



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

# WEST LINN CITY COUNCIL MEETING NOTES August 8, 2016

## [Call to Order and Pledge of Allegiance](#)

### **Council Present:**

Mayor Russ Axelrod, Councilor Bob Martin, Councilor Brenda Perry, and Council President Jenni Tan.

### **Council Absent:**

Councilor Thomas Frank.

### **Staff Present:**

Chief Financial Officer Richard Seals, Citizen Engagement Coordinator Courtney Flynn, Public Works Director Lance Calvert, Consultant John Morgan, Planning Manager John Boyd, Assistant City Attorney Megan Thornton, and City Attorney Tim Ramis.

## [Approval of Agenda](#)

Council President Jenni Tan moved to approve the agenda for the August 8, 2016 West Linn City Council Meeting, removing Item 4a - the draft notes approval and Item 8a - Resolution 2016-10, Clackamas County Motor Vehicle Fuel Tax Revenues IGA. Councilor Brenda Perry seconded the motion.

**Ayes: Mayor Russ Axelrod, Councilor Bob Martin, Councilor Brenda Perry, and Council President Jenni Tan.**

**Nays: None.**

**The motion carried 4 - 0**

### [Proclamations, Recognitions, and Scheduled Presentations](#)

#### [Tualatin Valley Fire & Rescue Update](#)

Fire Chief Mike Duyck presentation.

[TVF&R Presentation](#)

#### [West Linn-Oregon City Rivalry Day Proclamation](#)

[WL-OC Proclamation](#)

Mayor Axelrod read the West Linn-Oregon City Rivalry Day Proclamation

### [Consent Agenda](#)

~~[Agenda Report 2016-08-08-01: May 23, 24, 26, June 2 and 6, 2016, Draft Notes Approval](#)~~

[Draft Notes Information](#)

[Agenda Report 2016-08-08-02: Public Safety Standards and Training Intergovernmental Agreement](#)

[Public Safety IGA Information](#)

[Agenda Report 2016-08-08-03: Portland Police Bureau Training Facility Use Intergovernmental Agreement](#)

[Portland Training Facility IGA](#)

[Willamette Falls Locks Memorandum of Agreement](#)

[Willamette Falls Locks Information](#)

Council President Jenni Tan moved to approve the Consent Agenda which includes, the Public Safety Standards & Training IGA, the Portland Police Bureau IGA, and the Willamette Falls Locks Memorandum of Agreement. Councilor Brenda Perry seconded the motion.

**Ayes: Mayor Russ Axelrod, Councilor Bob Martin, Councilor Brenda Perry, and Council President Jenni Tan.**

**Nays: None.**

**The motion carried 4 - 0**

### [Community Comments](#)

Sherry Pryor re: the police department.

[Sherry Pryor submittal](#)

Ken Pryor re: the police department.

[Ken Pryor submittal](#)

Kathy Lairson re: the police department.

[Kathy Lairson submittal](#)

Roberta Schwarz re: the police department.

[Roberta Schwarz submittal](#)

Nolan Mackvil re: speeding on Carriage Way between Derby and Sun Circle.

Alice Richmond re: Oktoberfest on September 9 at Central Village.

### [Report from the City Manager](#)

Chief Financial Officer Seals reminded everyone we have Neighborhood Association and Committee meetings this week. We are also doing the Red Cross Blood Drive here at City Hall and Music in the Park is Thursday.

### [Business from the City Council](#)

#### **Citizen Advisory Group and Task Force Appointments**

Mayor Axelrod placed before Council the following advisory board appointments: Kris Duncan to the Public Safety Advisory Board, Troy Inman to the Historic Review Board and Lamont King to the Planning Commission.

Council President Jenni Tan moved to approve the Mayor's citizen advisory group appointments. Councilor Brenda Perry seconded the motion.

**Ayes: Mayor Russ Axelrod, Councilor Bob Martin, Councilor Brenda Perry, and Council President Jenni Tan.**

**Nays: None.**

**The motion carried 4 - 0**

Mayor Axelrod placed before Council appointing Amit Armstrong to the Municipal Fiber Task Force.

Council President Jenni Tan moved to appoint Amit Armstrong to the Municipal Fiber Task Force. Councilor Brenda Perry seconded the motion.

**Ayes: Mayor Russ Axelrod, Councilor Bob Martin, Councilor Brenda Perry, and Council President Jenni Tan.**

**Nays: None.**

**The motion carried 4 - 0**

Council President Tan informed everyone that West Linn hosted the National Asian Pacific Municipal Officials Conference. They discussed race equity, diversity, gun violence, Zika virus drug use rehabilitation, and future goals.

Councilor Perry reminded everyone that the City has two surveys out: (1) regarding Economic Development in West Linn and (2) regarding City Hall operations.

Mayor Axelrod attended the Mayor's Conference where they share common concerns and how to address issues. He was impressed with how Lincoln City partnered with a glassblowing business.

### [New Council Business](#)

~~[Agenda Report 2016-08-08-04 Resolution 2016-10, Clackamas County Motor Vehicle Fuel Tax Revenues Intergovernmental Agreement](#)~~

[RES 2016-10 Information](#)

[Agenda Report 2016-08-08-05: Highway 43 Multimodal Transportation Project Regional Flexible Fund Allocation \(RFFA\) Letter of Support](#)

[Hwy 43 Letter Information](#)

Mayor Axelrod suggested adding, "this phase of the project supports our long-term goal to provide safe multi-modal transportation on Highway 43 in West Linn from Oregon City to Lake Oswego" to the last paragraph in the letter.

Council President Jenni Tan moved to approve pursuing the RFFA Grant and authorize the Mayor to sign the letter as amended. Councilor Brenda Perry seconded the motion.

**Ayes: Mayor Russ Axelrod, Councilor Bob Martin, Councilor Brenda Perry, and Council President Jenni Tan.**

**Nays: None.**

**The motion carried 4 - 0**

### [Old Council Business](#)

[Agenda Report 2016-04-11-01: Ordinance 1645, Adopt the Economic Opportunities Analysis Plan \\*Public Hearing\\*](#)

[ORD 1645 EOA Information](#)

Mayor Axelrod opened the public hearing.

Councilor Perry requested the following changes: Exhibit 10 remove Albertsons; Exhibit 23 add grocery store to the priority list; and Goal 3 add transportation challenges.

Mayor Axelrod requested the following changes: Goal 1, Policy 7 strike "encourage" and replace with "consider where appropriate encouraging."; Goal 2, Policy 3 add an "s" after hotel so it becomes "hotel(s)" and ensure the City has adequate facilities and infrastructure to support economic activities especially transportation facilities; Add Goal 9 paragraph that was struck from the Comprehensive Plan in 2014 from Ordinance 1622 (attached).

[ORD 1622 Excerpt](#)

Community Comment

Alan Smith

Alice Richmond

Mayor Axelrod closed the public hearing.

Council President Jenni Tan moved to approve First Reading of Ordinance 1645, Adopting the Economic Opportunities Analysis and Repealing and Replacing Comprehensive Plan, Goal 9, Economic Development, as amended, and set the matter for Second Reading. Councilor Brenda Perry seconded the motion.

**Ayes: Mayor Russ Axelrod, Councilor Bob Martin, Councilor Brenda Perry, and Council President Jenni Tan.**

**Nays: None.**

**The motion carried 4 - 0**

[Agenda Report 2016-07-11-02: Ordinance 1647, Adopt Community Development Code Amendments \\*Public Hearing\\*](#)

[ORD 1647 CDC Amendments Information](#)

Mayor Axelrod opened the public hearing.

Planning Manager Boyd staff report.

Council discussed Metro's concerns about the effect on the Willamette greenway and how it effects the Title 13 program. This does not affect the greenway and the City coordinated with Metro regarding the Title 13 program.

Council removed conservation easements as it pertained to trees and water resource areas and removed dedication areas where the City does not have access to them.

Mayor Axelrod closed the public hearing.

Council requested that Section 32.040(E) in Ordinance 1647 should be 32.040(G).

Councilor Brenda Perry moved to extend the meeting to 9:45 pm. Council President Jenni Tan seconded the motion.

**Ayes: Mayor Russ Axelrod, Councilor Bob Martin, Councilor Brenda Perry, and Council President Jenni Tan.**

**Nays: None.**

**The motion carried 4 - 0**

Council President Jenni Tan moved to adopt the version of Ordinance 1647 that adds a three acre minimum standard to Chapter 24 Planned Unit Development and take the 2015 draft PUD Code off the table and return it to the Planning Commission for review and recommendations as amended. An Ordinance relating to Definitions, Office Business Center Mixed Uses, Planned Unit Development Applicability, WRA Exemptions and Elimination of Conservation Easements, and amending Community Development Code Chapters 2, 21, 24, 32, 55, and 85. Councilor Brenda Perry seconded the motion.

**Ayes: Mayor Russ Axelrod, Councilor Bob Martin, Councilor Brenda Perry, and Council President Jenni Tan.**

**Nays: None.**

**The motion carried 4 - 0**

City Attorney Ramis read: adopt an Ordinance relating to Definitions, Office Business Center Mixed Uses, Planned Unit Development Applicability, WRA Exemptions and Elimination of Conservation Easements, and amending Community Development Code Chapters 2, 21, 24, 32, 55, and 85.

**Ayes: Mayor Russ Axelrod, Councilor Bob Martin, Councilor Brenda Perry, and Council President Jenni Tan.**

**Nays: None.**

**The motion carried 4 - 0**

**[Agenda Report 2016-06-27-03: Resolution 2016-06, Approving the Economic Development Committee's Mission and Strategies Document](#)**

**[RES 2016-06 EDC Information](#)**

Mayor Axelrod does not think passing a resolution is appropriate to pass the Economic Development Committee's Mission and Strategies Document and informed staff that Council would just be making a motion.

Consultant Morgan read the changes the Economic Development Committee made Under Strategic Initiatives:

- (2) "Assist the City in business retention..." instead of "Engage in business retention..."
- (4) "Continuing success..." instead of "Continue to help..."

Council President Jenni Tan moved to adopt the memorandum provided by the Economic Development Committee dated July 28, 2016, approving the Economic Development Committee's Mission and Strategies Document as amended. Councilor Brenda Perry seconded the motion.

**Ayes: Mayor Russ Axelrod, Councilor Bob Martin, Councilor Brenda Perry, and Council President Jenni Tan.**

**Nays: None.**

**The motion carried 4 - 0**

[Adjourn](#)



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# Revised CITY COUNCIL MEETING

Monday, August 8, 2016

6:00 p.m. – Pre-Meeting Work Session – Rosemont Room

6:30 p.m. – Business Meeting – Council Chambers

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1. Call to Order and Pledge of Allegiance
  2. Approval of Agenda
  3. Proclamations, Recognitions, and Scheduled Presentations
    1. Tualatin Valley Fire & Rescue Update
    2. West Linn-Oregon City Rivalry Day Proclamation
  4. Consent Agenda
    - a. Agenda Report 2016-08-08-01: May 23, 24, 26, June 2 and 6, 2016, Draft Notes Approval
    - b. Agenda Report 2016-08-08-02: Public Safety Standards and Training Intergovernmental Agreement
    - c. Agenda Report 2016-08-08-03: Portland Police Bureau Training Facility Use Intergovernmental Agreement
    - d. Agenda Report 2016-08-08-06: Willamette Falls Locks Memorandum of Agreement
  5. Community Comments
  6. Report from the City Manager
  7. Business from the City Council
    - a. Citizen Advisory Group and Task Force Appointments
  8. New Council Business
    - a. Agenda Report 2016-08-08-04 Resolution 2016-10, Clackamas County Motor Vehicle Fuel Tax Revenues Intergovernmental Agreement
    - b. Agenda Report 2016-08-08-05: Highway 43 Multimodal Transportation Project Regional Flexible Fund Allocation (RFFA) Letter of Support
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## 9. Old Council Business

- a. Agenda Report 2016-04-11-01: Ordinance 1645, Adopt the Economic Opportunities Analysis Plan **\*Public Hearing\***
- b. Agenda Report 2016-07-11-02: Ordinance 1647, Adopt Community Development Code Amendments **\*Public Hearing\***
- c. Agenda Report 2016-06-27-03: Resolution 2016-06, Approving the Economic Development Committee's Mission and Strategies Document

## 10. Adjourn

### **Meeting Notes:**

*The Council Chambers is equipped with an induction loop and a limited number of neck loops for the hearing impaired. Please let the City know if you require any special assistance under the Americans with Disabilities Act, please call City Hall 48 hours prior to the meeting date, 503-657-0331.*

*Community Comments provide an opportunity for statements from citizens regarding issues related to City government, properly the subject of Council/Commission consideration and not issues on the agenda. Persons wishing to speak shall be allowed to do so only after completing forms provided in the foyer in advance of Community Comments. All remarks should be addressed to the governing body. The City Council/Planning Commission will not engage in discussion with those making comments. The time limit for each participant is three (3) minutes or will be set by the Mayor or Chair.*

*Consent Agenda items are routine and will not be allotted individual hearing time. The items may be passed in one blanket motion. Any member may remove an item for discussion or questions by requesting such action prior to consideration.*

*Persons wishing to speak on agenda items shall be allowed to do so only after completing the forms provided in the foyer and returning them to the Clerk prior to the item being called for discussion. A separate slip must be turned in for each item. The time limit for each participant is three (3) minutes, unless the Mayor decides prior to the item to allocate more or less time.*

*When needed, the Council will meet in Executive Session pursuant to ORS 192.660.*

*Please help us to accommodate citizens who are chemically sensitive to fragrances and other scented products. Thank you for not wearing perfume, aftershave, scented hand lotion, fragranced hair products, and/or similar products.*

**Agenda Report 2016-08-08-01 – Item 4a**

Date: July 19, 2016

To: Russ Axelrod, Mayor  
Members, West Linn City Council

From: Kathy Mollusky, City Recorder

Through: Eileen Stein, City Manager

Subject: Consent Agenda

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**Purpose**

Approval of City Council Notes

**Question(s) for Council:**

Does Council wish to approve these City Council Notes?

**Public Hearing Required:**

None required.

**Background & Discussion:**

The mentioned City Council Meeting Notes are ready for Council approval.

**Budget Impact:**

N/A

**Council Options:**

1. Approve Council Notes
2. Revise and approve Council Notes

**Staff Recommendation:**

Approve Council Notes

**Potential Motions:**

Approval of the Consent Agenda will finalize this set of notes.

**Attachments:**

1. May 23, 2016, Council Meeting Notes
2. May 24, 2016, Council Meeting Notes
3. May 26, 2016, Council Meeting Notes
4. June 2, 2016, Council Meeting Notes
5. June 6, 2016, Council Meeting Notes



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# **WEST LINN CITY COUNCIL MEETING NOTES May 23, 2016**

## **Call to Order**

### **Council Present:**

Mayor Russ Axelrod, Council President Jenni Tan, Councilor Thomas Frank, Councilor Bob Martin, and Councilor Brenda Perry.

### **Staff Present:**

Interim City Manager Don Otterman, City Recorder Kathy Mollusky, Associate Planner Darren Wyss, Interim Community Development Director John Boyd, and City Attorney Tim Ramis.

## **AP 16-01: Appeal of Planning Commission approval for the Sunset Primary School replacement at 2351 Oxford Street**

### **\*PUBLIC HEARING\***

#### **Sunset Appeal Information**

**Public Comments received 5/12/16-5/16/16**

Mayor Axelrod opened the public hearing and explained how the hearing would proceed.

City Attorney Ramis explained the legal issues regarding the burden of proof, criteria, and appeal rights.

The criteria that must be addressed in this hearing are Community Development Code (CDC) 60.070.A(2), 60.070.A(3), 60.070.A(6), 55.130.B, 75.020.B and 92.010.E.

City Attorney Ramis inquired if any Council Members had any conflicts of interest. There were not any.

He inquired if any Council Members had any ex parte contacts or site visits.

Council President Tan has visited the site and citizens have tried to talk to her about it. She explained she could not talk to them about it.

Councilor Frank did a site visit. Citizens brought it up to him and he told them he could not talk about it. He explained the procedures to them.

Councilor Martin visited the site back in the summer. He did not hear anything that is not in the record.

Councilor Perry did a site visit. She received emails, however, did not read them.

Mayor Axelrod did a site visit. He was contacted by neighborhood group in October regarding the deed which he passed on to the City Attorney. He forwarded all the correspondence he received to staff. The neighborhood contacted him in February regarding records fees. He has listened to the public hearings and talked to staff.

There were not any challenges to Council's jurisdiction or Council's impartiality.

Council President Jenni Tan moved to include the file for AP-16-01, and all submitted arguments attached to Darren Wyss' May 17 Memo, and reject all items that were not timely received by May 16 at 5:00 p.m. for the record. Councilor Thomas Frank seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Jenni Tan, Councilor Thomas Frank, Councilor Bob Martin, and Councilor Brenda Perry.**

**Nays: None.**

**The motion carried 5 - 0**

City Attorney Ramis inquired if there were any challenges to the record. There was not.

Associate Planner Wyss Introduction of the Appeal.

[AP-16-01 PowerPoint](#)

Council asked for clarification regarding the disclaimer on page 6 regarding the Department of Geology & Industries stamp.

Staff explained the maps were scaled which eliminated some of the information from the original maps.

Council asked about the Oregon Department of Transportation (ODOT) letter.

Staff explained ODOT was contacted through Ask ODOT. The letter clarified ODOT does not have concerns about slides onto I205 does not have a role in a local decision.

Appellant's Argument given by Carrie Hansen, Peggy Hennessy, Milia Kupillas, David Dodds, and Peggy Kirkendall.

Council asked for clarification regarding what the applicant meant when they stated, "improperly advised the permissible review of two items."

Applicant responded it is regarding CDC 60.070.A(3) with respect to the overall needs to the community and reliance on City promises. The other one is an approval criterion brought into a conditional use under subsection (6) for CDC 55.130.B where applicant thinks Council needs more factual support where there was evidence there will be impacts.

Council asked the City Attorney to clarify if Council has jurisdiction to determine if measure 3-358 was met or if the sales criteria was met and how it relates to this land use hearing.

City Attorney Ramis answered the standard is general and left to Council's discretion to determine if it is relevant or not.

Council asked for clarification regarding what triggers a landslide, they are concerned about infiltration rate and duration. Applicant responded slope, type of soils, depth of bedrock, and amount of water in the pond.

Council inquired about the bore holes in applicant's testimony. Applicant testified about them, the information was not submitted in the record.

Audience member Mike Jones objected to this discussion because bore holes are not in the record.

City Attorney Ramis informed Council this information is outside of the record. Staff is making a list of items that are not in the record and will advise Council to not consider them. He advised Council to ask questions regarding what the record shows to avoid this problem.

Applicant's Argument given by Tim Woodley, Director of Operations for the West Linn-Wilsonville School District, Keith Liden, Planning Consultant, and Mathew Dolan, Registered Professional Engineer, Civil Engineer at KPFF.

Audience member Paul Bledy objected to what he believes to be new evidence, specifically Applicant said that it is that important look at entire property. Mr. Bledy said that is not what the ballot said. The ballot specifically said 1.6 acres of land, it is important to consider the ballot was only for the park area, not the entire property.

City Attorney Ramis stated he is not sure that was an objection to an argument beyond the record which is what these objections are about. Staff will comment at the end.

Council inquired about the 100 year storm being in the record and the pond Applicant discussed.

Mr. Dolan stated the 100 year storm information is in the design report. For the two year storm, the water infiltrates into the ground. The remaining portion of the pond is retention. As the water comes in at the rates indicated in the tables, it fills up the pond and is metered out. Currently there is no management. During normal storms, water will infiltrate into the ground. During larger storm events some water will infiltrate into the ground and some will go out into the pipes.

Council inquired about doing permeable pavement instead of the pond.

Mr. Dolan explained the way the system is now. They propose a catch basin system and pond that cleans the water and manages the flow rate. It will meet current standards and rules that are acceptable to City. The permeable parking lot is a tool in the stormwater management toolbox. If they did a permeable pavement, it would put more water in the system. It would work as a stormwater management system, there are probably 12 different ways to address this. The existing site has two basins. Pavement would take care of the parking lot, not runoff from other places. The stormwater management system pulls all the water into one site to manage, it makes the 100 year storm easier to manage.

Mr. Woodley explained the permeable pavement does not withstand the kind of turning it receives as a school parking lot. If permeable pavement is used, it allows infiltration into the ground. You still have to have stormwater treatment facilities for any runoff from the site. They chose to use the City Engineer preferred solution of stormwater management facilities recognized across the city and state.

Appellant David Dodds challenged that the comments being made from the school district are new testimony and argument.

Council inquired about an underground water containment facility in the original plans that the

City did not go with.

Mr. Woodley replied the school district did suggest a buried stormwater system that uses a cartridge system.

Council inquired about the infiltration analysis and design.

Applicant explained the geotechnical investigation was done before the design, they are not necessarily the same. The growing material regulates flow out of the pond, not native materials.

Jeff Jones, Registered Geologist and Certified Engineering Geologist, Carlson Geotechnical, the geotechnical report addresses the infiltration system, it is an appendix to the report. Not intended as a standalone geotechnical document.

Milia Kupillas objected because the Carlson test does not contain the name of the geologist in the field or the signed, stamped signature page. The report only contains depth, map of locations, and infiltration rates. There is no description of soils or what they found.

Applicant's attorney explained there is testimony about borings in the record from Carlson, it is competent as matter of business record to testify to those borings.

City Attorney Ramis explained the adequacy of the report is not about if it is in the record. Anyone is allowed to testify as long as it is about the report.

Mr. Woodley finished by stating they spent a lot of time drilling into the scientific side of this. The district takes their responsibilities seriously. The experts who testified were selected through a public process based on their qualifications. These types of systems are all over the city and comply with the City's CDC. Safety and security of students are the school district's number one priority. The district retained over 70 percent of the trees, only 20 percent was required to be retained.

Audience member Peggy Kirkendall objected stating this testimony not part of record. She asked for clarification of the ballot measure.

City Attorney Ramis stated the first part of the statement was if something was in the record or not, staff will consider that. The second part is argument and should not be treated as part of this objection.

Audience member Mike Jones agrees with the City Attorney and requests Council reduce some of the appellant's testimony since it was an argument, not objection or question.

Audience member Alice Richmond wants Council to be fair in time allotted to everyone.

Mr. Woodley knows the information is in record because he wrote it. 3,700 student athletes use those fields. To use them for parking or more stormwater management reduces it so they would not be available for recreational use. Of the 1.6 acres, 1.28 is being used for natural activity. The school district followed the Code. They have interacted with the neighbors, staff, have had neighborhood meetings, and Planning Commission meetings. They encourage Council to deny the appeal and uphold the Planning Commission final decision.

Council is concerned with the direction of the water, not the volume. They heard different plans were shown in the Planning Commission meetings, that the school district changed them. They asked if all the plans require variances, the parking lot placement, and the number of parking lot spaces. If the project is not approved, why would it delay the school construction by two years and cost more money.

Mr. Woodly informed Council the design of a public school requires input from a lot of people. They have an Ed. Spec. committee that includes parents, teachers, and others that have met for a year regarding the educational component. The engineering side responds to stormwater, fire access, parking standards, street construction, utilities, etc. All of this has to meet the CDC. They met with City Staff including, Planning, Engineering, the Arborist, even legal counsel. The school produced a design to see if could work on the corner so they do not have to disrupt the students. All this is done prior to funding. The design team worked with all the constraints and competing interests to mitigate issues and concerns the neighbors had. This was done with full integrity and open discussions. All the designs require variances. The parking lot is placed where it would be safest for the kids and is brought as close to the street as possible to minimize impact to the trees. There is a section in the CDC that allows a 10 percent reduction in parking lot spaces and the school has already received it. The two year delay would be because this would be a new design. Everyone will have to go back to drawing board. Moving to a different place would require new design. The district does not have enough space to relocate and house these kids. They would have to use portables, which is a permitting process. Redesigning the school is another permitting process that would take a year. They would also need a year for construction.

#### Citizens who Testified

Rob Fernandez

Richard Levis

Patrick Taylor

Regan Molatore

Keith Steele

Bill Rhoades

Councilor Thomas Frank moved to extend the meeting to 10:00 pm. Council President Jenni Tan seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Jenni Tan, Councilor Thomas Frank, Councilor Bob Martin, and Councilor Brenda Perry.**

**Nays: None.**

**The motion carried 5 - 0**

Mike Jones  
Chelsea Martin  
Glen Barger  
Darcy Peak

Malia Kupillas, Appellant, asked to speak.

City Attorney Ramis stated the staff will include this in the list. Unless it is actually reflecting testimony that is already in the record, it will not be something Council can consider tonight.

Malia Kupillas  
Noelle Bledy  
Caryn Aman  
Victoria Meier  
Alice Richmond  
Jacki Gallo  
Gigi Lentzas  
Richard Varvel  
Michael Callaghan

Gary Walvatne, Planning Commission Member, signed up to speak. He would like to testify as a community member. Council questioned if a Planning Commissioner Member was allowed to testify at Council's quasi-judicial hearing.

City Attorney Ramis has to check to see if it is incorporated in the rules. The advice given is it is disfavored because if you testify as a party, it leads to a question of if you were objective in the first place. If Council permits it, it is like allowing a Circuit Court Judge to stand up at the Court of Appeals and argue. It is a question of what impression are you creating in the public about the ability of your decision maker.

Robert Czokajjlo  
Derek Czokajjlo  
Iolanda Murandu  
David Dodds  
Carrie Hansen  
Cheree Burton

Mr. Woodley asked to testify. Council inquired as to why. Appellant was allowed to testify again so Applicant was told they could.

City Attorney Ramis stated there will be an opportunity for Council to ask questions. This process does not allow rebuttal, so anyone who would like to testify should. As he understands it, there are individuals testifying here and then there will be a chance for Council to ask questions of the Applicant.

Audience member questioned why Appellant was allowed to testify and Applicant is being challenged.

City Attorney Ramis said it was Council's call as to how they want the meeting conducted.

Council will allow the testimony.

Tim Woodley

Council inquired if Mr. Woodley had ever built a school on an existing school site and how he keeps the kids safe.

Mr. Woodley explained the city, school district, and the construction safety components required and the monitoring of the construction company to verify compliance.

Councilor Brenda Perry moved to extend the meeting to 10:15. Council President Jenni Tan seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Jenni Tan, Councilor Thomas Frank, Councilor Bob Martin, and Councilor Brenda Perry.**

**Nays: None.**

**The motion carried 5 - 0**

Matt Dolan  
Patrick Noe  
Karina Ruiz  
Doug Vokes

Council asked staff to remind them of items that needed to be removed from the record, that were beyond the scope.

Councilor Thomas Frank moved to extend the meeting to 10:30. Council President Jenni Tan seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Jenni Tan, Councilor Thomas Frank, Councilor Bob Martin, and Councilor Brenda Perry.**

**Nays: None.**

**The motion carried 5 - 0**

Associate Planner Wyss stated these items are/are not in the record:

- 1) Malia Kupillas did not submit the bore holing data for the record.
- 2) Paul Bledy objected to using the entire property as recreational opportunities. This is in the record. March 30 supplemental submittal staff report applicant's submittal B-1.
- 3) Councilor Martin asked if inches/hour was new evidence. It is in the preliminary stormwater drainage plan located in Table 2 on page 4. This is in both the March 16 and March 30 staff reports.
- 4) David Dodds objected to new information regarding pervious vs. impervious surfaces. This information is in the record in the March 30 supplemental staff report, located on page 7 of the KPFF memo dated March 28.
- 5) Malia Kupillas objected to the Carlson testimony and City Attorney Ramis already gave Council a ruling on that.
- 6) Peggy Kirkendahl objected to using 3,700 student athletes. It is in the record in March 30 supplemental submitted by the school district B-1.
- 7) Mike Jones objected to Ms. Kirkendahl's procedural comments. Her comments are new evidence and should not be included in the record.
- 8) Mayor Axelrod's comments about pavers and bus traffic on the street are not in record and need to be struck.
- 9) Mayor Axelrod's spoke about the timeframe regarding two year delays. This is outside of the scope of appeal.
- 10) Patrick Taylor testified about the engineering test that Portland stormwater manual uses. He indicated there was a math error, this must be struck.

Mayor Axelrod asked Mr. Wyss what testing he was referring to. Mr. Wyss answered it was one of the infiltration tests. Councilor Frank asked if that report was part of the record and if it could be considered. City Attorney Ramis stated if it is obvious on the face of the report, Council can rely on it. The detailed testimony on it, Council might want to avoid.

11) Malia Kupillas testified about a Sunset graduate that works for her that is not emotionally traumatized. That is not in record and needs to be struck.

12) Tim Woodley's 2006 conversation with Tualatin Valley Fire & Rescue and the West Linn building official is not in the record and must be struck.

13) Doug Vokes talked about his background in engineering software, that nothing is 100 percent and why did the plan change. This is new information and must be struck from the record.

Mayor Axelrod asked what the new information is. City Attorney Ramis explained the staff is objectively stating what is new information, but ultimately, it is Council's decision. Mayor

Axelrod stated the point of contention is that the plans changed, it is in the record that the plans changed. Mr. Wyss clarified that Mr. Vokes explanation regarding his background as an engineering software is new information.

Mayor Axelrod continued the public hearing until tomorrow, May 24 at 6:00 pm.

[Adjourn](#)

DRAFT



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# **WEST LINN CITY COUNCIL MEETING NOTES May 24, 2016**

## **Call to Order**

### **Council Present:**

Mayor Russ Axelrod, Council President Jenni Tan, Councilor Thomas Frank, Councilor Bob Martin, and Councilor Brenda Perry,

### **Staff Present:**

Interim City Manager Don Otterman, City Recorder Kathy Mollusky, Associate Planner Darren Wyss, Public Works Lance Calvert, and City Attorney Kirsten French.

## **AP 16-01: Appeal of Planning Commission approval for the Sunset Primary School replacement at 2351 Oxford Street**

### **\*PUBLIC HEARING\***

City Attorney French informed Council that David Dodds passed around a document dated May 24 and asked Council to have him speak on this issue. The Councilor referenced in the document will have an opportunity to respond and the remainder of the board will need to make a decision

David Dodds submitted for the record potential bias or appearance of bias regarding Councilor Frank.

[David Dodds submittal](#)

Councilor Frank stated this challenge is without merit and he does not have a bias. He has not had discussions regarding Sunset at home. He can judge the application based on the merits before him.

Council discussed if Councilor Frank had a bias or if he is able to judge this hearing fairly.

City Attorney French explained the difference between the appearance of bias and actual bias.

Council voted on if Councilor Frank is able to be make a fair and impartial judgment.

**Ayes: Mayor Russ Axelrod, Council President Jenni Tan, Councilor Bob Martin, and Councilor Brenda Perry.**

**Nays: None.**

**The vote passed 4 - 0.**

#### Questions of Staff

Council inquired what care was taken when staff looked at the application. Did staff look at student safety, how this would be managed, air quality, and noise? Council asked how staff evaluated the criteria.

Associate Planner Wyss informed Council there is no Code criteria to make findings against for those items. The Applicant submitted an application, it was reviewed according to the submittal criteria, and staff found it met all submittal criteria. There are five criteria that have been appealed and Council's decision should be based on those five criteria. Staff showed page 5 of the presentation that lists the criteria (Code provisions) being appealed and Council's questions are outside of the criteria.

Council asked if the new retention pond would decrease runoff, where the overflow from the pond goes, and if it were designed to City standards.

Associate Planner Wyss stated the evidence in the record submitted by KPFF Engineering showed there will be decreased runoff. He cannot speak to the impact of downstream flooding, he will leave it up to engineers to speak to that. He read the criteria of CDC 55.130B off page 6 of the presentation. The City Engineer signed off on it so it was designed to City standards.

#### [Staff Presentation](#)

Applicant stated engineering has been done at this site for the four different storm levels and it will reduce runoff. The overflow goes to the downstream pipe system to handle it.

Council asked if there were any examples of stormwater retention ponds like the one that is

being proposed in the City and do they have standing water in them?

Public Works Director Calvert stated there are multiple examples of this type of facility throughout the community without standing water in them.

Council inquired if the permeable pavement solution is adequate or not, if the water will actually dissipate as the Appellant says it will.

Public Works Director Calvert stated the Appellant did not render a solution, they rendered options, one being permeable surfacing. Permeable surfacing is allowed in the City as a stormwater management approach. Soils is a concern according to City standards relative to permeable pavement. It is a potential compliment to what is being proposed, but not something the City would recommend in those soil conditions. It is not a soil that is conducive to that type of infiltration.

Council asked if the stormwater pond would be a better option than the permeable surface.

Public Works Director Calvert replied that Public Works reviews the applications for consistency with City Code requirements. It is not his role to design the facilities for the Applicant. The permeable pavement is not a solution that would be an alternative to detention facility. It could compliment it, but it does not fully meet the needs of site. The Applicant did meet the requirements of Code.

Council asked what type of certification does staff look for when they get applications in and does the Appellant have that type of certification?

Public Works Director Calvert answered they look for a registered Civil engineer stamp. The City does not recognize the Appellant's expert witness as an expert in this case. Oregon State Statute states only engineering geologists, Civil engineers, or geotech engineers can review engineering drawings. A geologist would not qualify under state statute.

Council asked if the Applicant put in permeable pavement, could it reduce the size of the pond and by how much?

Public Works Director Calvert stated it could reduce the size of the pond. The design would have to be completed and submitted by the Applicant. Staff would review it for Code compliance. He would not guess as to what that would entail, it would be up to the Applicant to modify and revise the plans.

Council asked about the pond and overflow pipe system design.

Public Works Director Calvert would defer to the Applicant's engineer as to how they proposed to design the facility. Staff typically only sees preliminary engineering. This design combines

the detention aspects of the storage facility with other water quality improvements. He explained how the detention facility works.

Council talked about the City of Portland's stormwater management plan. They asked if West Linn has adopted their plan and if the Applicant originally proposed a cartridge based system.

Public Works Director Calvert informed Council that West Linn follows Portland's manual with some exceptions as outlined in the Public Works Standards which is part of the Code. The cartridge based system is prohibited in West Linn except where there is no other option available.

Council asked what the plan for bus traffic and handicapped parking are.

Associate Planner Wyss explained that is not part of the five criteria appealed.

Applicant explained the school's responsibilities such as safe routes and the bus company coordination. The handicapped parking is in a covered area, closest to the school.

Council asked since the vault is not allowed under the Code, are there other modifications of the design that could allow Council to change the redesign the pond to protect the 12 trees?

Public Works Director Calvert believes they can modify the site to save some of the trees, it would be something applicant would have to submit for staff's review.

Council inquired if the Applicant was required to resubmit, would that start a whole new process going back through the Planning Commission resulting in a delay? Would Council be able to use staff to draw modifications?

City Attorney French replied that this matter could be considered through conditions designed to address the concerns of the Council. Another option is the Applicant could do a resubmittal that would result in a new application and run through the standard process. Council would have to make sure they were conditions and not modifications if they do not want to force a new application.

Councilor Axelrod closed the public hearing.

### Deliberations

Mayor Axelrod asked Council where they are in regards to the Code matters before them.

Council President Tan addressed the different Code criteria brought forth by this appeal:

CDC 60.070.A(2). The Appellant contends there were significant impacts from the re-direction of stormwater due to the proposed location. The proposed detention pond and stormwater

treatment plan have been designed by expert engineers and are standard best practice management. The KPFF report table shows a decrease of 50 percent or more compared to the current system for 2, 5, 10, 25 and 100 year storm events. Currently, some citizens' experience flooding during storm events, under the proposed system, this should be lessened.

CDC 60.070.A(3). In 2010, the voters passed Ballot Measure 3-358 by 69 percent that read, "Shall the City sell 1.6 acres of Sunset Park to the West Linn-Wilsonville School District for \$483,000." The City submitted a summary agreeing to sell a portion of Sunset Park to the school district that would provide sufficient land to keep Sunset Primary School at this location. Since 2007, the school has been working with the public on this new school. They have held neighborhood meetings, received feedback, and made changes based on the feedback. The Parks Department has outlined that the Sunset Park redesigning process includes opportunities for public input for the new park, new playground equipment, and recreational opportunities. The Applicants are utilizing best management practices to preserve and enhance existing trees as well as adding new trees. The Applicants are required to record a tree conservation easement. They are retaining more trees than required in the Code. The Applicant is retaining 77 percent of the tree canopy. Of the 1.6 acres purchased, 1.28 acres will be preserved as a natural park like setting. Flooding and landslide impacts will be mitigated. The extended delays, bussing, and the cost of portable classrooms are cost prohibitive and are not in the best interest of our children.

CDC 60.070.A(6); CDC 55.130.B. The KPFF stormwater drainage and stormwater engineering reports show that the discharge rates will decrease. PAC and other methodology were used. Other stormwater management practices were also considered. Other stormwater practices could compliment the system, but would not be an alternate solution. The current proposed system meets the Code.

CDC 75.020.B. West Linn has schools in residential zones of similar size and density. It is difficult for schools to have all their parking within 200 feet of the main entrance. For security, play fields and play grounds need to be directly adjacent to the school building. If you separate these areas, safety and security will be compromised. There is also disability and bicycle parking close to the school.

CDC 92.010.E. The evidence shows there will be not be adverse impacts to offsite trees or landslide hazards. This work and stormwater plans were prepared by a registered Civil engineer in accordance with our City guidelines. The school collaborated with citizens and the City. In a land use case, Council must determine if the land use matches the Code requirements. This application meets Code and criteria. She will be supporting a denial of the appeal and affirm the Planning Commission decision and conditions.

Council President Jenni Tan moved to deny appeal AP-16-01, affirm the Planning Commission's decision on application to approve the conditional use permit, Class II Design Review, and two Class II Variances for the Sunset Primary School replacement and adopt the Planning

Commission's findings and 12 conditions of approval. Councilor Thomas Frank seconded the motion.

Councilor Martin talked about criteria (4) CDC 75.020.B(1)(c) which he believes to be the most troublesome part of application. The Applicant created the need for the variance. The decision was made to not build on the same site, to not have a 200 foot setback, and to not make children cross the parking lot to get to the playground. The other thing that bothers him is the stormwater pond. The Code says the burden of proof is on the Applicant. The increased amount of stormwater could cause slope instability and landslides. The amount of water is important, not the rate of which it goes into the soil. This design is bringing water from the parking lot, a larger area, into one place on steep slope where it infiltrates at a slower rate. He does not know if it is bad enough to be a problem, if it does not satisfy the criteria. There is not data in the application that tells us how much water is going to be there, only the rate of water coming in. The Applicant has to show that this is going to be safe and not cause a problem. He cannot approve this with this question unanswered. There are other possible designs that could be done without impacting the schedule that would answer this question. He would support a condition of approval which would answer the question of destabilizing the slope and would also preserve significant trees. He would not vote for a motion to deny because we owe it to everybody to work to find a condition of approval that allows the school to go ahead, where we do not have to bus students, allows the trees to be saved, and allows us to have the best park we can have.

Councilor Frank informed the audience Council is serving as a quasi-judicial board on this appeal which limits them to denial or approval based on our Code and laws. In reviewing the appeal:

CDC 60.070.A(2). He concurs the retention pond is adequately designed. He does not believe pervious pavement solution is adequate based on the types of soil present at that site.

CDC 60.070.A(3). There have been two ballot measures passed at two different times that have gone out for public approval. Both have overwhelmingly past. The community has spoken that this facility will meet the needs of the community.

CDC 60.070.A(6) and CDC 55.130.B. He finds the presumptive approach calculator was appropriately used for the treatment of the retention pond and the storm and sanitary analysis was appropriately used for the sizing of the retention pond.

CDC 92.010.E. The Planning Commission did interpret correctly and the submittal was complete. The applicant went further than required.

CDC 75.020.B. The parking and bicycle variances allowed by the Planning Commission met the requirement and does not violate any Code standard and is consistent with other schools in our district. He will be moving to deny the appeal.

Councilor Perry stated Council needs to rule by the Code and what is being submitted. She is concerned about the size and placement of the detention facility. There are other options and if we could put in a condition of approval to deal with that, she would be more comfortable. Permeable paving would reduce the size of the detention pond and would help trees and drainage. The letter of the law says they have met all standards, she thinks we can do better. They do not get to build this twice. They need to make sure it is done properly and stay within the Code.

Mayor Axelrod explained the school districts drawings regarding where the buildings, streets and pond are currently located. Flooding occurs on adjacent property. On the proposed facility, he explained where the water will flow and how it will be handled; trees will have to be removed. The proposed pond is larger than original calculation design. He explained infiltration and is concerned about the impacts on adjacent property. He is concerned about the new design. He would like to reduce the parking, make bigger ballfields, and put in bio swales. This could shrink the pond in half. Council could consider different options to manage the stormwater. One alternative to the pond is a cartridge design system. There are ways to provide a fully contained unit. He would like to consider a condition allowing engineers to develop a containment facility as originally designed. Then they would not have to remove trees and would not have problems with leakage and uncontrolled runoff.

Council discussed adding conditions of approval.

Mayor Axelrod addressed the criteria:

CDC 60.070.A(3). Ballot Measure 3-358 was clear. It stated, "to maximize recreational opportunities while preserving significant trees at the site." This is not among the Code criteria, but the facts in the ballot measure are relevant to our decision making. He believes the Planning Commission was misadvised that they could not consider the ballot measure, he feels they are relevant to the land use decision. He agrees the school needs to be built and meets the needs of the community, but the proposed application and surface water management approach does not serve the needs of community. The park encumbrance, degradation, and potential property damage are uncertain. The sale agreement says it must maximize recreational opportunities while preserving significant trees to the extent practical. There are other practical solutions. It is important that we preserve what the people understood in approving the ballot measure to build trust.

CDC 60.070.A(2). The approach to surface water management relying on one large infiltration pond structure cannot be safely relied upon based on the characteristics of the site. The Planning Commission was improperly advised when they were told they could not address the stormwater management plan and infrastructure and that the submittal of a signed plan was sufficient. There are safety, environmental conditions and hazards identified with the proposed design. The Planning Commission confirmed the pond and surface water management are

structures and are under Planning Commission purview. Oversaturated soils and impacts to adjacent properties are a concern. The Interim Planning Director stated the site was flat and the suspicion index was never raised so no other consideration or evaluation by the Planning Commission are necessary or appropriate. He finds that advice unacceptable under the circumstances. The Planning Commission was informed you cannot consider stormwater as a criteria and the pond structure is not located in an area subject to a landslide. They did not recognize the down gradient impacts from oversaturated soil.

CDC 60.070.A(6); CDC 55.130.B; and CDC 92.010.E. There are insufficient factual data and analysis regarding downgrading and offsite impacts of the proposed retention infiltration pond. The Planning Commission was not allowed to consider or evaluate these conditions. He believes the Planning Commission and staff misunderstood the surface water discharge values. The Planning Commission asked if lower values meant less saturation, staff replied yes. It actually means more saturation. The Planning staff characterized the table data that there will be reduced runoff as a result of the proposed application. It will not go into the street, but it does not mean water is being piled in the pond and the water is moving away from the pond and subsurface. The Applicant did not provide sufficient data regarding loading in the pond. The impacts to City property, significant trees and adjacent properties remain significant potential liabilities that cannot be dismissed.

CDC 75.020.B. It is not significant grounds to deny. Would like to see parking closer, but not grounds to deny.

Council President Tan fears it is not just a simple condition of approval that will make this fix that is desired. There were a lot of different proposals pointed out on the map. She fears Council would be looking for a whole set of conditions of approval that looks like a new application. She called the question to vote. Councilor Frank seconded.

Council discussed if they were voting on the motion presented previously or on call the question. Council President Tan withdrew her call to question and Councilor Frank withdrew his second. The intent was to vote on the motion that was on the table.

**Ayes: Council President Jenni Tan, and Councilor Thomas Frank.**

**Nays: Mayor Russ Axelrod, Councilor Bob Martin, and Councilor Brenda Perry.**

**The motion failed 2 - 3**

Council discussed modifying the conditions.

The proposed condition was: Reconfigure and reduce size of proposed stormwater retention facility to provide for a lined stormwater facility to accomplish preservation of a minimum of seven trees that were originally proposed for removal to accommodate the stormwater retention facility.

Council revised the condition to: Reconfigure and reduce size of proposed stormwater detention facility to provide for an impervious lined stormwater detention facility and to preserve a minimum of seven trees that were originally proposed for removal to accommodate the stormwater detention facility.

City Attorney French reminded Council the conditions need to be tangible and clear. Council does not want to be vague, arbitrary, or re-engineer the design.

Councilor Bob Martin moved to deny appeal AP-16-01, and tentatively affirm and modify the planning Commission's decision on the application to approve the conditional use permit, Class II Design Review, and Class II Variances for the Sunset Primary School replacement and adopt the Planning Commission's findings and twelve conditions of approval, except to the extent modified by the proposed condition and direct staff to draft findings based on this discussion. Councilor Brenda Perry seconded the motion.

Councilor Frank feels Council is opening this application to further appeal. Anything is feasible, he is not sure at what cost or time delay or if the school district can design something that would fit this condition. The condition is too vague and may not be feasible. Being transparent is making sure the application that comes before Council is given to citizens for review and that Council can comment on that without material changes. He is not comfortable that this stormwater detention facility change is safe for children. He would rather approve or deny the application that came before the Planning Commission. Council's role is to interpret the Planning Commission application based on the opponent's appeal. He will not support this motion.

Councilor Perry thinks Council is answering some of the concerns. She has confidence that the engineering staff will make sure it is safe and feasible and will fit with the design. They still have to meet the Code and it still has to be approved. It is appropriate to make these conditions. She does not want to deny the appeal without making some condition or recognition of the issues that were raised. They also do not want to accept the appeal and put school back a couple of years.

Council President Tan felt the application met the criteria. She supports upholding the Planning Commission decision. There are so many unknowns with this condition, it has not gone through the public process, this is the first time she has heard of this technology, and she will not support this condition of approval.

Councilor Martin said the engineering staff said there was a feasible solution and he believes the proposal will work. They are always thinking about safety and these other concerns that have not been pointed out. The difficulty in this hearing is caused by the City Code. They have 88 parking spaces and we cannot do anything about it. In this case they do not need so much parking. We are going through this unusual procedure of conditioning the original application, but we are doing everything we can to find solution that overcomes some of the problems that

the Code caused. We are trying to save trees, save more of the park, and to allow the school to go ahead on schedule. It is a compromise.

Mayor Axelrod stated this is a difficult situation. He is sorry they are not gaining confidence in the approach here. There is less uncertainty in going with the design that contains the water in a structure rather than putting the water on a slope with so many uncertainties. The staff has met with the school district technical staff and design engineers who design these facilities and they agree it can be done. He is quite proud of the effort to keep the school moving forward. We tried to reach common ground and have given them an opportunity to manage water in a safer, more environmental manner. He is pleased with that.

**Ayes: Mayor Russ Axelrod, Councilor Bob Martin, and Councilor Brenda Perry.**

**Nays: Council President Jenni Tan, and Councilor Thomas Frank.**

**The motion carried 3 - 2**

Mayor Axelrod informed the citizens if they would like to appeal this decision, they must appeal to LUBA in accordance with LUBA's rules and any applicable provisions in the Community Development Code.

City Attorney French reminded Council they need to continue the hearing to Thursday to review the final language and direct staff to prepare the final language for review.

Mayor Axelrod directed staff to prepare the final language of the condition. Council will meet Thursday at 4:30 pm to adopt the decision.

[Adjourn](#)



CITY OF  
**West Linn**

22500 Salamo Road  
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<http://westlinnoregon.gov>

# **WEST LINN CITY COUNCIL MEETING NOTES May 26, 2016**

## **Call to Order**

### **Council Present:**

Mayor Russ Axelrod, Council President Jenni Tan, Councilor Thomas Frank, Councilor Bob Martin, Councilor Brenda Perry.

### **Staff Present:**

City Recorder Kathy Mollusky, Citizen Engagement Coordinator Courtney Flynn, Associate Planner Darren Wyss, Interim Community Development Director John Boyd, and City Attorney Tim Ramis.

## **Approve Final Decision for AP 16-01: Appeal of Planning Commission approval for the Sunset Primary School replacement at 2351 Oxford Street**

[Option 1](#)

[Option 2](#)

\*Note: The first 27 minutes of the hearing is audio only\*

Mayor Axelrod opened the hearing.

Councilor Frank questioned Councilor Perry regarding ex parte contact.

City Attorney Ramis stated it is appropriate to put any bias or ex parte contact on the record.

Councilor Perry did mention to David Dodds that Thomas Frank's family was here. It is not a secret of who was in the room.

Council President Tan spoke to a couple of citizens, Gail Holmes and Christine Steel. She did not learn anything new, she just told them there was a meeting tonight. Also Gail Holmes emailed Council requesting information. Council President Tan also did a Facebook post.

Councilor Frank spoke to a neighbor about having a meeting tonight. He did a site visit to his daughter's kindergarten graduation.

Councilor Martin received a phone call from Mr. Noe, who previously testified, asking for an explanation of what occurred. Councilor Martin described his understanding of what happened and clarified misinformation to the best of his ability. Mr. Noe brought up one issue that was new. Councilor Martin did not realize the outflow from Bittner Street went to Sunset Creek.

City Attorney Ramis asked Council if any disclosures needed to be rebutted or responded to, if so, the record will need to be opened.

Councilor Perry stated that Councilor Frank has not disclosed he made Facebook post.

City Attorney Ramis explained ex parte is if anyone has spoken to you about the facts of the case. If you were saying something, it may indicate bias, but it does not amount to ex parte communication.

City Attorney Ramis read the comments on Facebook. There was a statement made and citizens responded. It is appropriate to put it in the record.

[Councilor Frank's Facebook Page](#)

[Council President Tan's Facebook Page](#)

[Councilor Perry's Facebook Page](#)

Council President Tan spoke to Jane Stickney and Todd Jones. She did not learn anything new and it did not bias her in any way.

