted by the partnership can be accessed on the City's webpage [here](#). We are currently working with our City Council to determine the best date for this appeal hearing and will send a formal notice to all parties with standing once the appeal date has been scheduled.

Please feel free to contact me or to refer to the City's webpage with questions regarding these projects,

Zach

Zach Pelz, Associate Planner
Planning and Building, #1542

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Pelz, Zach

From: lamontking@comcast.net
Sent: Tuesday, December 11, 2012 11:07 AM
To: Pelz, Zach
Subject: Re: LOT
Attachments: image8fc46e.gif@79e50fa1.89f24db2

Thanks!

From: "Zach Pelz" <ZPELZ@westlinnoregon.gov>
To: lamontking@comcast.net
Sent: Tuesday, December 11, 2012 11:05:32 AM
Subject: RE: LOT

Actually, yes.

Lake Oswego submitted their appeal yesterday afternoon. Shauna is preparing to send an email to that effect to everyone on our email distribution list.

Thank you,

Zach

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

From: lamontking@comcast.net [mailto:lamontking@comcast.net]
Sent: Tuesday, December 11, 2012 11:04 AM
To: Pelz, Zach
Subject: LOT

Hi Zach,

Any word on an appeal by LOT yet?

Thanks,

Pelz, Zach

From: Pelz, Zach
Sent: Tuesday, December 11, 2012 11:06 AM
To: lamontking@comcast.net
Subject: RE: LOT

Actually, yes.

Lake Oswego submitted their appeal yesterday afternoon. Shauna is preparing to send an email to that effect to everyone on our email distribution list.

Thank you,

Zach

From: lamontking@comcast.net [mailto:lamontking@comcast.net]
Sent: Tuesday, December 11, 2012 11:04 AM
To: Pelz, Zach
Subject: LOT

Hi Zach,

Any word on an appeal by LOT yet?

Thanks,

Lamont

Pelz, Zach

From: lamontking@comcast.net
Sent: Tuesday, December 11, 2012 11:04 AM
To: Pelz, Zach
Subject: LOT

Hi Zach,

Any word on an appeal by LOT yet?

Thanks,

Lamont

*Needs to be in
the record for*

Jordan, Chris

From: Dave Froode [dfroode@comcast.net]
Sent: Monday, December 10, 2012 10:54 AM
To: Jones, Michael
Cc: Worcester, Ken; Jordan, Chris; pam@gov-law.com
Subject: Community Comments WL City Council 12-10-12

*Land use case
due to #5 below.*

Please offer this statement for Community Comments at West Linn City Council meeting 12-10-12.

To all:

Ken Worcester, Norm King, Gwen Sieben and I met Friday, Dec 10, 2012. We discussed the charter issue for two hours. We think we made progress and thank Mr Worcester for his time and sincerity.

We provided Mr Worcester with a letter from attorney Andrew Stamp. Mr Worcester can provide copies to the council. The letter was endorsed by a good number of citizens involved in this issue. We have not released the attorney's letter to the public as of this writing.

It is our opinion the West Linn City Council should conduct a work session with members of the community and city parks staff present.

Our conclusions from Friday meeting. We trust Mr Worcester will offer his own.

1. This is not a black and white issue. There is ambiguity in the charter, the lease and the activity that would be above ground that will interfere with the use of city owned parks.
2. We do believe Cedar Island and the "dog beach" are city owned and would be interfered with for over a year. We also believe the Willamette River Public Green Way will be impacted. Beaver Trail is on the city's Master Trail plan and leads to these parks.
3. Mr Worcester thought the length of the interference could be a factor though we note this is not mentioned in the charter or Atty Beery's 2011 memo.
4. There are three state owned lots involved, but only two are listed on the lease agreement. We do not believe this changes any thing.
5. The 90k mitigation proposal is not a benefit to West Linn and will not be used as such. The benefit is to State Parks.
6. We do not believe the State would interfere with West Linn applying it's city charter regarding city owned parks. The State might object to a city charter being applied to their property.
7. Atty Beery did state if the activity is above ground and interferes with the use of a park, the charter should be applied. The staging area will interfere and it is above ground.
8. Mr Worcester indicated Atty Beery's Oct 2011 memo pertained to city owned property and not leased property. The memo does not address this.
9. The charter and pending land use application are two separate issues.

10. We think the lease agreement needs to be examined. In normal lease agreements, most changes, especially non authorized uses, have to be approved by the lessee. This was not done. The process was not followed correctly.

11. Wilderness Park fiscal had many issues regarding city owned, utility easements, above ground, etc. At the time the council established a precedence, applied the charter requesting the community to vote on the change.

Thank you,
David J. Froode
19340 Nixon Ave, West Linn Or 97068

December 6, 2012

Via U.S. Mail

STOP, LLC,
 19363 Willamette Dr., #332
 West Linn, OR 97068.