Council discussed how they have spoken to different staff members.

City Attorney Ramis reminded Council that staff communications are not ex parte contact.

Councilor Martin spoke with Appellant David Dodds for about 45 minutes after the last hearing. Mr. Dodds expressed his disappointment in the outcome of the hearing.

Mayor Axelrod received communications wishing him well on this difficult situation. He also

talked to Mr. Dodds. He did not learn anything that changed his opinion except he did learn that the oval pond was actually the plan proposed after the other plan which in his mind makes it worse. He found the calculations are in error.

City Attorney Ramis asked Council to confine this stage of the hearing to ex parte contact. Since disclosures were made, it is the right of anyone here to respond in order to set the record straight.

Citizens who spoke

Alice Richmond spoke regarding Councilor Frank's Facebook page.

Glenn Barger is alarmed about Mayor Axelrod's and Councilor Martin's discussions with one party.

Darcy Peak stated it was apparent three Councilors do not want the school built.

Doug Vokes spoke about common sense, logic, and science.

Peggy Kirkendall is concerned about how the process was handled.

\*Note: Councilor Frank had to leave the meeting at 25 minutes.\*

City Attorney Ramis reminded the citizens this is about ex parte contact only.

Peggy Kirkendall thinks all parties should have been in the room when Council met with staff.

Noelle Bledy stated the pond evidence is in the record.

Carrie Hansen said this hearing is about land use only.

Bill Dahl is concerned about David Dodds speaking to Council.

\*Note: This is when the video starts\*

Rob Bledy commented on Councilor Frank's Facebook post.

Gail Greenman talked about transparency and trust.

Wayne Tilly agrees this is a land use issue and wants to know why Council cannot accept the original plan with the engineering stamp. He questioned Councilor Perry's discussion with David Dodds.

City Attorney Ramis stated this concludes the disclosure of ex parte communications.

Mayor Axelrod invited the Applicant, Tim Woodley, to come up.

Mayor Axelrod asked the Applicant if they would extend the 120 day clock to give Council an opportunity to get the findings correct.

Mr. Woodley asked for a recess to discuss with his team.

Mayor Axelrod restated Council wants an extension to allow Council to prepare proper findings.

Applicant Tim Woodley commented: (1) School district see each Councilor capable of carrying out their responsibility. (2) They believe the existing application is sufficient. The school board has its own agendas and schedules. On June 6 they are awarding a contract for this project. They are willing to extend to Friday, June 3.

Council President Tan expressed concern that they usually take a vote now. Why is Council changing the findings? This is the first time this has ever occurred in her experience.

Mayor Axelrod stated Council will meet Thursday, June 2 to adopt the decision at the Police Station or Adult Community Center.

City Attorney Ramis informed Council they are still in the deliberation stage. Council has had discussions and reached a tentative decision. The findings will come back to council for final approval. He reminded Council of their options to affirm, deny, or modify the Planning Commission decision. Council's tentative decision is to approve the project, but modify with conditions to address stormwater. Staff has prepared a draft set of findings for Council to approve. If they have not captured your thinking or you have changed your mind, direct staff to change. Council has two versions of the findings before them. They both have the condition to modify the stormwater facility. The first one is based on the theory that all the criteria have been satisfied by the applicant consistent with the Planning Commission except for the community need related to trees; that there needs to be a condition to protect the trees. The second version is based on the theory that the application does not meet all the criteria, but the condition relating to stormwater will satisfy those conditions.

Council discussed the two options and decided to send their comments to City Attorney Ramis.

[Adjourn](#)



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# **WEST LINN CITY COUNCIL MEETING NOTES June 2, 2016**

## **Call to Order**

### **Council Present:**

Mayor Russ Axelrod, Council President Jenni Tan, Councilor Thomas Frank, Councilor Bob Martin, Councilor Brenda Perry.

### **Staff Present:**

City Recorder Kathy Mollusky, Associate Planner Darren Wyss, and City Attorney Tim Ramis.

### **Approve Final Decision for AP 16-01: Appeal of Planning Commission approval for the Sunset Primary School replacement at 2351 Oxford Street**

#### **[Final Decision and Order 6-2-16](#)**

Mayor Axelrod called the meeting to order and explained why the meeting was continued to today.

City Attorney Ramis asked Council if they had any bias. There was none.

He asked if any member of the audience wished to challenge Council on bias. There were none.

He asked if Council wished to report any ex parte contacts.

Councilor Martin talked to several people on way out of the last meeting. He did not receive any new information, he just explained things.

Councilor Frank stated several people talked to him. He did not receive any new information, they just wanted to know when the hearing was going to be.

Councilor Perry emailed with Carrie Johnson, no new information was received.

Mayor Axelrod received several emails and citizens stopped by his event. The Appellant asked who was present in the Interim City Manager's office when Council recessed to draft conditions. He passed that on to the Interim City Manager to take care of. He did not learn any new information.

Council President Tan had short conversations in passing. There was no new information.

City Attorney asked the audience if they wished to challenge Council on ex parte contacts. There were none.

Council discussed the findings.

Councilor Brenda Perry moved to deny appeal AP-16-01, approve the application before us, and adopt the proposed conditions and findings. Councilor Bob Martin seconded the motion.

Councilor Perry read through everything and went through the issues. It seems to outline everything discussed.

Councilor Frank found the appeal unusual. Council's job is simple, to evaluate the record and use the Community Development Code (CDC) to evaluate what the Planning Commission put forth as their final decision. Council's job is to look at the record and CDC to determine if these points are valid. The Applicant went above and beyond regarding designing the stormwater system. It was stamped and certified by experts and done to City standards and Codes. The Appellant did not have an expert design or comment on the stormwater. Nothing in the record calls for a stormwater redesign. The proposed condition goes too far. We do not know the potential cost or if it will require a new site plan and application. He supports the approval of the application without additional conditions. He will not support an unnecessary condition that may delay the project.

Council discussed the ex parte contact, bias, and transparency issues. Council has public meetings so the public can watch how they deliberate. Conditions should not be done behind closed doors.

Council President Tan believes the application approved by the Planning Commission meets all City Codes and requirements. They are utilizing best management practices to preserve and enhance existing trees as well as adding more trees. The City is requiring a tree easement to protect trees in the future. They are retaining 77 percent of the trees onsite. Of the 1.6 acres purchased, 1.28 acres will be preserved. The flooding and landslide risk should be mitigated as shown in KPFF's report. She does not believe this additional condition is necessary. It calls for a newly designed retention facility and stormwater management plan that must be approved.

Councilor Martin feels the questions in the original application are being addressed with these conditions. We end up with the same school if we did not have conditions, possibly a better one due to the conditions. This is a win, win and he is happy with it.

Mayor Axelrod believes the application raises concerns. This will allow the school to move forward and remove the hazards in operating a single, leaky pond. Building a school on smaller site represents many challenges and potential constraints. The pond would lead to oversaturation and runoff to adjacent property. If Council did not take action, the matter would have been appealed to LUBA, resulting in significant delays in the project. The new facility will address the concerns of a leaky pond. It is a method that is used at other constrained sites. By taking these additional precautions in the design, they will reduce construction impacts, integrate Sunset Park design plans, will preserve and protect more significant trees and park space, minimize property damage and potential lawsuits. There will be no need to bus kids to other overcrowded schools. This will allow school construction to proceed on schedule.

**Ayes: Mayor Russ Axelrod, Councilor Bob Martin, and Councilor Brenda Perry.**

**Nays: Council President Jenni Tan, and Councilor Thomas Frank.**

**The motion carried 3 - 2**

Mayor Axelrod informed the audience if they would like to appeal this decision, you must appeal to LUBA in accordance with LUBA's rules and any applicable provisions in the CDC. This case has brought up many issues. He wants to implement some Code revisions.

**Adjourn at 4:26 p.m.**



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# **WEST LINN CITY COUNCIL MEETING NOTES June 6, 2016**

## **[Call to Order Special Meeting](#)**

### **Council Present:**

Mayor Russ Axelrod, Council President Jenni Tan, Councilor Thomas Frank, Councilor Bob Martin, and Councilor Brenda Perry.

### **Staff Present:**

City Manager Eileen Stein, City Recorder Kathy Mollusky, Consultant John Morgan, Public Works Director Lance Calvert, Assistant City Attorney Megan Thornton, Chief Financial Officer Richard Seals, and City Attorney Tim Ramis.

## **[Community Comments](#)**

Mike Taylor re: City internet  
Alice Richmond re: new City Manager

## **[Proclamations, Recognitions and Presentations](#)**

### **[Fair Court Proclamations](#)**

#### **[Proclamations](#)**

Mayor Axelrod read the Fair Court Proclamation.

## [Immigration Heritage Proclamation](#)

### [Proclamation](#)

Mayor Axelrod read the Immigration Heritage Proclamation.

## [Consent Agenda](#)

### [Agenda Bill 2016-06-06-01: March 14, 28, April 11, 20, May 2 & 9, Draft Notes Approval](#)

#### [Draft Notes](#)

### [Agenda Bill 2016-06-06-02: Oregon Department of Transportation Services Intergovernmental Agreement](#)

#### [ODOT IGA](#)

Councilor Jenni Tan moved to approve the Consent Agenda for the June 6, 2016 West Linn City Council Meeting which includes the March 14, 28, April 11, 20, May 2 and 9, 2016, meeting notes as revised and the Oregon Department of Transportation Services Intergovernmental Agreement. Councilor Brenda Perry seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Jenni Tan, Councilor Thomas Frank, Councilor Bob Martin, and Councilor Brenda Perry.**

**Nays: None.**

**The motion carried 5 - 0**

## [Business Meeting](#)

### [Agenda Bill 2016-06-06-03: Ordinance 1645, Adopt the Economic Opportunities Analysis Plan](#) ["Continue Public Hearing to July 11"](#)

#### [EOA Memo](#)

Mayor Axelrod open the Public Hearing.

Council President Jenni Tan moved to continue the public hearing to July 11, 2016, at 6:30 p.m. Councilor Thomas Frank seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Jenni Tan, Councilor Thomas Frank, Councilor Bob Martin, and Councilor Brenda Perry.**

**Nays: None.**

**The motion carried 5 - 0**

## [Adjourn to Work Session](#)

**Agenda Report 2016-08-08-02 – Item 4b**

Date: June 22, 2016

To: Russ Axelrod, Mayor  
Members, West Linn City Council

From: Sergeant David Kempas, Police Department DK

Through: Chief Terry Timeus, Police Department TT  
Eileen Stein, City Manager *ES*

Subject: Public Safety Standards and Training Intergovernmental Agreement – EVOC Training

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**Purpose**

The purpose of this proposal is to move the Emergency Vehicle Operations Course (EVOC) training for police department employees from Portland International Raceway (PIR) to the EVOC track, and other training areas at the Department of Public Safety Standards & Training (DPSST) Police Academy in Salem.

**Question(s) for Council:**

Should the City enter into Agreement # 259-17-034 with DPSST?

**Public Hearing Required:**

None is required.

**Background & Discussion:**

Officer John Huntsman recently underwent EVOC Instructor training, and as a result, WLPD now has the option of using DPSST's EVOC track at no cost to the City. WLPD has been using PIR up to this point for EVOC training.

Presently the cost to the City is approximately \$3,000 per training session at PIR, which is designed as a racetrack. There is no cost to the City to use the DPSST facilities, and the track there was designed to provide realistic EVOC training.

**Budget Impact:**

Savings of approximately \$3,000 per training session.

**Council Options:**

1. Approve the IGA and move Police training to the EVOC track.
2. Do not approve the IGA and Police will continue training at the PIR.

**Staff Recommendation:**

Approve the intergovernmental agreement.

**Potential Motion:**

Move to approve the IGA and authorize the City Manager to sign the agreement.

**Attachments:**

1. IGA# 259-17-034

**INTERGOVERNMENTAL AGREEMENT  
Facility and Premises Use**

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Public Safety Standards and Training (DPSST), hereinafter referred to as "State;" and the City of West Linn Police Department acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties." The DPSST supervising representative for this Agreement is DPSST Director Eriks Gabliks, or any delegated appointees. The City of West Linn Police Department supervising representative for this Agreement is John Huntsman.

**RECITALS**

1. By the authority granted in Oregon Revised Statute (ORS) [190.110](#), state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.

*This Agreement will establish a process for the City of West Linn Police Department to request use of DPSST Mat rooms, ConSim rooms, Gymnasium, firing range, tactical training areas (EVOC track, street grid, scenario building, houses, fire tower, railroad, "professional building"), vacant areas of space within training premises and other areas made available for training for approved training purposes. It will also articulate the expected performance from each Party.*

**NOW THEREFORE**, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

**TERMS OF AGREEMENT**

1. The term of this Agreement shall begin on the date all required signatures are obtained and the initial term of this Agreement shall terminate on June 30, 2017. This Agreement shall automatically renew in two-year increments unless terminated by either party as provided herein.

**AGENCY OBLIGATIONS**

1. Agency shall have access to facility areas, as identified throughout the Agreement.
2. Agency shall maintain a clean and orderly appearance of the facilities when training during the term of the Agreement. Agency is responsible for cleaning and returning shared use space to condition found before Agency's use.
3. Agency shall refrain from any use that would create waste on the premises or that would be considered reasonably offensive to other tenants or owners or users of neighboring premises or that would tend to create a nuisance or damage the reputation of the premises.

4. Agency shall be solely responsible for repair and maintenance of all Agency-owned equipment.
5. Agency shall be responsible for all costs associated with facility maintenance and repairs when maintenance and repair is required due to Agency or its personnel's negligence, misuse or failure to comply with any provisions of this Agreement.
6. Agency, at its own expense, shall correct any failure of compliance created through Agency's fault or use.
7. Agency shall be responsible for security of its personal property in or on the premises.
8. Agency shall provide an authorized point of contact and contact information for coordinating access to the premises for maintenance and repairs.
9. Agency shall schedule the use of all training venues (including the emergency vehicle operations track and street grid, scenario training building, training houses, training tower, professional building, railroad, vacant areas inside of the tactical area, ConSim rooms, mat rooms and gymnasium) with the DPSST Events Coordinator, while also identifying the number of personnel to be trained. This process should be completed using a Tactical Coordination Checklist (TCC).
10. Agency will notify DPSST supervising representative identified in this Agreement as soon as possible in the case of cancellation or need to reschedule activities on DPSST premises or using DPSST facilities.
11. Agency will notify DPSST supervising representative identified in this Agreement immediately in the event of accident or injury occurring during the use of DPSST facilities.
12. Agency will conduct business in such a manner as to avoid interference with DPSST's normal operation and training mission.
13. Agency will not make changes to mat rooms, ConSim rooms or gymnasium without the advance approval of DPSST Survival Skills staff, and any changes made must be returned to their original status upon completion of use.
14. Agency will not make changes to any of the tactical training venues without the advance approval of DPSST Tactical Training staff, and any changes made must be returned to their original condition upon completion of use.
15. Agency will not use any DPSST equipment unless approved by appropriate training section Supervisor, as identified in this Agreement.

16. Agency is responsible for any loss or damage that occurs during the use of DPSST premises, facilities and training related materials. In the event of loss or damage, DPSST will take immediate and necessary actions to replace or repair for the same condition prior to damage or loss, and will bill Agency, as appropriate, for any corrections needed.
17. Agency shall participate in training relative to safety protocols of using the applicable training venues. Agency personnel shall participate in safety officer / coordination training. This training will be conducted by DPSST Safety Coordinator.
18. A DPSST trained safety officer must be present and provided for by Agency for any training done using the tactical training venues. If Agency does not have a DPSST trained safety officer available, one may be obtained through DPSST, at Agency cost.
19. Agency will ensure participants comply with all safety guidelines and procedures provided by DPSST.
20. Agency will not bring any ammunition, guns, knives, impact weapons, aerosol defense weapons, TASERS (or similar devices), diversionary devices or other weapons onto DPSST premises; any of these items brought onto DPSST premises will be placed in secure storage outside of the training area until the end of training.
21. Agency shall comply with such other restrictions as DPSST, in its discretion, may determine.
22. Agency shall conform to all applicable municipal, state and federal laws and regulations pertaining to the premises and their use.
23. All employers, including Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS [656.017](#) and provide the required Workers' Compensation coverage unless such employers are exempt under ORS [656.126](#). Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Agency shall ensure that each of its contractors complies with these requirements.
24. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment (or completion of Project -- if applicable.) Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
25. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency,

under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.

26. Agency's Project Manager for this Project is John Huntsman, EVOIC Instructor, 1800 8th Ave, West Linn, OR 97068, (503)806-4440, [JHuntsman@westlinnoregon.gov](mailto:JHuntsman@westlinnoregon.gov) or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

## **STATE OBLIGATIONS**

1. DPSST shall provide training space to Agency for training support, which includes Mat rooms, ConSim rooms, and gymnasium (Building D), as well as Tactical training areas including the emergency vehicle operations track and street grid, scenario building (Building F), houses, fire training tower, railroad, "professional building", and vacant areas of space around those facilities are also available as training venues.
2. DPSST shall provide all safety protocols in writing to Agency.
3. DPSST shall provide training relative to safety protocols of using the applicable training venues. DPSST will also provide safety officer / coordination training to Agency personnel. This training will be conducted by DPSST Safety Coordinator.
4. DPSST shall provide parking as available for Agency personnel in the Oregon Public Safety Academy parking lots on a "first come, first serve" basis.
5. DPSST shall conform to all applicable municipal, state and federal laws and regulations pertaining to the premises and their use.
6. DPSST shall be responsible for the security of its personal property in or on the premises.
7. DPSST shall maintain a clean and orderly appearance of the premises during the term of the Agreement.
8. DPSST shall be responsible for repair and maintenance of DPSST-owned equipment, unless damage incurred during Agency use, which will be managed in the manner specified above.
9. DPSST's Survival Skills Supervisor and DPSST's Tactical Training Supervisor will approve and work with DPSST Events Coordinator to schedule use of Building D and the tactical training areas. The DPSST Events Coordinator will work with Agency personnel to complete Tactical Coordination Checklists (TCC's) prior to any training activities.

10. DPSST Survival Skills staff and DPSST Tactical staff will provide guidelines and procedures for use of Building D and tactical venues upon initial use and as changes are made.
11. DPSST Survival Skills staff and/or DPSST Tactical staff may stop the use of Building D and/or the use of tactical venues immediately and indefinitely in the event activities create a risk to persons or property, in the event of actual property or equipment damage, or if the property becomes otherwise unserviceable.
12. DPSST's Survival Skills Supervisor and DPSST's Tactical Training Supervisor will notify Agency as soon as possible if the need to cancel or reschedule occurs.
13. DPSST certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs related to this Agreement within DPSST's current appropriation or limitation of the current biennial budget.
14. DPSST's Project Manager for this Project is the corresponding Venue Supervisor or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement. DPSST's Contact for scheduling or use requests is Kayla Smith, Events Coordinator.

## **CONSIDERATION**

1. Agency will be authorized to use Building D (for combative training and/or for the utilization of the Tactical Training Venues to conduct scenario-based training) without cost as long as such use is in accordance with the prescribed safety protocols.
2. Agency will be charged according to DPSST established price list for the use of DPSST vehicles for training in accordance with this Agreement.

## **GENERAL PROVISIONS**

1. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing and delivered by certified mail or in person. If notice is given by either party, this Agreement shall become null and void on such date as specified in the written termination notice. Any expenses incurred prior to the termination date are the responsibility of Agency.
2. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
  - a. If Agency fails to adhere to obligations called for by this Agreement within the time specified herein or any extension thereof.

- b. If Agency fails to conform to any of the other provisions of this Agreement, and after receipt of written notice from State, fails to correct such failures within ten (10) days or such longer period as State may authorize.
  - c. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to provide personnel, services or access to premises applicable to this Agreement.
  - d. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
4. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
5. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

6. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
7. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
8. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
9. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

**[Signature page on next page.]**

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

**State of Oregon acting by and through the  
Department of Public Safety Standards and Training**

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Signature \_\_\_\_\_ Date \_\_\_\_\_  
Eriks Gabliks, Director  
Printed Name and Title

**and**

**The City of West Linn acting by and through its  
West Linn Police Department**

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Signature \_\_\_\_\_ Date \_\_\_\_\_  
Eileen Stein, City Manager  
Printed Name and Title

**APPROVAL RECOMMENDED**

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Signature \_\_\_\_\_ Date \_\_\_\_\_  
Adam Bergerson, Contracts Coordinator  
Printed Name and Title

**Agency Contact:**  
John Huntsman, EVOC Instructor  
1800 8<sup>th</sup> Ave  
West Linn, OR 97068  
(503)806-4440  
[JHuntsman@westlinnoregon.gov](mailto:JHuntsman@westlinnoregon.gov)

**State Contact:**  
Kayla Smith, Events Coordinator  
4190 Aumsville Hwy SE  
Salem, OR 97317  
(503)378-4619  
[kayla.smith@state.or.us](mailto:kayla.smith@state.or.us)

**Agenda Report 2016-08-08-03 – Item 4c**

Date: July 7, 2016

To: Russ Axelrod, Mayor  
Members, West Linn City Council

From: Lt. Michael Stradley, Police Department *MS*

Through: Chief Terry Timeus, Police Department *TT*  
Eileen Stein, City Manager *ES*

Subject: Portland Police Bureau Training Facility Use Intergovernmental Agreement

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**Purpose**

The West Linn Police Department (WLPD) is requesting to enter into an intergovernmental agreement with the Portland Police Bureau (PPB) to utilize its training facility.

**Question(s) for Council:**

Should the West Linn City Council enter into an IGA with the City of Portland allowing access to the PPB Training Facility for the purpose of increasing training opportunities for the WLPD?

**Public Hearing Required:**

None Required.

**Background & Discussion:**

Approximately five years ago the PPB completed construction of a state of the art police training complex located at NE 149<sup>th</sup> Ave and Airport Way in Portland. The facility includes two 50 yard indoor tactical ranges, a vehicle driving course to develop safe driving skills, classrooms, a large simulated scenario village and other training options. The primary purpose of this IGA is to provide West Linn Police Officers excellent training at a reasonable cost. There is no other training location in the State of Oregon which equals the opportunities for training this location provides.

Recently, PPB completed the attached IGA formalizing the ability for smaller agencies, such as the WLPD, to use its training complex at an exceptionally reasonable cost.

**Budget Impact:**

The budget impact will be marginal, and it may result in cost savings in some instances. For example, WLPD can use one of the 50 yard indoor shooting ranges for \$60.00 per hour. If WLPD has 10 officers training, this translates to a very low cost per officer. The ranges are longer, larger and provide more realistic training than the range WLPD currently uses at a cost of \$75.00 per hour.

**Council Options:**

1. Approve the IGA allowing the WLPD to have access to this training location.
2. Do not approve this IGA and WLPD will continue training at current locations.

**Staff Recommendation:**

WLPD Management strongly recommends approving this IGA. The PPB has been gracious in the past and allowed WLPD officers to join its classes at this training complex with excellent results. WLPD management believes in keeping its officers trained to the highest levels possible. This IGA will assist WLPD in training officers and, in turn, serving and protecting the citizens of West Linn.

**Potential Motion:**

Move to approve the IGA and authorize the City Manager to sign it.

**Attachments:**

1. IGA between City of Portland and City of West Linn.

**AGREEMENT NO.**

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
CITY OF PORTLAND AND WEST LINN POLICE**

**FOR USE OF THE  
PORTLAND POLICE BUREAU TRAINING COMPLEX**

Under the authority of ORS 190.010, this agreement (“Agreement”) is entered into between the City of Portland (“CITY”) and the West Linn Police Department (“AGENCY”) for AGENCY’S use of CITY’s Portland Police Bureau Training Complex (“FACILITY”). Together CITY and AGENCY may be referred to as “Parties” or individually as a “Party”.

**RECITALS**

FACILITY is located at 14912 Northeast Airport Way, Portland, OR 97230 and described in **Attachment A**. The FACILITY contains firing ranges, driving courses, scenario rooms, and classroom facilities. AGENCY desires to use portions of FACILITY to train its law enforcement officers.

**THE PARTIES AGREE**

A. Fees

Fees for use of portions of FACILITY shall be in accordance with the fee schedule set forth in **Attachment B** to this Agreement.

The Fee Schedule is subject to the terms of the labor agreement between CITY and the Portland Police Association, specifically that any FACILITY usage outside the regular business hours of 0700-1700 Monday – Thursday will be assessed an additional fee for staff supervision. This additional charge is subject to change and will be adjusted as necessary in **Attachment B**.

B. Use of Portions of FACILITY

Use of portions of FACILITY shall be subject to the terms and conditions set forth in **Attachment C**.

C. Payment

CITY will bill the AGENCY monthly for use of FACILITY to include room fees and materials. Payment of fees is due within thirty (30) days of receipt of the CITY’S invoice. Any payment not paid when due will be subject to a late payment charge equal to one and one-half percent (1.5%) per month on the unpaid fees.

D. Term of Agreement

This Agreement is effective upon the signature of both parties and shall be ongoing, provided that either Party may terminate the Agreement on thirty (30) days' written notice to the other. The Agreement shall automatically renew from year to year, unless either Party gives to the other Party notice in writing of its intent not to renew at least thirty (30) days prior to the end of the term. A renewal term shall be deemed to incorporate CITY's current schedule of fees for use of FACILITY and materials. The parties agree to review this Agreement every five years and confer.

#### E. Rules and Scheduling

The parties understand that this Agreement allows AGENCY to request certain dates or times of use, but CITY, in its sole discretion, will schedule AGENCY's dates and times of use by balancing the needs of the CITY, AGENCY, and other users as the CITY deems appropriate.

The CITY has adopted rules and regulations pertaining to use by AGENCY and other users of the FACILITY which the City may update from time to time. AGENCY agrees that upon written notice of such rules and regulations, they shall be deemed to be a part of this Agreement.

The policies and procedures shall include, without limitation, the days and hours of operation for the Facility.

CITY will prepare an annual schedule for use of the desired portions of Facility by the Parties ("Range Schedule"). The Range Schedule will cover July 1 through June 30 of the following year. FACILITY will post and update the Range Schedule on the RMS.

CITY will assign an employee to monitor compliance with, and to update and maintain, the Range Schedule on a day-to-day basis ("Scheduling Officer"). The Scheduling Officer may authorize days/ hours of use by each authorized AGENCY. The Scheduling Officer may remove/ delete days of use shown on the approved annual Range Schedule.

#### F. Range Use

AGENCY shall comply with the Range Use Rules in Attachment D when AGENCY uses the firing ranges located in FACILITY.

#### G. Scenario Training Room Rules

AGENCY shall comply with Scenario Training Room Rules in Attachment E when AGENCY uses the Scenario Village Training Room located in FACILITY. CITY may amend the Scenario Training Room Rules at CITY's sole discretion.

#### H. Driving Range Rules

AGENCY shall comply with Driving Range Rules in Attachment F when AGENCY uses the Driving Range located in FACILITY. CITY may amend the Driving Range Rules at CITY's sole discretion.

I. Indemnity

AGENCY shall compensate CITY for any loss or damage suffered by CITY arising from the negligence of the AGENCY, its agents, employees, program attendees, or instructors during use of the FACILITY. AGENCY agrees to defend, indemnify and hold harmless CITY and its officers, agents and employees from any liability or claims for damages or injury arising from the AGENCY's use of the FACILITY by the AGENCY, its agents, employees, program attendees, or instructors. AGENCY shall not be liable to CITY for claims which do not arise from the alleged negligence of the AGENCY, its agents, employees, program attendees, or instructors in connection with the AGENCY's use of the FACILITY. AGENCY's duties contained in this section survive the termination of this agreement.

J. Insurance

AGENCY shall obtain and maintain in full force at its expense, throughout the duration of the Agreement and any extension periods, the required insurance identified below. CITY reserves the right to require additional insurance coverage as required by law to the maximum liability that may be imposed on Oregon cities during the term of this Agreement.

1. Workers' Compensation Insurance

AGENCY, its contractors and all employers working under this Agreement shall comply with ORS Chapter 656 and as it may be amended from time to time. Unless exempt under ORS Chapter 656, AGENCY, its contractors, and any employers working under this Agreement shall maintain coverage for all subject workers.

2. General Liability Insurance

AGENCY shall have commercial general liability insurance covering bodily injury, personal injury, property damage, including coverage for independent contractor's protection (required if any work will be subcontracted), premises/operations, contractual liability, products and completed operations, in a per occurrence limit of not less than \$1,000,000.

3. Automobile Liability Insurance

AGENCY shall have automobile liability insurance with coverage of not less than \$1,000,000 each accident. The insurance shall include coverage for any auto or all owned, scheduled, hired and non-owned auto. This coverage may be combined with the commercial general liability insurance policy.

4. Additional Insured

AGENCY's general liability insurance coverage shall name the City of Portland and its bureaus, divisions, officers, agents and employees as Additional Insureds, with respect to the AGENCY's or its contractors' activities to be performed or services to be provided.

5. Primary and Noncontributory Coverage

AGENCY's insurance coverage shall be primary and non-contributory with any other insurance and self-insurance. Notwithstanding the naming of additional insureds, the insurance shall protect each additional insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured.

6. Continuous Coverage and Notice of Cancellation

AGENCY shall maintain continuous, uninterrupted coverage for the duration of the Agreement. There shall be no termination, cancellation, material change, potential exhaustion of aggregate limits or non-renewal of coverage without thirty (30) days written notice from AGENCY to CITY. If the insurance is canceled or terminated prior to termination of the Agreement, AGENCY shall immediately notify CITY and provide a new policy with the same terms. Any failure to comply with this clause shall constitute a material breach of the Agreement and shall be grounds for immediate termination of this Agreement.

7. Certificates of Insurance

AGENCY shall provide proof of insurance through acceptable certificates of insurance and additional insured endorsement terms to CITY at execution of the Agreement and prior to any commencement AGENCY's use of FACILITY. The certificates will specify all of the parties who are endorsed on the policy as additional insureds (or loss payees). Insurance coverages required under this Agreement shall be obtained from insurance companies acceptable to CITY. AGENCY shall pay for all deductibles and premiums. CITY reserves the right to require, at any time, complete and certified copies of the required insurance policies evidencing the coverage required. AGENCY may provide CITY a certificate of self-insurance that certifies AGENCY has the types and amounts of insurance coverage required in this section K (Insurance). If AGENCY supplements its self-insured coverage with a commercial excess or umbrella policy to meet the limits of insurance required by this section K (Insurance), AGENCY shall provide proof of supplemental excess or umbrella coverage in the form of a certificate of insurance acceptable to CITY.

K. Repairs

AGENCY agrees to compensate CITY for repairs that are required due to damage caused by AGENCY, its agents, employees, program attendees, or instructors during use of the FACILITY to its grounds, facility, equipment or contents of the facility. AGENCY shall compensate the City within 30 days upon the request of CITY.

L. Notice

Notices mailed by first-class mail shall be deemed delivered three (3) days after the date of mailing. Place for notice may be changed by either Party by written notice to the other.

Any notice to AGENCY or CITY shall be sufficient if personally delivered, emailed, or mailed by first-class mail, addressed to:

**City of Portland:**

Training Division Captain  
Portland Police Bureau  
14912 NE Airport Way  
Portland, OR 97230

**Agency:**

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and

Portland City Attorney's Office  
1221 SW 4th Avenue, Suite 430  
Portland, OR 97204

M. Termination and Amendment

This Agreement may be terminated by either Party upon thirty (30) days written notice to the other.

This Agreement and any amendments to it will not be effective until approved in writing by the parties' authorized representative.

N. Entire Agreement

This Agreement contains the entire agreement between the parties and supersedes prior memoranda and all prior documents relating to the subject matter of the agreement. All oral agreements and understandings of the parties have been integrated in this Agreement. This Agreement may only be amended by a writing executed by both parties in accordance with Section M of this Agreement.

**SIGNATURES:**

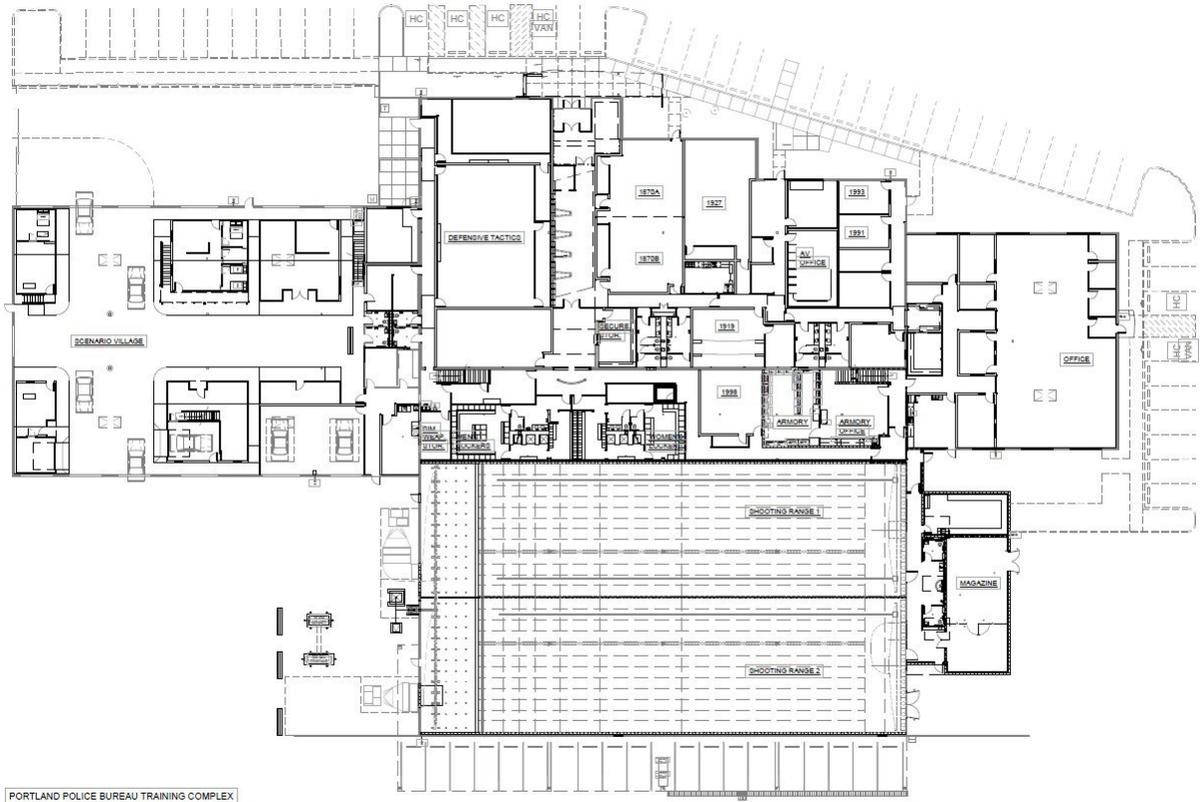
BY THEIR SIGNATURES BELOW, THE PARTIES TO THIS AGREEMENT AGREE TO THE TERMS, CONDITIONS, AND CONTENT EXPRESSED HEREIN.

<b>CITY OF PORTLAND</b>	<b>CITY OF WEST LINN</b>
_____ <b>Police Training Division Captain</b>	_____ <b>Eileen Stein, City Manager</b>
_____ <b>Date</b>	_____ <b>Date</b>
_____ <b>Approval as to Form</b>	
_____ <b>Date</b>	

Attachments

- A. Map of Training Complex
- B. Fee Schedule
- C. Facility User Procedures and Responsibilities
- D. Facility Range Deck Safety Operation Protocols
- E. Scenario Village Rules
- F. Driving Range Rules
- G. Map of Training Complex, Including Second Floor

**ATTACHMENT A  
VERSION 1, 11/30/15  
MAP OF TRAINING COMPLEX**



**ATTACHMENT B  
VERSION 1, 11/30/15  
FEE SCHEDULE**

<b>Types of Services</b>	<b>Fee Structure</b>	<b>Per person fee, hourly or flat</b>
Shooting Range	Flat fee per hour	60.00 per hour (no ammo) Agency must provide their own targets
Classroom Rentals – small	Flat fee per hour	35.00 per hour
Classroom Rentals – large	Flat fee per hour	70.00 per hour
Driving Course, own vehicle	Per hour	60.00 per hour
Driving Course, PIT maneuvers	Per person, per hour or period of time	75.00 per hour, Agency must provide their own vehicles and PVO Instructor
Mat Room, large	Flat fee per hour	100.00 per hour
Mat Room, small	Flat fee per hour	60.00 per hour
Scenario Village	Flat fee per hour or period of time	60.00 per hour
IT Support	TBD	
Video Production work – training no edits	Per minute of video, unedited	
Video Production work – training video edits	Per edited minute of video	100.00 per hour of edited video
Add on – Kitchen rental	Per hour, based on time of room rental	25.00 per hour
Add on – Room cleaning	Per event	50.00 per event
Blue Handle Glock (Blank)	\$10.00- full day kit*	\$5.00-half day kit*
Blue Handle Paint (Paint)	\$10.00- full day kit*	\$5.00-half day kit*
Man Marker Paint Rounds	Box of 50	\$26.00
UTM Battlefield Blanks	Box of 50	\$26.00
After hours supervision**	Flat fee per hour	\$59.45 per hour/per officer**

\*Simunition Kits include: Blue Handle Glock, each w/3 magazines blanks and/or markers; ASPs; Inert Pepper Spray; Safety Glasses; Red Handle Tasers; Blue training Tourniquets

\*\*Per the Portland Police Association contract, the Overtime rate for officers is based on a 4 hour minimum

**ATTACHMENT C**  
**VERSION 1, 11/30/15**  
**FACILITY USER PROCEDURES AND RESPONSIBILITIES**

**PURPOSE:**

These rules identify specific areas within the FACILITY and define the procedures for entering and training in the secure portions of the FACILITY. The complex has multiple layers of security to prevent unauthorized access into the Safe Training Area (STA), ranges, armory, Training office space as well as locker rooms and gymnasium (weight room).

The CITY's goal is to provide a safe training environment for CITY's and AGENCY's staff and students. Strict safety procedures have been implemented to reduce the likelihood of a live-fire capable weapon being introduced into the training environment where replica weapons will be used in scenario based training. Safety procedures and protocols must be adhered.

The CITY has implemented a color-coded vest and wrist-band system to ensure all persons entering the Safe Training Area have been properly checked and cleared of weapons. The color-coded vests identify a persons' purpose inside the Safe Training Area, such as an instructor, observer or other personnel.

**DEFINITIONS**

***Live Weapon Storage Room (LWSR):*** This is a key-pad-secured room inside and to the left of the Selectron-controlled double glass doors that lead to the hallway to the ranges. This room is used to temporarily store student weapons and other prohibited items while students attend training in the Safe Training Area. Armed visitors will also secure their weapons in the LWSR prior to entering the Safe Training Area. This room is currently labeled "Equipment Lockers." (See section on Prohibited Items)

***Safety Check Room:*** This is a key-pad-secured room check-in room where persons entering the Safe Training Area will proceed through a final safety screening for weapons and ammunition conducted either by CITY staff or satellite instructors or both. The floor and wall has a red declaration line to deter entry by anyone who has not been through the safety check procedure.

***Safety Portal:*** The *Selectron-controlled* pedestrian access door by which all members and visitors will enter the STA. This is also the location where all members will exit the STA. This is beyond the red line but prior to the actual safe training areas.

***Vehicle Portal:*** The locked gate on the NW corner of the property where all vehicles needing to enter the Safe Training Area will enter.

***Safe Training Area (STA):*** This area encompasses both interior and exterior training space to include but not limited to:

1. The entire paved surface from the locked entrance gate on the NW side of the property, around the back (south) to the temporary bike-rack fencing on the east side of the property,
2. All Defensive Tactics Rooms, including the Striking Bag Room, mat rooms, the two restrooms and hallway adjacent to these rooms,
3. The Scenario Village briefing room accessible via the Defensive Tactics hallway or from Scenario Village's interior, all of the enclosed spaces of Scenario Village to include the observation deck / platform and the two restrooms below the observation deck,
4. The hallways and storage areas leading to the PVO garage and driving area,
5. The stairwells leading upstairs via the main floor from the Defensive Tactics hallway entrance or from scenario village as well as the upstairs storage areas west of the key-pad door.

***Prohibited Items:*** Any deadly or dangerous weapon as defined in the ORS, specifically firearms, knives, utility tools with a blade, pepper-spray, ammunition and ammunition carriers (magazines), ECW, baton and any other weapon capable of firing a live cartridge to include all 37 & 40mm less-lethal weapons / gas guns.

1. AR-15 Exception: AR-15 / M4 / M16 weapons equipped with just a blue colored Ultimate Training Munitions (UTM) bolt and blue magazines are allowed as they are incapable of firing a live round of ammunition. Weapons of these types must enter the STA through the Safety Portal. An AR-15 and it's variants equipped with a blue colored UTM or Simunition bolt showing through the ejection port will be the indicator that the rifle / carbine is safe.
2. SERT Sniper Rifle Exception: A Training Division controlled Remington model 700 .308 bolt action rifle that has been specifically modified by a gunsmith. The modified rifle(s) will be over-bored (minimum .40 caliber), not rifled, and blocked at the muzzle by a "dead end" muzzle brake. The rifle is still capable of firing a live round of ammunition. The specific modifications will reduce the rifle's ability to generate normal rifle pressures and it will not stabilize or impart spin to a bullet, reducing velocity and penetration potential by the bullet. The dead-end muzzle brake allows a blank cartridges' gas to escape but prohibits an unintentionally fired bullet to leave the bore if a normal .308 round was chambered and fired. These rifles will be stored in the secured storage area inside the STA.

3. 37mm/40mm launchers: If specific 37mm/40mm “Training Rounds” are used, these launchers can be brought into the STA, however if no specific training round is available or will be utilized, then these launchers will not enter the STA.

### ***Colored Vest Identification System***

1. BLUE Vest: A blue vest signifies that the wearer is an instructor and has been safety checked by another Training Division sworn member or instructor and has been deemed to be clear and safe. Instructors will wear a blue vest while conducting training in the STA. DT Instructors, once inside the DT room, can remove the Blue vest however; *all DT instructors will also wear the designated colored wrist band during any DT training.* Any instructor movement outside of the DT rooms requires the instructor to wear the Blue vest.
2. ORANGE Vest: The orange vest signifies the wearer has self-checked into the STA temporarily. A person wearing an orange vest has self-checked and has no weapons or other prohibited items on their person. Orange vests will be used by contractors, inspectors or other persons who are *not* going to observe training or conduct training, but have a reason for being inside the STA. This will be worn by staff members and instructors if entering the STA alone or with others for purposes other than to conduct or observe training. The wearer of an Orange vest will not participate in training, stop to observe training and will not interfere with training unless there are extenuating circumstances that require contact with a student or instructor.
3. GREEN Vest: The green vest will be worn by any person whose sole purpose is to observe or monitor actual training. The green vest signifies that a sworn Training Division member or appropriate satellite instructor has conducted a safety check on the wearer.
4. RED Vest: Armed Security Officer

## **PROCEDURES**

### ***Student Entry for Range Training:***

It is assumed that most students coming to the Training Complex for firearms training will arrive armed. There are no restrictions for accessing the range once the student has been granted access through the double glass doors separating the common lobby from the training entry area.

### ***Student Entry into the Safe Training Area:***

*The key-pad code will not be shared outside the Training Division, and will not be given to satellite instructors.* Students who train in the Safe Training Area (STA) will be directed three (3) at a time into the Live Weapon Storage Room (LWSR) by a Training Division instructor or appropriate satellite instructor.

On the direction of an instructor, students will obtain a plastic bin and place it on the shelf on the south wall. On the direction of the instructor, students (three maximum) will:

1. Leave their weapon in the holster, remove the magazine from the primary weapon and place it on the shelf.
2. Remove the weapon from the holster, pointing it towards the ballistic back-stop.
3. Rack the slide to the rear to eject the chambered round and let it fall to the ground, locking the slide to the rear.
4. After visually verifying the individual's weapon is unloaded, the instructor will insert a "chamber flag" into the weapon and instruct the student to lower the slide on the chamber flag.
5. Place the weapon in the bin.
6. Pick up the loose round, place it in the bin.
7. Remove all magazines, placing them in the bin.
8. Remove pepper spray, baton, knife and any other prohibited items from the uniform and place them in the bin.
9. Remove the ECW (Taser) ensuring the safety is on. Remove the cartridge, placing both in the bin.
10. Return the full bin to the shelf on the east wall, retrieving the appropriate identification card for later retrieval of all items.
  - a. Back-up / secondary handguns will be unloaded at the discretion of the instructor in the same manner, using the ballistic wall as a back-stop. (If the backup gun is in a holster that is removable from the wearer, the gun in the holster can be placed inside the bin together.)
  - b. The instructor will direct the students to the waiting area outside the LWSR door, or direct them to the Safety Check Room if an instructor is there waiting. The instructor at the LWSR will continue off-loading prohibited items from the students three at a time until there are no other students to check. The instructor will close and secure the LWSR door at the completion of the student check in. This door will remain closed and locked when not occupied by an instructor.
  - c. Students moving into the Safety Check Room will first obtain a bin and be instructed to remove all items from their pouches and pockets and place them into their bin. When finished, they will present themselves and bin at the door to the Safety Check Room. The instructors will allow entry to conduct a search of the bin's contents to ensure it contains no prohibited items. An instructor will search each student(s) to ensure there are no prohibited items remaining on the student. Instructors should ask the student if they carry a back-up weapon, and if so, where is it carried. That area should then be specifically checked.
  - d. If two instructors are conducting the search / check-in procedure, a third sworn Training Division staff member or a satellite instructor will be present to **observe and verify the check-in procedure. If only one instructor is conducting the search of the bins and persons, a second instructor will observe and witness the search.**

- e. Once the student and bin have been searched, the bin and student can pass over the red line and the student can reclaim their items.

***Colored Wrist Bands:***

A color-code system of wrist bands will be utilized to identify that the wearer has been safety checked (searched) and cleared to enter the STA. A prominently displayed designated “color marker” or placard for the current training session will be inside the Safety Check Room for all who enter to see, and *it will dictate the color of the wrist bands for that session*. A Lead Instructor for that pending training session will determine the appropriate color marker and wrist band to be worn during the first training session of the day. ***The colored wrist band should be worn on students’ strong, weapon-sidewrist.***

1. Simultaneous training classes will use the same colored wrist band.
2. ***All students and role players will wear the appropriate colored wrist band as well as all DT instructors.***
3. The storage closet inside the Safety Check Room is where all colored wrist bands and Blue instructor and Green observer vests will be stored. None of these should be left unattended.
4. At the conclusion of training, students and staff will exit the STA via the Safety Portal and Safety Check Room and remove their now-expired wrist bands, throwing them away.
5. The color designation will change at the conclusion of the training session and a sergeant or the lead for the next session will determine the second color for the later training and will be responsible for changing the color designated marker in the Safety Check Room.

***Any break in training that allows a student or class to leave the STA will require a new check in process to include the pat down search.*** Students should not be permitted to leave the STA while on break, only during the period between the end of training and the beginning of new training such as at lunch.

All Training Division staff members and guest satellite instructors will enforce this SOP and contact anyone inside the STA who is not wearing an appropriate colored vest and appropriate colored wrist band.

Instructor must know how many students are in their class, where they are at all times, and to keep all students in the STA until class is over. Any breaks should be taken inside the STA. Anyone who leaves will not be allowed re-entry to complete a training session until properly checked in by an instructor.

***Instructor Entry into the Safe Training Area (STA):***

If an instructor needs to prepare or safety sweep an area inside the STA to use vehicles for a training class, and has no one to go with them, the instructor may self-check in through the Safety Portal and wear an *Orange vest* while prepping their area of responsibility. By stepping across the red line, the instructor certifies that the instructor has no prohibited items. Upon completion of preparation or safety sweep, the instructor will exit via the Safety Portal. When the instructor's class is scheduled to start, the instructor will check-in with another instructor and wear the appropriate Blue vest and colored wrist band of the session.

***Role Players:***

Role players will be checked in as though they were students and be issued the colored wrist band for that session. Because they are a role players, they will not be required to wear a vest (unless prepping and have self-checked in, then an Orange vest would be appropriate).

***Vehicle Entry into the STA for Scenario or PVO Purposes:***

All vehicles entering and exiting the STA will do so via the locked gate on the NW corner of the property. The driver and or occupants of a vehicle requesting entry into the STA can drive through the first gate and stop prior to the second gate.

The driver and occupants who want to enter the STA are required to leave the vehicle behind at this point and enter the Training Division Complex on foot via the main door to gain access into the STA through the normal check-in procedures (Safety Portal).

Upon entering the first gate, but prior to crossing the second gate, the vehicle will remain between the first and second gates until it is safety checked and cleared by an instructor or other sworn member *who has been safety checked through the Safety Portal*.

Prohibited items from vehicles may be temporarily stored in a Conex Storage Container located between the two gates. Once the vehicle has been inspected for prohibited items, a driver who has been safety checked through the safety Portal may drive the vehicle through the second gate. (Refer to vest and wrist band requirements.) A magnetic or other non-permanent color-coded identification marker will be placed on safety checked vehicles upon entry into the STA, which indicate that the vehicle has been properly checked.

**ADDITIONAL INSTRUCTOR DUTIES**

Instructors will sweep their area of training prior to every class they teach. This includes sweeping the restrooms in their area of responsibility for contraband and prohibited items. After training duties may include clean-up, turning off lights and setting the alarm (last one out) of the STA.

If used in a training session, PVO vehicles must be physically searched for prohibited items prior to being used by the instructors controlling vehicle access and marked with the appropriate method indicating the vehicle has been properly checked.

### **TRAINING IN PROGRESS SIGNS**

The FACILITY contains numerous signs with red-on-yellow lettering that read, “*Training in Progress.*” They are printed on one side and blank on the opposing side. Immediately prior to training, the Lead Instructors will ensure all interior and exterior *Training in Progress* signs face outwards and are visible to all who enter the STA. At the conclusion of training (last class), the Lead Instructors will return all signs to the blank side. See **ATTACHMENT G**.

### **WEAPONS PROHIBITED and NO EXCEPTIONS SIGNS**

Posted on the barrier fencing (temporary bike-rack fence) on the east and west side of the complex are white signs (2ft x 3ft) with red lettering indicating “no firearms, no ammunition no exceptions.” These signs are posted at the entrance to the Safety Check Room and upstairs in the storage area that has an access door to the STA. These signs should always remain posted.

### **RED RIBBON BARRIER**

Inside the STA pedestrian intersection are several theater-style retractable red-nylon barriers. *Leaving the red barrier line closed signifies no activity in that area.* It also serves as a barrier to keep students from wandering into areas not being utilized.

Separate barriers control access to the three primary training areas: Scenario Village, DT rooms and the PVO area. An open barrier at that intersection indicates potential activity and serves as a visual indication of where training might be taking place in the STA. If activity is taking place (training or other) in an area, the red barrier line should be open, indicating activity in that area. After the activity has ceased and all persons are clear, the red barrier line should be closed to indicate that there is no activity in that area.

The red barrier at the foot of the stairs by the DT hallway should always remain closed because this is a storage area only, and it will serve as a barrier to keep students from wandering around.

**ATTACHMENT D**  
**VERSION 1, 11/30/15**  
**FACILITY RANGE DECK SAFETY OPERATION PROTOCOLS**

Rules:

1. CITY's Executive Range Training Officer (ERTO) shall have final approval and authority over all range use and course-of-fire protocol.
2. AGENCY's authorized Range Master or Training Officer must be present at all times during AGENCY's use of the FACILITY firing range, if the AGENCY has not otherwise made arrangements to have a CITY Range Training Officer present.
3. AGENCY's Range Master or Training Officer must be firearms-instructor certified from an accredited firearm training school or government firearm instructor training entity similar to the following:
  - a. Federal Bureau of Investigation Firearm Instructor School
  - b. National Rifle Association
  - c. Oregon Department of Public Safety Standards and Training
4. AGENCY will have discretion regarding the use of the style of paper targets. AGENCY may purchase targets from the FACILITY.
5. CITY will make available the rental of other targeting systems that are currently available at the FACILITY for prices set forth by the CITY. No other targeting system may be used without prior written consent of CITY.
6. All Federal, state, and local firearm laws must be obeyed.
7. Firearms not on the firing line must be unloaded with their action open and the magazine removed, or unloaded and cased. Guns/magazines may only be handled on the range.
8. ERTO has the right to inspect any firearms or ammunition at any time.
9. Food, beverages and smoking are prohibited on the range.
10. All calibers of pistols may be fired.
11. Rifles up to and including .223 caliber may be fired.

12. Shotgun slugs may be fired.
13. Tracer, incendiary, armor piercing, and steel core ammunition are **strictly** prohibited.
14. Commands issued by ERTO and other Range Personnel must be immediately obeyed without question.
15. If the command "CEASE FIRE" is given: stop shooting immediately, remove your finger from the trigger, remove magazine, clear firearm, place the firearm on the ground with open chamber. Step back from the shooting booth and wait for further instructions from the ERTO.
16. No one other than Range personnel may go forward of the firing line unless authorized or instructed to do so by the ERTO.
17. When the line is declared "CLEAR," all firearms must be safely grounded (action open and magazine removed), and all shooters must step away from the firing line. Absolutely no firearm handling, unloaded or otherwise, will occur while the line is "CLEAR."
18. Shooters may only use Range approved targets.
19. Cross firing of targets is prohibited.
20. All firing must be aimed fire.

**ATTACHMENT E**  
**VERSION 1, 11/30/15**  
**SCENARIO VILLAGE RULES**

AGENCY may use the Scenario Training Room solely for Scenario based training.

Scenario based training requires officer participation in realistic scenarios. The officers need to be equipped with provided safe training equipment or provided with Training Division approved safe training equipment. The Training Division has equipment available for up to 24 officers. See Appendix B for FEE Schedule.

The following equipment may not be used in Scenario Village:

***Prohibited Items:*** Any deadly or dangerous weapon as defined in the ORS, specifically firearms, knives, utility tools with a blade, pepper-spray, ammunition and ammunition carriers (magazines), ECW, baton and any other weapon capable of firing a live cartridge to include all 37 & 40mm less-lethal weapons / gas guns.

Rules:

1. CITY must approve all training scenarios prior to training commencement.
2. AGENCY will oversee and supervise all training activities.
3. AGENCY shall keep the area clean and remove all equipment after each training session.
4. AGENCY shall not interfere with the use of other portions of the FACILITY, unless they have also been scheduled in those areas.
5. AGENCY shall use the range solely for permitted use based on approved lesson plans.
6. FACILITY must be notified on any property damages incurred during the training. FACILITY Personnel on site will assess all damages.

**ATTACHMENT F**  
**VERSION 1, 11/30/15**  
**DRIVING RANGE RULES**

AGENCY may use the Driving Range solely for the following purposes:

1. To prepare for specialized emergency vehicle training including, but not limited to, collision avoidance, skid control, pursuit driving and intervention techniques.

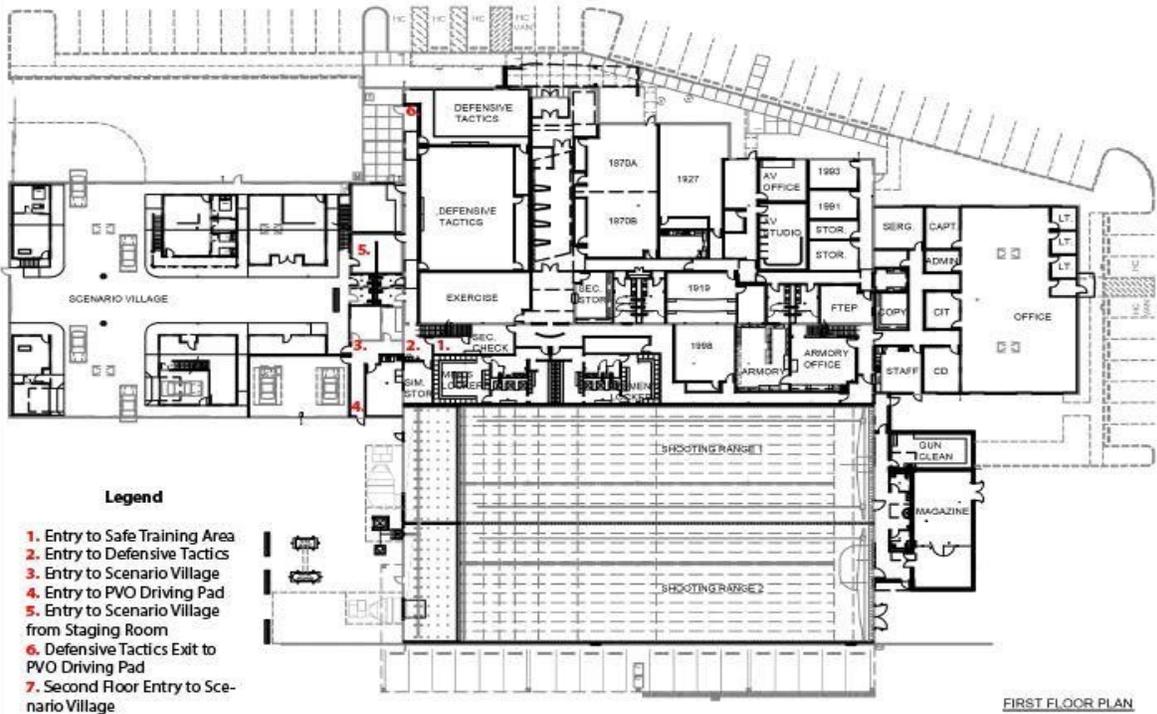
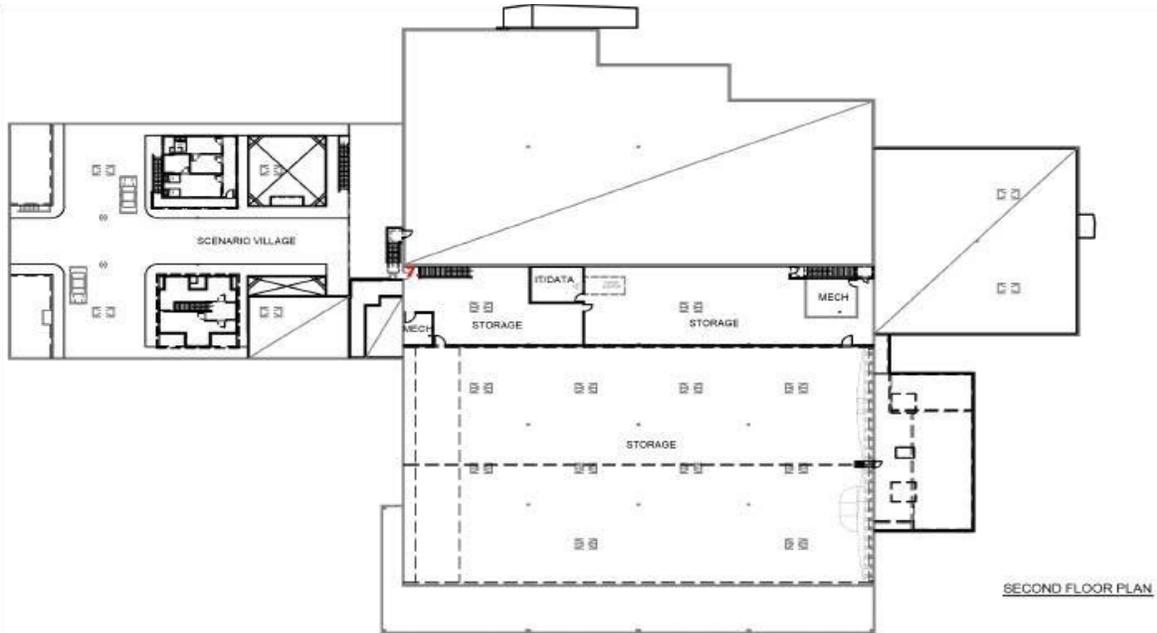
Only the following equipment may be used on the driving range:

1. Traffic cones
2. Barrels, chalk, traffic signs, candlesticks, PR Board, etc.

Rules:

1. Training exercises shall be performed at driving speeds of thirty-five (35) miles per hour or less.
2. No washing, repair, maintenance, or modifications of vehicles or other equipment is permitted.
3. AGENCY will oversee and supervise all training activities.
4. AGENCY shall keep the area clean and remove all equipment after each training session.
5. AGENCY shall not interfere with the use of other portions of the FACILITY, unless they have also been scheduled in those areas.
6. AGENCY shall use the range solely for permitted use.
7. FACILITY must be notified on any property damages incurred during the training. FACILITY Personnel on site will assess all damages.

**ATTACHMENT G  
VERSION 1, 11/30/15  
LOCATION OF TRAINING IN PROGRESS SIGNS**





## **Agenda Report 2016-08-08-06**

Date: August 2, 2016

To: Russ Axelrod, Mayor  
Members, West Linn City Council

From: Eileen Stein, City Manager *ES*

Subject: Willamette Falls Locks Memorandum of Agreement (MOA)

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### **Purpose**

Support repairing and reopening the Willamette Falls Locks.

### **Question(s) for Council:**

Does Council support signing the MOA supporting repairing and reopening the Willamette Falls Locks?

### **Public Hearing Required:**

None required.

### **Background & Discussion:**

In December 2011, the U.S. Army Corps of Engineers (USACE) closed the Willamette Falls Locks under its emergency operations authority due to life safety concerns. Because the Locks were registered with the National Register of Historic Places in 1974, closure of the Locks initiated Section 106 of the National Historic Preservation Act.

Section 106 requires the USACE to take into account the effects of the closure of the Locks as a historic property and to afford the Advisory Council on Historic Preservation the opportunity to comment. Section 106 reviews are typically done in advance of any actions on historic properties. Because the Locks were closed under emergency operations authority, Section 106 began after the Locks closure. Because closure was indefinite, the Section 106 review was used to find ways to “avoid, minimize, or mitigate any adverse effects” of the Locks.

Efforts to avoid, minimize, or mitigate adverse effects are agreed upon in a MOA. The State Historic Preservations Office and the Advisory Council on Historic Preservation are signatories with USACE, but concurring parties are also invited to participate in the Section 106 process and signing.

Section 106 discussions have lasted four years. This most recent draft includes many of the current efforts to meet the Section 106 requirements, including the USACE pursuit of a Final Disposition Study and the formation of a State Task Force (Senate Bill 131) to study the repair and reopening of the Locks.

Council has traditionally supported repairing and reopening Willamette Falls Locks and passed Resolution 2014-19 on December 15, 2014, supporting these efforts.

### **Budget Impact:**

None.

**Council Options:**

1. Approve the MOA and authorize the City Manager to sign it.
2. Do not approve the MOA.

**Staff Recommendation:**

Approve the MOA and authorize the City Manager to sign it.

**Potential Motion:**

Motion to approve the Memorandum of Agreement and authorize the City Manager to sign in.

**Attachments:**

1. Memorandum of Agreement
2. Resolution 2014-19

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE U.S. ARMY CORPS OF ENGINEERS, PORTLAND DISTRICT  
AND THE  
THE OREGON STATE HISTORIC PRESERVATION OFFICER,  
AND THE  
ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING THE INTERIM CLOSURE OF THE WILLAMETTE FALLS LOCKS,  
WEST LINN, OREGON**

**WHEREAS** on December 1, 2011 the Dam Safety Officer for the Portland District, U.S. Army Corps of Engineers recommended Gates 2, 3, and 4 be red-tagged for use until the gudgeon anchors are replaced; and subsequently on December 5, 2011 the U.S. Army Corps of Engineers, Portland District (Corps), under its emergency operational authority, closed the Willamette Falls Locks (Locks) to vessel traffic (the “undertaking”) due to life safety concerns related to the potentially unsafe physical conditions of the gudgeon anchors on Gates 2, 3, and 4; and,

**WHEREAS** the repairs to address the immediate dam safety and operational safety concerns has been estimated to cost between three to five million dollars; and,

**WHEREAS** the decline of commercial tonnage through the Locks from 1990 to 1997 caused more than a 99% decline in navigational benefits causing in a commensurate decline in funding for Operations, Maintenance, Repair, Replacement, and Rehabilitation activities to support the navigation authority of the Locks which led to Caretaker funding for minimal maintenance activities of the facility starting in 2006; and as the decline in commerce has persisted for more than 15 years, the repairs to the underground gudgeon anchors at Gates 2, 3 and 4 are deemed not economically justified; and,

**WHEREAS** the Locks are a historic property that was listed in the National Register of Historic Places in 1974, and therefore, pursuant to 36 C.F.R. § 800.5(1), the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f), the Corps notified the Oregon State Historic Preservation Officer (SHPO) on May 15, 2014 that the undertaking posed an adverse effect to the features and qualities that made the Locks eligible for listing, (Appendix A) to which the SHPO agreed; and,

**WHEREAS** the Corps has defined the undertaking’s area of potential effects (APE) as the Locks, associated structures, and environs, to include the Lock Operator and Administration buildings, dock, and park easement along the west side of the Locks chambers (map of APE is attached as Appendix B); and,

**WHEREAS** the undertaking resulted in adverse effects to historical associations, specifically, associations with transportation and navigation history, and with tribal access to the Willamette Falls via the Locks to conduct traditional cultural practices; and,

**WHEREAS**, although no immediate or additional adverse effect to the physical engineering qualities of the Locks was realized by the undertaking, further examination of materials and operating components of lock walls and gudgeon anchors on Gates 2, 3, and 4 would be necessary to determine if, and to what degree, further decline may have occurred since closure; and,

**WHEREAS** the Corps acknowledges that, since 2011, there has been continued impact on certain cultural, economic, and recreational goals of the proposed Willamette Falls National Heritage Area, the 2015-designated State Heritage Area, the 2012-designated National Water Trail, and the 1999-designated American Heritage River; to all of which the Locks is a significant and contributing resource; and,

**WHEREAS** the Corps acknowledges that the undertaking has eliminated the potential of commercial navigation through the Locks, resulting in a loss of economic opportunity for some sectors of the community; and,

**WHEREAS** the Corps considers the undertaking to be an essential and immediate response to an emergency condition threatening both life and property; the Corps has, through this consultation, notified SHPO, the Council, and the tribes within the time and resources available (36 C.F.R. § 800.12 (b)(2)) so that comments and suggestions on how to appropriately mitigate for the subject undertaking could be provided. Stipulations provided in this agreement address adverse effects that resulted from the undertaking in 2011, although the last vessel permitted through the Locks occurred in July 2013. No data or information has been identified or presented to demonstrate that the mitigation needs have changed since the date of closure; and,

**WHEREAS** the Locks chambers and environs are no longer publicly accessible on a regular basis due to safety concerns and budgetary constraints, the Corps has provided supervised, infrequently scheduled opportunities for on-site viewing to requesting parties and has supported various events such as the Willamette Falls Heritage Foundation's Lock Fest; and,

**WHEREAS** the Corps invited participation of the Confederated Tribes of Grand Ronde (CTGR), the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of Siletz Indians who attach religious and cultural significance to lands within the Willamette Falls Locks and around the Willamette Falls; and,

**WHEREAS** the Corps has invited the West Linn Certified Local Government, National Trust for Historic Preservation (NTHP), Willamette Falls Heritage Foundation (WFHF), Clackamas County (CC), Clackamas County Historical Society, Willamette Falls Heritage Area Coalition (WFHAC), Metro, Oregon Marine Board, Oregon City, Portland General Electric Company, Wilsonville Concrete LLC, Marine Industrial Construction LLC, WCP INC, Pacific Northwest Waterways Association (PNWA), Restore Oregon, City of Wilsonville and other identified stakeholders to participate as concurring parties; and,

**WHEREAS** many of the consulting parties endorse the repair and reopening of the Locks in order to achieve potential cultural, economic, commercial and recreational goals of state and local stakeholders; and acknowledge since closure of the Locks, the Corps' annual requests for Congressionally appropriated funding for repairs have not been successful because the costs of rehabilitation outweigh the commercial navigation benefits to the nation and therefore, agree, although not part of the current undertaking or this Section 106 consultation, the most viable long term disposition of the Locks may be through a transfer of ownership to another agency or via alternative management of the facility through cost-sharing of repairs, leasing the facility, or other arrangement; and,

**WHEREAS** the Corps serves as an ex-post participant in the Senate Bill 131 Task Force whose purpose is to: 1) compile information related to the Willamette Falls Locks and Canal; 2) consider means of facilitating the repair and reopening of the facility; 3) develop a plan for its sustainable operation; and 4) deliberate the future disposition of the facility via either the future lease or transfer from the Corps to a specified non-federal entity. It is anticipated much of the future Federal investigation described in Stipulation III below will be helpful to the Task Force when developing the future governance model and funding mechanism for the long term repair and operation of the facility.

**WHEREAS** the Corps has received initial funding to conduct an investigation for the final disposition / divestiture report.

**WHEREAS** in accordance with 36 C.F.R. § 800.6(a)(1), the Corps has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effects determination with specified documentation, and the ACHP has chosen to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and,

**WHEREAS** the parties acknowledge additional Section 106 consultations will be required prior to a future decision regarding the permanent long term disposition of the facility;

**NOW, THEREFORE**, the Corps, SHPO, and the ACHP agree that the Corps will implement the following stipulations in order to mitigate adverse effects to the Locks caused by the undertaking:

### **STIPULATIONS**

The Corps shall ensure that the following measures are carried out:

- I. Conduct regular informational meetings no less than twice a year with signatories and concurring parties to report on progress made toward accomplishing Stipulations III-V.
- II. Conduct a meeting with signatories, concurring parties, and other Federal and non-Federal stakeholders a minimum of every two months, or as required, to discuss possible options for the long term disposition of the Locks. Such a meeting would be with local interests that have organized under the leadership of the Clackamas County (identified as the Willamette Falls Locks Working Group) to study issues relating to repair, reopening and operation of the Locks. The goal of the process is to develop a report described in Stipulations IIIA or IIIB. This meeting can be accomplished during one of the meetings described in Stipulation I.
- III. Future investigations, which shall include but not be limited to:
  - A. Beginning in Fiscal Year 2017, will conduct a three year, 100% federally funded engineering investigation of the Locks' essential operating materials and components in order to identify the condition of the facility and/or repairs needed to meet standards established by the Corps that would support either the deauthorization, decommissioning, and divestment of the Locks or a complete change in management of the facility, whereby reopened operations result from contributed funds and provide the future owner and/or operator guidance in mid and long-term capital needs. This investigation may include the following:

1. A forensic investigation of the operating components (gudgeon anchors, masonry, and wood materials of the lock walls) using minimally invasive techniques and technologies to probe non-visible conditions and substrates;

2. An updated technical condition of the facility;

3. An updated economic analysis to identify the least cost alternative to decommission the facility; an environmental condition of the property to assess the presence, abundance and cleanup requirements resulting from hazardous and toxic materials exposed within the locks and ship canal.

4. Pertinent structural repairs to the locks so that the locks are returned to a safe and operable condition

5. May include pertinent assessments identified in Stipulation IIIB.

**B.** Will pursue with the Willamette Falls Locks Working Group a 50/50 cost share study to identify the necessary analysis and administrative steps necessary for alternate ownership or management of the Locks. The study, if pursued, may include the following:

1. An updated technical condition of the facility to assess the rate of deterioration, the risks and potential liabilities associated with the facility, and the need, if any, for dredging and proper disposal of dredge materials;

2. Consideration, including an economic assessment, of transfer of ownership and/or operations of the facility to an identified transferee;

3. An economic evaluation of potential reauthorization of the facility to a different mission;

4. An economic analysis of the status quo closure condition;

5. Evaluation, including economic assessment, of de-authorization, decommissioning and divestment of the facility;

6. A current cost estimate to repair and return the Locks to safe operability;

7. An economic opportunity analysis of reopening and continued operation;

8. A full investigation of all environmental and regulatory requirements, including addressing NEPA and Section 106 requirements of both repair and final disposition options;

9. An assessment of the real estate title and boundary issues, resulting in a detailed scope, schedule, and budget to resolve any potential real estate issues;

10. An environmental condition of the property to assess the presence, abundance and cleanup requirements resulting from hazardous and toxic materials exposed within the locks and ship canal; and,

11. Assessment of any continued Corps regulatory oversight requirements that may transfer to a new third-party operator.

Should a cost shared study be of mutual interest, the Corps shall execute a separate agreement with the appropriate non-federal sponsor.

**IV.** Continue current caretaker activities commensurate with obligations under Section 110 of the National Historic Preservation Act to preserve and protect significant character defining features of the property, defined herein as the inspection and monitoring of the Locks' status through scheduled operation of gates to identify mechanical changes in performance; surface observation and monitoring of condition and potential deterioration of gudgeon anchors and lock walls; removal of intrusive objects or plant material that may cause harm to operating components; the monitoring of any geophysical activities that may pose harm to the resource; and the prevention of public access that may result in vandalism or other deliberately imposed harm.

**V.** Continue support of public outreach endeavors, including, but not limited to:

**A.** In cooperation with any volunteers, permit public tours of the Locks concurrent with Corps personnel on-site inspections and minimal maintenance activities, and continue to support local endeavors to heighten public awareness and appreciation of the Locks, as exemplified by the Willamette Falls Heritage Foundation's Lock Fest.

**B.** Upon requests and invitations, the Corps shall provide public presentations of the Locks' Past, Present and Future to interested organizations.

**C.** Corps shall conduct on-going conditions assessment of interpretive displays and shall inventory historical items, photographs, archives, and artifacts on display at the Lock Operator's Building and Museum, and seek professional services within the USACE or other curation facilities to inventory and conserve artifacts, archives and photos, and upgrade interpretive exhibits, so long as the Locks is in caretaker status. SHPO shall be afforded 30 days to review and comment on revisions and/or layout and content when interpretive elements are modified or replaced. The Corps shall review requests and facilitate the temporary loan of historic artifacts and resources to qualified local museums for public education purposes.

**D.** In consultation with signatories to this agreement, the Corps shall contract the development of a book, website, or video documentary to commemorate the history of the Willamette Falls Locks.

**E.** The Willamette Falls Locks and Navigation Canal will be documented for submittal to the Historic American Engineering Record (HAER) by a qualified professional meeting National Park Service Standards (36 C.F.R. part 61) in coordination with appropriate NPS staff. HAER documentation will incorporate, expand upon, and complete HAER documentation previously prepared for the Willamette Falls Locks Chamber No. 1 (completed in 1980). Draft documentation will be submitted to Oregon SHPO and the NPS for review and approval. The Corps will assure that any required modifications or revisions necessary for NPS approval of the HAER submittal are accomplished in a timely manner. Once NPS has reviewed and accepted the final documentation, it will be duplicated in either digital or hardcopy as preferred and supplied to NPS, SHPO, University of Oregon and the Oregon Historical Society. Proof of submittal of the NPS-approved HAER documentation to each of the above repositories will be provided to SHPO, completing this stipulation within four years of the final signature of this Memorandum of Agreement (MOA).

**F.** Within one of year of execution of this MOA, the Corps will further consult with the tribes to develop a mutually agreeable plan to enable means for conducting traditional cultural practices at Willamette Falls Locks.

**G.** Within twelve months of execution of this MOA, the Corps will have investigated and discussed the results of their investigation with the Willamette Falls Working Group the need for the Locks to be repaired and operational prior to transfer.

## **VI. ANTI-DEFICIENCY ACT**

**A.** The Corps shall make reasonable and good faith efforts to secure the necessary Federal funds to implement this MOA. The parties agree that any requirement for obligation of funds arising from the terms of this agreement shall be subject to inclusion in the President's Budget and the availability of congressionally appropriated funds for that purpose. This agreement shall not be interpreted to require the obligation or expenditure of funds in violation of the Anti-Deficiency Act.

**B.** If compliance with the Anti-Deficiency Act alters or impairs the Corps' ability to implement the stipulations of this MOA within the term of this agreement, the Corps shall conduct supplementary consultation with the signatories and concurring parties in accordance with Stipulations VII and VIII below.

## **VII. DURATION**

This MOA will expire upon completion of requirements in the above Stipulations, or if its terms are not carried out, within ten years from the date of its execution. Prior to such time, the Corps may consult with the other signatories and concurring parties to reconsider the terms of the MOA and amend or renew it in accordance with Section IX below.

## **VIII. MONITORING AND REPORTING**

Each year following the execution of this MOA until it expires or is terminated, the Corps shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the Corps' efforts to carry out the terms of this MOA. In addition to an annual report, per Stipulation I above, the Corps will conduct meetings as required with signatories, concurring parties and other stakeholders to report on progress made toward accomplishing the terms of this agreement.

## **IX. DISPUTE RESOLUTION**

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the Corps shall consult with such party to resolve the objection. If the Corps determines that such objection cannot be resolved, the Corps will:

1. Forward all documentation relevant to the dispute, including the Corps' proposed resolution, to the ACHP. The ACHP shall provide the Corps with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Corps shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories, and concurring parties, and provide them with a copy of this written response. The Corps will then proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the Corps may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Corps shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

3. The Corps shall carry out all other actions subject to the terms of this MOA that are not the subject of the dispute.

## **X. AMENDMENTS**

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

## **XI. TERMINATION**

**A.** If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Section IX above. If, within thirty (30) days (or another time period agreed to by all signatories), an amendment cannot be reached, any signatory may terminate their interest in the MOA upon written notification to the other signatories.

**B.** If the MOA is terminated, and, prior to work continuing on the undertaking, the Corps must either (a) execute an MOA pursuant to 36 C.F.R. § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. The Corps shall notify the signatories as to the course of action it will pursue.

**C.** Execution of this MOA by the Corps, SHPO, and ACHP, and implementation of its terms evidences that the Corps has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

## **SIGNATORIES:**

**U.S. ARMY CORPS OF ENGINEERS,  
PORTLAND DISTRICT**

**OREGON STATE HISTORIC  
PRESERVATION OFFICER**

\_\_\_\_\_  
**Jose L. Aguilar**  
**Colonel, Corps of Engineers**  
**District Commander**

Date: \_\_\_\_\_

\_\_\_\_\_  
**Ms. Christine Curran**  
**Deputy**

Date: \_\_\_\_\_

**ADVISORY COUNCIL ON  
HISTORIC PRESERVATION**

\_\_\_\_\_  
**Mr. John M. Fowler**  
**Executive Director**

Date: \_\_\_\_\_

**CONCURRING PARTIES:**

Signing as a concurring party is primarily a way to express agreement with the contents of the MOA and acceptance of the outcome of the process (36 CFR 800.6(c)(3). Concurring parties do not have the rights of signatories; their approval is not needed to execute, amend, or terminate the MOA.

**CONFEDERATED TRIBES OF GRAND RONDE**

\_\_\_\_\_  
Reynold L. Leno, Chair

Date: \_\_\_\_\_

**CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON**

\_\_\_\_\_  
[insert name and title]

Date: \_\_\_\_\_

**CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION**

\_\_\_\_\_  
[insert name and title]

Date: \_\_\_\_\_

**NATIONAL TRUST FOR HISTORIC PRESERVATION**

\_\_\_\_\_ Date: \_\_\_\_\_  
[insert name and title]

**CLACKAMAS COUNTY**

\_\_\_\_\_ Date: \_\_\_\_\_  
[insert name and title]

**METRO**

\_\_\_\_\_ Date: \_\_\_\_\_  
[insert name and title]

**OREGON CITY CERTIFIED LOCAL GOVERNMENT**

\_\_\_\_\_ Date: \_\_\_\_\_  
[insert name and title]

**WEST LINN CERTIFIED LOCAL GOVERNMENT**

\_\_\_\_\_ Date: \_\_\_\_\_  
[insert name and title]

**ONE WILLAMETTE RIVER COALITION**

\_\_\_\_\_ Date: \_\_\_\_\_  
[insert name and title]

**WILLAMETTE FALLS HERITAGE FOUNDATION**

\_\_\_\_\_ Date: \_\_\_\_\_  
[insert name and title]

**WILLAMETTE FALLS HERITAGE AREA COALITION**

\_\_\_\_\_  
[insert name and title]

Date: \_\_\_\_\_

**RESTORE OREGON**

\_\_\_\_\_  
[insert name and title]

Date: \_\_\_\_\_

**PORTLAND GENERAL ELECTRIC**

\_\_\_\_\_  
[insert name and title]

Date: \_\_\_\_\_

**CITY OF WILSONVILLE**

\_\_\_\_\_  
[insert name and title]

Date: \_\_\_\_\_

**PACIFIC NORTHWEST WATERWAYS ASSOCIATION**

\_\_\_\_\_  
[insert name and title]

Date: \_\_\_\_\_

**CLACKAMAS COUNTY HISTORICAL SOCIETY**

\_\_\_\_\_  
[insert name and title]

Date: \_\_\_\_\_

**WILSONVILLE CONCRETE / MARINE INDUSTRIAL CONSTRUCTION LLC**

\_\_\_\_\_  
[insert name and title]

Date: \_\_\_\_\_

**WEST LINN PAPER**

\_\_\_\_\_  
[insert name and title]

Date: \_\_\_\_\_

**WILLAMETTE RIVER KEEPERS**

\_\_\_\_\_  
[insert name and title]

Date: \_\_\_\_\_

**eNRG KAYAKING**

\_\_\_\_\_  
[insert name and title]

Date: \_\_\_\_\_



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, PORTLAND DISTRICT  
PO BOX 2946  
PORTLAND OR 97208-2946

**MAY 15 2014**

Planning, Programs and Project  
Management Division

Mr. Roger Roper  
Deputy State Historic Preservation Officer  
Oregon Parks and Recreation Department  
State Historic Preservation Office  
725 Summer Street NE, Suite C  
Salem, OR 97301-1266

RE: Continued Section 106 Consultation Regarding the Caretaker Status of the Willamette Falls Locks, Oregon City, Clackamas County, Oregon

Dear Mr. Roper:

The U.S. Army Corps of Engineers, Portland District (Corps) is writing to notify you of its finding, pursuant to Section 106 (16 U.S.C. § 470f; 36 C.F.R. part 800) of the National Historic Preservation Act (Act), regarding the closure in November 2011 of the Willamette Falls Lock (locks), a property listed in the National Register of Historic Places (National Register). Please recall we previously notified you on August 21, 2013 about the potential for this action to cause effects on the resource in order to initiate compliance with the Corps' responsibilities under the Act. We have since determined that the closure of the locks to vessel traffic has had – and may continue to have – adverse effects on the character defining features and qualities that made the locks eligible for listing in the National Register.

Following our initial letter regarding this action, the Corps convened a Section 106 information meeting for consulting and invited parties wherein the Corps outlined the status of compliance, and sought input about the effects of the closure. The meeting took place February 25, 2014 at the Corps' Portland District office. A number of parties identified over the past year were invited to participate, including representatives from the Oregon State Historic Preservation Office, Certified Local Governments, historical organizations, elected officials, tribes, and leaders from the industrial, commercial, and recreation sectors. The Corps asked for comment specifically about the effects of the closure on the aspects of integrity that originally made the locks eligible for listing in the National Register, and also requested suggestions for developing the Area of Potential Effects (APE). Comments were recorded on paper and compiled for the record. At the conclusion of the meeting, the Corps explained that further comments would be received until March 28, 2014, at which time the Corps would communicate its findings of effects to the SHPO.

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The following is a summary of considerations made by the Corps in developing an APE, and a rationale for a finding of adverse effects for the locks closure as regards National Register criteria and integrity guidelines.

#### Area of Potential Effects

Based upon review of comment letters and its own investigations, the Corps recommends that the APE for the closure action is defined by the entirety of the Corps owned resource, including the adjacent park land that includes buildings and structures incidental to the historic period. A map of the proposed APE is attached for your reference. While there are clearly a number of contemporary recreational and commercial uses that have relied upon the locks throughout the years, as well as potential cultural activities that may realize future benefits from a functioning locks, none of these interests – even if potentially historic – has lost measurable integrity due to closure.

The Corps considered whether a potential historic property outside of the locks boundaries, upstream or downstream, would lose its criterion A associations because the locks has ceased to pass vessels. It was determined that such a property would lose critical historical associations only if its eligibility has been visually or functionally dependent upon the operation of the locks. An example would be a river front structure fifty years of age that derived its primary significance from the servicing or outfitting of vessels before they entered the locks. The Corps has not identified properties with such associations that have been compromised by the closure. However, should specific examples of this association be presented, further investigation of property eligibility and effects can be made.

The Corps also did not find evidence that architectural or engineering values of properties located outside of the locks have been affected with respect to design, style, workmanship, or materials, though it can be asserted that the locks itself has experienced a loss of physical integrity, as discussed below.

In developing the APE, the presence of other National Register listed and eligible properties adjacent to or nearby the locks was also considered, including the Sullivan Power Plant and West Linn Paper Company, as well as the potential of a larger historic district that encompasses properties on Moore Island, as well as the locks. However, it was determined that, while certain economic relationships may have changed somewhat with the closure of the locks to vessel traffic, even if listed or eligible, these properties did not lose any critical historical associations or material integrity.

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Finally, given the interest in establishing a heritage area in and around the falls, the Corps also considered the potential effects of the closure on a designation of this section of the river. While an operating locks might benefit commercial and recreational interests within a heritage corridor, the aggregate of historic properties – including a contributing, but non-active locks – could easily meet eligibility standards for such a designation. The Corps recommends that the

closure of the locks does not compromise the potential nomination and listing of a Willamette Falls heritage area. However, it can be anticipated that a broader thematic designation focused around a functioning locks could generate important benefits to the area through heritage tourism and related economic activities.

Navigation/Transportation - Criterion A

The Corps acknowledges the pivotal role the locks have played in the navigational and transportation history of the Willamette River and environs at this locale since its operation began in 1873. Certain vessels no longer congregate before the locks and cannot use the waterway as a viable avenue of transport. The ability to understand and experience the historic function the locks had in moving commerce and people around the falls was best understood by the actual operation of the gates and the passage of vessels through them. The closure has created a degree of isolation of the facility from both vehicle and foot access and thereby reduced the associative and experiential qualities of a vibrant water passage with river traffic moving through the lock chambers. Although the gates are periodically exercised, without the direct association of watercraft an understanding of the locks' mechanical operation and historical role is no longer fully understood or conveyed. It is therefore concluded that a degree of visual association with navigation and transportation history has been lost within the immediate boundaries of the resource where those activities took place and were in display.

Architecture/Engineering - Criterion C

The Corps acknowledges its obligation to meet the standard of preservation of the locks, defined as measures that stabilize, repair, and retain a property's existing form as evolved over time. Toward this goal, the Corps performs basic maintenance and exercises the gates on a regular basis, and conducted an engineering inspection and evaluation of components to identify conditions and associated costs to address critical needs. Reporting has shown the gudgeon anchors may be in decline and should be replaced, although the level of suspected deterioration is not fully known, due to limited funding to fully probe the status of these components. To date, this lack of funding has prevented the Corps from reaching definite conclusions about the condition of the anchors and their ability to support the gates, beyond the finding that safety risks are too high to continue allowing the public and vessels into the locks' chambers.

However, the Corps believes that deferring replacement of the anchors could result in some type of failure of these components at an indeterminate point in time, and that higher costs may be incurred if this work is postponed long term. Other aspects of the locks that may require future repair include the masonry walls and timber components, all of which receive basic monitoring as part of the overall custodial care of the facility. Therefore, although a complete picture of the locks' mechanical and physical status can only be speculated, the Corps recommends that without replacement of the gudgeon anchors some degree of adverse effects to the engineering values of the resource may occur.

### Traditional Culture

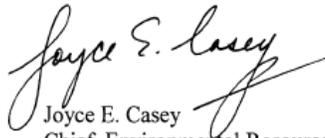
Comments from tribal representatives have shown that the locks were adapted during the historic period for various religious and cultural activities when full access to the falls was cut off by development. Though not cited in the National Register nomination, it has been demonstrated that access above the falls via the locks was essential for the continuance of traditional cultural and educational practices such as the canoe journey. Because the closure prevents native people from conducting these traditions and teachings to new generations, the Corps acknowledges the action has had an adverse effect on the tribes' ability to maintain certain aspects of their traditional culture. Non-native life ways based upon shipping and river transportation may also be viewed as aspects of traditional culture that have been curtailed to some degree by the closure action.

The Corps has determined that the closure of the Willamette Falls Locks to vessels has an adverse effect on the aspects of setting, association, and feeling that originally made the locks eligible for listing in the National Register, and that there is some potential for adverse effects to the character defining design, materials, features, and workmanship of the resource as long as the status of the gudgeon anchors and other materials and components remains partly unknown.

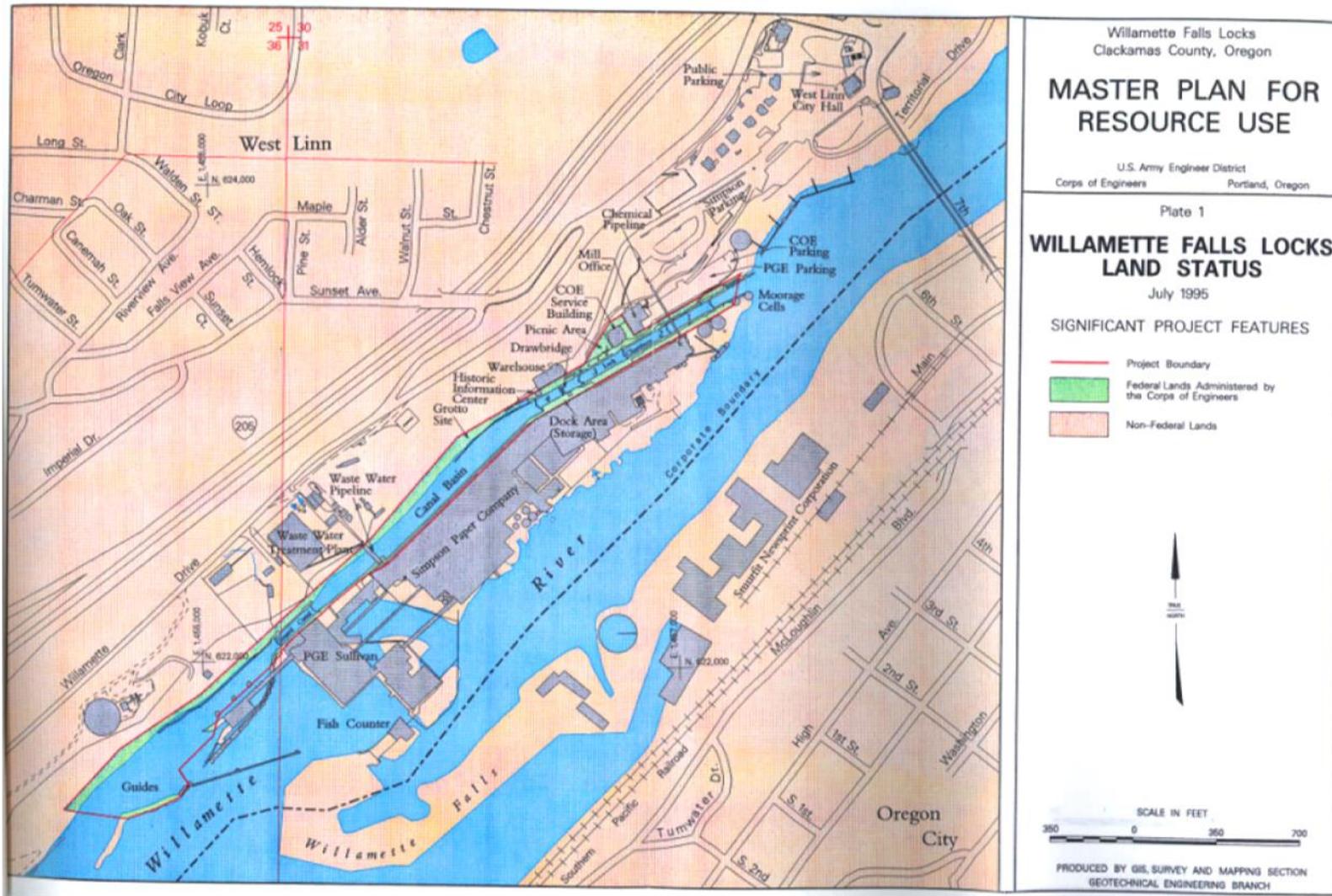
The Corps believes that continued engagement of all consulting and invited parties will be essential in crafting a meaningful resolution of adverse effects. The Corps also anticipates that all parties with cultural, historical, recreational, and commercial interests in the locks will provide valuable input into a separate Section 106 consultation if there is a future transfer of the property out of federal ownership. We look forward to further discussion of the Willamette Falls Locks closure with regard to this finding, and your advisement in developing the most appropriate means of avoiding, minimizing or mitigating the adverse effects of the closure action.

Questions regarding this evaluation may be directed to Ms. Lauren McCroskey, Program Manager, Technical Center of Expertise for the Preservation of Historic Buildings and Structures at (206) 764-3538, or by email at [lauren.l.mccroskey@usace.army.mil](mailto:lauren.l.mccroskey@usace.army.mil).

Sincerely,



Joyce E. Casey  
Chief, Environmental Resources Branch



Appendix B – Boundary for the Area of Potential Effect is the “Project Boundary” outlined in red, constituting the Federal ownership, including the easement right-of-way for the Picnic Area.

## RESOLUTION NO. 2014-19

### A RESOLUTION OF THE CITY OF WEST LINN SUPPORTING THE REOPENING OF THE WILLAMETTE FALLS LOCKS

**WHEREAS**, on January 1, 1873, the Willamette Falls Locks and Navigation Canal (Locks), a private local enterprise that would have been impossible without State bonds, opened to allow passage around the great falls of the Willamette, thereby providing access to a one river system; and

**WHEREAS**, in 1915, the U.S. Army Corps of Engineers (Corps) purchased the Locks from the private operator to ensure free public passage through the Locks; and

**WHEREAS**, in 1974, the Locks were listed on the National Register of Historic Places; it was the first significant navigational improvement on the Columbia-Snake River Inland Waterway system and, through 1939, the most important; and

**WHEREAS**, in 1991, the Locks were designated as a State Historic Civil Engineering Landmark by the American Society of Civil Engineers; and

**WHEREAS**, in 2006, Oregon's Governor designated the Locks as an Oregon Solutions project and formed the Willamette Falls Locks Oregon Solutions Task Force, which continues today as the One Willamette River Coalition (Coalition) coordinated by the Willamette Falls Heritage Foundation (WFHF), to preserve the Locks and support its continued operation; and

**WHEREAS**, on October 23, 2008, the Center for Economic Development Education and Research released a report under contract to the WFHF, entitled *The Willamette Falls Locks: A Case Study Analysis of Potential Transfer Issues*; and

**WHEREAS**, from 2006 through 2010, funding provided to the Corps from the Oregon Department of Transportation, Clackamas County and the U.S. Congress allowed for seasonal operations and selected structural upgrades, including \$2.2 million in funds from the American Recovery and Reinvestment Act of 2009 (PL 111-5); and

**WHEREAS**, in November 2011, the Locks were placed into "non-operational" status and were closed to vessel passage based upon an engineering assessment that identified safety concerns of potential failure; and

**WHEREAS**, closure has placed a severe hardship on commercial, recreational and tribal river users, including businesses that have used the Locks for 127 years for transporting aggregate, logs and other goods and conducting dredging and towing operations; and

**WHEREAS**, in March 2012, the National Trust for Historic Preservation declared the Locks as one of the most threatened National Treasures, thereby providing added technical and financial assistance to preservation efforts; and

**WHEREAS**, in 2012, the Historic Preservation League of Oregon (now Restore Oregon) named the Locks as one of Oregon's 10 "Most Endangered Places"; and

**WHEREAS**, the Locks are a primary historic asset under applications being prepared for designation of the Willamette Falls Area as State and National Heritage Areas; and

**WHEREAS**, on September 23, 2013, the Corps gave notice of its intent to initiate a public consultation process under Section 106 of the National Historic Preservation Act to determine whether the closure action had adverse effects on the historic integrity of the Locks based upon the defining qualities and features that made the Locks eligible for listing on the National Register of Historic Places; and

**WHEREAS**, on May 15, 2014, the Corps released its finding of adverse effects under Section 106 of the Historic Preservation Act and announced its intent to proceed with development of an agreement to establish how to best "avoid, minimize or mitigate" the identified adverse effects to the historic character of the Locks; and

**WHEREAS**, on September 30, 2014, economics consulting firm ECONorthwest, under contract to the WFHF, published the *Willamette Locks Economic Potential Report* providing information on user demand, potential operating costs and community benefits of reopening the Locks; and

**WHEREAS**, the Locks closure is an undue hardship to West Linn residents and visitors who desire paddling access between the upper and lower sections of the Willamette River Water Trail that wraps around the City, offering recreational sites above and below the closed bypass canal and Locks; and their closure prevents Native Americans from using the bypass in their traditional canoe trips; and

**WHEREAS**, the 141 year old Locks are West Linn's preeminent iconic historic site; and the City's master planning efforts for the Arch Bridge Area have the potential to provide better public views of the River, the Locks and the Falls; and

**WHEREAS**, the City of West Linn has supported an open and vibrant Locks through both joining with others (e.g. the Coalition) to advocate for the Locks and providing substantial financial support to organizations that work for restoration of the Locks and who celebrate its historic role in our community (e.g. the Coalition and the WFHF's Lock Fest).

**NOW, THEREFORE, THE CITY OF WEST LINN RESOLVES AS FOLLOWS:**

**SECTION 1.** The City urges the Corps to reopen the Locks to the general public, commercial, recreational and cultural marine traffic.

**SECTION 2.** The City thanks the Corps for working with local stakeholders to assess and mitigate the adverse effects of the closure and urges the Corps to expedite the needed repairs and craft a plan for sustainable operations of the Locks.

**SECTION 3.** The City supports recognition of the Locks in the Regional Transportation Plan and inclusion of the Locks as a Metro JPACT federal priority.

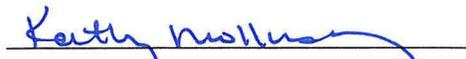
**SECTION 4.** The City supports the Legislature's creation of a State Task Force to work with the Corps to develop a plan for sustainable operations of the Locks.

**SECTION 5.** The City urges the Oregon Congressional Delegation to support the expedited repair and reopening of the Locks.

This resolution was PASSED and ADOPTED this 15th day of December, 2014, and takes effect upon passage.

  
JOHN KOVASH, MAYOR

ATTEST:

  
KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

  
CITY ATTORNEY



## Agenda Report 2016-08-08-04 – Item 8a

Date: July 27, 2016

To: Russ Axelrod, Mayor  
Members, West Linn City Council

From: Eileen Stein, City Manager - *ES*

Subject: Clackamas County Motor Vehicle Tax Revenues Intergovernmental Agreement (IGA)

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### **Purpose**

The Council can determine whether it wishes to express support for the Clackamas County Motor Vehicle Tax Revenue IGA.

### **Question(s) for Council:**

Does the Council wish to enter into an IGA supporting the motor vehicle fuel tax measure proposed by Clackamas County?

### **Public Hearing Required:**

None required.

### **Background & Discussion:**

Clackamas County Board of Commissioners is considering placing a measure on the November 2016 election ballot for a county-wide, seven-year \$0.06 per gallon motor vehicle fuel tax to address road maintenance and safety projects in Clackamas County. If approved, the tax will be in place for seven years. The County has asked the City to join an IGA supporting the County's effort to obtain voter approval for the tax.

Following a transportation summit held several weeks ago, the Commission consented to sharing 40% of this revenue with cities in the county. An IGA was circulated earlier this month for comment by cities. It has been modified based on feedback the County received from cities. The revised IGA:

- strikes the mandatory cooperation clause;
- includes the term "net revenues" throughout (to reflect that the state administrative and set up fees to collect the tax will be taken off the top and the remainder will be split 60/40 between the County and cities respectively); and
- states that the city population is based on the population within the county for those cities that are located in multiple counties.