Re: West Linn City Charter, Chapter XI: Voter Approval of Facilities on City Owned Property

Dear STOP members,

At your request, I am writing to you concerning the application of Section 46, Chapter XI, of the West Linn City Charter to the Lake Oswego Tigard Water Partnership (LOTWP) Pipeline project. This Charter provision requires a vote of the people before any city owned land is used for the "siting or construction of facilities that are not directly required for the park's use." Exhibit 1. With regards to the Mary S. Young Park, I am of the opinion that the Horizontal Directional Drilling (HDD) staging area on property owned by the State and leased to West Linn for park purposes (T2S, R1E, Sec. 24AC, Tax Lot 200) triggers the applicability of Chapter XI.

In a memorandum to Chris Kerr dated October 31, 2011, City Attorney Pam Beery concluded that Chapter XI of the City Charter did not require that the LOTWP pipeline project be submitted to the voters for approval due to impacts to Mary S. Young park. Her analysis focused on the meaning of the term "facility,"(1) and was premised on the factual assumption that the pipeline traverses the park "underground, and does not reduce the total amount of land or otherwise interfere with the use of the land for recreational and environmental purposes." Perhaps the most critical paragraph of the Beery analysis is provided on page 6 of her memo. Therein, the City Attorney concludes that the pipe in question is not a "facility" within the meaning of the Charter. The City Attorney states:

(1) The City's Attorney did not address whether the fact that the MSY park is leased by the City, instead of being owned in fee simple title, takes it outside of the scope of the City Charter provision. For purposes of this analysis I will assume that it was not an oversight on the city's attorney's part, and that a leasehold interest constitutes ownership for the purposes of the city charter

For these reasons, based on the text and context of the law a court would likely conclude that the term "facility"1. does not include a pipeline for the potential project so long as one hundred percent of the pipeline is underground and does not reduce the total amount of land or otherwise

process.

Finally, it is worth noting that the City of West Linn Parks Department brokered a potential mitigation plan to receive \$90,000.00 to offset the use and change to tax lots 100 and 200, a fact consistent with both ownership and the public use.

I believe that STOP should bring this matter to the attention of the West Linn City Council.

Sincerely,
Andrew H. Stamp, P.C.

AHS:ahs

Exhibit 1.

West Linn City Charter

Chapter XI

USE AND DISPOSITION OF CITY OWNED REAL ESTATE

Section 46. Park and Open Space.

(a) The City shall not engage in the lease, sale, exchange or nonauthorized use of City owned park or open space without first receiving voter approval for such lease, sale, exchange or nonauthorized use. Such approval shall consist of a majority of votes cast at a regularly scheduled election in favor of a specific proposal for a lease, sale, exchange or nonauthorized use of City owned park or open space. Each proposal must be voted on separately; however, multiple proposals may be placed on the ballot on the same election day. Each proposal shall include only a single property, except for proposals which include an exchange contractually

linking two or more properties.

(b) For the purposes of this section the term "non authorized use" shall have the following meanings: (1) A non authorized use for a City owned park shall be the siting or construction of facilities that are not directly required for the park's use. Only facilities directly necessary for the park's use shall be considered authorized.

Uses that shall be specifically considered to be non authorized in connection with parks are: water reservoirs, water tanks, telecommunication towers, residential housing, City offices, commercial buildings, parking facilities (excepting that parking needed for the use of the park) and roads (except as needed for park access). (2) A non authorized use for a City owned open space shall be the siting or construction of facilities that are not directly required for the maintenance of the open space or use of said open space as open space. Only facilities directly necessary for the use of open space shall be considered authorized. Uses that shall be specifically considered to be non authorized in connection with open space are: water reservoirs, water tanks, telecommunication towers, residential housing, City offices, or commercial buildings. (3) The non authorized use designation shall be understood to exempt temporary constructions authorized by the West Linn Parks Department for picnics, fairs, sports events, parades and community and neighborhood celebrations. (4) Uses that are in existence as of the effective date of this section shall not be considered non authorized uses.

(c) For the purposes of the above section the term "open space" shall be defined as City-owned real estate identified in documents adopted or accepted by the City Council or authorized City official as "open space," "green space," "wetland," "drainage way," (excluding city owned roadside drainage swales), "wildlife habitat" and "stream corridor." Property with the above designations that is not owned by the City shall be exempt from the provisions of this section.

(d) This section shall apply to all City-owned park or open space as of the adoption of this section, as well as all park and open space coming into the City's ownership after the adoption of this section. Within 60 days of City acquisition of real property the City Council shall determine the appropriate designation of the property for the purposes of this Charter section. Within 90 days of adoption of this section the City Council will adopt existing property into the appropriate designation. The City will create and maintain an inventory of City-owned parks and open spaces, including, but not limited to, appropriate designations, location and size.

(e) The intent of this Charter section is that City-owned park and open space shall be preserved for recreational use and environmental preservation and enhancement and not used for other purposes or sold or exchanged without the approval of the registered voters of the City of West Linn.

(f) This section shall take effect 15 calendar days after the voter approval of this section. (Amended 11-06-01 [effective 11-21-01]).