As of this writing, there are still discussions occurring between Clackamas County and the cities of the County. This is a dynamic process as the various city councils will be considering the IGA during the month of August. We will present the most current (and hopefully the final) IGA at the meeting, if not sooner.

### **Budget Impact:**

If approved, the City of West Linn is estimated to receive approximately \$450,000 in revenue from this new tax.

**Council Options:**

1. Adopt the resolution and approve the IGA supporting the Clackamas County Motor Vehicle Tax Revenue IGA.
2. Do not adopt the resolution and direct staff to notify Clackamas County of this decision.

**Staff Recommendation:**

Adopt the resolution and authorize the City Manager to approve the IGA.

**Potential Motion:**

Approval of the consent agenda will adopt this resolution and authorize the City Manager to sign the IGA.

**Attachments:**

1. Resolution
2. Draft IGA – July 27
3. Proposed 7-Year Countywide Fuel Tax Program Preliminary Revenue Estimates
4. Ballot Title and Explanatory Statement – July 27

## RESOLUTION NO. 2016-10

### A RESOLUTION SUPPORTING THE CLACKAMAS COUNTY MOTOR VEHICLE FUEL TAX

**WHEREAS**, Clackamas County will submit a ballot measure in November 2016 for a countywide, seven-year \$0.06 per gallon motor vehicle fuel tax;

**WHEREAS**, Oregon law expressly prohibits using property taxes for road maintenance;

**WHEREAS**, smooth pavement, well-marked intersections, unobstructed sight lines, and clear lane markings are all critical to maintaining safe roads;

**WHEREAS**, more than 50 percent of county roads are in fair to poor condition, and the county lacks the funds to continue maintenance at the level needed to fix, protect, and preserve its roads;

**WHEREAS**, Clackamas County held a summit on June 9, 2016, seeking feedback from the cities about means to address county road maintenance funding needs that could also support city transportation funding needs;

**WHEREAS**, feedback from the cities at the summit on June 9 included support for a “gas” tax contingent upon the County’s commitment to split the revenues with the cities – 60 percent to the County and 40 percent to the cities – and contingent upon the cities signing a resolution in support of the ballot measure;

**WHEREAS**, at a Clackamas County policy session on June 28, 2016, the Clackamas County Board of Commissioners (BCC) agreed to pursue a \$0.06 cent per gallon fuel tax and confirmed the intent for cities to sign an Intergovernmental Agreement (IGA) to memorialize the 60/40 percentage split should the measure succeed;

**WHEREAS**, at a Clackamas County policy session on July 12, 2016, the BCC agreed the terms of an IGA should include the County’s commitment to only use 60 percent of the revenue from a fuel tax, while 40 percent of the fuel tax revenue would be shared only among cities that sign the IGA by September 1, 2016;

**WHEREAS**, the County has agreed to spend its 60 percent share of revenue to address road maintenance needs for seven paving packages and safety projects in unincorporated Clackamas County;

**WHEREAS**, cities within Clackamas County are encouraged to create similar project lists and are required to spend their share of the 40 percent of revenue on transportation projects;

**WHEREAS**, the motor vehicle fuel tax is scheduled to sunset seven years after it begins;  
and

**WHEREAS**, cities and the County have the opportunity, with a successful vote, to work together to improve the transportation network through the cities and county.

**NOW, THEREFORE, THE CITY OF WEST LINN RESOLVES AS FOLLOWS:**

**SECTION 1.** The City of West Linn supports the motor vehicle fuel tax measure proposed by Clackamas County.

**SECTION 2.** The City of West Linn supports the distribution of 40 percent of the revenue with participating cities within Clackamas County to address their identified transportation needs.

**SECTION 3.** The City of West Linn commits to use its share of received revenue to address transportation needs within the City.

This resolution was PASSED and ADOPTED this 8th day of August, 2016, and takes effect upon passage.

---

RUSSELL B. AXELROD, MAYOR

ATTEST:

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KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

---

CITY ATTORNEY

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
CLACKAMAS COUNTY  
AND  
THE ~~PARTICIPATING~~-BELOW CITIES OF CLACKAMAS  
COUNTY**

**I. PARTIES**

This ~~i~~ntergovernmental ~~a~~Agreement is entered into between Clackamas County (COUNTY) and the Cities of ~~Barlow, Canby, Estacada, Gladstone, Happy Valley, Johnson City, Lake Oswego, Milwaukie, Molalla, Oregon City, Portland, Rivergrove, Sandy, Tualatin, West Linn, and Wilsonville~~

---

(CITIES). This Agreement is authorized pursuant to ORS 190.110.

**II. PURPOSE**

The purpose of this ~~a~~Agreement is to memorialize a revenue sharing plan for the net receipt of motor vehicle fuel tax revenues collected in Clackamas County pursuant to ORS 319.950.

**III. SCOPE OF WORK AND COOPERATION**

A. CITIES agree to:

1. Support COUNTY'S effort to obtain voter approval of a \$0.06 per gallon, seven-year, county-wide motor vehicle fuel tax at the November 2016 general election by, on or before September 1, 2016, adopting a resolution or proclamation supporting the imposition of a voter approved \$0.06 per gallon, seven-year, county-wide motor vehicle fuel tax; and
2. To devote all ~~of CITIES' share of net~~ revenues derived from the motor vehicle fuel tax for the purposes of construction, reconstruction, improvement, repair, maintenance, operation and use of city highways, roadways and streets within the jurisdictional boundaries of the city, as set forth under Art. IX, Section 3a of the Oregon Constitution.

B. COUNTY agrees to:

1. Submit to the voters of Clackamas County a measure seeking voter approval of a temporary \$0.06 per gallon motor vehicle fuel tax. The tax would sunset after a period of seven years after the tax

- implementation date;
2. Place the measure on the ballot for the November 2016 general election;
  3. Receive **net** revenues from the state and distribute 40% of ~~these~~ net revenues of the motor vehicle fuel tax revenues, based on population within the jurisdictional boundaries of the County, to all ~~participating~~ CITIES within the COUNTY; and
  4. To devote all **of the COUNTY's share of net** revenues derived from the motor vehicle fuel tax for the purposes of construction, reconstruction, improvement, repair, maintenance, operation and use of public highways within the jurisdictional boundaries of the COUNTY and as more specifically set forth in the County's ballot measure and Art. IX, Section 3a of the Oregon Constitution.
  5. **As used herein "net revenue" means all revenue generated from the fuel tax, less ODOT's collection and administration fee (currently .047%) and ODOT's start-up fee for equipment and staff time to administer this tax, estimated but not guaranteed to be approximately \$40,000 - \$50,000.**

#### **IV. DISTRIBUTION**

- A. COUNTY shall receive **net** motor vehicle fuel tax revenues from the Oregon Department of Transportation;
- B. COUNTY will distribute 40% of the net revenues received to the ~~participating~~ CITIES;
- C. Distributions to the ~~participating~~ CITIES will be every six months;
- D. The distribution to ~~participating~~ CITIES shall be pro-rated based on the population of that ~~City~~ **located** within the jurisdictional boundaries of the County; and
- E. CITIES population shall be determined from figures provided annually by Portland State University Population Research Center.

#### **V. SPECIAL REQUIREMENTS**

- ~~A. COUNTY and CITIES agree that in order for an individual city to be eligible to receive any motor vehicle fuel tax revenues under this Agreement, the City must first comply with the terms of this Agreement by September 1, 2016; and~~
- B.A.** COUNTY and CITIES agree to comply with all applicable local, state, and federal ordinances, statutes, laws and regulations.

**VI. AMENDMENT**

This agreement may be amended at any time with the concurrence of all parties. Amendments become a part of this agreement only after the written amendment has been signed by all parties.

**VII. TERM OF AGREEMENT**

This Agreement shall become effective upon signing by the jurisdictional representative. The terms of this Agreement become operative and enforceable only after the successful passage of the scope of work and cooperation provisions in Section III of this Agreement. Unless earlier terminated or extended, this Agreement shall expire seven years after the tax is first implemented.

IN WITNESS WHEREOF, the parties hereto have caused this Intergovernmental Agreement to be executed by their duly authorized officers.

**CITIES**

**CLACKAMAS COUNTY  
BOARD OF COUNTY COMMISSIONERS**

By: \_\_\_\_\_  
As Its: \_\_\_\_\_

Signing on Behalf of the Board:  
\_\_\_\_\_  
John Ludlow, Chair

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
~~CITY OF CANBY~~

~~Date: \_\_\_\_\_~~

\_\_\_\_\_  
~~CITY OF ESTACADA~~

~~Date: \_\_\_\_\_~~

~~CITY OF GLADSTONE~~

~~Date: \_\_\_\_\_~~

~~CITY OF HAPPY VALLEY~~

~~Date: \_\_\_\_\_~~

~~CITY OF JOHNSON CITY~~

~~Date: \_\_\_\_\_~~

~~CITY OF LAKE OSWEGO~~

~~Date: \_\_\_\_\_~~

~~CITY OF MILWAUKIE~~

~~Date: \_\_\_\_\_~~

~~CITY OF MOLALLA~~

~~Date: \_\_\_\_\_~~

~~CITY OF OREGON CITY~~

~~Date: \_\_\_\_\_~~

~~CITY OF PORTLAND~~

~~Date: \_\_\_\_\_~~

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CITY OF RIVERGROVE

Date: \_\_\_\_\_

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CITY OF SANDY

Date: \_\_\_\_\_

---

CITY OF TUALATIN

Date: \_\_\_\_\_

---

CITY OF WEST LINN

Date: \_\_\_\_\_

---

CITY OF WILSONVILLE

Date: \_\_\_\_\_

**Proposed 7-Year Countywide Fuel Tax Program**  
**Preliminary Revenue Estimates**  
(6¢ /gallon)

Estimated revenue of 1¢ = \$1.5 M / annually is a best estimate using assumptions for a 6¢ countywide fuel tax. Assumptions have been reviewed and confirmed by three entities -- Clackamas County, EcoNorthwest and Oregon Department of Transportation.

<b>Estimated Annual 6¢ Fuel Tax Revenue</b> (100% = County + City Revenues)	<b>\$ 9,000,000</b>
<b>Estimated Annual County Distribution</b> (60% of Total Revenues)	<b>\$ 5,400,000</b>
<b>Estimated Annual City Distribution</b> (40% of Total Revenues)	<b>\$ 3,600,000</b>
<b>Estimated 7-Year Program Revenue</b> (100% = County + City Revenues)	<b>\$ 63,000,000</b>
<b>Estimated 7-Year Program County Distribution</b> (60% of Total Revenues)	<b>\$ 37,800,000</b>
<b>Estimated 7-Year Program City Distribution</b> (40% of Total Revenues)	<b>\$ 25,200,000</b>

Jurisdiction	Population	Estimated Annual Distribution	Estimated 7-Year Program Distribution
Clackamas County	176,259	\$ 5,400,000	\$ 37,800,000
Barlow	135	\$ 2,375	\$ 16,624.25
Canby	16,010	\$ 281,645	\$ 1,971,513
Damascus * *	-	\$ -	\$ -
Estacada	2,935	\$ 51,632	\$ 361,423
Gladstone	11,495	\$ 202,218	\$ 1,415,524
Happy Valley	16,480	\$ 289,913	\$ 2,029,390
Johnson City	565	\$ 9,939	\$ 69,576
Lake Oswego *	34,538	\$ 607,592	\$ 4,253,145
Milwaukie	20,485	\$ 360,368	\$ 2,522,576
Molalla	8,820	\$ 155,160	\$ 1,086,117
Oregon City	33,760	\$ 593,899	\$ 4,157,293
Portland *	760	\$ 13,363	\$ 93,540
Rivergrove *	451	\$ 7,931	\$ 55,518
Sandy	10,170	\$ 178,909	\$ 1,252,360
Tualatin *	2,903	\$ 51,075	\$ 357,523
West Linn	25,540	\$ 449,294	\$ 3,145,061
Wilsonville *	19,594	\$ 344,688	\$ 2,412,818
<b>ESTIMATED DISTRIBUTION TOTALS</b>	<b>380,900</b>	<b>\$ 9,000,000</b>	<b>\$ 63,000,000</b>

Population estimates are based on Portland State University (PSU) Population for Oregon and its Counties and Incorporated Cities and Towns: July 1, 2014. Prepared by Population Research Center - College of Urban and Public Affairs.

\* A portion of this city is outside Clackamas County; population represents the population PSU estimates within Clackamas County jurisdiction.

\*\* Damascus has been removed from the city distribution formula to reflect results of May 2016 election and disincorporation of the city.

## BALLOT TITLE

### **CAPTION (10 words):**

Temporary 6-Cent Per Gallon Vehicle Fuel Tax

### **QUESTION (20 words):**

Shall Clackamas County adopt a seven-year, 6-cent-per-gallon motor vehicle fuel tax dedicated to road maintenance projects?

### **BALLOT SUMMARY (175 words):**

The measure imposes a temporary 6-cent-per-gallon tax on motor vehicle fuel sales within Clackamas County. The tax must be used as required by the Oregon Constitution for construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads, streets and roadside rest areas in the county. The tax is estimated to raise approximately \$9 million per year for seven years. The County will use 60 percent of the **net** revenue for specific County road paving and safety projects, and will distribute the remaining 40 percent of the **net** revenue to **participating**-cities in Clackamas County to use for their own transportation projects. To be eligible to receive fuel tax revenues, a city must have entered into an Inter-Governmental Agreement with the County prior to September 1, 2016. A list of county projects and their estimated costs can be found at <http://theroadahead.us/>.

The tax is implemented in March 2017 and will expire seven years after the implementation date. The County will adopt an ordinance for the administration of the motor vehicle fuel tax and establish and implement licensing requirements.

## EXPLANATORY STATEMENT

An impartial, simple and understandable statement explaining the measure and its effect for use in the county voters' pamphlet. *500 word limit under ORS 251.345 and OAR 165-022-0040(3)*

Road funds primarily come from motor vehicle fuel taxes and vehicle registration fees. Oregon law prohibits using ad valorem (property) taxes for roads. The county uses road funds efficiently, but is unable to keep pace with maintenance needs. There is a \$17 million annual gap between funds needed to maintain roads and revenue.

Over 50% of Clackamas County's 1,400 road miles are in fair or poor condition. Every year, a larger percentage of county roads slip into disrepair, and the county doesn't have the necessary revenue to keep up. Waiting also comes at a price, as the cost to reconstruct a road in the future is more than 10 times greater than the cost of providing preventive maintenance today.

Ongoing preventive maintenance is critical to safe roads. Smooth roadways, clear lane markings, unobstructed sightlines, drainage and well-marked intersections help reduce crashes and keep travelers safe.

Oregon law allows the voters of a county to vote to impose a motor vehicle fuel tax. The measure would impose a 6-cent per gallon tax on motor vehicle fuel sold in Clackamas County. Annual revenues generated by the vehicle fuel tax are estimated to be \$9 million. The tax would be collected by the Oregon Department of Transportation. The County will distribute 40% of the **net** tax proceeds collected to **participating** cities in Clackamas County. The County and Cities will enter into an Inter-governmental Agreement to memorialize this arrangement. To be eligible to receive fuel tax revenues, each City must enter into the Inter-governmental Agreement before September 1, 2016. The tax must be used as required by the Oregon Constitution for construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads, streets and roadside rest areas in the county. The tax would expire after seven years.

Explanatory Statement Furnished by Clackamas County Board of Commissioners

\_\_\_\_\_  
Authorized Signature

Date: \_\_\_\_\_, 2017



## Agenda Report 2016-08-08-05 – Item 8b

Date: July 27, 2016

To: Russ Axelrod, Mayor  
Members, West Linn City Council

From: Dylan Digby, Public Improvement Specialist

Through: Lance Calvert, P.E., Public Works Director/City Engineer *LEC*  
Eileen Stein, City Manager *ES*

Subject: Local Support for Regional Flexible Funding Allocation Proposal

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### **Purpose**

Staff requests Council provide a letter of local support to pursue grant funding to construct pedestrian, bicycle, and other transportation improvements to a portion of Highway 43 as required by the grant application.

### **Question(s) for Council:**

Should the City pursue funding opportunities to further the transportation goals of the City?

### **Public Hearing Required:**

None Required

### **Background & Discussion:**

Metro is in the process of accepting grant applications for transportation projects through the Regional Flexible Fund Allocation (RFFA) program. Every two to three years Metro's Joint Policy Advisory Committee on Transportation (JPACT) and Metro Council decide how to spend these federal transportation grant funds. Metro is accepting applications for the current funding cycle of 2019 to 2021, with a grant application deadline of August 26, 2016.

The City's grant application includes construction of street, sidewalk, bicycle, and intersection improvements on Highway 43 from the northern City limits to Mary S. Young State Park based on our Transportation System Plan (TSP) and Highway 43 Concept Plan. The Highway 43 corridor through West Linn is significantly lacking in sidewalks/bike facilities and suffers from traffic congestion delays, inefficiencies, and safety issues that are in need of improvement.

Currently, West Linn is likely to receive approximately \$1.1M in state grant funding through ODOT's 2018-2021 "Enhance" grant funding cycle for design of these improvements contingent upon the City finding construction funding.

### **Budget Impact:**

None at this time. If the City's application is approved by Metro, the City will provide a local match of approximately \$1,000,000 from developer paid System Development Charges (SDCs) plus local street/storm fees. The State Enhance grant will provide an additional match of \$1.1 million. The RFFA

grant application will request approximately \$3,100,000 pending final cost estimates for a total project design and construction cost of approximately \$5,200,000.

**Council Options:**

1. Provide a letter in support of the City's Highway 43 RFFA Proposal with or without changes.
2. Decline to provide a letter of support. Direct staff to cease pursuit of this funding opportunity.

**Staff Recommendation:**

Staff recommends pursuit of RFFA funding and that Council provide a letter of support.

**Attachments:**

1. Draft letter of support



# CITY OF West Linn

August 8, 2016

Dear Metro Council,

It is with great enthusiasm that the West Linn City Council supports the Highway 43 Multimodal Transportation Project Regional Flexible Fund Allocation (RFFA) application. Construction of a multimodal corridor along Highway 43 will greatly increase safe active transportation options for all levels of users in addition to optimizing traffic flow on a congested State highway of regional significance.

Highway 43 contains only intermittent or substandard pedestrian/bike facilities and suffers from a lack of ADA accessibility, traffic congestion delays, and safety issues. This project is a needed improvement that focuses on the safety of all users of the road with an emphasis on those who walk, ride bikes, and use public transit. West Linn is committed to a Vision Zero goal to make our transportation system the safest possible.

Improvements to Highway 43 have long been a part of West Linn's master planning efforts and are a priority to citizens in West Linn, surrounding communities, and the region to ensure that State and local transportation facilities are operating at optimal levels to ensure livability, safety, economic, and sustainability goals are met.

West Linn is positioned to receive approximately \$1.1 million in State Enhance grant funding from the 2018-2021 STIP for design of improvements for this project. RFFA funding in combination with the City's local match would provide for construction of this section of the Highway 43 corridor. Please help us leverage these State Enhance funds and the local funding we are committed to providing to fully deliver a final project to the public.

Sincerely,

Russell B. Axelrod, West Linn Mayor  
On behalf of the West Linn City Council

**Agenda Report 2016-04-11-01 – Item 9a**

Date: July 27, 2016

To: Russ Axelrod, Mayor  
Members, West Linn City Council

From: John Morgan, Community Development -JM

Through: Eileen Stein, City Manager ES

Subject: Continued Public Hearing on Ordinance 1645 - Economic Opportunity Analysis

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**Purpose**

The West Linn Economic Opportunity Analysis (EOA) is presented for adoption via Ordinance 1645, which amends the Comprehensive Plan and adopts the EOA as a supporting document to the Comprehensive Plan.

**Question(s) for Council:**

Should the Council adopt the EOA and associated Comprehensive Plan amendments, and repeal the existing 20-year old data and policies?

**Public Hearing Required:**

Yes

**Background & Discussion:**

The City Council opened the public hearing for the adoption of the Economic Opportunity Analysis (EOA) in April, 2016. After receiving testimony, the Council continued the hearing three times, including most recently at the Council's July 11, 2016 regular meeting.

**July 11 Council Discussion**

Due to the late receipt of the consultant's report of revised EOA, the hearing was opened and continued to August 8<sup>th</sup>.

**Budget Impact:**

None

**Council Options:**

1. Consider any information received revising any language needed to reflect the Council's desired direction and adopt the find EOA and Goal 9 amendments by ordinance.
2. Hold the hearing over for more information and input.
3. Vote to reject the draft EOA.

**Staff Recommendation:**

Consider any information received revising any language needed to reflect the Council’s desired direction and adopt the final EOA and Goal 9 amendments by approving Ordinance 1645.

**Potential Motion:**

1 & 2. Move to approve First Reading, and if unanimous, move to approve Second Reading and adopt the ordinance.

**Council:** *Move to approve First Reading of Ordinance 1645, “An Ordinance Adopting the Economic Opportunities Analysis and Repealing and Replacing Comprehensive Plan, Goal 9, Economic Development,” and set the matter for Second Reading.*

If the motion passes unanimously, the Council may: *Move to approve Second Reading for “An Ordinance Adopting the Economic Opportunities Analysis and Repealing and Replacing Comprehensive Plan, Goal 9, Economic Development,” and adopt the ordinance.*

**Attachments:**

1. Draft Economic Opportunity Analysis - Redlined
2. Proposed Amendments to the Economic Development, Goal 9, Chapter of the Comprehensive Plan
3. Ordinance 1645



# City of West Linn Economic Opportunity Analysis

April 2016



Prepared by



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This project is funded by Oregon general fund dollars through the Department of Land Conservation and Development. The contents of this document do not necessarily reflect the views or policies of the State of Oregon.

# Introduction

The City of West Linn is conducting an Economic Opportunities Analysis (EOA) with grant funds from the Department of Land Conservation and Development (DLCD). The consulting firm of Cogan Owens Greene (COG) was hired to assist the City with this process. We developed the EOA in compliance with OAR 660 Division 9 (Statewide Planning Goal 9: Economic Development). The West Linn EOA will serve as a basis for the City of West Linn to document and adopt local policies and actions that help make West Linn a more economically viable community while maintaining a good quality of life for residents, businesses, and workers. The EOA addresses state requirements to periodically review and update:

- West Linn’s vision for strengthening its economy through the adoption of policies that include community economic development objectives.
- Urban growth requirements (land needs) for providing an adequate supply of land needed to accommodate anticipated demand associated with a 20-year employment growth forecasts.

The West Linn Economic Development Committee (EDC) acted as the project advisory committee, reviewing each task during the process to complete the EOA. The six elements reviewed by the West Linn EDC include:

1. Community Economic Development Objectives
2. Economic Trends Analysis
3. Site Suitability Analysis (Land Demand)
4. Inventory of Suitable Sites (Land Supply)
5. Assessment of Potential (Reconciliation of Demand and Supply)
6. Implementation Policies and Action Measures

In addition, City staff and the consultant team coordinated with the following organizations and agencies at several stages in the process:

Stakeholder Group	Coordination Method
Clackamas County Business and Economic Development	Stakeholder interview (Appendix A)
West Linn City Council	Stakeholder interviews (Appendix A) April 6 joint Planning Commission/City Council work session
West Linn Planning Commission	April 6 joint Planning Commission/City Council work session May 20 joint Planning Commission/EDC work session
West Linn Chamber of Commerce	Stakeholder interview (Appendix A)

The process and findings of these elements are outlined in detail throughout the remainder of the EOA document. This includes establishing community economic development objectives (CEDOs) to guide the process. We examined key demographic and employment opportunities and trends to assess West Linn’s economic development potential, projected employment growth, and determined short- and long-term demand for employment land. This demand is

compared to an inventory of suitable commercial and industrial properties (supply) to assess the sufficiency of immediate and longer term (20-year) supply of commercial and industrial employment land in the City's Urban Planning Area (UPA). Finally, economic development objectives, policies and action measures are recommended for inclusion in the West Linn Comprehensive Plan.

## Methodology and Approach

The methodology used to prepare the West Linn EOA is consistent with the ~~Department of Land Conservation and Development (DLCDC)~~ Goal 9 administrative rule, ~~and~~ the supporting Oregon Administrative Rule (OAR) 660 guidance, ~~as well as~~ and other supporting guidance provided per the *DLCD Industrial & Other Employment Lands Analysis Guidebook (2005)*.

## Community Economic Development Objectives

The West Linn Community Economic Development Objectives were developed by reviewing and updating the Goal 9: Economic Development Goals in West Linn's Comprehensive Plan. Existing goals were refined based on comments received in a community-wide survey, interviews with key stakeholders, and comments from staff and members of the EDC. A summary of outreach results is provided in Appendix A. Upon adoption, the following CEDOs will replace the Comprehensive Plan goals for economic development:

1. Encourage the retention, expansion, and economic viability of existing business and industry.
2. Support retail businesses that enhance the community and provide wanted goods and services.
3. Promote the efficient use of commercial and industrial land adequate to serve a range of employment opportunities in the City.

## Employment Trends

In accordance with OAR 660-009-0015(1-4), the COG/FCS Group consulting team conducted an analysis of economic trends and local competitive advantages to prepare employment growth forecast for the City of West Linn. The analysis considers local economic development visions, goals, and objectives to inform the growth forecast scenarios.

## Economic Overview and Market Context

The economic overview and real estate market analysis of office, commercial, industrial, and public government space development for the West Linn area focused on the expected level of demand for new development related to job growth in the City over the next 20 years (~~2015~~2016-2035). Before looking at West Linn, we must fit the City into the larger economic landscape.

The US economy ~~is still has nearly~~ recovered~~ing~~ from the recent Great Recession.<sup>1</sup> Trends indicate moderate growth in the gross domestic product (GDP), ~~or~~ the dollar value of all goods and services produced. Wells Fargo estimates the US economy will have a 2.4% annual year-over-year GDP growth in ~~2014~~~~2016~~, ~~up from 1.3% in 2013~~~~consistent with current year growth~~. The US Consumer Price Index (CPI) ~~has~~ remained relatively low (1.5% to 1.7%) over the past few years ~~and there is virtually no growth estimated for this year~~. However, analysts expect the CPI to increase to ~~by about 2% each of the next two years~~ ~~2.1% next year~~. This would likely push the historically low interest rates for bank loans and home mortgages up, supporting increased demand. ~~Projections—Estimates~~ for US GDP growth in 2015 look promising, ~~performing slightly better than other as~~ advanced and developing economies ~~continue in aggregate to make economic gains~~ (Exhibit 1). ~~It is unknown how the the United Kingdom leaving the European Union, or ‘Brexit’ will affect economic projections.~~

Exhibit 1: Worldwide GDP and CPI Trends

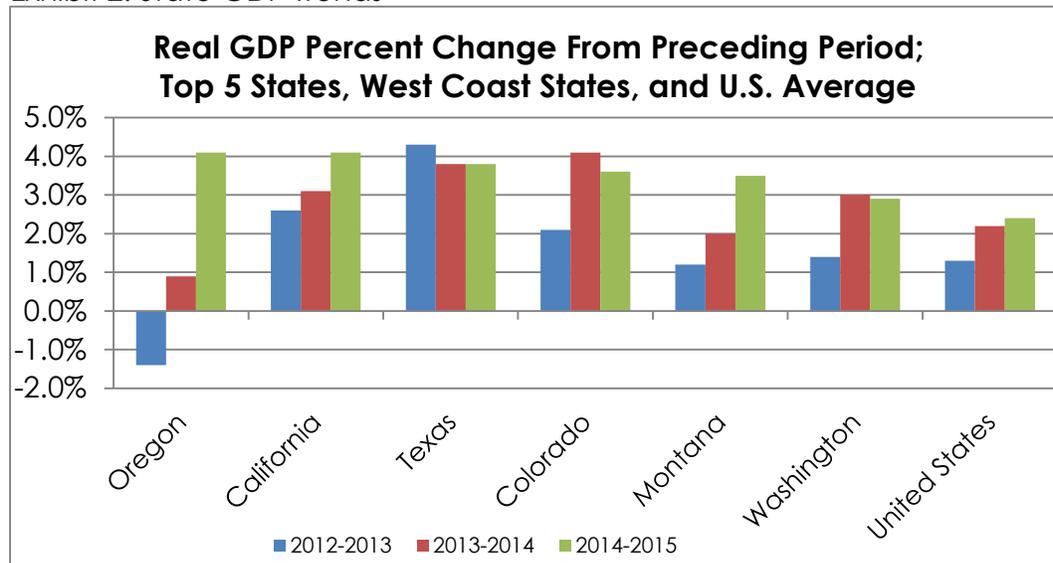
	GDP			CPI		
	2015 est.	2016 proj.	2017 proj.	2015 est.	2016 proj.	2017 proj.
Advanced Economies	2.0%	2.2%	2.3%	0.2%	1.5%	1.9%
<b>United States</b>	<b>2.4%</b>	<b>2.4%</b>	<b>2.5%</b>	<b>0.2%</b>	<b>1.9%</b>	<b>2.2%</b>
Eurozone	1.5%	1.9%	2.2%	0.0%	1.0%	1.5%
United Kingdom	2.3%	2.2%	2.1%	0.1%	1.3%	1.9%
Japan	0.7%	1.0%	0.8%	0.8%	0.9%	1.1%
Korea	2.5%	2.6%	3.3%	0.7%	1.6%	2.0%
Canada	1.3%	2.3%	2.4%	1.2%	1.9%	1.9%
Developing Economies	3.8%	4.0%	4.5%	6.1%	5.1%	5.3%
China	7.0%	6.3%	6.1%	1.4%	1.3%	1.8%
India	7.2%	7.3%	7.8%	6.0%	5.1%	5.4%
Mexico	2.5%	3.1%	3.1%	2.7%	3.1%	3.1%
Brazil	-3.3%	-1.4%	2.3%	8.9%	8.0%	7.2%
Russia	-3.7%	-0.1%	2.0%	15.6%	7.6%	6.3%

**Source:** Wells Fargo Bank, Forecast as of December 9, 2015. **Abbreviations:** CPI - Consumer Price Index, GDP - Gross Domestic Product.  
Compiled by FCS GROUP.

Within the US, Oregon has one of the fastest growing GDPs in the country ~~since the Great Recession~~, as measured in real GDP percent change from year to year. ~~After the State experienced below national average growth in the two previous periods, Oregon has the highest growth in the country tied with California (Exhibit 2). According to the US Bureau of Economic Research, the Oregon economy grew faster than all but two states (North Dakota and Texas) in the past few years in terms of percent GDP growth (Exhibit 2).~~

<sup>1</sup> According to the National Bureau of Economic Research, the “Great Recession” occurred between December 2007 and June 2009.

Exhibit 2: State GDP Trends



Source: US Bureau of Economic Analysis  
Compiled by FCS Group.

~~Despite~~ Likely a result of the relatively strong statewide GDP growth, the greater Portland region and ~~particularly~~ Clackamas County ~~are still recovering~~ have largely recovered from the high unemployment levels ~~from during~~ the Great Recession. Clackamas County has a similar unemployment rate to the MSA at large and a slightly lower rate than the State as a whole. Since 2010, unemployment levels have steadily declined within Clackamas County and the greater Portland Metropolitan Statistical Area (MSA). However, unemployment and under-employment levels remain higher than before the Great Recession (Exhibit 3).

Exhibit 3: Unemployment Rates

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Clackamas County	4.6%	5.7%	10.4%	10.1%	8.9%	8.0%	7.1%	6.2%	5.2%
Portland MSA	5.0%	6.1%	10.9%	10.2%	9.0%	8.0%	7.1%	6.2%	5.3%
Oregon	5.2%	6.5%	11.3%	10.6%	9.5%	8.8%	7.9%	6.8%	5.7%

Source: Oregon Employment Department

Notes: The Portland MSA includes all of Clackamas, Columbia, Multnomah, Washington and Yamhill counties in Oregon and Clark and Skamania counties in Washington State.  
Compiled by FCS GROUP.

## Population Trends

While employment levels have experienced ups and downs in the past decade, population continues to increase in West Linn, Clackamas County, the tri-county Metro region, and the State overall. According to the United States Census Bureau, West Linn's population increased from 22,261 residents in 2000 to ~~25,992~~ 26,593 in ~~2013~~ 2015. The ~~Compound average Annual Growth Rate (CAGR)~~ for population within West Linn (1.23%) outpaced that of the state and Clackamas County (but not the tri-county Metro region) between 2000 and 2010. Since 2010, the City's population has grown faster than the State but slower than the surrounding region.

The number of occupied housing units in West Linn has been growing faster than the population, and increasing at a faster rate (1.67% CAGR) than Clackamas County, the Metro region, and the state. One reason why housing units are increasing faster than the population could be that West Linn's average household size decreased from 2.7 people per housing unit in 2000 to 2.6 in 2010 (Exhibit 4).

Exhibit 4: Population and Housing Units

	2000	2010	2013	2015	Avg. Ann'l Growth Rate 2000-2010	Avg. Ann'l Growth Rate 2010-2015
<b>West Linn</b>						
Population	22,261	25,109	25,939	26,593	1.3%	1.2%
Occupied Housing Units	8,161	9,523			1.7%	
Average Household Size	2.7	2.6				
<b>Clackamas County</b>						
Population	338,391	375,992	388,111	401,515	1.1%	1.4%
Occupied Housing Units	127,054	145,790			1.4%	
Average Household Size	2.7	2.6				
<b>Metro Region (tri-county includes Clackamas, Multnomah, and Washington Counties)</b>						
Population	1,444,219	1,641,036	1,710,361	1,766,135	1.4%	1.5%
Occupied Housing Units	568,314	651,264			1.4%	
Average Household Size	2.5	2.5				
<b>Oregon</b>						
Population	3,421,399	3,831,074	3,928,030	4,028,977	1.2%	1.0%

Sources: U.S. Census Bureau  
Compiled by FCS GROUP.

The long-term regional growth forecasts by Metro, the regional government, the State Office of Economic Analysis expects population within the tri-county Metro region to increase from 1.7 million (current estimate) to more than 2.2 million people by 2015-2035. The Oregon Office of Economic Analysis (OEA) projects the Clackamas County population to increase by 119,514 residents between 2015 and 2035, faster than Multnomah County but slower than Washington County (Exhibit 5).

Exhibit 5: Population Projections; 2015-2035

Area	proj. 2015	proj. 2035	Avg. Ann'l Growth Rate
<b>Clackamas County</b>	<b>393,217</b>	<b>512,731</b>	<b>1.52%</b>
Washington County	570,672	782,316	1.85%
Multnomah County	768,632	909,947	0.92%
Metro Region (tri-county)	1,732,521	2,204,994	1.36%
Oregon	4,001,600	4,995,200	1.24%

Source: Office of Economic Analysis  
Compiled by FCS GROUP.

## Economic Trends Analysis

To better understand socio-economic characteristics of West Linn's residents and consumers, FCS Group evaluated ESRI's Tapestry™ Segment definitions for the West Linn zip codes. The leading Tapestry types in West Linn include:

- 35% Savvy Suburbanites: includes empty nesters or empty nester wannabes living in established neighborhoods. These residents tend to be well educated, well read and well capitalized.
- 25% In Style: includes professional couples and singles with strong work ethics and no children. They are also well educated and enjoy travel, reading and technology.
- 18% Soccer Moms: includes affluent family-oriented couples with children. They also tend to be well educated and enjoy outdoor recreation.

The fact that West Linn is comprised of relatively affluent households with ~~relatively~~ higher income levels than most surrounding areas may bode well for existing and future retail development. Although the City’s median household income has not grown as quickly as the surrounding counties, it is \$20,000 higher than the County and over \$30,000 higher than the State. Comparative income statistics are provided in Exhibit 6.

Exhibit 6: Income Trends

	Area	Census 1999	ACS 2010-2014	Avg. Ann'l Growth Rate
Median Household Income	<b>West Linn</b>	<b>\$72,010</b>	<b>\$83,933</b>	<b>1.10%</b>
	Clackamas County	\$52,080	\$64,700	1.62%
	Washington County	\$52,122	\$65,272	1.68%
	Multnomah County	\$41,278	\$52,845	1.87%
	Oregon	\$40,916	\$50,521	1.56%
Per Capita Income	<b>West Linn</b>	<b>\$34,671</b>	<b>\$41,622</b>	<b>1.34%</b>
	Clackamas County	\$25,973	\$33,126	1.84%
	Washington County	\$24,969	\$31,587	1.77%
	Multnomah County	\$22,606	\$31,047	2.49%
	Oregon	\$20,940	\$27,173	1.98%

**Source:** US Census Bureau; American Community Survey (2010-2014) figures reported in 2014 inflation adjusted dollars, and the 2000 Census.  
Compiled by FCS GROUP.

Employment, comprised of workers at local business establishments, in Clackamas County has increased by ~~490~~ over 1,000 jobs per year (annual average increase) over the past ~~ten~~ twelve years. Most of this growth occurred in the past five years during the recovery of the Great Recession. The industrial and government sectors decreased during the recession but are now back to 2004 levels, slightly below the peak employment numbers in the past decade. As indicated in Exhibit 7, the ~~largest increases in~~ increases occurred primarily in the service sector and to a lesser extent retail sectors, ~~while the largest decrease in employment has occurred in the industrial and government sectors.~~

Exhibit 7: Clackamas County Non-Farm, Covered at Place of Work Employment

Sector	2004	2006	2010	2012	2013	2015	2004-2015 Change	
							Jobs	Avg. Ann'l Growth Rate
Industrial <sup>1</sup>	42,900	46,500	39,000	39,900	41,300	42,900	0	0.0%
Service <sup>2</sup>	59,600	63,600	62,400	64,200	65,800	70,900	11,300	1.7%
Retail	16,500	17,400	16,400	17,100	17,600	18,600	2,100	1.2%
Government <sup>3</sup>	17,100	17,600	17,400	16,700	16,500	17,100	0	0.0%
Total	136,100	145,100	135,200	137,900	141,200	149,500	13,400	0.9%

**Source:** Oregon Employment Department (non-farm employment)

<sup>1</sup>Industrial jobs include the following sectors: Natural Resources and Mining (11-21), Construction (23), Manufacturing (31-33), Wholesale Trade (42), and Transportation, warehousing, and utilities (48-49)

<sup>2</sup>Service jobs include the following sectors: Information (51), Financial (52), Professional business services (54), Education and Health Services (61-62), Leisure and hospitality (71-72), and Other services (81)

<sup>3</sup>Government jobs include the following sectors: Education services (61), and Public Administration (92)  
Compiled by FCS GROUP.

Employment in West Linn has increased by ~~only about 7025~~ jobs per year (annual average) over the past ~~seven-nine~~ years.<sup>2</sup> Like Clackamas County, the largest increase in employment has occurred in the service and retail sectors, while the largest decrease occurred in the industrial ~~and government~~ sectors (Exhibit 8). Growth between 2012 and 2014 shows a marked increase in employment in recent years across all sectors, resulting in near pre-recession employment levels.

~~Of note, these employment estimates may understate the total number of employees that work in West Linn, because the Oregon Employment Department job estimates tend to exclude home-based businesses (workers) that do not report unemployment insurance. Our examination of West Linn business license data for 2014 indicates that of the 928 total businesses with a business license (408 businesses within city limits and 520 outside city limits), a total of 424 are home-based businesses; 47% of the total. Most of them are located outside the city limits.~~

Exhibit 8: West Linn Non-Farm, Covered at Place of Work Employment

Sector	2006	2012	2014	2006-2014 Change	
				Jobs	Avg. Ann'l Growth Rate
Industrial <sup>1</sup>	1,098	907	1,042	-56	-0.6%
Service <sup>2</sup>	2,471	2,828	3,031	560	2.8%
Retail	508	575	609	101	2.5%
Government <sup>3</sup>	736	679	750	14	0.2%
Total	4,813	4,989	5,432	619	1.6%

**Source:** Oregon Employment Department (non-farm employment)

<sup>1</sup>Industrial jobs include the following sectors: Natural Resources and Mining (11-21), Construction (23), Manufacturing (31-33), Wholesale Trade (42), and Transportation, warehousing, and utilities (48-49)

<sup>2</sup>Service jobs include the following sectors: Information (51), Financial (52), Professional business services

<sup>2</sup> Note, a ~~seven-nine~~-year analysis time frame is used to coincide with the available data provided by Oregon Employment Department for the City of West Linn.

(54), Education and Health Services (61-62), Leisure and hospitality (71-72), and Other services (81)  
<sup>3</sup>Government jobs include the following sectors: Education services (61), and Public Administration (92)  
 Compiled by FCS GROUP.

Of note, these employment estimates may understate the total number of employees that work in West Linn, because the Oregon Employment Department job estimates tend to exclude home-based businesses (workers) that do not report unemployment insurance. Our examination of West Linn business license data for 2014 indicates that of the 928 total businesses with a business license (408 businesses within city limits and 520 outside city limits), a total of 424 are home-based businesses; 47% of the total. Most of them are located outside the city limits.

The top employment sectors in West Linn (sorted by 3-digit North American Industrial Classification) are largely classified as services. The top five sectors include: educational services; food services/drinking places; professional/scientific/technical services; educational services; food/beverage stores; professional/scientific/technical services; and ambulatory health care services (Exhibit 9). Jobs in the City are not centralized in one North American Industry Classification System (NAICS) sector and the top seven sectors constitute about half of total jobs in the City.

Exhibit 9: Largest Employment Sectors in West Linn

3-Digit NAICS	Industry	2014 Jobs
611	Educational Services	605
722	Food Services and Drinking Places	570
541	Professional, Scientific, and Technical Services	403
445	Food and Beverage Stores	381
621	Ambulatory Health Care Services	338
561	Administrative and Support Services	251
425	Wholesale Electronic Markets and Agents and Brokers	242
322	Paper Manufacturing	221
623	Nursing and Residential Care Facilities	211
813	Religious/Civic/Professional Organizations	153

**Source:** Oregon Employment Department  
 Compiled by FCS GROUP.

The top employers in West Linn include several private companies and two local government entities. The top five employers are the West Linn Paper Company, City of West Linn, West Linn High School, Rose Linn Care Center, and Safeway Stores (Exhibit 10).

## Exhibit 10: Largest Employers in West Linn

Employer	Description	Jobs
West Linn Paper Company	Paper Manufacturing	200-249
City of West Linn	Local Government	100-149
West Linn High School	Educational Services	100-149
Rose Linn Care Center	Nursing and Residential Care Facilities	100-149
Safeway Stores, Inc.	Food and Beverage Stores	100-149
Market of Choice	Food and Beverage Stores	50-99
First Student Management LLC	Transit and Ground Passenger Transportation	50-99
The Oregon Golf Club	Amusement, Gambling, and Recreation Industries	50-99
Tanner Spring Assisted Living	Nursing and Residential Care Facilities	50-99
Albertsons	Food and Beverage Stores	50-99

**Source:** Oregon Employment Department

Compiled by FCS GROUP.

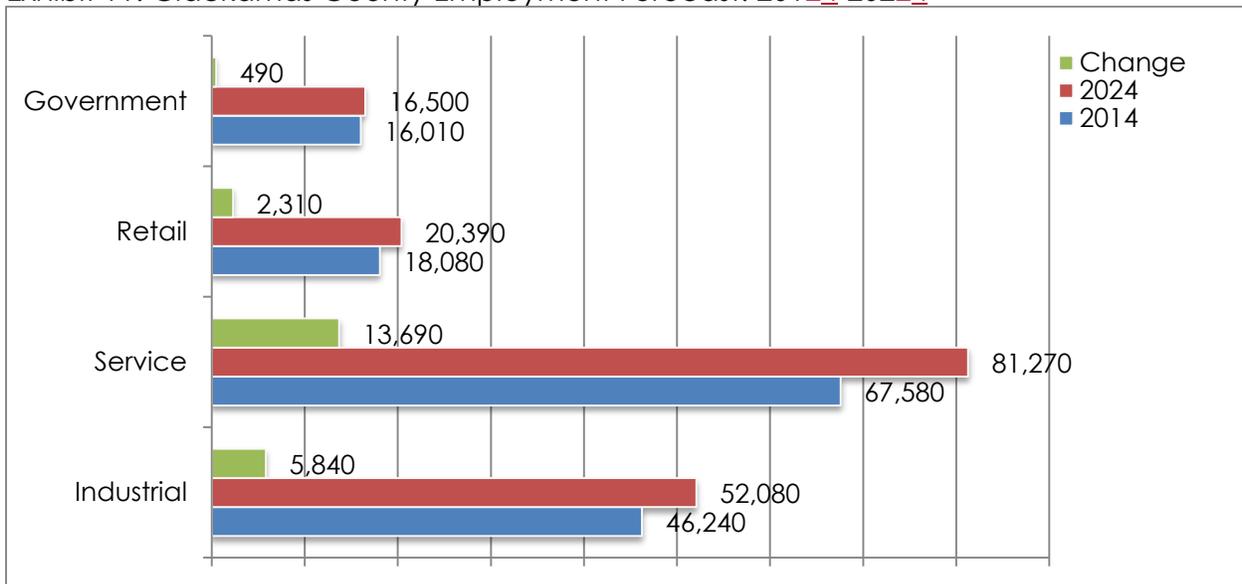
## Employment Growth Forecasts

The Oregon Employment Department (OED) forecast for employment by major job sectors in Clackamas County is shown in Exhibit 11. The ~~2012-2014~~ to ~~2022-2024~~ OED job growth forecast for projects a 22,~~330,200~~ increase in the total number of jobs for the County. The service sector is expected to increase by more than all other sectors combined. The service sector is expected to increase by the largest number of jobs (~~11,530,13,690~~) followed by the industrial sector (~~6,810,5,840~~), retail sector (~~2,410,2,310~~), and government sector (~~1,450,490~~).

~~In addition to examining the OED job growth forecasts, we also looked at Metro job growth forecasts. The job growth forecasts included in this EOA are generally consistent with the latest MetroScope Gamma Forecast which has been reviewed by the City of West Linn, and includes the most current 2010 estimates and updated 2035 forecasts. These job growth forecasts are also consistent with the assumptions used in other long term planning documents including the West Linn Transportation System Development Charge Methodology Report, adopted by the City of West Linn in January 2015.~~

~~According to the current Metro job growth forecast, West Linn is projected to add 1,902 jobs and 1,410 households by 2035. The Gamma forecast projects the service sector will receive the most new jobs and grow the fastest in the next 20 years for West Linn and Clackamas County.~~

Exhibit 11: Clackamas County Employment Forecast: 201~~24~~-202~~24~~



**Source:** Oregon Employment Department

<sup>1</sup>Industrial jobs include the following sectors: Natural Resources and Mining (11-21), Construction (23), Manufacturing (31-33), Wholesale Trade (42), and Transportation, warehousing, and utilities (48-49)

<sup>2</sup>Service jobs include the following sectors: Information (51), Financial (52), Professional business services (54), Education and Health Services (61-62), Leisure and hospitality (71-72), and Other services (81)

<sup>3</sup>Government jobs include the following sectors: Education services (61), and Public Administration (92)  
Compiled by FCS Group.

In addition to examining the OED job growth forecasts, we also looked at Metro job growth forecasts. The job growth forecasts included in this EOA are generally consistent with the latest MetroScope Gamma Forecast which has been reviewed by the City of West Linn, and includes the most current 2010 estimates and updated 2035 forecasts. These job growth forecasts are also consistent with the assumptions used in other long term planning documents including the West Linn Transportation System Development Charge Methodology Report, adopted by the City of West Linn in January 2015.

According to the current Metro job growth forecast, West Linn is projected to add 1,902 jobs and 1,410 households by 2035. The Gamma forecast projects the service sector will receive the most new jobs and grow the fastest in the next 20 years for West Linn and Clackamas County.

According to Metro, West Linn is projected to capture more of Clackamas County’s retail jobs and fewer service jobs over time. Over the 2015-2035 timeframe, West Linn is expected to capture 5% of total retail jobs and 3.1% of the total number of service jobs in the County (Exhibit 12).

## Exhibit 12: Employment Growth Forecast

Area	Sector	2010	2015	2035	Change 2015-2035	
					Jobs	CAGR
<b>West Linn</b>						
	Retail	966	1,057	1,517	460	1.8%
	Service	1,593	1,768	2,685	916	2.1%
	Other*	1,693	1,805	2,331	526	1.3%
	<b>Total</b>	<b>4,252</b>	<b>4,630</b>	<b>6,533</b>	<b>1,902</b>	<b>1.7%</b>
Clackamas County						
	Retail	20,533	22,382	31,600	9,218	1.7%
	Service	38,214	43,558	73,526	29,968	2.7%
	Other*	68,639	72,428	89,794	17,366	1.1%
	<b>Total</b>	<b>127,386</b>	<b>138,368</b>	<b>194,920</b>	<b>56,553</b>	<b>1.7%</b>
Metro Region (tri-county area)						
	<b>Total</b>	<b>778,569</b>	<b>844,724</b>	<b>1,174,762</b>	<b>330,038</b>	<b>1.7%</b>
West Linn Capture Rate of County						
	Retail	4.7%	4.7%	4.8%	5.0%	
	Service	4.2%	4.1%	3.7%	3.1%	
	Other*	2.5%	2.5%	2.6%	3.0%	
	<b>Total</b>	<b>3.3%</b>	<b>3.3%</b>	<b>3.4%</b>	<b>3.4%</b>	
West Linn Capture Rate of Metro Region						
	<b>Total</b>	<b>0.5%</b>	<b>0.5%</b>	<b>0.6%</b>	<b>0.6%</b>	

**Source:** Metroscope Gamma 2040 Forecast with 2015 interpolation by FCS Group

\*Other includes government and industrial employment. Compiled by FCS Group.