(g) City-owned property designated 'park' or 'open space' pursuant to this Chapter XI, Section 46, and specifically to (d) above, shall not have such designation removed by the City without first receiving voter approval. Such approval shall consist of a majority of votes cast at a regularly scheduled election in favor of a specific proposal to remove such designation. Each proposal shall be limited to a single property, and shall be voted on separately; however, multiple proposals may be placed on the ballot for the same election day.

The express intent of this section is to preclude the possibility that the protections afforded City-owned property designated 'park' or 'open space' might have such protection removed by the re designation of such property, without voter approval, and thereby potentially allow the lease, sale, exchange or non authorized use of such property without voter approval, and as a consequence, acting to circumvent the intended protections of this chapter. (Amended 2-13-12 [effective 5-15-12])

The following support Atty Stamp's letter of Dec 6, 2012 and ask the City of West Linn to as well.

Thomas Holder

William J. More

Glenda Waddles

Tom and Gwen Sieben

Norm King

Mike Cooper

David Froode

Scott Gerber

Peter Bedard

Jack Norby

Yvonne Davis

Carl and Linda Edwards

Mike:

You are a grown man and certainly capable of making your own decisions. You were elected to do so and I respect that. But since when is information considered prejudicing anyone? Being prejudice is making a decision before having the information to form a proper one.

You sell books. People read them. They absorb information and draw their own conclusions. That is not bias that is simply processing information in a logical manner.

You owe it to yourself, this community and for the sake of truth to know what you believe and why you believe it. Very simple process as long as one remains objective.

What is below are points resulting from conclusive research concerning the charter and how it should be applied to two parcels included in WL Parks. This is not the kind of summary you will receive from WL staff. It is completely independent of any land use application you might review in the future. Two totally separate issues as would be discussion about the Old Fashion Fair versus building a bridge from Willamette Park to Tenth St. There is no good reason for you to not be aware of this information unless of course some might not want you to know it.

Connect the dots Charter/MSY/Parcels

Following our review, we have connected the dots and believe chapter 11 of the Charter does apply based on Atty Beery's methodically laid out conclusions in a letter to Chris Kerr, dated October 31, 2011. Since then, there has been significant changes. Norm King, Dave Froode and Atty Andrew Stamp studied the documents in detail and the following we found to be true.

1. Parcels north of the West Linn Sewage Pump station will have above ground activity that will interfere with the use of MSY and Cedar Island parks and the Willamette River Green way.
2. West Linn Sewage Pump station is land locked by these two residential lots.
3. Though the surface west of the pump station and two parcels has asphalt paving but the land is still residential lots and not a public right of way.
4. This paved area by the park's entrances are pedestrian, biker's egresses to parks and provide parking for users.
5. The parcels are on maps as being part of the WL Park system.
6. Beaver Trail is on the parcels and included in the WL Master Trails Plan.
7. There is a new trail that connects the main area of MSY park to Beaver Trail and the two parcels.
8. The fence that did divide the two spaces has been removed.
9. The two parcels are included in the lease agreement between the CO WL and Oregon State Parks.
10. The City of West Linn Parks Dept did broker a potential mitigation plan to receive \$90,000.00 to offset the use and change to the parcels.

We simply want to agree with Atty Beery's assessment and bring these details of changes to the attention of the West Linn City Council. We can back up every one of these points with written evidence.

Pelz, Zach

From: Shroyer, Shauna
Sent: Tuesday, November 27, 2012 4:11 PM
To: crichter@gsblaw.com; jkomarek@ci.oswego.or.us; eday@ci.oswego.or.us; 'Heisler, Jane'
Cc: Pelz, Zach
Subject: Final Decision Notice CUP-12-02/DR/12-04 and
CUP-12-04/DR-12-14/MISC-12-10/WA-12-03/WR-12-01

Good Afternoon,

The final decision notices were mailed out today and posted online. You can view the notices by clicking on the project number.

[CUP-12-02/DR-12-04](#) Expansion of the Lake Oswego Water Treatment Plant at 4260 Kenthorpe Way

[CUP-12-04/DR-12-14/MISC-12-10/WA-12-03/WR-12-01](#) Installation of a Water Transmission Line

Shauna Shroyer

Shauna Shroyer, Administrative Assistant
Planning, #1557

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Pelz, Zach

From: Shroyer, Shauna
Sent: Tuesday, November 27, 2012 4:01 PM
Subject: Final Decision Notice CUP-12-02/DR/12-04 and
CUP-12-04/DR-12-14/MISC-12-10/WA-12-03/WR-12-01

Good Afternoon,

A final decision has been made on the projects below. Click on the project number to go directly to the final decision notice. Information about the projects can also be found on the City website under each individual project in the Planning directory.

[CUP-12-02/DR-12-04](#) Expansion of the Lake Oswego Water Treatment Plant at 4260 Kenthorpe Way

[CUP-12-04/DR-12-14/MISC-12-10/WA-12-03/WR-12-01](#) Installation of a Water Transmission Line

Shauna Shroyer

Shauna Shroyer, Administrative Assistant
Planning, #1557

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