The ratio of households to jobs shows that West Linn residents tend to commute for work. The City currently averages 2.4 households for every job in the City, far above the ratio for Clackamas County and the Metro Region (Exhibit 13). According to the Gamma Forecast, the household-to-jobs ratio is expected to decrease for West Linn and stay relatively constant in the county and region. This forecasted decrease in the household-to-jobs ratio for West Linn would require the city to attract more jobs than households over the next two decades, which is contrary to past City trends.

## Exhibit 13: Ratio of Households to Jobs

Area	2010	2015 est.	2035 proj.
<b>West Linn</b>	<b>2.4</b>	<b>2.3</b>	<b>1.8</b>
Clackamas County	1.1	1.1	1.1
Metro Region (tri-county area)	1.2	1.2	1.2

**Source:** Metroscope Gamma 2035 Forecast with 2015 interpolation by FCS Group

Compiled by FCS Group.

## Market Trends Analysis

Current market trends regarding retail, office, and industrial tenant absorption levels, existing vacancy rates, retail inflow/outflow, and input from state and regional economic development organizations are important factors to consider when evaluating the ability to achieve the employment growth forecasts. A summary of these considerations follows.

### Office Market

West Linn has added four Class A office buildings over the past eight years, including the Willamette 205 Corporate Center, Willamette Marketplace, West Linn Central Village and

the Summerlinn Center. Available lease spaces range from 637-3,365 SF in the Willamette Marketplace to 6,857 SF in the Sumerlinn Center (Exhibit 14).

Exhibit 14: Representative For-Lease Office Buildings in West Linn

	<p><b>Willamette 205 Corporate Center Building A</b>          West Linn, OR          Shared conference facility with video conferencing and voice-over IP capabilities. Access to Club Ro ...</p>	<p><b>1,128 - 2,968 SF</b>          \$26.50 /SF/Year          5 Spaces          80,000 SF Bldg          Office Building</p>
 <p>5 Photos</p>	<p><b>Willamette Marketplace</b>          West Linn, OR          Retail / Office / Medical Space Available * Retail: Building A - 1,804 SF Building C - 1,795 SF T ...</p>	<p><b>637 - 3,365 SF</b>          \$25 - \$26 /SF/Year          5 Spaces          10,399 SF GLA          Medical Office</p>
	<p><b>West Linn Central Village - 21900 Willamette Drive</b>          West Linn, OR          West Linn Central Village Windermere Real Estate Building</p>	<p><b>6,000 SF</b>          \$19.75 /SF/Year          1 Space          6,000 SF Bldg          Office Building</p>
	<p><b>Summerlinn Center</b>          West Linn, OR          Shared conference facility with video conferencing and voice-over IP capabilities. Access to Club Ro ...</p>	<p><b>859 - 6,857 SF</b>          \$26.50 /SF/Year          6 Spaces          65,000 SF Bldg          Office Building</p>

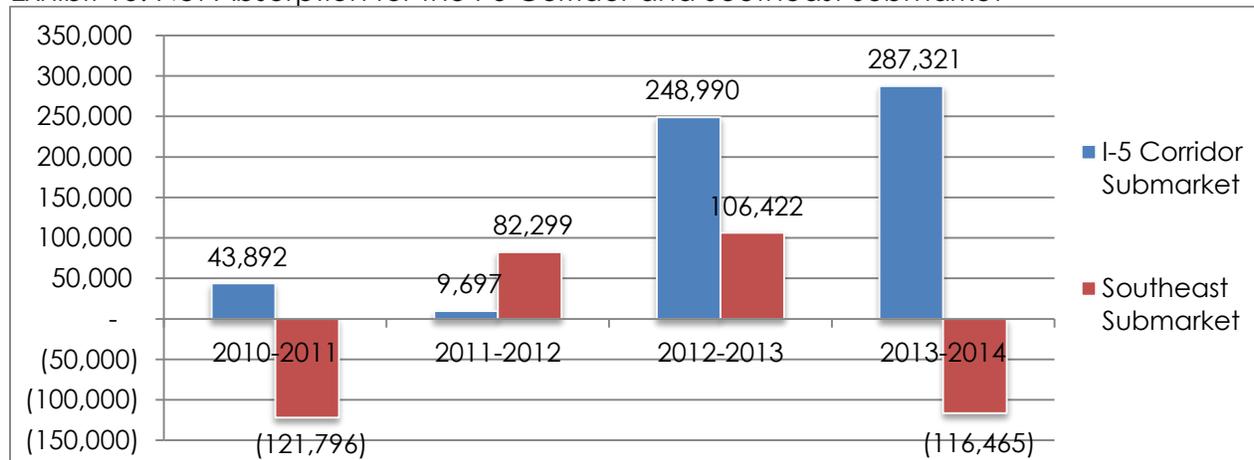
Source: LoopNet.

West Linn’s nearest competitive office submarkets include those in the I-5 Corridor submarket cluster, the submarket cluster in which West Linn is contained, and the Southeast area submarket cluster.<sup>3</sup>

Since 2010, office market activity within the I-5 Corridor submarket recorded positive net absorption every year, which the Southeast market area recorded positive absorption in only two years. Annual rents for Class A space (per leasable square foot) (psf) remained relatively strong in both areas at \$24-26 psf (Exhibits 15 and 16).

<sup>3</sup> The I-5 Corridor submarket cluster includes the submarkets of Kruse Way, Lake Oswego/West Linn, Sherwood, Tigard, Tualatin, and Wilsonville. The Southeast submarket cluster includes the submarkets of Clackamas/Milwaukie, Mall 205, Oregon City, and SE Close-In. Compiled by FCS Group.

Exhibit 15: Net Absorption for the I-5 Corridor and Southeast Submarket



**Source:** The CoStar Office Report (annual net absorption, 2Q 2010-1Q 2014)

\*The I-5 Corridor submarket cluster includes the submarkets of Kruse Way, Lake Oswego/West Linn, Sherwood, Tigard, Tualatin, and Wilsonville

\*The Southeast submarket cluster includes the submarkets of Clackamas/Milwaukie, Mall 205, Oregon City, and SE Close-In. Compiled by FCS Group.

Exhibit 16: Office Space Inventory

Market/ Office Space Class	Existing Inventory		Vacancy			YTD Deliveries	Under Construction SF	Quoted Rates
	# Buildings	Total Rentable Business Area	Total SF	Vacancy %	YTD Net Absorption			
<b>I-5 Corridor*</b>								
A	41	3,525,683	618,664	17.5%	41,849	-	-	\$25.81
B	230	4,390,968	499,294	11.4%	40,841	-	-	\$18.97
<b>Southeast*</b>								
A	10	722,642	171,434	23.7%	(15,823)	-	-	\$23.56
B	170	3,750,505	247,851	6.6%	(24,090)	-	-	\$18.32
<b>Total Suburban*</b>								
A	153	15,917,457	1,725,320	10.8%	138,144	100,000	-	\$23.60
B	1,300	33,206,681	2,921,659	8.8%	306,088	42,601	32,594	\$18.90

**Source:** The CoStar Office Report, March 2014.

\*The I-5 Corridor submarket cluster includes the submarkets of Kruse Way, Lake Oswego/West Linn, Sherwood, Tigard, Tualatin, and Wilsonville

\*The Southeast submarket cluster includes the submarkets of Clackamas/Milwaukie, Mall 205, Oregon City, and SE Close-In

\*The Suburban submarket consists of all office inventory not in the Central Business District of the metropolitan area

Compiled by FCS Group.

## Retail Market

West Linn has four community commercial centers: Robinwood Shopping Center, West Linn Central Village, Salamo Shopping Center and the historic Willamette/12<sup>th</sup> Street commercial area. There are also dozens of commercial and retail businesses located along Highway 43 (State Street). Representative for-lease commercial buildings are shown in Exhibit 17.

## Exhibit 17: Representative For-Lease Retail Buildings in West Linn

 10 Photos	<p><b>West Linn Willamette District Corner Retail</b> West Linn, OR -Awesome 1893 replica with all the infrastructure of a modern Building. -Opening French door Storefr ...</p>	<p><b>2,000 SF</b> \$24 /SF/Year 1 Space 9,000 SF Bldg Street Retail</p>
 5 Photos	<p><b>Willamette Marketplace</b> West Linn, OR Retail / Office / Medical Space Available * Retail: Building A - 1,804 SF Building C - 1,795 SF T ...</p>	<p><b>637 - 3,365 SF</b> \$25 - \$26 /SF/Year 5 Spaces 10,399 SF GLA Neighborhood Center</p>
	<p><b>Cedar Oaks Retail</b> West Linn, OR Located in an upscale suburban community on Highway 43.</p>	<p><b>1,158 SF</b> Negotiable 1 Space 1,158 SF GLA Community Center</p>

Source: Loopnet.

Retail market absorption has remained healthy within the I-5 Corridor, but appears to be softening within West Linn and the Southeast submarket over the past year. As indicated in Exhibit 18, vacancy rates remain relatively low at 4.8% in the I-5 Corridor and 5.4% in the Southeast submarket.

## Exhibit 18: Retail Absorption and Vacancy for the I-5 Corridor and Southeast Submarket

	2010-2011	2011-2012	2012-2013	2013-2014
<b>I-5 Corridor Submarket</b>				
Vacant SF	447,884	465,634	461,771	463,019
Vacancy %	4.5%	4.7%	4.7%	4.8%
Net Absorption	10,604	90,289	287,582	41,209
<b>Southeast Submarket</b>				
Vacant SF	1,129,758	1,139,692	1,213,393	1,175,706
Vacancy %	4.9%	5.2%	5.5%	5.4%
Net Absorption	58,441	153,524	108,628	(30,911)

Source: The CoStar Retail Report, March 2014.

\*The I-5 Corridor submarket cluster includes the submarkets of Kruse Way, Lake Oswego/West Linn, Sherwood, Tigard, Tualatin, and Wilsonville

\*The Southeast submarket cluster includes the submarkets of Clackamas/Milwaukie, Mall 205, Oregon City, and SE Close-In

Compiled by FCS Group.

The retail market within the Lake Oswego/West Linn submarket softened in 2014, with absorption down 13,149 feet (1<sup>st</sup> quarter 2014) and overall vacancy rates at 5.4%, higher than the previous year. The largest retail project under construction in the Lake Oswego/West Linn submarket includes the Kruse Village project by Gramor. ~~Slated for completion~~Completed in spring 2015, Kruse Village is located along Kruse Way near the intersection of Meadows Drive and Carmen Drive, and will include six buildings totaling

62,000 SF with 250 parking spaces. The development is viewed as an amenity to the Kruse Way office corridor as well as residents in the surrounding neighborhoods.

Overall, the City of West Linn is well served by a variety of retail store groups. However, given the high level of household income, West Linn has a much higher level of retail demand than supply. As indicated below in Exhibit 19, and detailed in Appendix B, West Linn has a significant gap in retail supply within the general retail trade and food & drink categories. Capturing a share of the retail outflow for food and drink could be achieved through redevelopment of existing commercial buildings and sites, and “infill development” on parcels less than 1 acre. Capturing a significant amount of the general retail trade sales leakage from West Linn may require larger sites (typically 10+ acres) to accommodate a neighborhood shopping center with a large anchor tenant such as a Fred Meyer or a New Seasons.

Exhibit 19: Retail Trade Gap in West Linn

Store Group	Demand (Retail Potential)	Supply (Retail Sales)	Retail Gap
Total Retail Trade and Food & Drink	\$412,232,204	\$204,713,166	\$207,519,038
Retail Trade	\$371,398,913	\$177,338,094	\$194,060,819
Food & Drink	\$40,833,291	\$27,375,072	\$13,458,219

**Source:** ESRI Marketplace Profile Report, 2013.  
Compiled by FCS Group.

### Hospitality Market Constraints

There are no major hotels located in West Linn or the surrounding communities along I-205 at this time. The potential for new lodging development in West Linn will depend on prospective site location(s), growth in local visitation, business activity, and group demand, such as weddings and local events.

It is unlikely business activity will push development for a new hotel in West Linn. Currently, there is little Class A office or major corporate operations and the overall employment growth of 1.5% annually over the next 20 years does not show indications that business activity ~~that~~ will lead to a hotel. Hence, the potential demand for a new hotel would be primarily derived by visitors and group segments.

According to Oregon Tourism Division data, visitor spending on accommodations (including hotels and motels) has increased by 3.62.1% annually between 2004-2013 (Exhibit 20).

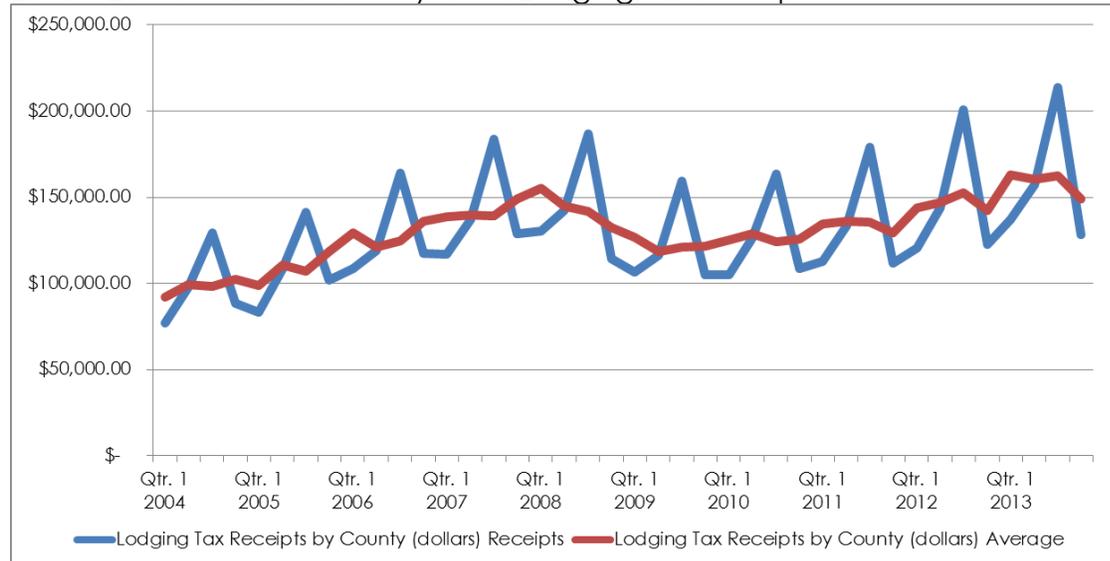
Exhibit 20: Visitor Spending by Commodity Purchased (millions)

	2004	2006	2008	2010	2012	2013	2014	2015 prelim.	Avg. Ann'l Growth Rate
Accommodations	\$53.9	\$68.0	\$72.9	\$63.2	\$74.3	\$75.0	\$79.6	\$90.9	6.2%
Food Services	\$114.5	\$127.0	\$128.8	\$129.7	\$138.0	\$139.7	\$144.5	\$153.9	3.1%
Food Stores	\$31.6	\$32.6	\$35.4	\$33.7	\$35.6	\$35.7	\$36.8	\$38.5	2.0%
Local Tran. & Gas	\$42.2	\$54.0	\$61.3	\$53.2	\$61.4	\$58.4	\$56.9	\$50.8	1.8%
Arts, Ent. & Rec.	\$51.8	\$54.4	\$52.0	\$49.5	\$50.5	\$50.1	\$50.9	\$52.8	0.2%
Retail Sales	\$96.8	\$97.4	\$92.4	\$98.5	\$94.1	\$93.1	\$93.3	\$96.0	-0.1%
Total	\$391.0	\$433.4	\$442.8	\$427.8	\$453.8	\$451.9	\$461.9	\$482.9	2.1%

Source: Oregon Travel Impacts, April 2014, Dean Runyun. Spending adjusted to 2015 dollars.

Overall lodging receipt revenues within Clackamas County have been increasing an average annual rate of approximately 4.2% between 2004 and 2013 (Exhibit 21).

Exhibit 21: Clackamas County Hotel Lodging Tax Receipts



Source: Oregon Department of Revenue, Oregon's State Transient Lodging Tax Report.

## Opportunities and Constraints Analysis

The City of West Linn has an estimated 1,000 businesses currently, of which a significant amount is small home-based businesses. The leading employment sectors within the City of West Linn include:

- Commercial retail and miscellaneous services
- Business and professional services
- Education
- Health care services

Preliminary opportunities and constraints to attracting future businesses to West Linn are summarized below.

## Opportunities

- Growing local population with relatively high income and education levels
- Excellent schools and housing options for families
- Proximity/visibility to I-205
- Historic city character, especially within the Old Willamette neighborhood
- Supply of available/vacant office and retail space ready to accommodate new small and medium tenants
- Excellent local and regional transit service provided by TriMet
- Adequate water and sewer capacity

## Constraints

- Limited employment land availability, especially sites over 5 acres in size
- Limited established class A office locations
- Site topography challenges
- Rent levels for office and retail may not currently support structured parking facilities

## **Target Business Clusters**

The business cluster analysis summarized in Exhibit 22 identifies existing business clusters within the City of West Linn by size (employment) and expected job growth potential. Each cluster has been analyzed by their North American Industrial Classification System (NAICS) code to determine their location quotient (LQ). An LQ represents the present propensity of a particular cluster to locate in West Linn. A cluster with an LQ greater than 1.0 has a relatively high propensity to locate in West Linn, which a cluster with an LQ lower than 1.0 has a relatively low propensity to locate in West Linn (based on 2012–2014 market conditions).

The clusters analysis classifies the existing business sectors in West Linn area into four general categories:

### **I. Industry Sectors with Large LQ/High Growth Potential (“Stars”)**

- Professional, Scientific and Technical Services
- Construction
- [Real Estate and Rental and Leasing](#)
- [Health Care and Social Assistance](#)
- [Educational Services](#)

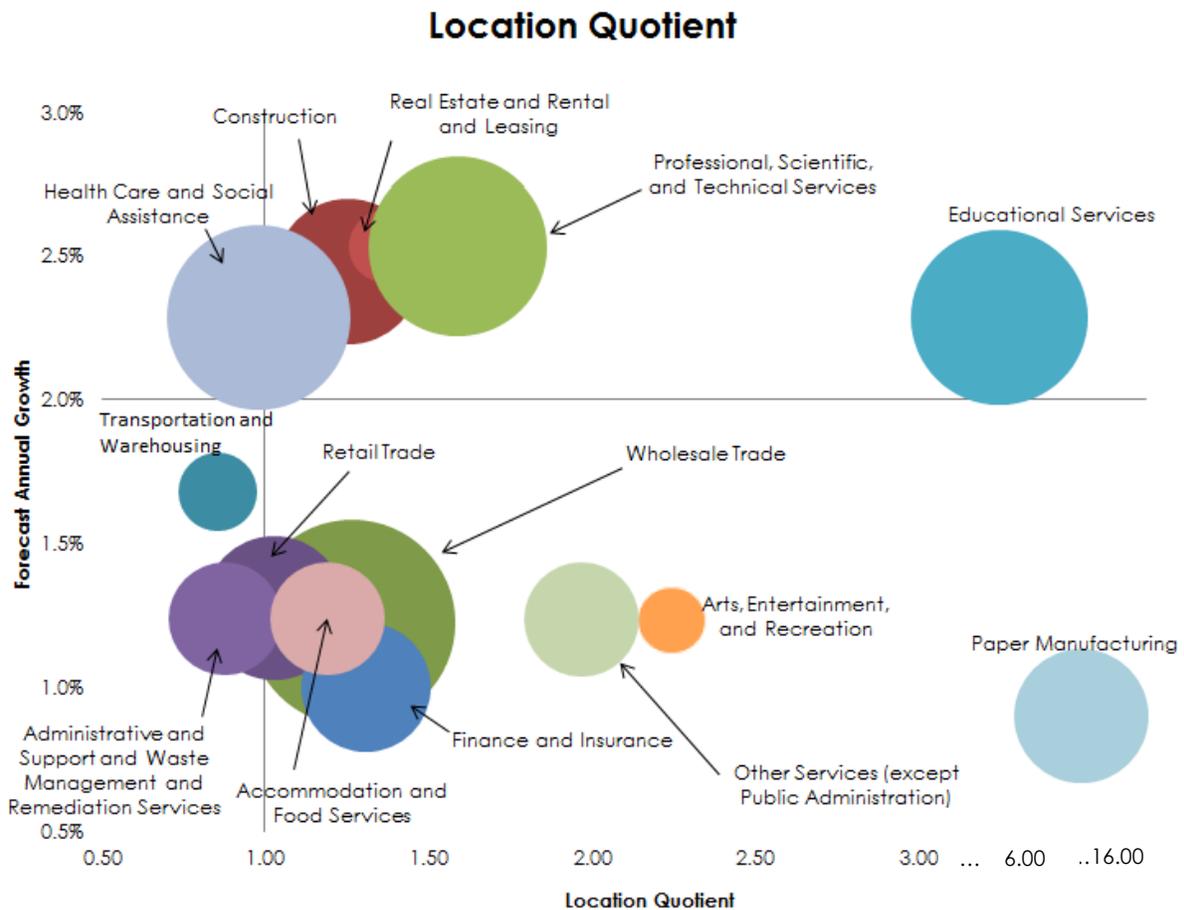
### **II. Industry Sectors with Large LQ/Low Growth Potential (“Mature”)**

- Finance and Insurance
- Retail
- Accommodations and Food
- Wholesale Trade
- Arts, Entertainment and Recreation
- Manufacturing (paper)
- Other Services

### III. Industry Sectors with Small LQ/Low Growth Potential (“Challenged”)

- [Transportation and Warehousing](#)
- [Administrative and Support and Waste Management and Remediation Services](#)

Exhibit 22: Analysis of West Linn Business Clusters



**Source:** FCS Group, utilizing Oregon Employment Department data.

In addition to evaluating existing *local* business clusters, West Linn may also consider the expected *regional* growth in business sectors and emerging clusters. According to the Oregon Employment Department, the job sectors with the highest potential for new growth in the greater Portland metropolitan region include: health care, hotel/motel accommodations & food services, business administration & waste management, professional, scientific & technical service (such as computer science and engineering), state & local government, wholesale trade, finance & insurance, retail trade, and transportation & utilities (includes warehousing, distribution & energy research and private utilities).<sup>4</sup>

<sup>4</sup> These emerging business clusters are documented in the regional WIRED (Workforce Innovation and Regional Economic Development), Global Development Strategy, prepared by FCS Group et.al, 2008.

Focused marketing and business recruitment efforts are being made by the State of Oregon and regional economic development stakeholders to attract certain established and emerging business clusters. The business and industry clusters that are currently being targeted by the Oregon Business Development Department, Portland Business Alliance and the Portland Development Commission include advanced manufacturing, clean technology (with sustainability sub-clusters in green building, solar & wind power), active wear/outdoor gear, and software.

### Recommended Business Clusters

In light of these findings, we recommend that West Linn focus on retaining and attracting a mix of existing and emerging business clusters that pay above average wages. This includes a mix of existing established and emerging clusters, ~~such as:~~ listed below.

- Health Services (e.g., medical offices and ambulatory care center)
- Professional and Business services (finance, insurance, engineering, etc.)
- Accommodations, such as hotel(s) and bed and breakfast(s)
- Recreation/sports (could include major community sports complex that attracts regional and state competitive sporting events)
- Light industrial/flex (with mix of commercial, arts and boutique manufacturing operations)
- Home-based occupations

An evaluation of the development/building types by potential use was conducted to take into account overall market support, revenue generation, and job generation potential for the City of West Linn.

Exhibit 23: Potential Target Development Types

Potential Development / Building Types	Market Potential	Potential Revenue Generation for West Linn	Potential Job Creation	West Linn Target Market
Lodging	●	●	●	☑
Specialized Retail	●	●	●	☑
Grocery Store	●	●	●	☐
Restaurants	●	●	●	☑
Micro Brewery	●	●	●	☑
Office (Class A)	●	●	●	☑
Medical Office	●	●	●	☑
Light Industrial/Flex	●	●	●	☑
General Industrial	●	●	●	☐
Assisted Living	●	●	○	☑
Recreation / Sports Complex	●	●	●	☑

Legend: Good: ● Fair: ● Poor: ○

## Site Suitability Analysis (Land Need)

### West Linn Employment Growth Forecasts

Metro has prepared forecasts for households and employment for all local jurisdictions in the Metro Urban Growth Planning Area. The most recently adopted Metro growth forecasts are referred to as the MetroScope Gamma model, and include a forecast period from 2010 to 2040. We interpolated the Metro forecasts to years 2015 and 2035 using Metro’s forecasted growth rate from 2010-2035. As indicated in Exhibit 24, the 2015 to 2035 forecasts anticipate that West Linn will add jobs over the 20-year forecast period. Two employment growth forecast scenarios were formulated for the West Linn EOA:

**Scenario A:** Assumes that the Metro 20-year employment forecast for West Linn is realized using an employment mix that resembles what exists in West Linn currently.

**Scenario B:** Assumes that the Metro 20-year employment forecast for West Linn is realized using an employment mix that trends less towards industrial and government/education job growth and more towards retail and office jobs.

Both job growth scenarios are assumed to utilize available vacant buildings and require a moderate level of redevelopment. Detailed assumptions are provided in Appendix C.

Exhibit 24: West Linn Employment Growth Scenarios, 2015 to 2035

Land Use Classification	Scenario A	Scenario B
Retail Trades	460	550
Services (office or home based)	916	1,162
Industrial/Other	289	40
Government/Education	237	150
Total	1,902	1,902

Source: Metro 2035 Gamma forecast for West Linn and scenario assumptions stated above.

### Vacant and Redevelopment Land Needs

In accordance with ~~Oregon Administrative Rule (OAR) 660-009-0025~~, an analysis of 20-year land needs for employment growth in the West Linn is required along with attention to unique site needs based on the identified employment types.

### Building Floor Area Space Needs Analysis

Prior to estimating the amount of vacant land area needed to accommodate future employment growth, our team considered several local factors that can influence where businesses choose to locate their operations. These factors include assumptions regarding:

- Amount of existing available vacant building space currently on the market (“redevelopment infill” or “refill”);
- Ability for existing businesses to hire new workers within existing operations (also refill);
- Potential areas/sites that would be likely to accommodate commercial or office redevelopment where existing single-level buildings are replaced by new multi-level single purpose or mixed-use buildings
- Level of home-based employment for general categories, including retail, service and industrial/other occupations
- Assumptions regarding the type of general building requirements that are desired by retail, service, industrial/other, and public/institutional employers.

We assume that about 15% of the new jobs will be in home-based occupations and not require new employment land or buildings, and 11% of the jobs will be accommodated through refill. The resulting findings indicate approximately 643,000-721,000 square feet of building floor area will be required to accommodate 1,902 jobs. We estimate that approximately 81,000 to 87,000 SF could be accommodated through refill on about eight (8) acres of land. Approximately 562,000 to 634,000 SF would be developed on vacant lands (Exhibit 25).

The West Linn employment growth scenarios and land needs will be refined, once the existing buildable land supply and economic development objectives are fully evaluated.

Exhibit 25: West Linn Building Floor Area Needs, 2015 to 2035

<b>Required Building Floor Area for Redevelopment and Refill Needs</b>						
	<b>Office</b>	<b>Institutional</b>	<b>Flex/Bus. Park</b>	<b>Gen. Industrial</b>	<b>Retail</b>	<b>Total</b>
Scenario A	34,000	9,000	7,000	4,000	27,000	81,000
Scenario B	43,000	8,000	2,000	1,000	33,000	87,000

<b>Required Building Floor Area for Vacant Land</b>						
	<b>Office</b>	<b>Institutional</b>	<b>Flex/Bus. Park</b>	<b>Gen. Industrial</b>	<b>Retail</b>	<b>Total</b>
Scenario A	103,000	174,000	136,000	16,000	205,000	634,000
Scenario B	128,000	143,000	40,000	2,000	249,000	562,000

Source: FCS GROUP.

## Overall Employment Land Need Requirements

After accounting for the level of expected redevelopment activity, the amount of vacant land demand in West Linn for employment uses over the next 20-years is expected to range from 45 to 52 acres. Preliminary estimates for vacant lands needs in West Linn by general building type are provided in Exhibit 26.

Exhibit 26: Vacant Land Needs by General Land Use Classification, West Linn, 2035 Forecast (buildable acres)

<b>Land Use Classification</b>	<b>Scenario A</b>	<b>Scenario B</b>
Commercial/Retail/Office	25	27
Mixed Use	4	5
Institutional	12	10
Industrial	11	3
<b>Total</b>	<b>52</b>	<b>45</b>

Assumptions by FCS Group based on Metro Urban Growth Report assumptions and local observations.

## Inventory of Suitable Sites (Land Supply)

### Buildable Land Inventory Methodology

In accordance with OAR 660-009-0015(3) and OAR 660-009-0025(3)(a)(C), the existing supply of buildable employment zoned land within the West Linn Urban Service Boundary (USB) was inventoried and evaluated as part of the EOA. The West Linn EOA includes a recent buildable land inventory completed by the City of West Linn Planning Department

staff using Geographic Information Systems (GIS) data that is consistent with current land use development characteristics, as of July 1, 2014.

The West Linn buildable land inventory (BLI) uses a methodology suggested by *Industrial and Other Employment Lands Guidebook* produced by the Oregon Department of Land Conservation and Development (DLCD). The steps used in this methodology have been followed to the greatest extent possible, given the data available for the City of West Linn.

West Linn's BLI is comprised of existing vacant and partially vacant (sub-dividable) tax lots zoned for employment uses within the West Linn USB. Employment zoning classifications include commercial, ~~mixed-use~~ and industrial zones. The City has four zones that account for a wide variety of commercial uses with some opportunity for ~~and mixed-uses~~ residential, and two zones that accommodate industrial uses. Please refer to Appendix D for an overview of each of the City's zone classifications. Tax lots of less than ½ acre are considered unsuitable for new development for the purposes of this analysis. All significant environmental constraints are deducted from gross vacant land area to estimate buildable land area, including waterways, wetlands, riparian buffers, slopes of more than 25 percent and other known site development constraints identified by City staff. Appendix E includes maps illustrating natural hazards and how environmental constraints impact buildable employment lands.

An additional infrastructure analysis was conducted by the City's planning and engineering staff to ascertain known infrastructure conditions and related capacity constraints (if any) to providing adequate transportation, water, sewer, and stormwater requirements associated with future development. In accordance with OAR 660-009-025(3)(a)(C), City staff also provided estimated time frames and preliminary capital cost estimates for planned infrastructure improvements.

## **Vacant and Redevelopment Land Supply**

### Vacant and Partially Vacant Supply

The vacant and partially vacant land inventory for the West Linn USB includes 14 tax lots totaling 19.39 acres of buildable vacant land after accounting for a variety of environmental constraints including steep slopes and the Willamette River floodplain. Approximately 13.4 acres of land on seven lots is zoned for commercial use, accounting for about 70% of the vacant supply. Another 1.31 acres is designated for mixed commercial and residential uses. The vacant industrial land supply, comprised of approximately 4.72 acres on five lots, makes up about 24% of the overall inventory. Less than one acre of the industrial supply is zoned as Campus Industrial, which can accommodate institutional uses.

West Linn's vacant land supply primarily consists of small (less than one acre) tax lots and tax lots between one and five acres in size. As indicated in Exhibit 27, the tax lots of less than five acres in size comprise approximately 14 acres or about 71% of the total vacant land supply. Only one tax lot in the inventory, a 5.5-acre commercial parcel, is larger than five acres. Appendix E includes a map depicting the vacant and partially vacant buildable land supply. This

parcel, at the northwest intersection of Blankenship and Tannler roads, is adjacent to two other parcels of 1.3 and 2.0 buildable acres respectively that have one owner and can be assembled into one parcel of approximately 8.3 buildable acres (11.0 gross acres).

Exhibit 27. Vacant and Partially Vacant Parcels, West Linn USB (Net Acres)

	<b>Vacant and Partially Vacant Property</b>									
	<b>&lt; 1 acre</b>		<b>1 to 5 acres</b>		<b>5 to 10 acres</b>		<b>&gt; 10 acres</b>		<b>Total</b>	
	<b>Lots</b>	<b>Acres</b>	<b>Lots</b>	<b>Acres</b>	<b>Lots</b>	<b>Acres</b>	<b>Lots</b>	<b>Acres</b>	<b>Lots</b>	<b>Acres</b>
Commercial	3	0.92	3	6.90	1	5.55	0	0.00	7	13.36
Mixed Use	2	1.31	0	0.00	0	0.00	0	0.00	2	1.31
Industrial	3	1.46	2	3.26	0	0.00	0	0.00	5	4.72
<b>Total</b>	<b>8</b>	<b>3.69</b>	<b>5</b>	<b>10.16</b>	<b>1</b>	<b>5.55</b>	<b>0</b>	<b>0.00</b>	<b>14</b>	<b>19.39</b>

Source: Cogan Owens Greene, LLC.

### Redevelopable/Refill Supply

In light of the importance of redevelopment to West Linn’s ability to grow and diversify its economic base, we evaluated the relative level of redevelopment potential for each developed tax lot in the West Linn USB. While this is not a stated requirement within OAR 660, Division 9, it is considered an important factor in deciding which land use growth scenario to target. The analysis of redevelopment opportunities is based on the ratio of assessed improvement value to land value for each tax lot using Metro RLIS data. The results provided in Exhibit 29 indicate that there is approximately 26.7 acres of redevelopable land on 32 tax lots. Eighteen of these totaling 15.3 acres have high redevelopment potential and 14 totaling 11.37 acres have moderate redevelopment potential. Approximately 18.5 acres are zoned for commercial use, 6.8 acres for industrial and 1.34 acres for mixed uses. Appendix E also includes a map depicting redevelopable employment lands.

Exhibit 29. Analysis of Redevelopment Tax Lots by General Land Use Zone Classification, West Linn USB (Net Acres)

<b>City of West Linn Redevelopable Potential (Improvement to Land Value)*</b>						
	<b>High (&lt; 0.50)</b>		<b>Moderate (0.50 to 1.00)</b>		<b>Total</b>	
	<b>Lots</b>	<b>Acres</b>	<b>Lots</b>	<b>Acres</b>	<b>Lots</b>	<b>Acres</b>
Commercial	14	10.04	8	8.49	22	18.53
Mixed Use	1	0.25	4	1.09	5	1.34
Industrial	3	5.01	2	1.79	5	6.80
<b>Total</b>	<b>18</b>	<b>15.30</b>	<b>14</b>	<b>11.37</b>	<b>32</b>	<b>26.67</b>

Notes: <sup>1</sup> Improvement to Land Value calculated from Metro RLIS data.

Source: Cogan Owens Greene, LLC

### **Short-Term Employment Land Inventory**

In addition to the long-term land supply, OAR 660-009-0005 also requires the identification of a short-term supply of land meaning “suitable land that is ready for construction within one year of an application of a building permit or request for a service extension.” OAR 660-

009-0025 also requires that cities must provide “at least 25 percent of the total land supply within the urban service boundary designated for employment uses as short-term supply.” For EOA planning purposes, the “short-term” is defined as a period of less than five years from EOA adoption.

Commercial and industrial properties in the employment land inventory appear to clearly meet the statutory requirements for short-term land supply, as all of the long-term land supply can be classified as short-term as well as long-term supply. Industrial and commercial properties appear to be well served with adequate infrastructure.

## Employment on Residential Lands

### **Assisted Living Facilities**

Residential homes or assisted living facilities provide residential care alone or conjunction with treatment for unrelated individuals and are an important job generator. Assisted living facilities are permitted in all of West Linn’s residential zones and are addressed in greater detail in Goal 10 (Housing) of the City’s Comprehensive Plan.

### **Home Occupations**

Home occupations are an important source of jobs in West Linn. One of the City’s existing economic development policies is to “promote home occupations by developing and implementing supportive zoning and building codes and services and other regulations; that are compatible with surrounding neighborhoods.” Business license data for 2014 indicates that 424 or 47% of West Linn’s businesses are home-based. Most of them are located outside the city limits. West Linn’s development code includes provisions to accommodate home occupations in residential zones as a means of providing convenient employment opportunities and decreasing the dependence on the auto. Development standards assure that home occupations will be compatible and consistent with the residential uses, and will not have a detrimental effect on neighboring properties. Home occupations are addressed in greater detail in Goal 10 (Housing) of the City’s Comprehensive Plan.

## **Long-Term Employment Land Inventory**

The following plans and issues may add to the City’s employment land inventory in the next 20 years.

### Arch Bridge-Bolton Concept Plan

The City of West Linn ~~recently adopted~~is considering adoption of an Arch Bridge-Bolton Concept Plan, though specific zoning and development standard changes have not been proposed. The project is being expanded at this time to encompass the entire riverfront west of the I-205 bridge. The ~~Concept final adopted~~ Plan will reflect multiple interests and suggests a set of directions and implementing actions ~~that could to~~ be carried out over the next ten to twenty years.

## Floodplain Properties

The West Linn employment land inventory includes approximately 116 acres that lie within the Willamette River floodplain, a portion of which may otherwise be feasible for employment uses. Specifically, the City is interested in pursuing long-term plans to develop recreational facilities on floodplain-constrained sites, such as a sports complex or center for water-based activities. Certain types of institutional uses, such as public education centers, may also be appropriate in these areas.

## ODOT I-205 Maintenance Parcel

The Oregon Department of Transportation (ODOT) owns approximately 47 acres as part of the I-205 right-of-way along West Linn's southern border that it uses for maintenance equipment storage. In recent discussions, ODOT officials have indicated a desire to retain the parcel indefinitely. The City of West Linn intends to continue discussions with ODOT to realize the full potential of the I-205 land.

# Assessment of Potential (Reconciliation of Demand and Supply)

## **Industrial and Institutional Land and Need and Parcel Requirements**

As indicated in Exhibit 27, the City's preferred Scenario B estimates a demand of three (3) acres of net new industrial vacant land and 10 acres of institutional land for a total of 13 acres of demand. With a vacant industrial and institutional land supply of 4.7, the City has a deficit of 8.3 acres. However, this need may be addressed, at least in part, by the 6.8 acres of redevelopable industrial and institutional land.

## **Commercial and Mixed Use Land Need and Parcel Requirements**

As indicated in Exhibit 27, the City's preferred Scenario B estimates a demand for ~~2732~~ acres of net new commercial vacant land ~~and five (5) acres of vacant mixed use land, for a total demand of 32 acres~~. With a vacant commercial ~~and mixed use~~ land supply of 14.7 acres, the City has a deficit of 17.3 acres to meet the expected level of commercial job growth for West Linn. However, this need may be addressed by the surplus of more than 19 acres of redevelopable commercial and mixed use land.

# Goals and Implementation Policies

The following goals and implementation policies were developed in coordination with the West Linn Economic Development Committee:

**Goal 1. Encourage the recruitment, retention, expansion and economic viability of West Linn business and industry.**

- Policy 1. Recruit and encourage businesses, particularly those that provide family-wage jobs to locate in West Linn.
- Policy 2. Support retail businesses and services that enhance the community and provide wanted goods and services.
- Policy 3. Encourage the economic vitality of the City's existing commercial areas.
- Policy 4. Promote home occupations by developing and implementing supportive zoning and building codes and services and other regulations.
- Policy 5. Encourage West Linn employers, including the City, to offer the option to telecommute (i.e., work from home).
- Policy 6. Adopt City regulations that are predictable, easy to understand and contain standards that can be uniformly applied.
- Policy 7. Encourage economic development through streamlined permitting processes and development fees.
- Policy 8. Work with the Chamber of Commerce, business community, and other agencies and organizations, to meet the economic needs of West Linn.
- Policy 9. Coordinate with Tri-Met, Metro, Oregon Department of Economic Development, and other organizations in economic development planning and implementation efforts.

~~Policy 10. Pursue Comprehensive Plan and Community Development Code changes to implement the objectives and principles of the Arch Bridge/Bolton Concept Plan.~~

~~Policy 11.~~ Policy 10. Consider incentives such as reduced system development charges (SDCs) and shared parking districts to encourage commercial and mixed-use development.

**Goal 2. Support tourism-related businesses and services.**

- Policy 1. Support efforts and programs that promote tourism in the City.
- Policy 2. Enhance recreation based tourism in the City focused on parcels constrained by the Willamette River floodplain or other environmental constraints.
- Policy 3. Work with interested property owners to attract and accommodate ~~and to attract a significant~~ new hotel.

**Goal 3. Promote the efficient use of commercial and industrial land adequate to serve a range of employment opportunities in the City.**

- Policy 1. Preserve employment (commercial and industrial) land to ensure an appropriate mix of uses and jobs-housing balance.
- Policy 2. Inventory and maintain a list of vacant and redevelopable sites for new or expanding businesses.
- Policy 3. Ensure the City has adequate public facilities and infrastructure to support economic activities. Maximize the use of regional, state, and federal funding for infrastructure planning and development. Work with ODOT to realize the full potential of the I-205 maintenance parcel.

## EXHIBIT 'B'

**This proposal includes the following amendments to Goal 9 of the Comprehensive Plan:**

### GOAL 9: ECONOMIC DEVELOPMENT

A strong commercial and industrial tax base is important to the economic vitality of the City. Financial resources are critical to maintain and provide needed infrastructure and services to retain and improve the quality of life in West Linn. Property tax and other revenues from appropriately sited and designed commercial, industrial, and other businesses should be considered in future development review decisions. Equally important to West Linn is the identity that the business districts give to the City. Hence, when planning for economic development, the City must address a host of issues that include the location of business and industry; types of new businesses needed in the City; retention and expansion of existing businesses; access control on major roadways; home occupations and cottage industries; appearance of commercial and industrial development; the City government's role in economic development; and development costs.

The City recognizes the importance of providing and maintaining an adequate balance of jobs and housing to help reduce commuting and meet other important objectives. The City also recognizes the importance of home occupations in reducing commuting and helping limit the need for additional public infrastructure.

### **BACKGROUND**

In July 2015, the City adopted the West Linn Economic Opportunities Analysis (EOA), which complies with Statewide Planning Goal 9 and its associated statutory requirements. The EOA provides a technical framework and supports the City's economic development goals and policies that aim to make West Linn a more economically viable community, while maintaining its unique character for residents, businesses, and employees.

According to Metro's 2014 job growth forecast, West Linn is projected to add 1,902 jobs by 2035. The service sector is expected to receive the most new jobs and grow the fastest in the next 20 years. The amount of land needed to accommodate the projected job growth falls within the range of 45 to 52 acres.. The City's 2015 inventory of vacant and redevelopable land zoned for industrial/institutional, commercial and mixed use land in West Linn totals approximately 46 acres, which is adequate to accommodate projected employment growth over the next 20-years.

The City's 2015 EOA also shows employment in West Linn has increased by only 25 jobs per year (annual average) over the past seven years. The largest increase in employment has occurred in the service and retail sectors, while the largest decrease occurred in the industrial and government sectors. The biggest employment sectors in West Linn are largely service industries with the top five being: food services/drinking places; educational services; food/beverage stores; professional/scientific/technical services; and ambulatory health care services. The top employers in West Linn include several private companies and two local government entities. The top five employers are the West Linn Paper Company, City of West Linn, West Linn High School, Rose Linn Care Center and Safeway Stores. Additionally, business license data for 2014 indicates that of the 928 total licenses issued (408 businesses within city limits and 520 outside city limits), a total of 424 (47%) are home-based businesses, with most located outside the city limits.

Another statistic from the EOA the City needs to consider is the 2.4 households for every job in the City, which is far above the ratio for Clackamas County and the Metro Region. This means the majority of West Linn residents are commuting outside the city for employment. Decreasing the household-to-jobs ratio for West Linn would provide more opportunities for residents to decrease their commute, but would also require the city to attract more jobs than households over the next two decades, which is contrary to past City trends.

## **GOALS AND IMPLEMENTATION POLICIES**

### **Goal 1. Encourage the recruitment, retention, expansion and economic viability of West Linn business and industry.**

- Policy 1. Recruit and encourage businesses, particularly those that provide family-wage jobs to locate in West Linn.
- Policy 2. Support retail businesses and services that enhance the community and provide wanted goods and services.
- Policy 3. Encourage the economic vitality of the City's existing commercial areas.
- Policy 4. Promote home occupations by developing and implementing supportive zoning and building codes and services and other regulations.
- Policy 5. Encourage West Linn employers, including the City, to offer the option to telecommute (i.e., work from home).
- Policy 6. Adopt City regulations that are predictable, easy to understand and contain standards that can be uniformly applied.
- Policy 7. Encourage economic development through streamlined permitting processes and development fees.
- Policy 8. Work with the Chamber of Commerce, business community, and other agencies and organizations, to meet the economic needs of West Linn.

Policy 9. Coordinate with Tri-Met, Metro, Oregon Department of Economic Development, and other organizations in economic development planning and implementation efforts.

Policy 10. Consider incentives such as reduced system development charges (SDCs) and shared parking districts to encourage commercial and mixed-use development.

## **Goal 2. Support tourism-related businesses and services.**

Policy 1. Support efforts and programs that promote tourism in the City.

Policy 2. Enhance recreation based tourism in the City focused on parcels constrained by the Willamette River floodplain or other environmental constraints.

Policy 3. Work with interested property owners to attract and accommodate ~~and to attract~~ a significant new hotel.

## **Goal 3. Promote the efficient use of commercial and industrial land adequate to serve a range of employment opportunities in the City.**

Policy 1. Preserve employment (commercial and industrial) land to ensure an appropriate mix of uses and jobs-housing balance.

Policy 2. Inventory and maintain a list of vacant and redevelopable sites for new or expanding businesses.

Policy 3. Ensure the City has adequate public facilities and infrastructure to support economic activities. Maximize the use of regional, state, and federal funding for infrastructure planning and development. Work with ODOT to realize the full potential of the I-205 maintenance parcel.

## **~~Goal 1. Encourage the recruitment, retention, expansion and economic viability of West Linn business and industry.~~**

~~Policy 1. Recruit and encourage businesses, particularly those that provide family wage jobs to locate in West Linn.~~

~~Policy 2. Encourage the economic vitality of the City's existing commercial areas.~~

~~Policy 3. Promote home occupations by developing and implementing supportive zoning and building codes and services and other regulations.~~

~~Policy 4. Encourage West Linn employers, including the City, to offer the option to telecommute (i.e., work from home).~~

~~Policy 5. Adopt City regulations that are predictable, easy to understand and contain standards that can be uniformly applied.~~

~~Policy 6. Encourage economic development through streamlined permitting processes and development fees.~~

~~Policy 7. Work with the Chamber of Commerce, business community, and other agencies and organizations, to meet the economic needs of West Linn.~~

~~Policy 8. Coordinate with Tri-Met, Metro, Oregon Department of Economic Development, and other organizations in economic development planning and implementation efforts.~~

~~Policy 9. Pursue Comprehensive Plan and Community Development Code changes to implement the objectives and principles of the Arch Bridge/Bolton Concept Plan.~~

~~Policy 10. Consider incentives such as reduced system development charges (SDCs) and shared parking districts to encourage commercial and mixed use development.~~

~~Goal 2. Support retail businesses that enhance the community and provide wanted goods and services.~~

~~Policy 1. Support efforts and programs that promote tourism in the City.~~

~~Policy 2. Enhance recreation based tourism in the City focused on parcels constrained by the Willamette River floodplain or other environmental constraints.~~

~~Policy 3. Work with interested property owners to accommodate and to attract new hotel.~~

~~Goal 3. Promote the efficient use of commercial and industrial land adequate to serve a range of employment opportunities in the City.~~

~~Policy 1. Preserve employment (commercial and industrial) land to ensure an appropriate mix of uses and jobs-housing balance.~~

~~Policy 2. Inventory and maintain a list of vacant and redevelopable sites for new or expanding businesses.~~

~~Policy 3. Ensure the City has adequate public facilities and infrastructure to support economic activities. Maximize the use of regional, state, and federal funding for infrastructure planning and development. Work with ODOT to realize the full potential of the I-205 maintenance parcel.~~

## BACKGROUND AND FINDINGS

West Linn's economy is based primarily on service and retail-oriented commercial businesses, with a relatively limited number of industrial employers. In addition, West Linn has significantly more residents than employees, in comparison to the Portland metropolitan region as a whole and many other communities within the region. The ratio of residents to employees in West Linn is about 5:1, compared to 1.7:1 in the region. In 1990, approximately 3.9% of people employed in the City worked in their homes. In comparison, in the Portland MSA, 4.6% of residents worked in their homes in 1990. As of 1998, 45% of all licensed businesses in the City were home occupations. Though this is a high percentage of existing businesses, it still does not represent a significant percentage of jobs held by West Linn residents, though given the relative jobs/housing imbalance in West Linn, it may represent a more significant percentage of employees in the City (possibly around 15%).

Small businesses that are based in individual residences (also known as "home based Goal 9: Economic Development ED 2 Goal 9: Economic Development businesses" and "home occupations") are growing in number in West Linn. In July 2002, 626 such businesses had City

licenses, with an additional unknown number unlicensed, but existing nonetheless. This is an increase of approximately 15% since 1999. The number of these businesses has steadily increased because of time, lifestyle, and satisfaction benefits. While some of these businesses generate traffic and other impacts, the overall impact to the City of such businesses when compared to the alternative (business districts, commuters, manufacturing plants) is positive. West Linn can accelerate and expand on this natural trend that, if properly controlled, offers to enhance neighborhoods and reduce traffic congestion.

In 1999, 1,012 licensed businesses were located in West Linn. The City has one major industrial employer, the West Linn Paper Company, located on the Willamette River with over 300 employees. At the same time, this industrial-zoned property has some of the more scenic views of the Willamette River and the Willamette Falls. Because mill operations on both sides of the River have scaled back in recent years, this area has been coveted by some in the community as a prime redevelopment site. In the future, this area may support even more economic and employment activity.

The remaining manufacturers in the City employ a total of less than 50 people. West Linn is also the location for a number of small businesses and industries. In addition to the West Linn Paper Co., the School District and smaller employers (retail, services, offices, and professional) provide for most of the employment in West Linn. As noted previously, a significant number of businesses in West Linn are home occupations.

Commercial development is concentrated in three primary areas of the City—the Willamette (including north of I-205 and 10th Street), Bolton, and Robinwood areas. Tanner Basin is in the process of becoming the fourth major commercial district in West Linn. A shopping center is currently under construction (2000). Additional commercial development may occur in this area if unincorporated areas adjacent to Tanner Basin are annexed to the City and developed.

Creation of a strong and diverse economic environment is a priority for the City as it is an essential component for the City to maintain its excellent quality of life. Sustainable economic activities provide services for residents, create jobs, offer opportunities, and generate tax revenue. In particular, the City's economic development efforts should promote development that is well-planned, contextually appropriate, and which enhances the overall quality of life for our residents. These could range from smaller home-based businesses in residential areas to more vibrant mixed use developments near the Arch Bridge that would serve tourists and visitors to the City.

West Linn has significant strengths as a location for employers. West Linn is conveniently located on the regional transportation network with two interchanges off of I-205, Highway 43, bridge connections to Oregon City and is within 30 minutes of the Portland International Airport. It is a 20 to 30 minute auto commute to the major employment centers of Portland.

~~Vancouver, Beaverton, Gresham, Wilsonville and Hillsboro. This locational advantage can help provide options for residents employed outside West Linn and bring employment opportunities to the City.~~

~~Unemployment rates in the Portland metropolitan area and West Linn have been relatively low during the 1990s. In 1998, unemployment ranged from 3.9 to 4.4% in the Portland metro area. In 1997, the average unemployment rate was 3.7% in Clackamas County, compared to about 4.3% in the Portland area and 4.7% in the state. In 1990, the unemployment rate in West Linn was 2.6%, compared to 4.2% in the county.~~

~~Metro projects employment in the City to be 5,725 in 2017. City projections, based on a 1999 inventory of vacant and underutilized land zoned for commercial and industrial use within the City, indicate that West Linn could accommodate between 4,840 and 6,045 jobs by the year 2017, depending on market factors and the degree commercial areas develop and/or redevelop over time. This represents an increase of between 1,048 and 2,253 new employees in all employment sectors since 1996, with the greatest increases in office, retail, and service sectors.~~

## ~~GOALS, POLICIES, AND RECOMMENDED ACTION MEASURES~~

### ~~GOALS~~

- ~~1. Support telecommuting, home-based businesses compatible with residential neighborhoods and, in general, a higher jobs-to-housing ratio.~~
- ~~2. Encourage the retention, expansion and economic viability of existing business and industry.~~
- ~~3. Encourage businesses that enhance the community; provide wanted goods and services; and pay living wages. Small, locally owned businesses with strong ties to the community are especially desired.~~
- ~~4. Provide adequate commercial and industrial land for a range of employment opportunities in the City.~~
- ~~5. Make the most efficient use of our existing commercial and industrial lands.~~
- ~~6. Retain, strengthen, and expand the City's existing business base.~~

### ~~POLICIES~~

- ~~1. Promote home occupations by developing and implementing supportive zoning and building codes and services and other regulations; that are compatible with surrounding neighborhoods.~~

- ~~2. Encourage West Linn employers, including the City, to offer the option to telecommute (i.e., work from home).~~
- ~~3. Support and encourage telecommunications, printing, and similar types of business support firms.~~
- ~~4. Update City regulations to respond to changes in technology as they affect local businesses.~~
- ~~5. Maintain public facilities (specifically right-of-way improvements) in established commercial and industrial districts to promote economic activity.~~
- ~~6. Develop a working partnership with the Chamber of Commerce, business community, and various agencies and organizations, such as the School District, to meet the economic needs of West Linn.~~
- ~~7. Interact with Tri Met, Metro, the Port of Portland, Oregon Department of Economic Development, and other organizations in economic development planning and implementation efforts.~~
- ~~8. Maximize the use of regional, state, and federal funding for infrastructure planning and development.~~
- ~~9. Adopt City regulations that are easy to understand and contain development standards that can be uniformly applied.~~
- ~~10. Enforce design and development standards for industrial areas.~~
- ~~11. Encourage the economic vitality of the four existing commercial areas.~~
- ~~12. Continue to maintain good working relationships with property owners in industrial areas overlooking the Willamette River to ensure the City is “at the table” when these areas transition to other uses.~~
- ~~13. Support efforts and programs that promote tourism in the City.~~

#### ~~RECOMMENDED ACTION MEASURES~~

- ~~1. Explore ways to support and improve the business climate and enhance employment opportunities in the City.~~
- ~~2. Inventory and maintain a list of vacant and redevelopable sites for new or expanding businesses.~~
- ~~3. Encourage a business environment and businesses that are viable and sustainable and that add to the overall quality of life in the community.~~

4. Actively identify and pursue businesses that will have a positive overall impact on the community to develop or expand in West Linn.
5. Investigate incentives and improve regulations to support locally owned businesses.
6. Identify and provide improvements for infrastructure needs to support appropriately located businesses.
7. Recommend a West Linn business representative to serve on the Clackamas County Economic Development Commission (EDC).
8. Develop and maintain a good working relationship with the West Linn business organizations.
9. Develop and maintain a good working relationship with the West Linn-Wilsonville School District.
10. Participate in regional efforts to encourage employers and policy makers to promote telecommuting and other flexible work arrangements.
11. Develop and implement a strategy for assisting and supporting locally owned businesses, particularly successful home-based businesses and start-ups (e.g. support for a small business center, regulatory modifications, assisting with business education, identifying grant opportunities, etc.)
12. Create a master plan for the Arch Bridge area and prepare a planning framework and proposed CDC revisions, as necessary to implement the plan.
13. Explore opportunities, and create specific district plans and regulations, as necessary for each of the City's commercial areas.
14. Engage and collaborate with regional partners to further our economic development efforts; particularly with regard to procuring additional sources of revenue, promoting tourism opportunities, and providing technical assistance.
15. Regularly evaluate the City's Economic Development Plan and update it as required.
16. Establish and support a standing advisory board to advise the City Council and to advance economic development efforts in the City.

## ORDINANCE NO. 1645

### AN ORDINANCE ADOPTING THE ECONOMIC OPPORTUNITIES ANALYSIS AND REPEALING AND REPLACING COMPREHENSIVE PLAN, GOAL 9, ECONOMIC DEVELOPMENT

**WHEREAS**, Chapter II, Section 4, of the West Linn City Charter provides:

Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers; and

**WHEREAS**, the above referenced grant of power has been broadly interpreted to allow local governments to decide upon the scope of their powers in their charter so that specific statutory authorization is not required for a city to exercise its powers, LaGrande/Astoria v. PERB, 281 Or 137, 142 (1978), aff'd on reh'g 284 Or 173 (1978); and

**WHEREAS**, the City's Economic Opportunities Analysis ("EOA") was last updated in 1994; and

**WHEREAS**, the City received grant funds from the Department of Land Conservation and Development ("DLCD") for technical consultants to complete an EOA; and

**WHEREAS**, the EOA developed complies with state law and addresses state requirements to periodically review and update its policies and land needs; and

**WHEREAS**, the West Linn Economic Development Committee (EDC) conducted surveys, took public testimony, and assisted with drafting the EOA for review by the Planning Commission (PC); and

**WHEREAS**, the PC held public hearings and recommended approval of the EOA at its September 16, 2015, meeting;

**NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:**

**SECTION 1. Economic Opportunities Analysis.** The 2015 City of West Linn Economic Opportunity Analysis, attached as Exhibit A, is adopted as a supporting document to the West Linn Comprehensive Plan and the new plan governing economic opportunity policy.

**SECTION 2. Repeal and Replace.** West Linn Comprehensive Plan, Goal 9, Economic Development, is repealed in its entirety and replaced with Exhibit B. Exhibit B may be reformatted, and sections may be renumbered, or re-lettered. The City Recorder or his/her designee is authorized to correct any cross-references and any typographical errors.

**SECTION 3. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 4. Effective Date.** This ordinance shall take effect on the 30<sup>th</sup> day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the 8th day of August, 2016, and duly PASSED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
RUSSELL B. AXELROD, MAYOR

ATTEST:

\_\_\_\_\_  
KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY



## Agenda Report 2016-07-11-02 – Item 9b

Date: July 25, 2016

To: Russ Axelrod, Mayor  
Members, West Linn City Council

From: John Boyd AICP, Interim Community Development Director - JB

Through: Eileen Stein, City Manager - *ES*

Subject: CDC 16-01 Community Development Code Amendments

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### **Purpose**

City Council has submitted code amendments for Planning Commission recommendation. These amendments are identified as CDC 16-01.

### **Question(s) for Council:**

Shall the City Council adopt Ordinance 1647 as recommended by the Planning Commission and send the 2015 draft PUD Code to the Planning Commission for review and recommendations?

### **Public Hearing Required:**

Yes.

### **Background & Discussion:**

Ordinance Number 1647 proposes amendments to Community Development Code (CDC) Chapters 2, 21, 24, 32, 55, and 85. The proposed amendments address:

- CDC definitions;
- Office Business Center zoning, including uses permitted under prescribed conditions to clarify that multiple family as a mixed use must have commercial development that utilizes the entire first floor;
- Planned Unit Development applicability and a new three acre minimum standard;
- Water Resource Area Protection, referencing the METRO Urban Growth Management Functional Plan and considering new exempted uses; and
- Removing requirements for easements and dedications in Water Resource Areas, in Greenways, and in tree protection areas.

The Planning Commission held a public hearing on June 1 and 15<sup>th</sup>. The Commission closed the public hearing and deliberated to a recommendation on July 6, 2016. The Planning Commission approved a motion to “Recommend approval of Ordinance 1647 with one change. For Council to take no action on the PUD section and instead request Council take off the table the [2015] draft PUD Code and return it to the Planning Commission for review and recommendations.”

### July 11 Council Discussion

This public hearing was opened and continued to the August 8<sup>th</sup> City Council meeting due to the delay in the Planning Commission’s hearing on these code changes.

**Budget Impact:**

Minimal for Code publishing action to update the online code.

**Council Options:**

1. Adopt the version of Ordinance 1647 as recommended by the Planning Commission, and take the 2015 draft PUD Code off the table and return it to the Planning Commission for review and recommendations.
2. Adopt the version of Ordinance 1647 that adds a three acre minimum standard to Chapter 24, Planned Unit Development.
3. Adopt the version of Ordinance 1647 that adds a three acre minimum standard to Chapter 24, Planned Unit Development, and take the 2015 draft PUD Code off the table and return it to the Planning Commission for review and recommendations.

**Staff Recommendation:**

Staff recommends approval of Ordinance 1647 as proposed by the Planning Commission on July 6, 2016, and requests on behalf of the Planning Commission that the City Council take off the table the [2015] draft PUD Code and return it to the Planning Commission for review and recommendations.

**Potential Motion:**

Option 1

1 & 2. Move to approve First Reading, and if unanimous, move to approve Second Reading and adopt the ordinance.

**Council:** *Move to approve First Reading of Ordinance 1647, as recommended by the Planning Commission on July 6, 2016, which modifies provisions of the Community Development Code, and set the matter for Second Reading.*

If the motion passes unanimously, the Council may: *Move to approve Second Reading for Ordinance 1647, as recommended by the Planning Commission on July 6, 2016, which modifies provisions of the Community Development Code and adopt the ordinance.*

**Council:** *Move for City Council to take off the table the [2015] draft PUD Code and return it to the Planning Commission for review and recommendations.*

Option 2

1 & 2. Move to approve First Reading, and if unanimous, move to approve Second Reading and adopt the ordinance.

**Council:** *Move to approve First Reading of Ordinance 1647, which modifies provisions of the Community Development Code and includes a new three acre minimum standard for planned unit developments, and set the matter for Second Reading.*

If the motion passes unanimously, the Council may: *Move to approve Second Reading for Ordinance 1647, which modifies provisions of the Community Development Code and includes a new three acre minimum standard for planned unit developments, and adopt the ordinance.*

Option 3

1 & 2. Move to approve First Reading, and if unanimous, move to approve Second Reading and adopt the ordinance.

**Council:** *Move to approve First Reading of Ordinance 1647, which modifies provisions of the Community Development Code and includes a new three acre minimum standard for planned unit developments, and set the matter for Second Reading.*

If the motion passes unanimously, the Council may: *Move to approve Second Reading for Ordinance 1647, which modifies provisions of the Community Development Code and includes a new three acre minimum standard for planned unit developments, and adopt the ordinance.*

**Council:** *Move for City Council to take off the table the [2015] draft PUD Code and return it to the Planning Commission for review and recommendations.*

**Attachments:**

1. Ordinance 1647 as modified by the Planning Commission.
2. Ordinance 1647 as modified by the City Council.
3. Planning Commission draft meeting notes for July 6, 2016.
4. Planning Commission meeting notes for June 15, 2016.
5. Planning Commission Staff Report dated May 20, 2016, for the hearing dated June 1, 2016.
6. WRA Overlay Map identifying houses built prior to 2006.
7. Councilor Martin's original proposal.

ORDINANCE NO. 1647

AN ORDINANCE RELATING TO DEFINITIONS, OFFICE BUSINESS CENTER MIXED USES, WRA EXEMPTIONS AND ELIMINATION OF CONSERVATION EASEMENTS, AND AMENDING COMMUNITY DEVELOPMENT CODE CHAPTERS 2, 21, 32, 55, and 85

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~bold lined through~~ and additions are bold underlined.

**WHEREAS**, Chapter II, Section 4, of the West Linn City Charter provides:

Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

**WHEREAS**, the City Council adopted on February 8, 2016, the City Council Goals including “Address Community Development Code and Comprehensive Plan Changes;”

**WHEREAS**, the Planning Commission held work sessions on March 2, 2016, and discussed the issue on May 18, 2016; and

**WHEREAS**, the Planning Commission held a public hearing on June 1, 2016, and June 15, 2016, and closed the public hearing and deliberated to a final recommendation for the City Council on July 6, 2016.

**NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:**

**SECTION 1. Amendment.** West Linn CDC Section 2.030 is amended as follows:

**2.030 SPECIFIC WORDS AND TERMS**

...

~~**Conservation easement.** An easement established by the property owner that limits, but does not prohibit, use of the area within the conservation easement. For example, limitations may include tree protection, or protection of a wetland or creek. The property owner owns the land within easement boundaries.~~

...

**Dedication.** The legal conveyance of land, typically from a private property owner to the City. ~~Dedication is typically required of developers where it can be shown that additional land for right-of-way is needed for adjacent street improvements or public facilities such as foot paths or utility corridors. Dedication is also appropriate for the purpose of protecting a resource area, such as a wetland or forested area, from development or disturbance. Dedication is preferred over establishing a conservation easement since~~

~~the original property owner no longer has any right to the property and is, therefore, less likely to impact or disturb a resource area.~~

**SECTION 2. Amendment.** West Linn CDC Section 21.050 is amended as follows:

21.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions:

1. Animal sales and services: veterinary (small animals) as prescribed with no exterior runs or storage.
2. Multiple-family units **only above the first floor of the structure**, as a mixed use in conjunction with commercial development **that utilizes the entire first floor**, ~~only above the first floor of the structure.~~
3. Signs, subject to the provisions of Chapter 52 CDC.
4. Temporary use, subject to the provisions of Chapter 35 CDC.
5. Home occupation, subject to provisions of Chapter 37 CDC.
6. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.
7. Eating and drinking establishments, subject to the following limitations:
  - a. The use shall constitute no more than 20 percent of the total floor area of the building in which it is located.
  - b. The use shall not include any drive-through facilities.

**SECTION 3. Amendment.** West Linn CDC Section 32.040 is amended as follows:

32.040 EXEMPTIONS

The following development, activities or uses are exempt from a WRA permit but must conform to any applicable requirements of this section.

...

**E. METRO CODE CHAPTER 3.07 URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN - Exempt Uses and Conditioned Activities.**

**Where construction of a residence was completed before January 1, 2006, the owners or residents shall not be restricted from engaging in any development that was**

**allowed prior to September 22, 2005; unless such development required obtaining a land use decision, or a building, erosion control, or grading permit.**

**SECTION 4. Amendment.** West Linn CDC Section 32.060 is amended as follows:

32.060 APPROVAL CRITERIA (STANDARD PROCESS)

No application for development on property containing a WRA shall be approved unless the approval authority finds that the proposed development is consistent with the following approval criteria, or can satisfy the criteria by conditions of approval:

A. WRA protection/minimizing impacts.

1. Development shall be conducted in a manner that will avoid or, if avoidance is not possible, minimize adverse impact on WRAs.
2. Mitigation and re-vegetation of disturbed WRAs shall be completed per CDC 32.090 and 32.100 respectively.

B. Storm water and storm water facilities.

1. Proposed developments shall be designed to maintain the existing WRAs and utilize them as the primary method of storm water conveyance through the project site unless:
  - a. The surface water management plan calls for alternate configurations (culverts, piping, etc.); or
  - b. Under CDC 32.070, the applicant demonstrates that the relocation of the water resource will not adversely impact the function of the WRA including, but not limited to, circumstances where the WRA is poorly defined or not clearly channelized.Re-vegetation, enhancement and/or mitigation of the re-aligned water resource shall be required as applicable.
2. Public and private storm water detention, storm water treatment facilities and storm water outfall or energy dissipaters (e.g., rip rap) may encroach into the WRA if:
  - a. Accepted engineering practice requires it;

- b. Encroachment on significant trees shall be avoided when possible, and any tree loss shall be consistent with the City's Tree Technical Manual and mitigated per CDC 32.090;
- c. There shall be no direct outfall into the water resource, and any resulting outfall shall not have an erosive effect on the WRA or diminish the stability of slopes; and
- d. There are no reasonable alternatives available.

A geotechnical report may be required to make the determination regarding slope stability.

- 3. Roadside storm water conveyance swales and ditches may be extended within rights-of-way located in a WRA. When possible, they shall be located along the side of the road furthest from the water resource. If the conveyance facility must be located along the side of the road closest to the water resource, it shall be located as close to the road/sidewalk as possible and include habitat friendly design features (treatment train, rain gardens, etc.).
- 4. Storm water detention and/or treatment facilities in the WRA shall be designed without permanent perimeter fencing and shall be landscaped with native vegetation.
- 5. Access to public storm water detention and/or treatment facilities shall be provided for maintenance purposes. Maintenance driveways shall be constructed to minimum width and use water permeable paving materials. Significant trees, including roots, shall not be disturbed to the degree possible. The encroachment and any tree loss shall be mitigated per CDC 32.090. There shall also be no adverse impacts upon the hydrologic conditions of the site.

~~C. Dedications and easements. The City shall request dedications of the WRA to the City when acquisition of the WRA by dedication or easement would serve a public purpose. When such a dedication or easement is mutually agreed upon, the applicant shall provide the documentation for the dedication or easement. Nothing in this section shall prohibit the City from condemning property if:~~

- ~~1. The property is necessary to serve an important public purpose; and~~
- ~~2. Alternative means of obtaining the property are unsuccessful.~~
- ...

**SECTION 5. Amendment.** West Linn CDC Section 55.100 is amended as follows:

**55.100 APPROVAL STANDARDS – CLASS II DESIGN REVIEW**

The approval authority shall make findings with respect to the following criteria when approving, approving with conditions, or denying a Class II design review application.

- A. The provisions of the following chapters shall be met:
1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.
  2. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.
  3. Chapter 40 CDC, Building Height Limitations, Exceptions.
  4. Chapter 42 CDC, Clear Vision Areas.
  5. Chapter 44 CDC, Fences.
  6. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.
  7. Chapter 48 CDC, Access, Egress and Circulation.
  8. Chapter 52 CDC, Signs.
  9. Chapter 54 CDC, Landscaping.

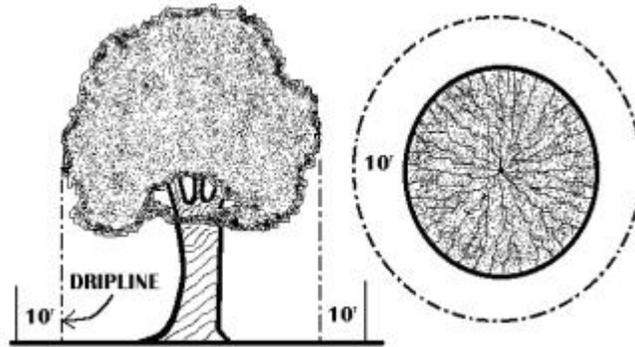
B. Relationship to the natural and physical environment.

1. The buildings and other site elements shall be designed and located so that all heritage trees, as defined in the municipal code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may be removed at his/her direction.

2. All heritage trees, as defined in the municipal code, all trees and clusters of trees (“cluster” is defined as three or more trees with overlapping driplines; however, native oaks need not have an overlapping dripline) that are considered significant by the City Arborist, either individually or in consultation with certified arborists or similarly qualified professionals, based on accepted arboricultural standards including consideration of their size, type, location, health, long term survivability, and/or numbers, shall be protected pursuant to the criteria of subsections (B)(2)(a) through (f) of this section. In cases where there is a difference of opinion on the significance of a tree or tree cluster, the City Arborist’s findings shall prevail. It is important to acknowledge that all trees are not significant and, further, that this code section will not necessarily protect all trees deemed significant.

a. Non-residential and residential projects on Type I and II lands shall protect all heritage trees and all significant trees and tree clusters by **limiting development in the Protected Area. The**

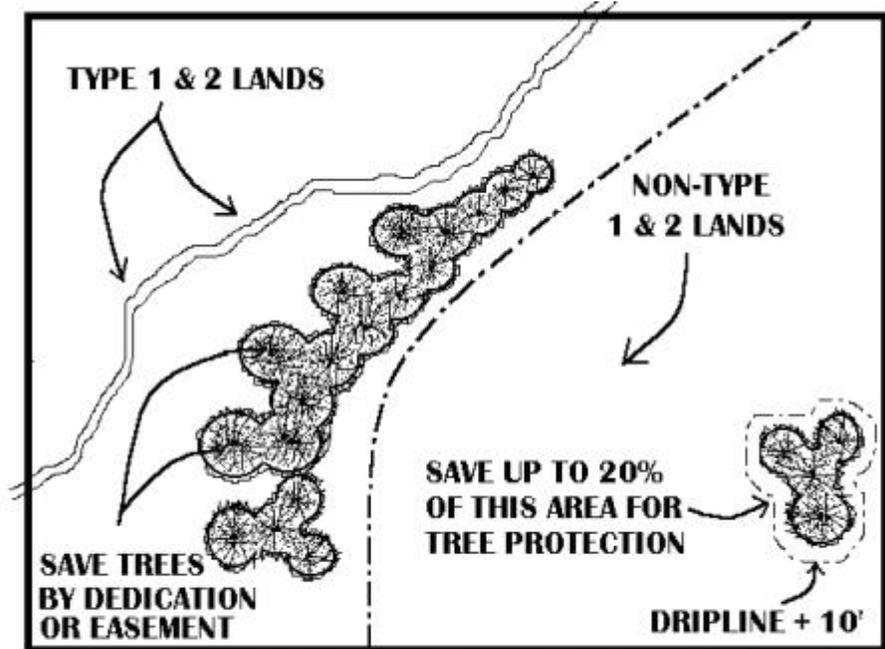
**Protected Area includes the protected tree, its dripline, and an additional ten (10) feet beyond the dripline, as depicted in the figure below.** ~~either the dedication of these areas or establishing tree conservation easements.~~ Development of Type I and II lands shall require the careful layout of streets, driveways, building pads, lots, and utilities to avoid heritage trees and significant trees and tree clusters, and other natural resources pursuant to this code. The method for delineating the protected trees or tree clusters (“dripline + 10 feet”) is explained in subsection (B)(2)(b) of this section. Exemptions of subsections (B)(2)(c), (e), and (f) of this section shall apply.



**PROTECTED AREA = DRIPLINE + 10 FEET**

b. Non-residential and residential projects on non-Type I and II lands shall set aside up to 20 percent of the ~~area~~ **Protected Areas** ~~to protect for significant trees and tree clusters that are determined to be significant,~~ plus any heritage trees. Therefore, in the event that the City Arborist determines that a significant tree cluster exists at a development site, then up to 20 percent of the non-Type I and II lands shall be devoted to the protection of those trees, ~~either by dedication or easement~~ **by limiting development in the Protected Areas.** The exact percentage is determined by establishing the driplines of the trees or tree clusters that are to be protected. In order to protect the roots which typically extend further, an additional 10-foot measurement beyond the dripline shall be added. The square footage of the area inside this “dripline plus 10 feet” measurement shall be the basis for calculating the percentage (see figure below). The City Arborist will identify which tree(s) are to be protected. Development of non-Type I and II lands shall also require the careful layout of streets, driveways, building pads, lots, and utilities to avoid significant trees, tree clusters, heritage trees, and other natural resources pursuant to this code. Exemptions of subsections (B)(2)(c), (e), and (f) of this section shall apply. Please note that in the event that more than

20 percent of the non-Type I and II lands comprise significant trees or tree clusters, the developer shall not be required to save the excess trees, but is encouraged to do so.



### **METHOD OF PERCENTAGE CALCULATION**

**E.G., DRIPLINE + 10 FT. AREA = 2,500 SQ. FT. OR 18% OF TOTAL NON-TYPE I AND II LAND DENSITY CALCULATIONS FOR THIS PARCEL WILL BE BASED ON REMAINING NET SQ. FOOTAGE OF SITE (EXCLUDING THE 2,500 SQ. FT.)**

**SECTION 6. Amendment.** West Linn CDC Section 85.010 is amended as follows:

#### **85.010 PURPOSE**

A. The purpose of the land division provisions of this code is to implement the Comprehensive Plan; to provide rules and standards governing the approval of plats of subdivisions (four lots or more) and partitions (three lots or fewer); to help direct the development pattern; to lessen congestion in the streets; to increase street safety; to efficiently provide water, sewage, and storm drainage service; and to conserve energy resources.

B. The purpose is further defined as follows:

1. To improve our sense of neighborhood and community and increase opportunities for socialization.
2. To comply with the State's Transportation Planning Rule (TPR), which seeks to encourage alternate forms of transportation and reduce reliance upon the private automobile and vehicle miles traveled by increasing accessibility within and between subdivisions and neighborhoods. This

may be accomplished by designing an easily understood, interconnected pattern of streets, bicycle and foot paths, and accommodation of transit facilities. Cul-de-sacs are to be discouraged unless site conditions dictate otherwise.

3. To reduce pedestrian/vehicle conflicts and create a safe and attractive environment for pedestrians and bicyclists.
4. To protect natural resource areas such as drainageways, Willamette and Tualatin River greenways, creeks, habitat areas, and wooded areas **as required by other provisions of this Code** ~~by dedication of these lands to the City, by protective easement, or by the sensitive~~ layout of streets and graded areas so as to minimize their disturbance.
5. To protect the natural features and topography by minimizing grading and site disturbance and by requiring proper erosion control techniques.
6. To arrange the lots and streets so as to minimize nuisance conditions such as glare, noise, and vibration.
7. To maximize passive solar heating benefits by orienting the streets on an east-to-west axis which increases exposure to the sun.
8. To arrange for the efficient layout of utilities and infrastructure as well as their extension to adjacent properties in a manner consistent with either adopted utility plans or sound engineering practices.
9. To arrange lots and roads to create reasonably buildable lots and acceptable driveway grades.
10. To encourage the arrangement of increased densities and smaller lots in proximity to needed services and schools as well as transportation corridors so as to reduce vehicle miles traveled and to encourage alternate modes of travel.
11. To encourage design experimentation and creativity.
12. To arrange for the mitigation of impacts generated by new development. These impacts include increased automobile, foot, and bicycle traffic. These impacts are to be mitigated at the developer's cost, by the provision of streets, sidewalks, bicycle and foot paths, and traffic control devices within, contiguous to, and nearby the development site.

Similarly, increased demand on local infrastructure such as water lines, sanitary sewer lines, and storm drainage and detention facilities, should be offset by improving existing facilities or providing new ones. ~~Protection of natural resource areas (wetlands, drainageways, greenways, etc.) from impacts associated with increased development shall be provided by dedication or easement as appropriate.~~

**SECTION 7. Amendment.** West Linn CDC Section 85.200 is amended as follows:

**85.200 APPROVAL CRITERIA**

...

J. Supplemental provisions.

1. Wetland and natural drainageways. Wetlands and natural drainageways shall be protected as required by Chapter 32 CDC, Water Resource Area Protection. Utilities may be routed through the protected corridor as a last resort, but impact mitigation is required.

2. Willamette and Tualatin Greenways. ~~The approval authority may require the dedication to the City or setting aside of greenways which will be open or accessible to the public. Except for trails or paths, such greenways will usually be left in a natural condition without improvements. Refer to Chapter 28 CDC for further information on t~~The Willamette and Tualatin River Greenways shall be protected as required by Chapter 28, Willamette and Tualatin River Protection.

3. Street trees. Street trees are required as identified in the appropriate section of the municipal code and Chapter 54 CDC.

4. Lighting. To reduce ambient light and glare, high or low pressure sodium light bulbs shall be required for all subdivision street or alley lights. The light shall be shielded so that the light is directed downwards rather than omni-directional.

5. Dedications and exactions. The City may require an applicant to dedicate land and/or construct a public improvement that provides a benefit to property or persons outside the property that is the subject of the application when the exaction is roughly proportional. No exaction shall be imposed unless supported by a determination that the exaction is roughly proportional to the impact of development.

6. Underground utilities. All utilities, such as electrical, telephone, and television cable, that may at times be above ground or overhead shall be

buried underground in the case of new development. The exception would be in those cases where the area is substantially built out and adjacent properties have above-ground utilities and where the development site's frontage is under 200 feet and the site is less than one acre. High voltage transmission lines, as classified by Portland General Electric or electric service provider, would also be exempted. Where adjacent future development is expected or imminent, conduits may be required at the direction of the City Engineer. All services shall be underground with the exception of standard above-grade equipment such as some meters, etc.

7. Density requirement. Density shall occur at 70 percent or more of the maximum density allowed by the underlying zoning. These provisions would not apply when density is transferred from Type I and II lands as defined in CDC 02.030. Development of Type I or II lands are exempt from these provisions. Land divisions of three lots or less would also be exempt.

8. Mix requirement. The "mix" rule means that developers shall have no more than 15 percent of the R-2.1 and R-3 development as single-family residential. The intent is that the majority of the site shall be developed as medium high density multi-family housing.

9. Heritage trees/significant tree and tree cluster protection. All heritage trees, as defined in the Municipal Code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may be removed at his/her direction. All non-heritage trees and clusters of trees (three or more trees with overlapping dripline; however, native oaks need not have an overlapping dripline) that are considered significant by virtue of their size, type, location, health, or numbers shall be saved pursuant to CDC 55.100(B)(2). Trees are defined per the municipal code as having a trunk six inches in diameter or 19 inches in circumference at a point five feet above the mean ground level at the base of the trunk.

**SECTION 8. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 9. Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing

situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION 10. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections **[8-11]**) need not be codified and the City Recorder or his/her designee is authorized to correct any cross-references and any typographical errors.

**SECTION 11. Effective Date.** This ordinance shall take effect on the 30<sup>th</sup> day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, and duly PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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RUSSELL B. AXELROD, MAYOR

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KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

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CITY ATTORNEY

**ORDINANCE NO. 1647**

**AN ORDINANCE RELATING TO DEFINITIONS, OFFICE BUSINESS CENTER MIXED USES, PLANNED UNIT DEVELOPMENT APPLICABILITY, WRA EXEMPTIONS AND ELIMINATION OF CONSERVATION EASEMENTS, AND AMENDING COMMUNITY DEVELOPMENT CODE CHAPTERS 2, 21, 24, 32, 55, and 85**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~bold lined through~~ and additions are bold underlined.

**WHEREAS**, Chapter II, Section 4, of the West Linn City Charter provides:

Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

**WHEREAS**, the City Council adopted on February 8, 2016, the City Council Goals including "Address Community Development Code and Comprehensive Plan Changes;"

**WHEREAS**, the Planning Commission held work sessions on March 2, 2016, and discussed the issue on May 18, 2016; and

**WHEREAS**, the Planning Commission held a public hearing on June 1, 2016, and June 15, 2016, and closed the public hearing and deliberated to a final recommendation for the City Council on July 6, 2016.

**NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:**

**SECTION 1. Amendment.** West Linn CDC Section 2.030 is amended as follows:

**2.030 SPECIFIC WORDS AND TERMS**

...

~~**Conservation easement.** An easement established by the property owner that limits, but does not prohibit, use of the area within the conservation easement. For example, limitations may include tree protection, or protection of a wetland or creek. The property owner owns the land within easement boundaries.~~

...

**Dedication.** The legal conveyance of land, typically from a private property owner to the City. ~~Dedication is typically required of developers where it can be shown that additional land for right of way is needed for adjacent street improvements or public facilities such as foot paths or utility corridors. Dedication is also appropriate for the purpose of protecting a resource area, such as a wetland or forested area, from development or~~

~~disturbance. Dedication is preferred over establishing a conservation easement since the original property owner no longer has any right to the property and is, therefore, less likely to impact or disturb a resource area.~~

**SECTION 2. Amendment.** West Linn CDC Section 21.050 is amended as follows:

**21.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions:

1. Animal sales and services: veterinary (small animals) as prescribed with no exterior runs or storage.
2. Multiple-family units **only above the first floor of the structure**, as a mixed use in conjunction with commercial development **that utilizes the entire first floor**, ~~only above the first floor of the structure.~~
3. Signs, subject to the provisions of Chapter 52 CDC.
4. Temporary use, subject to the provisions of Chapter 35 CDC.
5. Home occupation, subject to provisions of Chapter 37 CDC.
6. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.
7. Eating and drinking establishments, subject to the following limitations:
  - a. The use shall constitute no more than 20 percent of the total floor area of the building in which it is located.
  - b. The use shall not include any drive-through facilities.

**SECTION 3. Amendment.** West Linn CDC Section 24.060 is amended as follows:

**24.060 AREA OF APPLICATION**

- A. ~~Planned unit developments (PUDs) may be established in all residential, commercial, and industrial districts on lots or parcels of land which are suitable for and of sufficient size that are a minimum of three acres in size. to be planned and developed in a manner consistent with the purposes of this section.~~  
**can be utilized**
- B. ~~All qualifying non-residential, all mixed use developments, and all qualifying residential developments of five or more lots shall be developed as PUDs with the Hearings Officer as the decision-making body, while all qualifying residential~~

developments of four or fewer lots shall be developed as a PUD with the Planning Director as the decision-making body, whenever one of the following qualifying criteria apply:

- ~~1. Any development site composed of more than 25 percent of Type I or Type II lands, as defined by CDC 24.060(C), shall be developed as a PUD.~~
- ~~2. More than 20 percent of the dwelling units are to be attached on common wall except in the R-3 and R-2.1 zones. A PUD is not required in R-3 and R-2.1 zones where common wall/multi-family projects are proposed. However, other criteria (such as density transfer, mixed uses, etc.) may trigger a PUD.~~
- ~~3. A large area is specifically identified by the Planning Director or Planning Commission as needing greater design flexibility, increased open space, or a wider variety of housing types.~~

**SECTION 4. Amendment.** West Linn CDC Section 32.040 is amended as follows:

32.040 EXEMPTIONS

The following development, activities or uses are exempt from a WRA permit but must conform to any applicable requirements of this section.

...

**E. METRO CODE CHAPTER 3.07 URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN - Exempt Uses and Conditioned Activities.**

**Where construction of a residence was completed before January 1, 2006, the owners or residents shall not be restricted from engaging in any development that was allowed prior to September 22, 2005; unless such development required obtaining a land use decision, or a building, erosion control, or grading permit.**

**SECTION 5. Amendment.** West Linn CDC Section 32.060 is amended as follows:

32.060 APPROVAL CRITERIA (STANDARD PROCESS)

No application for development on property containing a WRA shall be approved unless the approval authority finds that the proposed development is consistent with the following approval criteria, or can satisfy the criteria by conditions of approval:

- A. WRA protection/minimizing impacts.
  - 1. Development shall be conducted in a manner that will avoid or, if avoidance is not possible, minimize adverse impact on WRAs.

2. Mitigation and re-vegetation of disturbed WRAs shall be completed per CDC 32.090 and 32.100 respectively.

B. Storm water and storm water facilities.

1. Proposed developments shall be designed to maintain the existing WRAs and utilize them as the primary method of storm water conveyance through the project site unless:

- a. The surface water management plan calls for alternate configurations (culverts, piping, etc.); or
- b. Under CDC 32.070, the applicant demonstrates that the relocation of the water resource will not adversely impact the function of the WRA including, but not limited to, circumstances where the WRA is poorly defined or not clearly channelized.

Re-vegetation, enhancement and/or mitigation of the re-aligned water resource shall be required as applicable.

2. Public and private storm water detention, storm water treatment facilities and storm water outfall or energy dissipaters (e.g., rip rap) may encroach into the WRA if:

- a. Accepted engineering practice requires it;
- b. Encroachment on significant trees shall be avoided when possible, and any tree loss shall be consistent with the City's Tree Technical Manual and mitigated per CDC 32.090;
- c. There shall be no direct outfall into the water resource, and any resulting outfall shall not have an erosive effect on the WRA or diminish the stability of slopes; and
- d. There are no reasonable alternatives available.

A geotechnical report may be required to make the determination regarding slope stability.

3. Roadside storm water conveyance swales and ditches may be extended within rights-of-way located in a WRA. When possible, they shall be located along the side of the road furthest from the water resource. If the conveyance facility must be located along the side of the

road closest to the water resource, it shall be located as close to the road/sidewalk as possible and include habitat friendly design features (treatment train, rain gardens, etc.).

4. Storm water detention and/or treatment facilities in the WRA shall be designed without permanent perimeter fencing and shall be landscaped with native vegetation.

5. Access to public storm water detention and/or treatment facilities shall be provided for maintenance purposes. Maintenance driveways shall be constructed to minimum width and use water permeable paving materials. Significant trees, including roots, shall not be disturbed to the degree possible. The encroachment and any tree loss shall be mitigated per CDC 32.090. There shall also be no adverse impacts upon the hydrologic conditions of the site.

~~C. Dedications and easements. The City shall request dedications of the WRA to the City when acquisition of the WRA by dedication or easement would serve a public purpose. When such a dedication or easement is mutually agreed upon, the applicant shall provide the documentation for the dedication or easement. Nothing in this section shall prohibit the City from condemning property if:~~

~~1. The property is necessary to serve an important public purpose; and~~

~~2. Alternative means of obtaining the property are unsuccessful.~~

~~...~~

**SECTION 6. Amendment.** West Linn CDC Section 55.100 is amended as follows:

**55.100 APPROVAL STANDARDS – CLASS II DESIGN REVIEW**

The approval authority shall make findings with respect to the following criteria when approving, approving with conditions, or denying a Class II design review application.

- A. The provisions of the following chapters shall be met:
  - 1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.
  - 2. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.
  - 3. Chapter 40 CDC, Building Height Limitations, Exceptions.
  - 4. Chapter 42 CDC, Clear Vision Areas.
  - 5. Chapter 44 CDC, Fences.
  - 6. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.
  - 7. Chapter 48 CDC, Access, Egress and Circulation.
  - 8. Chapter 52 CDC, Signs.

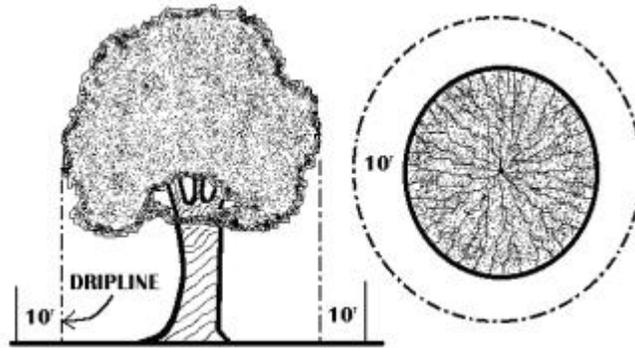
9. Chapter 54 CDC, Landscaping.

B. Relationship to the natural and physical environment.

1. The buildings and other site elements shall be designed and located so that all heritage trees, as defined in the municipal code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may be removed at his/her direction.

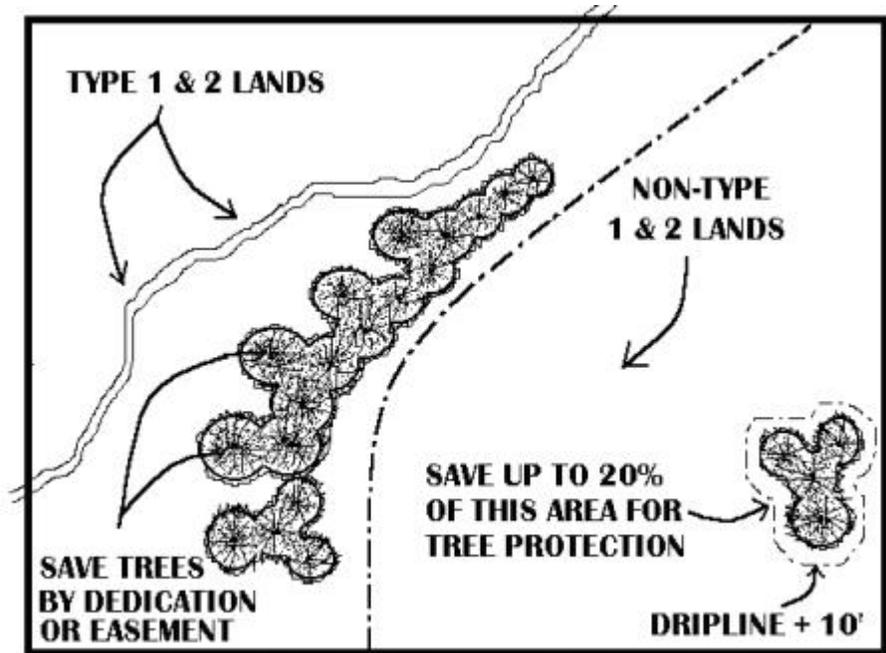
2. All heritage trees, as defined in the municipal code, all trees and clusters of trees (“cluster” is defined as three or more trees with overlapping driplines; however, native oaks need not have an overlapping dripline) that are considered significant by the City Arborist, either individually or in consultation with certified arborists or similarly qualified professionals, based on accepted arboricultural standards including consideration of their size, type, location, health, long term survivability, and/or numbers, shall be protected pursuant to the criteria of subsections (B)(2)(a) through (f) of this section. In cases where there is a difference of opinion on the significance of a tree or tree cluster, the City Arborist’s findings shall prevail. It is important to acknowledge that all trees are not significant and, further, that this code section will not necessarily protect all trees deemed significant.

a. Non-residential and residential projects on Type I and II lands shall protect all heritage trees and all significant trees and tree clusters by **limiting development in the Protected Area. The Protected Area includes the protected tree, its dripline, and an additional ten (10) feet beyond the dripline, as depicted in the figure below.** ~~either the dedication of these areas or establishing tree conservation easements.~~ Development of Type I and II lands shall require the careful layout of streets, driveways, building pads, lots, and utilities to avoid heritage trees and significant trees and tree clusters, and other natural resources pursuant to this code. The method for delineating the protected trees or tree clusters (“dripline + 10 feet”) is explained in subsection (B)(2)(b) of this section. Exemptions of subsections (B)(2)(c), (e), and (f) of this section shall apply.



**PROTECTED AREA = DRIPLINE + 10 FEET**

b. Non-residential and residential projects on non-Type I and II lands shall set aside up to 20 percent of the ~~area~~ **Protected Areas** ~~to protect for significant trees and tree clusters that are determined to be significant~~, plus any heritage trees. Therefore, in the event that the City Arborist determines that a significant tree cluster exists at a development site, then up to 20 percent of the non-Type I and II lands shall be devoted to the protection of those trees, ~~either by dedication or easement~~ **by limiting development in the Protected Areas**. The exact percentage is determined by establishing the driplines of the trees or tree clusters that are to be protected. In order to protect the roots which typically extend further, an additional 10-foot measurement beyond the dripline shall be added. The square footage of the area inside this “dripline plus 10 feet” measurement shall be the basis for calculating the percentage (see figure below). The City Arborist will identify which tree(s) are to be protected. Development of non-Type I and II lands shall also require the careful layout of streets, driveways, building pads, lots, and utilities to avoid significant trees, tree clusters, heritage trees, and other natural resources pursuant to this code. Exemptions of subsections (B)(2)(c), (e), and (f) of this section shall apply. Please note that in the event that more than 20 percent of the non-Type I and II lands comprise significant trees or tree clusters, the developer shall not be required to save the excess trees, but is encouraged to do so.



### METHOD OF PERCENTAGE CALCULATION

E.G., DRIPLINE + 10 FT. AREA = 2,500 SQ. FT. OR 18% OF TOTAL NON-TYPE I AND II LAND DENSITY CALCULATIONS FOR THIS PARCEL WILL BE BASED ON REMAINING NET SQ. FOOTAGE OF SITE (EXCLUDING THE 2,500 SQ. FT.)

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facilities. Cul-de-sacs are to be discouraged unless site conditions dictate otherwise.

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5. To protect the natural features and topography by minimizing grading and site disturbance and by requiring proper erosion control techniques.
6. To arrange the lots and streets so as to minimize nuisance conditions such as glare, noise, and vibration.
7. To maximize passive solar heating benefits by orienting the streets on an east-to-west axis which increases exposure to the sun.
8. To arrange for the efficient layout of utilities and infrastructure as well as their extension to adjacent properties in a manner consistent with either adopted utility plans or sound engineering practices.
9. To arrange lots and roads to create reasonably buildable lots and acceptable driveway grades.
10. To encourage the arrangement of increased densities and smaller lots in proximity to needed services and schools as well as transportation corridors so as to reduce vehicle miles traveled and to encourage alternate modes of travel.
11. To encourage design experimentation and creativity.
12. To arrange for the mitigation of impacts generated by new development. These impacts include increased automobile, foot, and bicycle traffic. These impacts are to be mitigated at the developer's cost, by the provision of streets, sidewalks, bicycle and foot paths, and traffic control devices within, contiguous to, and nearby the development site. Similarly, increased demand on local infrastructure such as water lines, sanitary sewer lines, and storm drainage and detention facilities, should

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**85.200 APPROVAL CRITERIA**

...

J. Supplemental provisions.

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2. Willamette and Tualatin Greenways. ~~The approval authority may require the dedication to the City or setting aside of greenways which will be open or accessible to the public. Except for trails or paths, such greenways will usually be left in a natural condition without improvements. Refer to Chapter 28 CDC for further information on t~~**The Willamette and Tualatin River Greenways shall be protected as required by Chapter 28, Willamette and Tualatin River Protection.**

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6. Underground utilities. All utilities, such as electrical, telephone, and television cable, that may at times be above ground or overhead shall be buried underground in the case of new development. The exception would be in those cases where the area is substantially built out and

adjacent properties have above-ground utilities and where the development site's frontage is under 200 feet and the site is less than one acre. High voltage transmission lines, as classified by Portland General Electric or electric service provider, would also be exempted. Where adjacent future development is expected or imminent, conduits may be required at the direction of the City Engineer. All services shall be underground with the exception of standard above-grade equipment such as some meters, etc.

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**SECTION 9. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 10. Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION 11. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections **[9-12]**) need not be codified and the City Recorder or his/her designee is authorized to correct any cross-references and any typographical errors.

**SECTION 12. Effective Date.** This ordinance shall take effect on the 30<sup>th</sup> day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the \_\_\_\_ day of \_\_\_\_\_, 2016, and duly PASSED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
RUSSELL B. AXELROD, MAYOR

\_\_\_\_\_  
KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY



CITY OF  
**West Linn**

PLANNING COMMISSION  
Meeting Notes of July 6, 2016

Members present: Michael Babbitt, Charles Mathews, Joel Metlen, Chris Myers and Gary Walvatne  
Members absent: Jim Farrell  
Staff present: John Boyd, Planning Manager and Megan Thornton, Assistant City Attorney

(00:06:50)

**REGULAR MEETING - CALL TO ORDER**

(00:06:55)

**APPROVAL OF MEETING NOTES: MAY 18, JUNE 1, AND JUNE 15, 2016**

Commissioner Gary Walvatne **moved** to approve the meeting notes of May 18, 2016.

Commissioner Joel Metlen **seconded** the motion.

**Ayes: Commissioner Joel Metlen, Commissioner Charles Mathews, Commissioner Gary Walvatne, Commissioner Chris Myers and Chair Michael Babbitt**

**Nays: None**

**Abstentions: None**

**The motion passed 5-0-0**

Commissioner Gary Walvatne **moved** to approve the meeting notes of June 1, 2016.

Commissioner Joel Metlen **seconded** the motion.

**Ayes: Commissioner Joel Metlen, Commissioner Charles Mathews, Commissioner Gary Walvatne, Commissioner Chris Myers and Chair Michael Babbitt**

**Nays: None**

**Abstentions: None**

**The motion passed 5-0-0**

Commissioner Chris Myers **moved** to approve the meeting notes of June 15, 2016.

Commissioner Joel Metlen **seconded** the motion.

**Ayes: Commissioner Joel Metlen, Commissioner Charles Mathews, Commissioner Gary Walvatne, Commissioner Chris Myers and Chair Michael Babbitt**

**Nays: None**

**Abstentions: None**

**The motion passed 5-0-0**

(00:09:20)

**PUBLIC COMMENT RELATED TO LAND USE ITEMS NOT ON THE AGENDA**

None.

(00:09:30)

**PUBLIC HEARING – CONTINUED FROM JUNE 15, 2016: MISCELLANEOUS COMMUNITY DEVELOPMENT CODE AMENDMENTS, CDC-16-01**

Mr. Boyd reminded the commissioners they are in the deliberation stage of the process. Chair Babbitt provided some history of the PUD process. After discussing a few remaining concerns, the commissioners were ready to make a recommendation.

Commissioner Gary Walvatne **moved** to recommend approval of Ordinance 1647 with one change. For Council to take no action on the PUD section and instead request Council take off the table the draft PUD code and return it to the planning commission for review and recommendations.

Commissioner Joel Metlen **seconded** the motion.

**Ayes: Commissioner Joel Metlen, Commissioner Charles Mathews, Commissioner Gary Walvatne, Commissioner Chris Myers and Chair Michael Babbitt**

**Nays: None**

**Abstentions: None**

**The motion passed 5-0-0**

**(01:02:19)**

**ITEMS OF INTEREST FROM THE PLANNING COMMISSION**

None.

**(01:02:23)**

**ITEMS OF INTEREST FROM STAFF**

Mr. Boyd noted that advertising for the planning commission vacancy has begun, and that the commissioners have a joint work session and training with city council on July 18. Training opportunities are being looked into for the commissioners.

**(01:09:34)**

**ADJOURNMENT**

There being no further business, Chair Babbitt adjourned the meeting.



PLANNING COMMISSION

Meeting Notes of June 15, 2016

Members present: Jim Farrell, Jesse Knight, Charles Mathews, Joel Metlen, and Chris Myers  
Members absent: Michael Babbitt and Gary Walvatne  
Staff present: John Boyd, Planning Manager and Megan Thornton, Assistant City Attorney

**PREHEARING MEETING**

Vice Chair Knight called the work session to order in the Rosemont Room at City Hall. There was discussion of continuing the hearing again until Chair Babbitt and Commissioner Walvatne are present.

**REGULAR MEETING - CALL TO ORDER**

Not on video.

(00:04:37)

**APPROVAL OF MEETING NOTES: APRIL 20, AND MAY 4, 2016**

Commissioner Chris Myers **moved** to approve the meeting notes from April 20 and May 4, 2016.

Commissioner Jim Farrell **seconded** the motion.

**Ayes: Commissioner Joel Metlen, Commissioner Charles Mathews, Commissioner Jim Farrell, Commissioner Chris Myers and Vice Chair Jesse Knight**

**Nays: None**

**Abstentions: None**

**The motion passed 5-0-0**

(00:06:03)

**PUBLIC COMMENT RELATED TO LAND USE ITEMS NOT ON THE AGENDA**

Scott Warner spoke.

(00:00:00)

**PUBLIC HEARING CONTINUED– MISCELLANEOUS COMMUNITY DEVELOPMENT CODE AMENDMENTS, CDC-16-01**

Vice Chair Knight reminded everyone of the Planning Commission’s role in the legislative process. Before continuing with the hearing, Vice Chair Knight polled the commissioners on whether to move forward with deliberations and make a decision or continue the meeting until July 6, 2016, when the other commissioners will be in attendance. It was agreed to continue the public hearing.

Commissioner Charles Mathews **moved** to continue the deliberations and vote on CDC-16-01 to July 6, 2016, at 6:00 p.m.

Commissioner Joel Metlen **seconded** the motion.

**Ayes: Commissioner Joel Metlen, Commissioner Charles Mathews, Commissioner Jim Farrell, Commissioner Chris Myers and Vice Chair Jesse Knight**

**Nays: None**

**Abstentions: None**

**The motion passed 5-0-0**

(00:16:52)

**ITEMS OF INTEREST FROM THE PLANNING COMMISSION**

Vice Chair Knight asked a general ex parte question of Ms. Thornton.

(00:20:15)

**ITEMS OF INTEREST FROM STAFF**

Mr. Boyd provided an overview of upcoming meetings.

(00:20:54)

**ADJOURNMENT**

There being no further business, Vice Chair Knight adjourned the meeting.

## Memorandum

Date: May 20, 2016

To: Planning Commission

From: John Boyd, Interim Community Development Director

Subject: Code Maintenance Project: (CDC 16-01 ) June 1, 2016 Hearing – Staff Report

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### **Purpose**

Staff is seeking a recommendation from the Planning Commission regarding the attached June 1, 2016 Hearing Staff Report for “CDC 16-01 – Maintenance amendments to the Community Development Code”. This staff report supports four of the five proposed amendments to various chapters of the Community Development Code (CDC). It recommends that the Water Resource Area Protection proposed exemption be removed. The purpose of the proposed amendments is to modify the CDC to address:

- CDC definitions,
- Office Business Center zoning, including use permitted under prescribed conditions to clarify that multiple family as a mixed use must have commercial development that utilizes the entire first floor,
- Planned Unit Development requirements, including a new three acre minimum standard,
- Water Resource Area Protection, referencing the METRO Urban Growth Management Functional Plan and considering new exempt uses, and
- Removing requirements for easements and dedications in Water Resource Areas, Greenways, and tree protection areas.

This project is a City Council goal listed for completion within this year.

### **Background**

The City Council adopted on February 8, 2016, the City Council Goals including “Address Community Development Code and Comprehensive Plan Changes.”

Beginning in March 2, 2016, and continuing over the spring, the Planning Commission and Staff have discussed potential changes to the Community Development Code. The project was discussed with the Planning Commission at two meetings and is scheduled for discussion at a public hearing:

- A workshop on May 4, 2016,
- A staff update on May 18, 2016, and
- A public hearing on June 1, 2016.

The project was also introduced and discussed at a joint workshop with the City Council, Planning Commission and Commission for Citizen Involvement on March 4, 2016, along with general discussion at numerous other regularly scheduled City meetings of the City Council. All of the above actions are in addition to the required public hearing notification processes and procedures that will be undertaken with the upcoming hearings before the Planning Commission (June 1<sup>st</sup>) and City Council (July 11<sup>th</sup>).

## **Public Comments**

At the time this Staff Report was prepared, seven written responses containing no comments but requesting additional information were submitted. Another response was a letter received from Jennifer Donnelly, Regional Representative DLCD with concerns regarding impacts on the Willamette Greenway, METRO Title 13 program and needed housing. The eight responses are attached to this staff report.

## **Discussion**

Generally, these maintenance amendments address five areas: remove the definition of conservation easement and modify the definition of dedication, clarify the mixed use zoning requirement to require commercial uses that utilize the entire first floor, require a minimum lot size for planned unit development, to add an additional exemption for the WRA, and removing conservation easement requirements for water resource areas. The proposed amendment packet is attached to this staff report and is summarized as follows.

The maintenance packet contains needed amendments for:

- 1. CDC definitions,**
- 2. Office Business Center zoning, including use permitted under prescribed conditions to clarify that multiple family as a mixed use must have commercial development that utilizes the entire first floor,**
- 3. Planned Unit Development applicability and a new three-acre minimum standard,**
- 4. Water Resource Area Protection, referencing the METRO Urban Growth Management Functional Plan and considering new exempted uses, and**
- 5. Removing requirements for easements and dedications in Water Resource Areas, in Greenways, and in tree protection areas.**

## **Recommendation**

Staff recommends that the Planning Commission

- consider the proposed CDC amendments,
- proposes the removal of the new Water Resource Area Protection exempted uses,
- if warranted, to revise the remaining amendments, and
- recommend approval of the modified draft ordinance to the City Council.

Attachments:

Public Comments

Draft Ordinance No. 1647 (as noticed)

2003 Excerpt of CDC (Title page, development definition and Chapter 32)

**ADDENDUM**  
**PLANNING COMMISSION STAFF REPORT**  
**For the public hearing dated June 1, 2016**

**STAFF EVALUATION OF THE PROPOSAL'S COMPLIANCE**  
**WITH APPLICABLE CRITERIA**

CDC Section 98.100 lists the factors to be addressed in the staff report for legislative proposals. The applicable factors along with staff's response are as follows:

- 1. *The Statewide Planning Goals and rules adopted under ORS Chapter 197 and other applicable state statutes.***

**Staff Response:** Staff reviewed the Statewide Planning Goals and found that the following goals are applicable. Staff is not aware of any other state regulations that apply to the proposed amendments that are not reflected in the METRO and City plans and regulations addressed in this Addendum.

Goal 1: Citizen Involvement: *"To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process".*

**Staff Response:** The City has a citizen involvement program which has been acknowledged and adopted by the State. None of the proposed amendments directly impact the Citizen involvement program. However, a "Measure 56" notice was mailed to all property owners in the city to make them aware of the proposed amendments and support opportunities for involvement. This legislative update process to review the packet of proposed amendments will require two public hearings (one before the Planning Commission on June 1<sup>st</sup> and one before City Council on July 11<sup>th</sup>) pursuant to CDC Chapter 98.

Goal 2, Land Use Planning: *"To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions." Guidelines for implementing Goal 2 call for collection of factual information pertaining to ordinances implementing land use plans and consideration of alternative solutions.*

*All land-use plans and implementation ordinances shall be adopted by the governing body after public hearing and shall be reviewed and, as needed, revised on a periodic cycle to take into account changing public policies and circumstances, in accord with a schedule set forth in the Plan. Opportunities shall be provided for review and comment by citizens and affected governmental units during preparation, review and revision of plans and implementation ordinances.*

**Staff Response:** The Public Hearing Draft contains the proposed amendments. The process of review in a public hearing process may require consideration of alternative solutions for dealing with the issues are proposed. Any modifications to the proposals by the Planning Commission will be provided to the City Council for consideration.

The City Council has adopted Council Goals for routine maintenance of the CDC. The intent of this update as stated is to complete an update to the CDC. This action meets the intent of Goal 2.

The City of West Linn has an acknowledged Comprehensive Plan and enabling ordinances. The substance of the Plan and enabling ordinances are not changed by these proposed amendments. They are simply changes in Council direction that set a minimum lot size for a planned unit development, modify requirements for exemptions, remove requirements for dedication and easements, and clarify requirements for commercial uses on the first floor of a mixed use development. The compliance with statewide planning goals and the acknowledgement status of our Comprehensive Plan and enabling ordinances should remain unaffected.

**2. *Any federal or state statutes or rules found to be applicable;***

**Staff Response:** Staff is not aware of any applicable state or federal regulations that are impacted by the proposed draft ordinance. The acknowledged and implemented METRO Code, City of West Linn Comprehensive Plan or codes are not substantially changed by the proposed amendments addressed in this Addendum.

**3. *METRO plans and rules found to be applicable***

**Staff Response:** The City of West Linn has an acknowledged Comprehensive Plan and enabling ordinances. The City is considering two changes that are not considered to impact METRO's Regional Functional Management Plan - Title 3 Section 6 "Water Quality, Flood Management and Fish and Wildlife Conservation or Title 13 Section 4 "Nature in Neighborhoods". The removal of a requirement for dedication or easements is not a requirement from METRO and is not considered inconsistent with the applicable METRO plans.

**4. *Applicable Comprehensive Plan provisions;***

Goal 1 sub-goals:

4. *Provide clear, simple, user-friendly information about how the planning process works and how citizens can be involved in land use and other City policy decisions.*

*Policy*

5. *Communicate with citizens through a variety of print and broadcast media early in and throughout the decision-making process.*

**Staff response:** The proposed amendment process was communicated on the City's website, in a newspaper of local circulation and via an extensive Measure 56 notice process. These actions communicate with citizens through a variety of print and broadcast media throughout the decision making process.

Goal 2 Land Use Planning  
Policies

...

2. *Allow clustering of residential development on land with significant environmental constraints only if:*
  - a. *Such clustering can be demonstrated to protect environmental resources, not only on the affected parcel, but on surrounding parcels; and,*
  - b. *Such clustering is found to be compatible with and complementary to existing neighborhoods in the vicinity of the parcel to be developed.*

3. *Develop incentives to encourage superior design, preserve environmentally sensitive open space, and include recreational amenities.*

4. *Require open space to be provided in planned unit developments to allow for shared active and passive recreational opportunities and meeting areas for future residents.*

...

6. *Review current development code standards for subdivisions and create regulations that preserve environmentally sensitive open space, require recreational amenities, and promote design excellence.*

**Staff response:**

The proposed changes to the Planned Unit Development Section add a requirement for a minimum of a three acres lot size. No changes to the Planned Unit Development criteria are altered. As part of future considerations, the Council may be considering proposals for cluster development, zero lot line development and cottage housing.

The proposed changes to remove required easements or dedications do not remove existing environmental protections. Trees are protected in the city's Tree Code, wetlands and riverine areas are protected in the City's Water Resource area, habitat areas are protected using the City's Habitat Conservation Area protection and these resources are protected under Goal 5. The Willamette River Greenway has separate protection under Goal 15. The City's choice to no longer require easements or dedication is a policy choice that does not change the protection regulations required to meet Goal 5 and Goal 15.

The proposed changes to add an exemption will not impact Goal 5 regulatory setting. The City had existing protection in place prior to the adoption of METRO regulations in 2005. The exemption under consideration applies to dwellings approved prior to September 22, 2005 and constructed prior to January 1, 2006. The exemption would allow any use that did not require a permit. The City's Community Development Code including Chapter 32 for Natural Drainageway Protection required a permit for most uses. The 2003 CDC Chapter 32 section contained only limited exceptions.

<b>Item from 2003</b>	<b>2003 Chapter 32</b>	<b>2016 Chapter 32</b>
Definition of Development	As written	Unchanged from 2003
<b><i>Exceptions/Exemptions</i></b>		
"...restore existing utility service or to reopen a public thoroughfare..."	32.020.D.1	32.040.B.1 or 32.040.C.2
"...routine maintenance of any existing drainageway..."	32.020.D.2	32.040.A
"... maintenance of legally established structures or utilities and roads..."	32.020.D.3	32.040.B.1 (utilities, roads) 32.040.C.2 (non-conforming structures)
"...repair or replacement of structures, utilities or roads damaged by fire or other cause..."	32.020.D.4	32.040.B.1 or 32.040.C.2.b (roads or utilities) 32.040.C.3 (non-conforming burned down or otherwise damaged)
"Interior remodel of structure as long as the use is not changed."	32.020.D.4	32.040.C.2.a (interior remodel of non-conforming structures)
<b><i>Exemption allowed in 2016 - new construction allowed in WRA</i></b>		
<b>Items from 2016</b>	<b>2003 Chapter 32</b>	<b>2016 Chapter 32</b>
...eaves, balconies, decks, pop outs and similar additions may cantilever over outer boundary...	N/A	32.040.D.1
"...accessory structure, less than 120 sq.ft. and under 10 ft. tall within 50 feet of water resource or 10 feet beyond top of slope..."	N/A	32.040.D.2 Note limited to one accessory structure and does allow structures prior to 1/1/06 to remain
"...Water permeable patio or deck within 30 inches of original grade and construction of approved water permeable footpaths..."	N/A	32.040.D.3
"Fences may be built to within 50 feet of the water resource or behind the top of slope (ravine), whichever is greater."	N/A	32.040.D.4
"...establishment of unpaved trails..."	N/A	32.040.B.2 In generalized corridors in a parks or trails master plan provided criteria (a – c) are met. This includes foot bridges in (sub b.)

The items identified as exceptions in the 2003 version of Chapter 32 are retained in the 2016 version of Chapter 32. The 2016 Chapter 32 version has all exemptions (stated as exceptions in 2003) but is more flexible than the 2003 version. There are clarified uses (such as installation of utilities in existing rights of way) and new construction allowed as listed exemptions. The METRO exemption returns us to 2005-2006; this version of the code is more restrictive and inflexible. It seems prudent

to retain the 2016 version of the CDC and to remove the proposed code changes to Chapter 32 from this draft Ordinance. Based upon the approval of the modified draft ordinance, the changes should not have an impact on Goal 5. Due to the protections of the Willamette River Greenway, they would not be applicable in the Willamette River Greenway area.

**Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources**

**Goals**

1. Encourage and assist in the preservation of permanent natural areas for fish and wildlife habitat in suitable, scientific/ecological areas.
2. Protect sensitive environmental features such as steep slopes, wetlands, and riparian lands, including their contributory watersheds.

...

**Recommended Action Measures**

...

12. Utilize a professional to provide technical expertise and review statutory regulations with recommendations to the City Council on the various policy options related to providing additional protections for threatened wildlife areas identified on the City's Wildlife Habitat Areas Map. Recommendations shall address protection/preservation options and shall include, at a minimum, the following protections options: (1) relying on existing regulations, (2) implementing full protections, or (3) providing additional limited protections.

**Staff response:**

The proposed changes to the Planned Unit Development Chapter require a minimum of a three acres to qualify for the use of this development option. No changes to the Planned Unit Development criteria are altered. The change to the PUD Chapter will not impact the Comprehensive Plan's Goal 5 protection.

The proposed changes to remove required easements or dedications do not remove existing environmental protections. Trees are protected in the city's Tree Code, wetlands and riverine areas are protected in the City's Water Resource area, habitat area are protected using the City's Habitat Conservation Area protection and these resources are protected under Goal 5. The City's choice to no longer require easements or dedication is a policy choice that does not change the protection regulations required to meet Goal 5.

The proposed changes to provide an exemption should not impact Goal 5 regulatory setting. The City had existing protection in place prior to the adoption of METRO regulations in 2005. The exemption under consideration applies to dwellings approved prior to September 22, 2005 and constructed prior to January 1, 2006. The exemption would allow any use that did not require a permit. The City's Community Development Code including Chapter 32 for Natural Drainageway Protection required a permit for most uses. Thus, the 2003 Chapter 32 contained only limited exceptions. Staff is recommending that the proposed changes to CDC Chapter 32 be removed from consideration. Based upon the approval of the modified draft ordinance, the proposed changes should not have an impact on Goal 5.

**Goal 10 Housing**

**Goals, Policies, And Recommended Action Measures Policies**

...

3. Encourage the development of affordable housing for West Linn residents of all income levels

...

**RECOMMENDED ACTION MEASURES**

1. Evaluate how West Linn can meet its share of the regional need for affordable housing.
2. Identify constitutionally justifiable measures to encourage provision of affordable housing.
3. Determine costs of providing or subsidizing affordable housing. Consider citizen referendum on whether the City should be subsidizing “affordable housing.” A referendum could be a non-binding advisory vote.

**Staff response:**

The proposed changes to the Planned Unit Development Chapter require a minimum of a three acres to qualify for the use of this development option. No changes to the Planned Unit Development criteria are altered. The change to the PUD Chapter will not impact the Comprehensive Plan’s Goal 10 protection. The intent of the three acre minimum is to provide time for the City to reconsider a review of Planned Unit Development, zero lot line, cluster development and infill options.

***Goal 15 Willamette River Greenway***

***Goals, Policies, And Recommended Action Measures Policies***

1. *Maintain a Willamette River Greenway zone as defined by the LCDC adopted Willamette River Greenway boundary to include the water area and islands, and adhere to the setback line designated within the zone.*
2. *Inform the public through appropriate means that the state of Oregon and the City of West Linn Greenway program does not authorize the public use of private property within the Greenway boundary.*

...

**Staff response:**

The proposed changes to the Planned Unit Development Section require a minimum of a three acres to qualify for the use of this development option. No changes to the Planned Unit Development criteria are altered.

The proposed changes to remove required easements or dedications do not remove existing environmental protections. The Willamette River Greenway has separate protection under Goal 15. This goal is implemented locally in the CDC Chapter 28 Willamette and Tualatin River Protection. Chapter 28 provides protection via:

- 28.040.C for Scenic easements and their maintenance;
- 28.040.BB Construction of a public pathway by dedication or easement accepted by the City as an Exemption/Uses permitted outright;
- 28.110.G.1 provides incentives for the dedication or establishment of access easements to allow public access to and along the river (for the listed zones).

The City’s choice to no longer require conservations easements or dedication is a policy choice that does not change the protection regulations in Chapter 28 that are required to meet Goal 15.

Due to the protections of the Willamette Greenway, the proposed exemptions to the Water Resource Area (Chapter 32) would not be applicable in the Willamette Greenway area.

## **5. Portions of implementing ordinances relevant to the proposal**

### **Staff response:**

The proposed changes related to setting a minimum lot size for planned unit development, for removal of requirements for dedication and easements in specified sections, and clarifying commercial uses on the first floor of a mixed use do not require additional clarification. The changes are provided on the draft ordinance attached to this report.

When considering the METRO exemption for Water Resource areas, the 2005 to 2006 period must be considered. The 2003 Community Development Code was the version in effect for Chapter 32 and that Chapter was unchanged until 2006. The 2003 CDC Chapter 32 was used to consider the METRO exemption.

This code defined "Development" as "Any man-made change defined as the construction of buildings or other structures, mining, dredging, paving, filling, grading or site clearing and grubbing in amounts greater than 10 cubic yards on any lot or excavation."

Chapter 32 Natural Drainageway Protection is applied to areas as containing "wetland or creeks plus an adjacent property of different ownership that includes the transition area or setback area." A similar area is protected by the current (2016) Water Resource Area. The purpose statement notes the area includes "maintain[ing] drainageways as natural resource and habitat areas;" A similar area protected by the Habitat Conservation Area overlay.

"This zone applies to all zones and uses within city limits. No person unless excepted by Section 32.020(C) may clear, fill, build in, or alter existing natural drainage ways without having obtained a permit from the Planning Commission."

This requirement had five exemptions in 2003: 1) restoration of utility service, 2) maintenance of existing drainage ways, 3) repair and maintenance of legally established structures, 4) repair or replacement of structures, utilities or roads damaged by fire or other cause or 5) interior remodeling of a structure.

Clearly, most uses required a permit in 2003. Therefore, the METRO exemption has limited applicability. The Planning Commission should consider removing the proposed exemptions from the draft ordinance and recognize the exemptions provided in the 2016 Ordinance provide more options and flexibility for citizens than those exceptions that meet the requirements of the METRO exemption.

Excerpts of the 2003 Community Development Code including the definition of development and the entirety of 2003 Chapter 32 Natural Drainage way Protection are attached to this staff report.

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**COMMUNITY DEVELOPMENT CODE  
CITY OF WEST LINN, OREGON**

**ADOPTED DECEMBER 14, 1983  
ORDINANCE NO. 1129**

AMFEMnA/TEMTS-

<b>MAY 9, 1984</b>	<b>(ORD. 1137)</b>
<b>NOVEMBER 14, 1984</b>	<b>(ORD. 1150)</b>
<b>JANUARY 23, 1985</b>	<b>(ORD. 1152)</b>
<b>JUNE 11, 1986</b>	<b>(ORD. 1180)</b>
<b>FEBRUARY 11, 1987</b>	<b>(ORD. 1192)</b>
<b>MAY 27, 1987</b>	<b>(ORD. 1200)</b>
<b>JULY 27, 1987</b>	<b>(ORD. 1201)</b>
<b>SEPTEMBER 9, 1987</b>	<b>(ORD. 1211)</b>
<b>FEBRUARY 8, 1988</b>	<b>(ORD. 1226)</b>
<b>OCTOBER 13, 1988</b>	<b>(ORD. 1242)</b>
<b>FEBRUARY 8, 1989</b>	<b>(ORDS. 1248/1249)</b>
<b>APRIL 13, 1989</b>	<b>(ORD. 1252)</b>
<b>MAY 25, 1989</b>	<b>(ORD. 1255)</b>
<b>JANUARY 1, 1990</b>	<b>(ORD. 1276)</b>
<b>JUNE 1990</b>	<b>(ORD. 1287)</b>
<b>NOVEMBER 1990</b>	<b>(ORD. 1291)</b>
<b>APRIL 1991</b>	<b>(ORD. 1298)</b>
<b>NOVEMBER 1991</b>	<b>(ORD. 1308)</b>
<b>JANUARY 1992</b>	<b>(ORD. 1314)</b>
<b>JUNE 1992</b>	<b>(ORD. 1321)</b>
<b>FEBRUARY 1993</b>	<b>(ORD. 1339)</b>
<b>JUNE 1993</b>	<b>(ORD. 1346)</b>
<b>NOVEMBER 1993</b>	<b>(ORD. 1350)</b>
<b>FEBRUARY 1994</b>	<b>(ORD. 1354)</b>
<b>MARCH 1994</b>	<b>(ORD. 1356)</b>
<b>DECEMBER 1994</b>	<b>(ORD. 1369)</b>
<b>FEBRUARY 1995</b>	<b>(ORD. 1370)</b>
<b>SEPTEMBER 1995</b>	<b>(ORDS. 1377/1378)</b>

**AMFNITIMEMTS (m\TT.)•**

<b>NOVEMBER 1995</b>	<b>(ORD. 1382)</b>
<b>FEBRUARY 1996</b>	<b>(ORD. 1385)</b>
<b>JULY 1996</b>	<b>(ORD. 1391)</b>
<b>AUGUST 1996</b>	<b>(ORDS. 1394/1396)</b>
<b>MAY 1997</b>	<b>(ORDS. 1401/1402/1403)</b>
<b>FEBRUARY 1998</b>	<b>(ORDS. 1408/1410)</b>
<b>JUNE 1998</b>	<b>(ORD. 1411)</b>
<b>NOVEMBER 1998</b>	<b>(ORD. 1425)</b>
<b>MAY 1999</b>	<b>(ORD. 1434)</b>
<b>OCTOBER 1999</b>	<b>(ORD. 1442)</b>
<b>OCTOBER 2000</b>	<b>(ORD. 1463)</b>
<b>OCTOBER 2001</b>	<b>(ORD. 1474)</b>
<b>MAY 2002</b>	<b>(ORD. 1484)</b>
<b>DECEMBER 2003</b>	<b>(ORDS. 1499/1500)</b>

**The preparation of this Code was financed in part through a Comprehensive Planning Grant from the State of Oregon, Department of Land Conservation and Development.**

**Cul-de-sac.** A street or streets having one end open to traffic and the other end or ends terminating in a vehicle turnaround. (ORD. 1463)

**Cut or excavation.** Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, or relocated. (ORD. 1463)

**Dedication.** The legal conveyance of land, typically from a private property owner to the City. Dedication is typically required of developers where it can be shown that additional land for right-of-way is needed for adjacent street improvements or public facilities such as foot paths or utility corridors. Dedication is also appropriate for the purpose of protecting a resource area such as a wetland or forested area, from development or disturbance. Dedication is preferred over establishing a conservation easement since the original property owner no longer has any right to the property and is, therefore, less likely to impact or disturb a resource area. (ORD. 1463)

**Design flood elevation.** The elevation of the 100-year storm as defined in FEMA Flood Insurance Studies or, in areas without FEMA floodplains, the elevation of the 25-year storm, or the edge of mapped flood prone soils or similar methodologies. (ORD. 1463)

**Developer.** The owner of land proposed to be developed or partitioned, or representative. Consent shall be required from the legal owner of the premises for any proposed development or division of land as provided in this ordinance. (ORD. 1175)

**Development.** Any man-made change defined as the construction of buildings or other structures, mining, dredging, paving, filling, grading or site clearing, and grubbing in amounts greater than 10 cubic yards on any lot or excavation. (ORD. 1463)

**Director.** The Planning Director of West Linn, Oregon, or authorized agent.

**Division of land.** The process of dividing a tract, lot or parcel into two or more lots or parcels by subdividing or partitioning. A division of land shall be deemed to have occurred at the time when the final approved plat is recorded with the County Recorder's office. (ORD. 1463)

## **32.000 NATURAL DRAINAGEWAY PROTECTION**

### **32.010 PURPOSE AND INTENT**

The purpose and intent of this chapter is to maintain existing natural drainageways, as designated by the Storm Drainage Master Plan, as open channels to preserve existing vegetation; to maintain drainageways as natural resource and habitat areas; to maintain the slope stability of the drainageway while at the same time, acknowledging that drainageways represent important utility corridors and, as such, may be required to accommodate utilities, reasonable enhancement and maintenance of the storm drainageways, development of roads, and other improvements based upon the criteria of this chapter and Chapter 85. (ORD. 1401)

### **32.020 APPLICABILITY**

- A. For the purpose of this section, the subject property is defined as the land on which the natural drainageway and/or associated transition and setback area, is located. For example, the subject property may be defined as one property that contains a wetland or creek plus an adjacent property of different ownership that includes the transition area or setback area. (ORD. 1408)
- B. The provisions of this chapter apply to all zones and uses within the City limits. No person, unless excepted by Section 32.020(C), may clear, fill, build in, or alter existing natural drainageways without having obtained a permit from the Planning Commission. (ORD. 1474)
- C. The provisions of this chapter shall apply to development proposals that have natural drainageways, and/or associated transition and setback areas, within their project boundary. Therefore, the actual creek, open channel, or stream does not have to be on the subject property under review. These natural drainageways, for the purpose of this chapter, are identified by the Storm Drainage Master Plan (1996) maps as open channels. City Engineer shall conduct field assessment to verify if drainageway is an open channel or enclosed storm drain, and its exact location. This chapter shall not

apply to designated storm drains that appear in the Storm Drainage Master Plan. The provisions shall also not apply to small man-made open roadside drainage swales in residential areas such as those identified in the Willamette area along 13th and 14th Streets. (ORD. 1408)

- D. Exceptions. The following actions are excepted from the provisions of this chapter:
1. The action of any City officer or employee of any public utility to remove or alleviate from immediate danger to life or property, to restore existing utility service or to reopen a public thoroughfare to traffic.
  2. The routine maintenance of any existing drainageway such as removing dead or dying vegetation, trash, eroded material, etc.
  3. Routine repair and maintenance of legally established structures, utilities, and roads that do not alter the location or footprint of the structure, utility, or road.
  4. Repair or replacement of structures, utilities, or roads damaged by fire or other cause outside the control of the owner, provided that application for building permits are filed within one year of the damage or destruction and provided that the new structure, utility, or road is within the footprint of the damaged or destroyed structure, utility, or road.
  5. Interior remodeling of a structure so long as the use of the structure is not changed.

(ORD. 1463)

### **32.030 PERMIT REQUIRED**

No person shall be permitted to fill, strip, install pipe, undertake construction, or in any way alter an existing drainageway without first obtaining a permit to do so from the Planning Commission, paying the requisite fee, and otherwise, complying with all applicable provisions of this ordinance. (ORD. 1474)

32.040

#### THE APPLICATION

- A. An application for altering a natural drainageway shall be initiated by the property owner, or the owner's authorized agent, and shall be accompanied by the appropriate fee.
- B. A pre-application conference shall be a prerequisite to the filing of the application.
- C. The application shall include a map of the parcel indicating the nature of the proposed alteration and its relationship to property zones, structures, trees, and any other pertinent features of the parcel.
- D. The City Engineer may, at his discretion, require the map to be prepared by a registered land surveyor to insure accuracy. The site plan map shall be accompanied by a written narrative explaining the reason why the owner wishes to alter the natural drainageway.
- E. All proposed improvements to the drainageway channel or creek which might impact the storm load carrying ability of the drainageway shall be designed by a registered civil engineer.
- F. Applicant shall present evidence in the form of adopted utility master plans or transportation master plans, or findings from a licensed engineer to demonstrate that the development or improvements are consistent with accepted engineering practices. (ORD. 1401)

32.050

#### APPROVAL CRITERIA

The Planning Commission shall make a written finding with respect to the following criteria when approving, approving with conditions, or denying an application for altering a natural drainageway, or for development projects that have natural drainageways within their project boundaries. (ORD. 1474)

- 1. Proposed development submittals shall identify all natural drainageways on the project site. Drainageways that may flow intermittently and may be dry.. during the summer months, shall be so noted. The Storm Drainage Master Plan (1996) shall be used as the basis for determining existence of

drainageways. The exact location of drainageways identified in the Storm Drainage Master Plan, and drainageway classification (e.g., open channel vs. enclosed storm drains), may have to be verified in the field by the City Engineer.

2. Proposed developments shall be so designed as to maintain the existing natural drainageways and utilize them as the primary method of stormwater conveyance through the project site unless the Storm Drainage Master Plan (1996) calls for alternate configurations (culverts, piping, etc.). Proposed development shall, particularly in the case of subdivisions, facilitate reasonable access to the drainageway for maintenance purposes.
3. Development should be conducted in a manner that will minimize adverse impact on natural drainageways.
4. Natural drainageways and transition areas should be protected from development or encroachment by dedicating the land title deed to the City for public open space purposes if either: 1) a finding can be made that the dedication is roughly proportional to the impact of the development; or, 2) the applicant chooses to dedicate these areas. Otherwise, these areas shall be preserved through a protective easement. Protective or conservation easements are not preferred because natural drainageways and transition areas protected by easements have shown to be harder to manage and, thus, more susceptible to disturbance and damage. Natural vegetation, habitat areas, water quality, storm carrying capacity, hillside stability, typically suffer when these areas are privately held or protected only by easement. (ORD. 1442)

The protected area shall include the drainage channel, creek, or wetlands, and the transition zone. The transition zone shall extend a minimum of 30 feet from the edge of the creek, drainage channel, or wetland in those cases where the land sloping away does so at less than 10 percent. A 25-foot transition shall apply when the drainage channel is determined to be a man-made drainage ditch identified on the Storm Drainage Master Plan,

\$y:  
D'Aravio

10-25%  
50' or  
tapers off to less than 10%  
in a distance 30'  
TW: 30'  
SPE: determine 14' distance  
to 15' setback  
V: 10' setback  
Tapers off  
by 10'  
Run 30'  
then taper off  
SA 09

but not if it is a residential drainage swale as described in Section 32.020(C). When the slope is 10-25 percent, then the transition zone shall extend either: (a) 50 feet or, (b) to the point where the slope tapers off to less than 10 percent for more than 30 feet, whichever is less. If (b) applies, the transition shall be at a minimum of 30 feet.

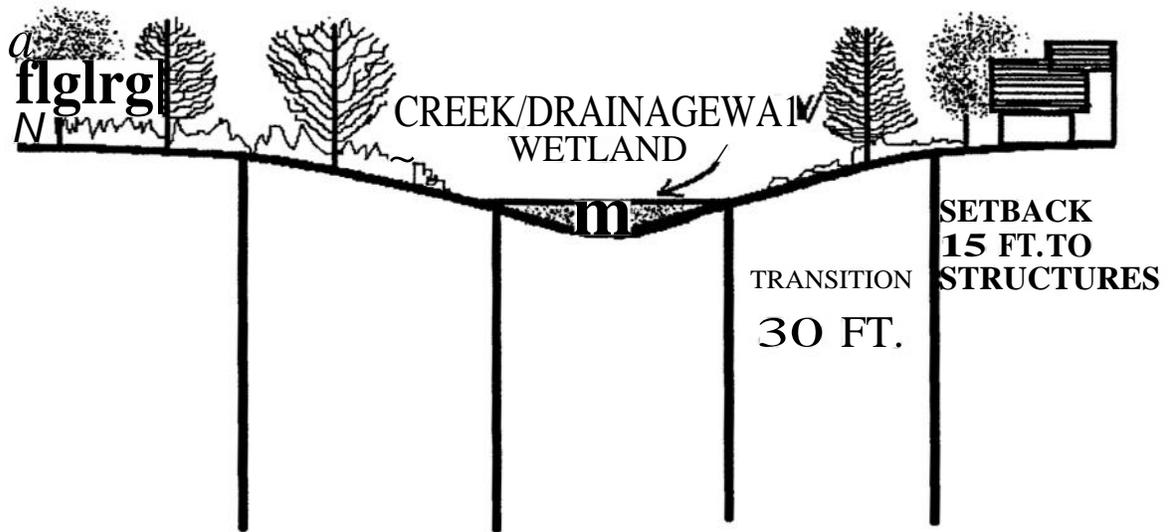
When the slope is over 25 percent and it is determined to be a ravine with clearly delineated edges, then the top of the ravine shall mark the transition area boundary. When the slope is over 25 percent and the drainageway boundary is ill-defined due to variations of grades, slumps, fill areas, etc., the transition boundary shall be either: (a) the point where the slope tapers off to less than 10 percent for more than 50 feet (the minimum transition shall be 30 feet, or (b) when the drainageway does not taper off, then the transition shall be 150 feet. The percentage of grade is determined by the average grade of the first 50 feet from the edge of the wetland or body of water. Alternately, the City Engineer may determine which type of drainageway category applies by site visit in those cases where there are significant variations in grade that defy classification using the above methodology. Distances are measured in plan view (i.e., as shown on the site plan).

Vacant legal residential lots of record established prior to this ordinance which would be restricted from development by these provisions shall be allowed to construct one dwelling unit consistent with the underlying zoning, but must still keep the greatest reasonable distance from the creek or wetland with a minimum distance of 30 feet. Non-residential lots of record may be built upon only after successful application for a Class II variance with minimum 30-foot setback. (ORD. 1463)

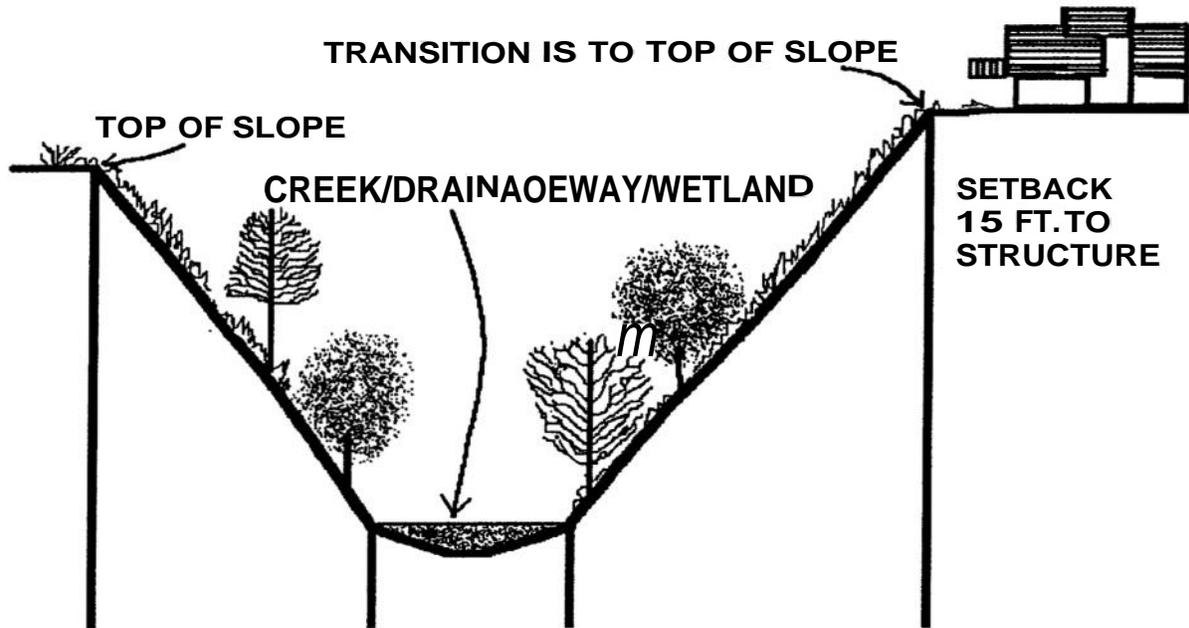
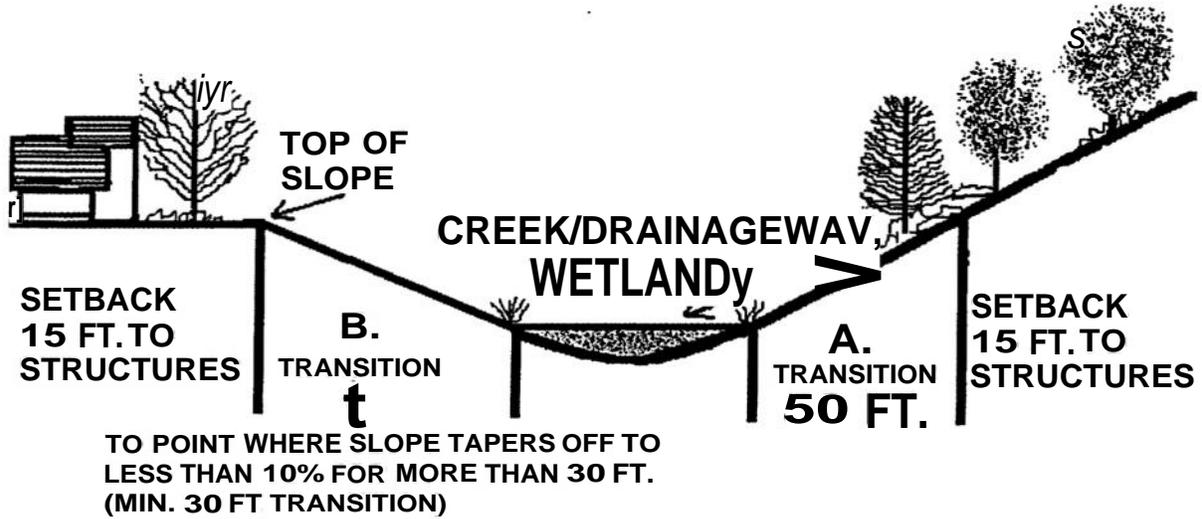
Roads, driveways, utilities, or passive use recreation facilities may be built in the transition zone and across drainageways when no other practical alternative exists. For utility purposes, the determination of what is practical shall be based upon prudent engineering practices so long as it has no

significant negative impact on transition zone and wetlands. Construction shall minimize impacts. Construction to the minimum dimensional standards for roads is encouraged. Variances to reduce road widths are encouraged as a way to minimize impacts. Full mitigation and revegetation is required. Seasonal or intermittent streams are those streams, or portions of streams, that flow only in direct response to precipitation. They receive little or no water from springs. They carry no measurable flow for three months of the year. The transition area from the edge of these seasonal streams shall be 15 feet.

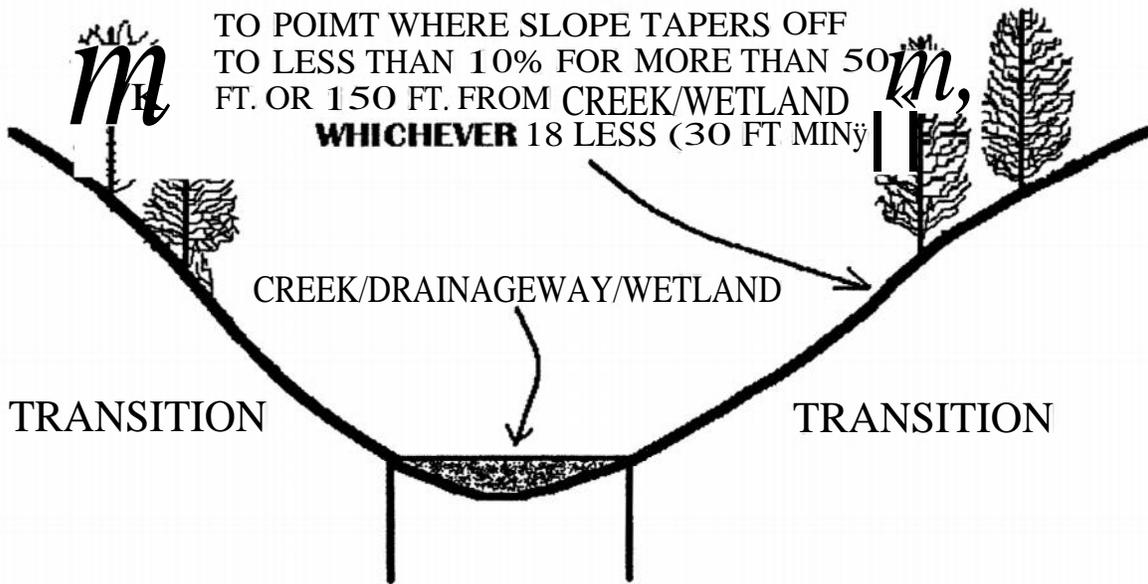
## SLOPE IS UNDER 10%



**DRAINAGEWAY SLOPE IS 10-25%  
TRANSITION A OR B (SEE BELOW)  
SHALL APPLY, WHICHEVER IS LESS**



**WELL DEFINED RAVINE. SLOPES OVER 25%. DISTINCT EDGE**



**ILL-DEFINED DRAINAGEWAY WITH NO DISTINCT EDGE  
SLOPE IS OVER 25%**

5. The transition area (an area that is to be protected) shall be identified with City-approved permanent markers at all boundary direction changes and at 30- to 50-foot intervals which clearly delineate the extent of the protected area.
6. Consideration should be given to development of passive recreational opportunities on major drainageways.
7. Sound engineering principles in regards to downstream impacts, soil stabilization, erosion control, and adequacy of improvements to accommodate the intended drainage through the drainage basin are used. Storm drainage should not be diverted from its natural water course. Interbasin transfers of storm drainage shall not be permitted.
8. A construction fence and/or appropriate erosion control measures, as necessary, shall be established through all phases of construction along the perimeter of the transition area as described in Chapter 30 of this Code.

9. Vegetative improvements to areas within the natural drainageway area may be required if the site is found to be in an unhealthy or disturbed state. "Unhealthy or disturbed" includes those sites that are heavily populated by exotic or non-indigenous species, areas overgrown with invasive plants, or areas that lack the proper balance of canopy trees, understory plants, and soil stabilizing groundcovers. Disturbed areas also include areas which have fill, debris, garbage, old tires, etc., which must be removed. "Vegetative improvements" consist of submitting a plan which calls for removal of non-indigenous, exotic, or invasive species which will be replaced by plant species in a manner to be approved by the City Parks Director and consistent with the purposes of Chapter 30. Once approved, the applicant is responsible for implementing the plan prior to final inspection or the City's acceptance of dedication of the property.
10. Setback area: development projects shall keep all foundation walls and footings at least 15 feet from the edge of the transition area. Decks and structural elements may not be built on or cantilever over the setback area. Roof overhangs of up to three feet are permitted in the setback.  
(ORD. 1401)

**32.060 APPEAL**

Any decision by the Planning Commission on a natural drainageway application may be appealed to the City Council as described by Section 99.240(A).  
(ORD. 1474)

**32.070 PENALTIES**

Violation of any provision or requirement of this chapter or conditions of approval is a Class A infraction. Each day of violation constitutes a separate offense. In addition, the City retains the authority to require any natural drainageway, which has been altered illegally, to be re-established to its natural condition, including replanting trees, shrubs, etc. and reseeding open areas at the owner's expense. In

addition, the City Attorney may institute any necessary legal proceedings to enforce the provisions of this chapter, or cure any problems resulting from violations of this chapter.

(AMENDED PER ORD. 1474; 9/01)

p:\devrv\v\cdc\32

ORDINANCE NO. 1647

AN ORDINANCE RELATING TO [INSERT ORDINANCE DESCRIPTION HERE - SHOULD BE CAPITALIZED, CALIBRI 12, BOLD]

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~bold lined through~~ and additions are bold underlined.

**WHEREAS**, Chapter II, Section 4, of the West Linn City Charter provides:

Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

**WHEREAS**, xxx;

**WHEREAS**, xxx; and

**WHEREAS**, xxx

**NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:**

**SECTION 1.**

**2.030 SPECIFIC WORDS AND TERMS**

...

~~**Conservation easement.** An easement established by the property owner that limits, but does not prohibit, use of the area within the conservation easement. For example, limitations may include tree protection, or protection of a wetland or creek. The property owner owns the land within easement boundaries.~~

...

**Dedication.** The legal conveyance of land, typically from a private property owner to the City. Dedication is typically required of developers where it can be shown that additional land for right of way is needed for adjacent street improvements or public facilities such as foot paths or utility corridors. Dedication is also appropriate for the purpose of protecting a resource area, such as a wetland or forested area, from development or disturbance. Dedication is preferred over establishing a conservation easement since the original property owner no longer has any right to the property and is, therefore, less likely to impact or disturb a resource area.

**SECTION 2.**

**21.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions:

1. Animal sales and services: veterinary (small animals) as prescribed with no exterior runs or storage.
2. Multiple-family units **only above the first floor of the structure**, as a mixed use in conjunction with commercial development **that utilizes the entire first floor, only above the first floor of the structure**.
3. Signs, subject to the provisions of Chapter 52 CDC.
4. Temporary use, subject to the provisions of Chapter 35 CDC.
5. Home occupation, subject to provisions of Chapter 37 CDC.
6. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.
7. Eating and drinking establishments, subject to the following limitations:
  - a. The use shall constitute no more than 20 percent of the total floor area of the building in which it is located.
  - b. The use shall not include any drive-through facilities.

### SECTION 3.

#### 24.060 AREA OF APPLICATION

A.—Planned unit developments (PUDs) **can be utilized** ~~may be established~~ in all residential, commercial, and industrial districts on lots or parcels of land ~~which are suitable for and of sufficient size~~ **that are a minimum of three acres in size.** ~~to be planned and developed in a manner consistent with the purposes of this section.~~

B.— ~~All qualifying non-residential, all mixed use developments, and all qualifying residential developments of five or more lots shall be developed as PUDs with the Hearings Officer as the decision-making body, while all qualifying residential developments of four or fewer lots shall be developed as a PUD with the Planning Director as the decision-making body, whenever one of the following qualifying criteria apply:~~

1.— ~~Any development site composed of more than 25 percent of Type I or Type II lands, as defined by CDC 24.060(C), shall be developed as a PUD.~~

2.— ~~More than 20 percent of the dwelling units are to be attached on common wall except in the R-3 and R-2.1 zones. A PUD is not required in R-3 and R-2.1 zones where common wall/multi-family projects are proposed. However, other criteria (such as density transfer, mixed uses, etc.) may trigger a PUD.~~

3.— ~~A large area is specifically identified by the Planning Director or Planning Commission as needing greater design flexibility, increased open space, or a wider variety of housing types.~~

## SECTION 4.

### **32.XXX METRO CODE CHAPTER 3.07 URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN - Exempt Uses and Conditioned Activities**

**Where construction of a residence was completed before January 1, 2006, the owners or residents shall not be restricted from engaging in any development that was allowed prior to September 22, 2005; unless such development required obtaining a land use decision, or a building, erosion control, or grading permit.**

## SECTION 5.

### 32.060 APPROVAL CRITERIA (STANDARD PROCESS)

No application for development on property containing a WRA shall be approved unless the approval authority finds that the proposed development is consistent with the following approval criteria, or can satisfy the criteria by conditions of approval:

#### A. WRA protection/minimizing impacts.

1. Development shall be conducted in a manner that will avoid or, if avoidance is not possible, minimize adverse impact on WRAs.
2. Mitigation and re-vegetation of disturbed WRAs shall be completed per CDC 32.090 and 32.100 respectively.

#### B. Storm water and storm water facilities.

1. Proposed developments shall be designed to maintain the existing WRAs and utilize them as the primary method of storm water conveyance through the project site unless:
  - a. The surface water management plan calls for alternate configurations (culverts, piping, etc.); or
  - b. Under CDC 32.070, the applicant demonstrates that the relocation of the water resource will not adversely impact the function of the WRA including, but not limited to, circumstances where the WRA is poorly defined or not clearly channelized.

Re-vegetation, enhancement and/or mitigation of the re-aligned water resource shall be required as applicable.

2. Public and private storm water detention, storm water treatment facilities and storm water outfall or energy dissipaters (e.g., rip rap) may encroach into the WRA if:
  - a. Accepted engineering practice requires it;

- b. Encroachment on significant trees shall be avoided when possible, and any tree loss shall be consistent with the City's Tree Technical Manual and mitigated per CDC 32.090;
- c. There shall be no direct outfall into the water resource, and any resulting outfall shall not have an erosive effect on the WRA or diminish the stability of slopes; and
- d. There are no reasonable alternatives available.

A geotechnical report may be required to make the determination regarding slope stability.

- 3. Roadside storm water conveyance swales and ditches may be extended within rights-of-way located in a WRA. When possible, they shall be located along the side of the road furthest from the water resource. If the conveyance facility must be located along the side of the road closest to the water resource, it shall be located as close to the road/sidewalk as possible and include habitat friendly design features (treatment train, rain gardens, etc.).
- 4. Storm water detention and/or treatment facilities in the WRA shall be designed without permanent perimeter fencing and shall be landscaped with native vegetation.
- 5. Access to public storm water detention and/or treatment facilities shall be provided for maintenance purposes. Maintenance driveways shall be constructed to minimum width and use water permeable paving materials. Significant trees, including roots, shall not be disturbed to the degree possible. The encroachment and any tree loss shall be mitigated per CDC 32.090. There shall also be no adverse impacts upon the hydrologic conditions of the site.

~~C. Dedications and easements. The City shall request dedications of the WRA to the City when acquisition of the WRA by dedication or easement would serve a public purpose. When such a dedication or easement is mutually agreed upon, the applicant shall provide the documentation for the dedication or easement. Nothing in this section shall prohibit the City from condemning property if:~~

- ~~1. The property is necessary to serve an important public purpose; and~~
  - ~~2. Alternative means of obtaining the property are unsuccessful.~~
- ...

## SECTION 6.

### 55.100 APPROVAL STANDARDS – CLASS II DESIGN REVIEW

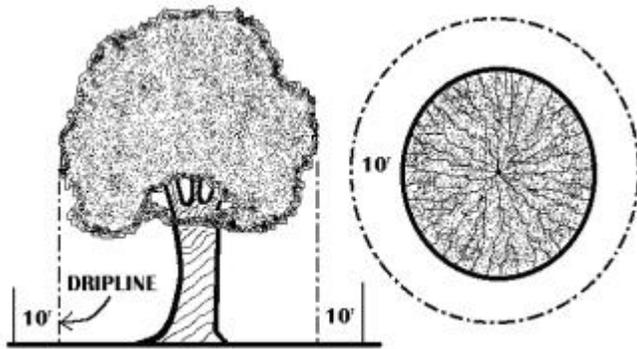
The approval authority shall make findings with respect to the following criteria when approving, approving with conditions, or denying a Class II design review application.

A. The provisions of the following chapters shall be met:

1. Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.
2. Chapter 38 CDC, Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.
3. Chapter 40 CDC, Building Height Limitations, Exceptions.
4. Chapter 42 CDC, Clear Vision Areas.
5. Chapter 44 CDC, Fences.
6. Chapter 46 CDC, Off-Street Parking, Loading and Reservoir Areas.
7. Chapter 48 CDC, Access, Egress and Circulation.
8. Chapter 52 CDC, Signs.
9. Chapter 54 CDC, Landscaping.

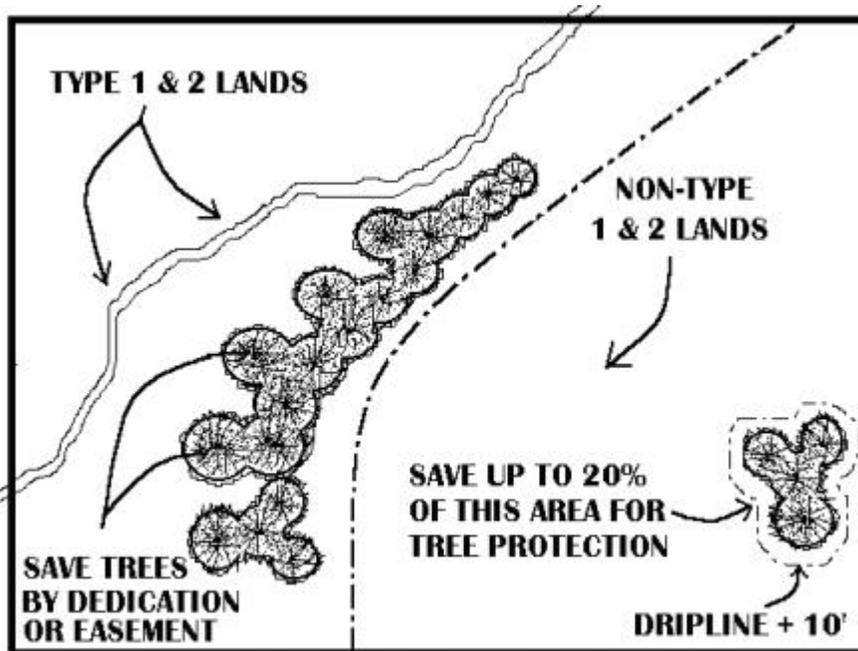
B. Relationship to the natural and physical environment.

1. The buildings and other site elements shall be designed and located so that all heritage trees, as defined in the municipal code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may be removed at his/her direction.
2. All heritage trees, as defined in the municipal code, all trees and clusters of trees (“cluster” is defined as three or more trees with overlapping driplines; however, native oaks need not have an overlapping dripline) that are considered significant by the City Arborist, either individually or in consultation with certified arborists or similarly qualified professionals, based on accepted arboricultural standards including consideration of their size, type, location, health, long term survivability, and/or numbers, shall be protected pursuant to the criteria of subsections (B)(2)(a) through (f) of this section. In cases where there is a difference of opinion on the significance of a tree or tree cluster, the City Arborist’s findings shall prevail. It is important to acknowledge that all trees are not significant and, further, that this code section will not necessarily protect all trees deemed significant.
  - a. Non-residential and residential projects on Type I and II lands shall protect all heritage trees and all significant trees and tree clusters by **limiting development in the Protected Area. The Protected Area includes the protected tree, its dripline, and an additional ten (10) feet beyond the dripline, as depicted in the figure below.** ~~either the dedication of these areas or establishing tree conservation easements.~~ Development of Type I and II lands shall require the careful layout of streets, driveways, building pads, lots, and utilities to avoid heritage trees and significant trees and tree clusters, and other natural resources pursuant to this code. The method for delineating the protected trees or tree clusters (“dripline + 10 feet”) is explained in subsection (B)(2)(b) of this section. Exemptions of subsections (B)(2)(c), (e), and (f) of this section shall apply.



**PROTECTED AREA = DRIPLINE + 10 FEET**

b. Non-residential and residential projects on non-Type I and II lands shall set aside up to 20 percent of the ~~area~~ **Protected Areas to protect** for significant trees and tree clusters that are determined to be significant, plus any heritage trees. Therefore, in the event that the City Arborist determines that a significant tree cluster exists at a development site, then up to 20 percent of the non-Type I and II lands shall be devoted to the protection of those trees, ~~either by dedication or easement~~ **by limiting development in the Protected Areas**. The exact percentage is determined by establishing the driplines of the trees or tree clusters that are to be protected. In order to protect the roots which typically extend further, an additional 10-foot measurement beyond the dripline shall be added. The square footage of the area inside this “dripline plus 10 feet” measurement shall be the basis for calculating the percentage (see figure below). The City Arborist will identify which tree(s) are to be protected. Development of non-Type I and II lands shall also require the careful layout of streets, driveways, building pads, lots, and utilities to avoid significant trees, tree clusters, heritage trees, and other natural resources pursuant to this code. Exemptions of subsections (B)(2)(c), (e), and (f) of this section shall apply. Please note that in the event that more than 20 percent of the non-Type I and II lands comprise significant trees or tree clusters, the developer shall not be required to save the excess trees, but is encouraged to do so.



### METHOD OF PERCENTAGE CALCULATION

E.G., DRIPLINE + 10 FT. AREA = 2,500 SQ. FT. OR 18% OF TOTAL NON-TYPE I AND II LAND DENSITY CALCULATIONS FOR THIS PARCEL WILL BE BASED ON REMAINING NET SQ. FOOTAGE OF SITE (EXCLUDING THE 2,500 SQ. FT.)

## SECTION 7.

### 85.010 PURPOSE

A. The purpose of the land division provisions of this code is to implement the Comprehensive Plan; to provide rules and standards governing the approval of plats of subdivisions (four lots or more) and partitions (three lots or fewer); to help direct the development pattern; to lessen congestion in the streets; to increase street safety; to efficiently provide water, sewage, and storm drainage service; and to conserve energy resources.

B. The purpose is further defined as follows:

1. To improve our sense of neighborhood and community and increase opportunities for socialization.
2. To comply with the State's Transportation Planning Rule (TPR), which seeks to encourage alternate forms of transportation and reduce reliance upon the private automobile and vehicle miles traveled by increasing accessibility within and between subdivisions and neighborhoods. This may be accomplished by designing an easily understood, interconnected pattern of streets, bicycle and foot paths, and accommodation of transit facilities. Cul-de-sacs are to be discouraged unless site conditions dictate otherwise.
3. To reduce pedestrian/vehicle conflicts and create a safe and attractive environment for pedestrians and bicyclists.

ORD #

4. To protect natural resource areas such as drainageways, Willamette and Tualatin River greenways, creeks, habitat areas, and wooded areas as required by other provisions of this Code ~~by dedication of those lands to the City, by protective easement, or by the sensitive layout of streets and graded areas so as to minimize their disturbance.~~
5. To protect the natural features and topography by minimizing grading and site disturbance and by requiring proper erosion control techniques.
6. To arrange the lots and streets so as to minimize nuisance conditions such as glare, noise, and vibration.
7. To maximize passive solar heating benefits by orienting the streets on an east-to-west axis which increases exposure to the sun.
8. To arrange for the efficient layout of utilities and infrastructure as well as their extension to adjacent properties in a manner consistent with either adopted utility plans or sound engineering practices.
9. To arrange lots and roads to create reasonably buildable lots and acceptable driveway grades.
10. To encourage the arrangement of increased densities and smaller lots in proximity to needed services and schools as well as transportation corridors so as to reduce vehicle miles traveled and to encourage alternate modes of travel.
11. To encourage design experimentation and creativity.
12. To arrange for the mitigation of impacts generated by new development. These impacts include increased automobile, foot, and bicycle traffic. These impacts are to be mitigated at the developer's cost, by the provision of streets, sidewalks, bicycle and foot paths, and traffic control devices within, contiguous to, and nearby the development site. Similarly, increased demand on local infrastructure such as water lines, sanitary sewer lines, and storm drainage and detention facilities, should be offset by improving existing facilities or providing new ones. ~~Protection of natural resource areas (wetlands, drainageways, greenways, etc.) from impacts associated with increased development shall be provided by dedication or easement as appropriate.~~

## SECTION 8.

85.200

...

### J. Supplemental provisions.

1. Wetland and natural drainageways. Wetlands and natural drainageways shall be protected as required by Chapter 32 CDC, Water Resource Area Protection. Utilities may be routed through the protected corridor as a last resort, but impact mitigation is required.
2. Willamette and Tualatin Greenways. ~~The approval authority may require the dedication to the City or setting aside of greenways which will be open or accessible to the public. Except for trails or paths, such greenways will usually be left in a natural~~

~~condition without improvements. Refer to Chapter 28 CDC for further information on~~  
The Willamette and Tualatin River Greenways **shall be protected as required by Chapter 28, Willamette and Tualatin River Protection.**

3. Street trees. Street trees are required as identified in the appropriate section of the municipal code and Chapter 54 CDC.
4. Lighting. To reduce ambient light and glare, high or low pressure sodium light bulbs shall be required for all subdivision street or alley lights. The light shall be shielded so that the light is directed downwards rather than omni-directional.
5. Dedications and exactions. The City may require an applicant to dedicate land and/or construct a public improvement that provides a benefit to property or persons outside the property that is the subject of the application when the exaction is roughly proportional. No exaction shall be imposed unless supported by a determination that the exaction is roughly proportional to the impact of development.
6. Underground utilities. All utilities, such as electrical, telephone, and television cable, that may at times be above ground or overhead shall be buried underground in the case of new development. The exception would be in those cases where the area is substantially built out and adjacent properties have above-ground utilities and where the development site's frontage is under 200 feet and the site is less than one acre. High voltage transmission lines, as classified by Portland General Electric or electric service provider, would also be exempted. Where adjacent future development is expected or imminent, conduits may be required at the direction of the City Engineer. All services shall be underground with the exception of standard above-grade equipment such as some meters, etc.
7. Density requirement. Density shall occur at 70 percent or more of the maximum density allowed by the underlying zoning. These provisions would not apply when density is transferred from Type I and II lands as defined in CDC 02.030. Development of Type I or II lands are exempt from these provisions. Land divisions of three lots or less would also be exempt.
8. Mix requirement. The "mix" rule means that developers shall have no more than 15 percent of the R-2.1 and R-3 development as single-family residential. The intent is that the majority of the site shall be developed as medium high density multi-family housing.
9. Heritage trees/significant tree and tree cluster protection. All heritage trees, as defined in the Municipal Code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may be removed at his/her direction. All non-heritage trees and clusters of trees (three or more trees with overlapping dripline; however, native oaks need not have an overlapping dripline) that are considered significant by virtue of their size, type, location, health, or numbers shall be saved pursuant to CDC 55.100(B)(2).

Trees are defined per the municipal code as having a trunk six inches in diameter or 19 inches in circumference at a point five feet above the mean ground level at the base of the trunk.

**SECTION X. Repeal.** West Linn Municipal Code Chapter/Section X.XX [Chapter/Section name] is hereby repealed in its entirety. Any municipal code provisions in conflict with the provisions contained herein are also hereby repealed.

**SECTION X. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION X. Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION X. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections [X-Y]) need not be codified and the City Recorder or his/her designee is authorized to correct any cross-references and any typographical errors.

**SECTION X. Effective Date.** This ordinance shall take effect on the 30<sup>th</sup> day after its passage. **OR** This ordinance shall take effect on Month day, year. **OR** Conditions in the City of West Linn are such that this Ordinance is necessary for the immediate preservation of the public health, peace, welfare and safety. An emergency is hereby declared to exist because **[statement of explanation regarding the basis for the declaration of emergency]**; therefore, this Ordinance shall be in full force and effect after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the \_\_\_\_ day of \_\_\_\_\_, 2016, and duly PASSED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2016.

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RUSSELL B. AXELROD, MAYOR

---

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

---

CITY ATTORNEY

**Spir, Peter**

---

**From:** Lori Wente [REDACTED]  
**Sent:** Tuesday, May 17, 2016 1:56 PM  
**To:** Spir, Peter  
**Subject:** Proposed ordinance changes

Mr. Spir,

Will the proposed changes in conservation easements affect the setbacks and protections on Mr. Parkers property on Old River Rd.? Or are they simply cleaning up the legal terminology, and current tree and water resource protections will not change?

Neighbors are concerned that the changes will allow him to add homesites by building closer to the now protected areas. I would appreciate any clarifications you can give me.

Thank you,  
Lori Wente

Sent from my iPad

**Boyd, John**

---

**From:** [REDACTED]  
**Sent:** Wednesday, May 18, 2016 1:48 PM  
**To:** Boyd, John  
**Subject:** public hearing notice, CDC-16-01

Mr. Boyd,

We received a notice about a public hearing on June 1st for the adoption of Ordinance Number 1647. I've read the notice and looked it up on the city website, but can't quite figure out if it addresses specific projects or is simply a list of proposed amendments. Can you clarify this for me? Thanks.

Jeff Kraus

**Boyd, John**

---

**From:** Jill Sherman [mailto:jill.sherman@cityofbozeman.gov]  
**Sent:** Saturday, May 14, 2016 9:06 PM  
**To:** Boyd, John  
**Subject:** Ordinance #1647

Hello,

I received a letter today, notifying me of possible impacts on my property from this ordinance. I am leaving town for a month and won't be at the meeting.

Could you please explain the possible impact for my property at [REDACTED]? I went online but nothing was very clear there.

Thanks for the help.

Jill Sherman

**Boyd, John**

---

**From:** Brigham Baker <brigham.baker@cityofportland.gov>  
**Sent:** Saturday, May 14, 2016 5:34 PM  
**To:** Boyd, John  
**Subject:** Swiftshore and Willamette Falls Drive Notice

John-

I received a letter in the mail titled Public Hearing CDC-16-01 and I was wondering what it meant? I live at 25140 Swiftshore Dr which is right on the corner of Will. Falls Drive and Swiftshore and I read all of the literature with it and it looks like something is going to happen with trees in the area; I assume the ones that area at the top of our property line bordering Will Falls Drive. If this is not, I have no idea what it means. I know you guys probably have a great plan in place I was just curious what it was. Thank you for your help and time. If it is easier, feel free to call me at 503-412-9413

**Boyd, John**

---

**From:** Lisa Clifton [REDACTED]  
**Sent:** Monday, May 16, 2016 8:56 PM  
**To:** Boyd, John  
**Subject:** Ordinance Number 1647

Hello John,

I just received the letter from the City of WL regarding Ordinance Number 1647. Can you please send me a direct link to the document/proposed changes to the CDC? I could not access it when I typed it in.

Thanks!  
Lisa Clifton  
3765 Ridgewood Way

**Boyd, John**

---

**From:** Beverly J Kile [REDACTED]  
**Sent:** Tuesday, May 17, 2016 12:31 PM  
**To:** Boyd, John  
**Subject:** [SPAM] Notice-Public Hearing CDC-16-01

**Importance:** Low

I received a notice in the mail concerning Public Hearing CDC-16-01 which indicates that the adoption of Ordinance 1647 may affect the permissible uses of my property.

I've reviewed the information available on the website, but simply don't have days available to determine how or if this proposal actually affects me or my residential property located at 2979 Mark Lane.

Please enlighten me.

Thank you.

Beverly J Kile  
TCL Technologies, LLC  
[beverly@tcltechnologies.com](mailto:beverly@tcltechnologies.com)  
503.656.2609



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## Boyd, John

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**From:** Garth Engle [REDACTED]  
**Sent:** Tuesday, May 17, 2016 10:56 AM  
**To:** Boyd, John  
**Cc:** Mollie Plocher  
**Subject:** inquiry re: Ordinance Number 1647

Good morning John,

We received a public hearing notice re: Ordinance Number 1647. We own one of the older houses on Willamette Falls Drive (address below) and currently have our business here. I went online and read the information pertaining to the new amendment, but I still need clarification.

I am hoping you could specifically help me understand how the changes might affect our current situation. This might be specific to the proposed West Linn revitalization plans, and may provide guidance only if we were to make future changes to our property? I am hoping you can shed some light specific to our building.

If it would be more helpful to discuss in person, I can come into your offices. Thanks for your help.

Garth Engle

Garth Engle | Hemisphere | (503) 709-6131 mobile

4835 Willamette Falls Drive  
West Linn, OR 97068  
(503) 709-5633 office  
[www.2hemi.com](http://www.2hemi.com)



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

Community Services Division

Portland Metro Regional Solutions Center

1600 SW Fourth Ave., Suite 109

Portland, Oregon 97201

503.725..2183

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)

17 May 2016

John Boyd, Interim Community Development Director  
City of West Linn  
22500 Salamo Road  
West Linn, OR 97068



RE: West Linn PAPA 002-16; local file # CDC 16-01

sent via email

Dear Mr. Boyd,

We received the City's proposal to amend the Community Development Code that removes easements and dedication requirements for the Water Resource Areas, Greenways and tree protection areas, adds an exemption to the WRA zone as well as limiting Planned Unit Developments to 3 acres or more. The department has some concerns regarding the proposed changes and its effect on Goal 15: the Willamette Greenway. The department has not received information from Metro about how this proposal might affect the implementation of the city's Title 13 program. Since Title 13 serves as the standard for meeting Statewide Land Use Goal 5 for riparian areas and wildlife habitat, an amendment that conflicts with Title 13 may be inconsistent with Goal 5.

It appears that the City is eliminating all conservation easements and references to them by striking them out in the definitions sections and all further references to them in the development code. The City may want to reconsider eliminating the option of easements as a tool for protecting resource areas. In some cases easements provide a means for land owners to meet local protection standards in a way that works best for them. At a minimum the department recommends leaving the definition for instances where under a previous development review a conservation easement was part of the permit conditions.

By removing a protection tool, conservation easements, for access to the Willamette Greenway the City will need to make Goal 15 findings addressing 660-015-0005(F)(3) a-f showing how they meet goal 15 with this amendment.

Regarding the proposal to eliminate planned unit development options for parcels less than 3 acres in size, the department would note that, given the small size of most remaining parcels within the Metro Urban Growth Boundary that are within the city already or expected to annex in the future, this proposal would effectively eliminate any flexibility and creativity that would allow the city to provide for its share of "needed housing" as defined in ORS 197.303. The department would recommend, as an alternative to PUDs for smaller low-density zoned parcels, that the city incorporate an alternative method of allowing lot size flexibility in

situations involving parcels less than 3 acres. For example, the city's R-10 zoning district could have an allowed density of one unit per 10,000 square feet but a minimum lot size of 7,000 square feet, so that a three lot minor partition on a 30,000 square foot lot could contain two 7,000 square foot lots and one 16,000 square foot lot, or two 9,000 square foot lots and one 12,000 square foot lot. This would allow some flexibility for creation of land divisions that better suit unique characteristics of a parcel and its surroundings. For higher density parcels (duplex densities and higher) the city should, as an alternative to PUDs, allow more flexibility in terms of minimum lot size and building type.

Please include this letter in the record. Let me know if you have any questions.

Regards,

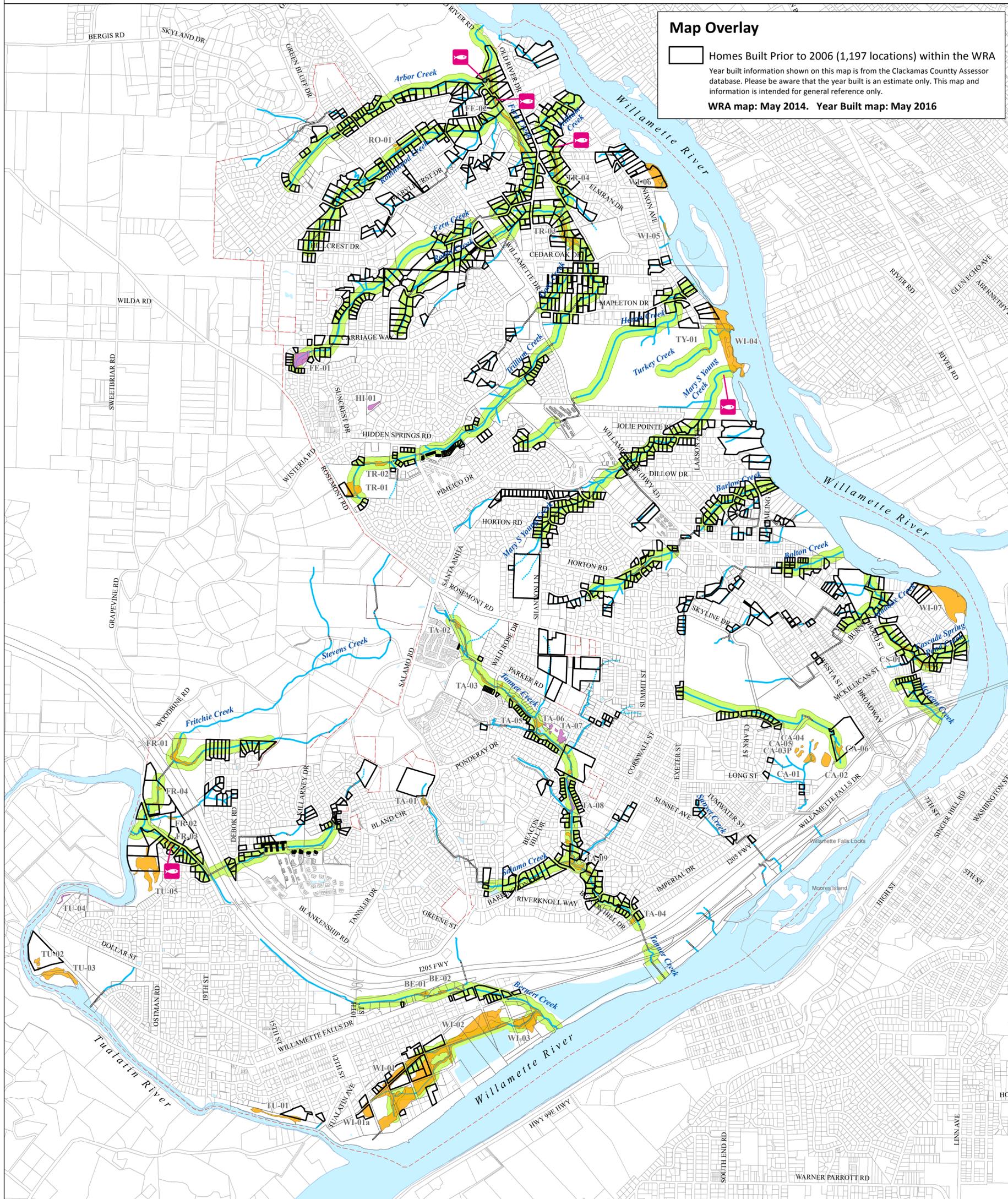
Jennifer Donnelly  
Regional Representative

cc: Amanda Punton, DLCD  
Gordon Howard, DLCD  
Tim O'Brien, Metro



# Water Resource Area (WRA) Map

## HIGHLIGHTING HOMES BUILT PRIOR TO 2006



### Map Overlay

- Homes Built Prior to 2006 (1,197 locations) within the WRA
- Year built information shown on this map is from the Clackamas County Assessor database. Please be aware that the year built is an estimate only. This map and information is intended for general reference only.
- WRA map: May 2014. Year Built map: May 2016

Map Developed by West Linn Planning Department and GIS

#### MAP OVERLAYS:

\*Streams, Pipe Segments, Other Open Ditches, and Significant Riparian Corridors  
Map Source: "Significant Riparian Corridors West Linn Goal 5 Inventory, January 2007"  
Map publication date: 1/2/2007.  
Modified Streams and added Ephemeral Streams, April 2013, July 2013, September 2013

\*\*Locally Significant Wetlands and Other Wetlands  
Map Source: "Local Wetland Inventory, West Linn Goal 5 Inventory, January 2005"  
Map publication date: 6/5/2006.

\*\*\*Taxlot Base Map provided by Clackamas County GIS, 2013, updated with 2015 taxlots May 2016

#### WETLANDS/GOAL 5 DISCLAIMER (DSL STANDARD):

Information shown on this map is for planning purposes only and wetland information is subject to change. There may be unmapped wetlands subject to regulation and all wetland boundary mapping is approximate. In all cases, actual field conditions determine wetland boundaries. You are advised to contact the Oregon Division of State Lands and the U.S. Army Corps of Engineers with any regulatory questions.

This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

#### Goal 5 Significant Riparian Corridors\*

- Significant Riparian Corridors
- Streams
- Ephemeral Stream
- Piped Segments

Upper Stream Reach of Fish Inventory 2003/2004 Survey

#### Goal 5 Wetland Inventory\*\*

- Locally Significant Wetlands, DSL 2005
- Other Wetlands, DSL 2005
- TA-05 Specific Wetland Identifier

- Rivers & Ponds
- West Linn City Limits
- Taxlot Base Map\*\*\*

0 0.25 0.5 1 Miles

Map Created: 5/31/2016

LOC: G:\PROJECTS\GIS\GOALS\_2006\SIGRIPARIAN\SIGRIPARIAN\_WETLANDS\_201406V6\_FINAL\_OVERLAYWITHHOMESBUILT PRIORTO2006.MXD | KAHA  
ORIGINAL MAP WAS CREATED 6/6/2014 (VERSION 6), YEAR BUILT OVERLAY MAY 2016

West Linn  
**GIS**  
GEOGRAPHIC INFORMATION SYSTEMS

Over the past 10 years as both a private citizen and as a planning commissioner, I have come across several areas in our code that are problematic. Either through oversight or unintended consequences, these areas have left the city and its citizens vulnerable

Each of the following changes are minor in implementation, but far reaching in their impact. In this document, I would like to describe each of the changes, discuss why they are important and look at the pros and cons. Quick action on these can prevent significant problems.

I want to discuss three areas. Trail Design Review, Water Resource Areas, and PUD's

### **Trail Design Review**

Attempts to build trails over the past 10 years have resulted in strong push back from the community. The first Master trails Plan hearing had 200 people testifying against vs. 1 in favor. NA meeting that discuss trails have had a similar turnout. While the idea of trails is usually supported, the people affected by the trail have strong concerns about security, loss of property values, maintenance, and loss of privacy.

Our current code allows the city to plan and construct trails through private property with only a Design Review by the Planning Director. The decision can be called up by the City Council, but current code would limit that review to "on the record" which could only address errors in the decision process.

A major trail could affect dozens of homes without requiring a public hearing. Requiring a Design Review II would place the hearing in front of the Planning Commission where at least citizens could plead their case in a public forum.

To accomplish this, modify 56.020.C.2 to

*New trails, if over 200 feet long (see CDC 56.025) that do not cross private property*

and add 56.020.D.6 as

*New trails that cross private property.*

### **Water Resource Area Exactions**

Chapter 32 establishes protection around streams and riparian areas. The chapter addresses our requirement to respond to Metro's Title 13 this addresses State Goal 5. The purpose of the goal and title is to protect our stream and natural areas. Chapter 28 has a similar purpose but only applies to the Willamette and Tualatin rivers.

WRA code balances property rights against the rights of the city to protect resources that belong to everyone. The "police power of the state" allows the city to set speed limits, create building codes and in general, impose restrictions to protect the public. In this case, the quality of the water flowing through private property is being protected by establishing setbacks to buffer riparian areas.

Our code does an excellent job of describing these setbacks, as well as providing a method for more sophisticated decisions based on the work of riparian experts.

Chapter 32, however goes further than it should, when it implies that the land protected by the setbacks should be placed in a conservation easement or deeded to the city. The stream is already protected, there is no justification for further confiscation.

Section 32.060.C of the code states that the city will request dedication of WRA's when it would serve a public purpose. It further implies that property might be condemned if it is not dedicated. This section is included solely to intimidate the applicant into giving away title to the land in order to get the permit. The city's right to condemn for public purpose exists independent of this code. There is no need to mention it here.

If people can be intimidated into offering the land, the city does not have to show nexus and proportionality as they would with an exaction.

Section 32.060.C should be removed in its entirety.

### **Water Resource Area Compliance with Metro**

One purpose of Chapter 32 is to provide compliance with State Goal 5. Goal 5 is designed to protect natural resources, scenic and historic areas, and open spaces. Because we are part of Metro, we also must comply with Metro's requirements in this area. They are called Metro Title 13 — Nature in Neighborhoods. The state has detailed requirements for how cities conduct the creation of their plans for compliance. These are spelled out in Oregon Administrative Rules. We are concerned with OAR 660 Division 23.

A great deal of thought went into this process. When a city wants to pass code that protects the environment they are required to inventory all the potential land that will be protected and then do an Economic, Social, Environmental and Energy (ESEE) study. This study informs the next step which is a decision to Allow, Limit, or Prohibit (ALP) uses.

The ALP decision then becomes the basis for writing the code.

West Linn did not do an ESEE or ALP. Fortunately, the OAR provides a "safe harbor" clause OAR-023-090(8).

While we are technically in compliance, the extensive work done by Metro on their ESEE and ALP is worth a second look. Metro even created a model ordinance that cities in Metro could use that would put them into compliance. The essential difference between chapter 32 and the Metro model ordinance comes down to one element of the ALP.

*Metro modifies its limit decision slightly to the extent that it affects owners of existing, developed residential properties. The modification allows such owners to undertake in the future any activity that they can currently undertake without having to obtain a land use approval or a building, grading, or tree removal permit from their city or county. The environmental consequences of imposing new limits on such activities would be to prevent certain activities that might harm the ecological functions being provided by such*

*areas. However, the most harm done to habitat is due to significant property development, and the properties affected by this decision are already developed with residences. Thus, the environmental benefit of imposing new limits on such activities is relatively small. On the other hand, imposing any new limits on activities that homeowners can undertake today without having to seek permission could result in thousands of homeowners being confused regarding the new rules, resenting the new limits on their liberty to use their properties, and would thereby undermine Metro's efforts to encourage behavior that would benefit habitat areas in ways that regulations cannot. The Council therefore finds that imposing new limits on activities that homeowners can undertake today without having to obtain a permit would have significant detrimental social consequences that are not outweighed by the beneficial environmental consequences of imposing such new limits.*

Metro created a model ordinance for cities within Metro. The ALP was expressed in the model ordinance as:

*Where construction of a residence was completed before January 1, 2006, the owners or residents shall not be restricted from engaging in any development that was allowed prior to September 22, 2005; unless such development required obtaining a land use decision, or a building, erosion control, or grading permit.*

This was included in our code when it passed the planning commission in 2013, but deleted by staff at the city council hearing. The city council did not request its deletion.

If we agree with the Metro ALP rationale, we should add the above language under Exemptions as 32.040.G

## **PUDs**

Planned Urban developments (PUD) provide an alternative that can allow a developer to use more creativity in designing a large development. Often, the creation of common amenities can create the same quality of life that we attempt to protect in our density requirements. In exchange for relaxed setbacks a higher density, the developer may create a park or open space that can be used by all citizens.

Unfortunately, the code can be used as a loophole to circumvent the CDC on smaller lots. By declaring a small parcel a PUD, the developer may qualify for higher density without providing a truly useable open space. The result of this is that the city gets infill development that does not fit the neighborhood and inherits the liability to maintain a useless parcel of isolated land.

One solution to this is to establish a minimum size for a PUD. many cities set the minimum at 3 acres.

To accomplish this, add 24.100.B.5. *The minimum overall size of a PUD must be 3 acres.*

For those who would like to read more about what I have discussed, I suggest the following links:

For OAR rules

[http://arcweb.sos.state.or.us/pages/rules/oars\\_600/oar\\_660/660\\_023.html](http://arcweb.sos.state.or.us/pages/rules/oars_600/oar_660/660_023.html)

For the Metro Model Ordinance

[http://www.oregonmetro.gov/sites/default/files/title\\_13\\_model\\_ordinance.pdf](http://www.oregonmetro.gov/sites/default/files/title_13_model_ordinance.pdf)

For the entire ESEE and ALP that Metro developed

[https://westlinnoregon.gov/sites/default/files/fileattachments/planning/page/7321/metro\\_council\\_-\\_metro\\_legislation\\_-\\_orditthe\\_urban\\_growth\\_management\\_functional\\_plan\\_relatig\\_to\\_nature\\_in\\_neighborhoods.pdf](https://westlinnoregon.gov/sites/default/files/fileattachments/planning/page/7321/metro_council_-_metro_legislation_-_orditthe_urban_growth_management_functional_plan_relatig_to_nature_in_neighborhoods.pdf)



## Agenda Report 2016-06-27-03 – Item 9c

Date: July 27, 2016

To: Russ Axelrod, Mayor  
Members, West Linn City Council

From: John N. Morgan, Community Development Department

Through: Eileen Stein, City Manager *ES*

Subject: The West Linn Economic Development Committee – Mission and Strategy

---

### **Purpose**

This report presents the Mission and Strategy development by the Economic Development Committee and for which the Committee seeks City Council approval.

### **Question(s) for Council:**

The Council is asked to adopt the resolution approving the Economic Development Committee Mission and Strategies document.

### **Public Hearing Required:**

No

### **Background & Discussion:**

Attached to this report is Resolution 2016–06, and its attachment the draft Economic Development Committee Mission and Strategies. This document was developed over two EDC meetings, unanimously approved, and forwarded to the Council for concurrence and adoption.

#### June 27, 2016 Council Discussion

The Council decided to continue this item to the July 11 business meeting to allow the Mayor to provide additional comments on the EDC Mission and Strategies document. The attached document includes revisions made by a subcommittee of the EDC intended to address the changes which the Mayor would like to see.

#### July 11, 2016 Council Discussion

In addition to the changes proposed, Mayor Axelrod proposed further revisions. In order to give the Council time to review these revisions, this item was carried over until the August 8<sup>th</sup> meeting.

### **Budget Impact:**

No direct budget impact.

### **Council Options:**

1. Adopt the resolution and attachment, including any revisions created by the Council.
2. Send the proposed documents back to the Economic Development Committee for more work if the Council finds the need for more study and revisions.
3. Vote to not adopt the resolution.

**Staff Recommendation:**

Staff recommends Council approval of the resolution.

**Potential Motion:**

I move for approval of Resolution 2016-06 as modified

**Attachments:**

1. Resolution 2016-06
2. Economic Development Committee Mission and Strategies document (with RA changes)

**RESOLUTION NO. 2016-06**

**A RESOLUTION APPROVING THE ECONOMIC DEVELOPMENT COMMITTEE'S  
MISSION AND STRATEGIES DOCUMENT**

**WHEREAS**, the economic health of West Linn can be enhanced and strengthened by pro-active actions by the City;

**WHEREAS**, Council has been served for several years by an Economic Development Committee (EDC);

**WHEREAS**, the EDC has been reformulated and needs Council direction on its goals and direction;

**WHEREAS**, the EDC has developed a draft Mission Statement and Economic Strategy to guide its work; and

**WHEREAS**, the EDC would like City Council to approve the submitted Mission Statement and Economic Strategy.

**NOW, THEREFORE, THE CITY OF WEST LINN RESOLVES AS FOLLOWS:**

**Section 1.** The City of West Linn approves the attached Mission Statement and Economic Strategy submitted by the Economic Development Committee.

This resolution was PASSED and ADOPTED this 8th day of August 2016, and takes effect upon passage.

---

RUSSELL B. AXELROD, MAYOR

ATTEST:

---

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

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CITY ATTORNEY

# West Linn Economic Development Committee – Committee Mission and Strategy

## Mission

To advise and assist the West Linn City Council in improving the economic development of West Linn.

## Goals

- Focus on projects that can add revenue to the City
- Preserve the lifestyle valued by the citizens.
- Careful listening and analysis thus leveraging revenue to enhance the quality of life in West Linn.

## Why?

- West Linn is a predominantly residential community located within the larger metropolitan area.
- It is an enclave of residential neighborhoods with limited commercial activity and very limited industrial use.
- It has relatively little employment reflecting people choosing to live in West Linn for its high quality of life while finding employment in other communities.
- As is typical for bedroom communities, a high percentage of shopping takes place outside of the city at locations near employment.
- A relatively small percentage of total assessed property value is found in high density housing, commercial, and industrial areas leaving the tax burden predominately on the owners of single-family homes.

## The Potential

West Linn has potential for economic growth, as discussed in the City's Economic Opportunity Analysis in 2016 and as augmented by discussions by the City's Economic Development Committee. That potential rests in five economic arenas:

- Continued industrial use of the paper mill site along the north shore of the Willamette River.
- Growth and increased health of retail and service businesses within the existing commercial districts.

## West Linn Economic Development Committee – Committee Mission and Strategy

- Redevelopment of the Arch Bridge district to allow for future new commercial development ~~coupled with additional housing and potentially other land uses~~ along with public improvements including an improved street network and public spaces. Expanded focus on the whole riverfront area and in particular on the economic potential and path to reopen the Locks and address tourism opportunities associated with the Willamette Falls and State Heritage Area.
- Fostering an environment supporting and encouraging home based businesses.
- Potential development of focused business centers for medical services, educational facilities, and other concentrated, high-wage, low-impact employment.

The City, through the efforts of the Economic Development Committee, the City Council, and the Staff, has the potential to resolve the economic issues facing the community leading to greater prosperity and livability. This work is intended to create an environment where private parties are attracted to make new investments in buildings, equipment, businesses, and employment.

### The Strategic Initiatives

~~Four~~ Six major initiatives are identified by the Economic Development Committee and City Council for specific action by the City. These are intended to ~~pursue the highest priority actions to~~ address the five economic priority areas listed above and are presented in priority order. These are:

1. ~~Research and f~~ Foster and assist to implement ~~Assist the City with evaluation and potential use of~~ Broadband Fiber throughout the community ~~assuring to provide~~ the highest quality and speed of Internet access. Assist and participate in City efforts, including project task forces. This will support existing and new business development and will also encourage the establishment of home-based businesses.
2. Engage in business retention and development strategies including identifying and recruiting new businesses.
- 2-3. Develop and undertake implementation strategies for business development along the highway 43 corridor.
- 3-4. Developing an economic and regulatory framework encouraging the development and continuing health of home based and other small businesses.
5. Focusing on tourism development creating opportunities for the development of tourist facilities taking advantage of the proximity to I-205, the location in the

## West Linn Economic Development Committee – Committee Mission and Strategy

Clackamas County “Mt. Hood Territory” tourism area, and State Heritage Area and proximity to the Willamette River especially the Willamette Falls.

4.6. ~~Completing and implementing~~ ~~See a plan is completed~~ Assist the City during planning efforts to prepare a Master Plan for the Arch Bridge district. Assist and participate as requested. This redevelopment area is key to creating a new community-center based commercial district taking advantage of the land available, the access to major transportation corridors, and the proximity to the Willamette River and the Falls.

These ~~four~~ six initiatives will each need to be implemented through a detailed action plan. This plan will lay out the needed tasks, steps, resources of money and personnel, and relationships with other organizations needed to successfully achieve the goals.

After the Council accepts this initial strategy, the Economic Development Committee working with the City staff will develop the specific Economic Action Plan for Council approval.

# P R O C L A M A T I O N

## “Oregon City - West Linn Rivalry Day”

**Whereas**, the Cities of Oregon City and West Linn wish to recognize the efforts of their citizens to create and maintain a positive family environment where children can learn the value of constructive competition; and

**Whereas**, the Cities of Oregon City and West Linn value tradition and history as essential parts of their communities; and

**Whereas**, Oregon City High School and West Linn High School, formerly known as Union High School, have competed valiantly in the sport of football continuously since 1921; and

**Whereas**, on September 2, 2016, the teams representing these schools will renew their annual rivalry for the 96th time; and

**Whereas**, this is the longest continuously-played rivalry west of the Mississippi and therefore worthy of recognition; and

**Whereas**, the City Commission of Oregon City desires that the Pioneers again defeat the Lions and the City Council of West Linn desires that the Lions again defeat the Pioneers.

**Now Therefore**, we, the City Commission of Oregon City and the City Council of West Linn, hereby recognize and commend all citizens who have participated in this annual gridiron classic, and support the efforts of the current teams by proclaiming September 2, 2016, to be “Oregon City-West Linn Rivalry Day.” We further recommend, in the spirit of the day, that all citizens wear clothing of the appropriate colors, and refrain from crossing the river, unless business requires, until game time.

---

The Honorable Dan Holladay, Mayor  
City of Oregon City

---

The Honorable Russell Axelrod, Mayor  
City of West Linn

September 2016

# TVF&R 2016

*Providing strategic  
emergency response  
to West Linn.*



*Fire Chief Mike Duyck*



# Tonight's Topics



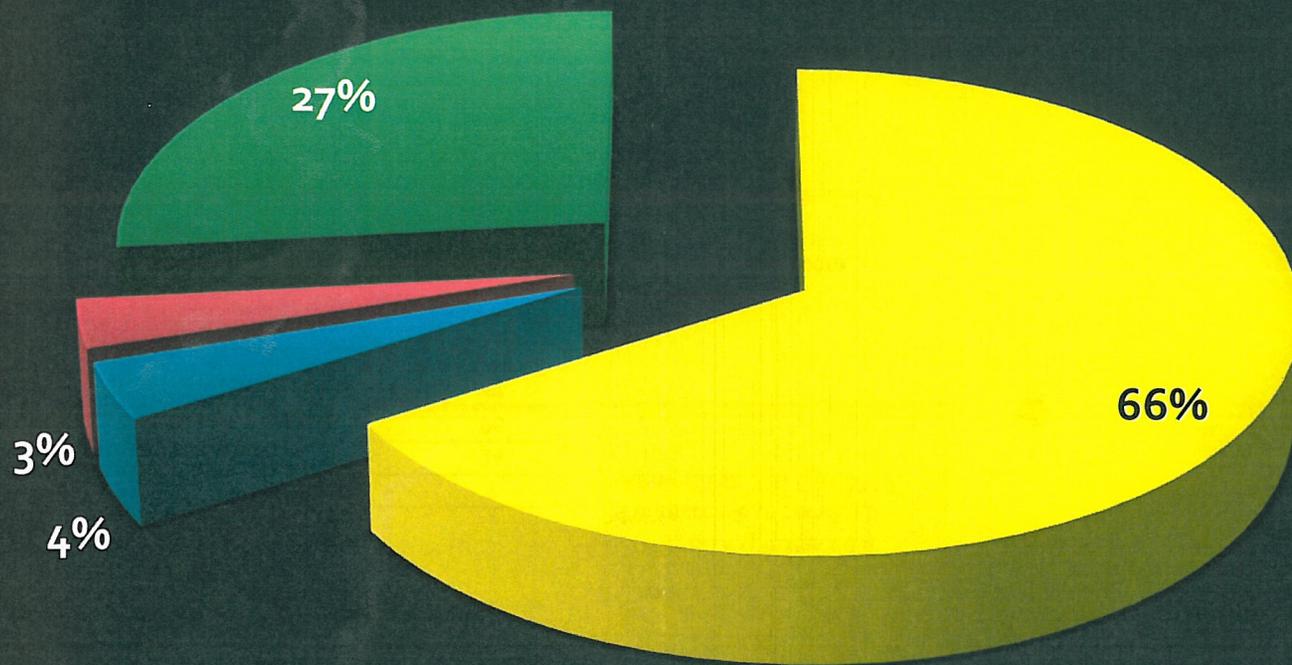
*Emergency  
Response & Communications*

*Mobile Integrated  
Health & EMS*

*Firefighter  
Recruitment*

*Regional  
Partnerships*

# West Linn Incidents in 2015:



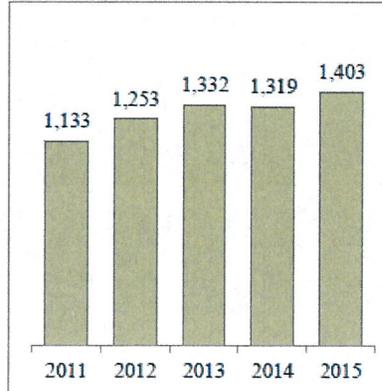
- Medical Calls: 928
- Fires: 54
- HazMat: 46
- Public Assist: 375

Total Incidents **1,403**

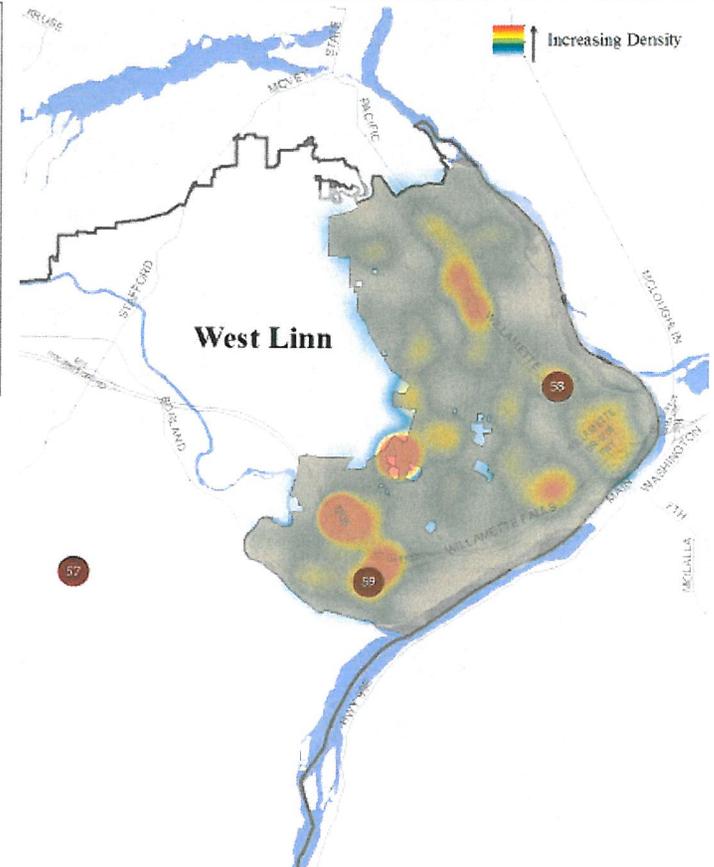
Incident Summary	Dispatched As	%	Situation Found	%
1 - Fire, Explosion	185	13%	54	4%
2 - Overpressure	0	0%	3	0%
3 - EMS/Rescue Call	966	69%	928	66%
4 - Hazardous Condition	41	3%	46	3%
5 - Service Call	70	5%	71	5%
6 - Good Intent	116	8%	202	14%
7 - False Call	0	0%	96	7%
8 - Natural Condition	0	0%	3	0%
9 - Other Situation	25	2%	0	0%

**Incident Sub-Categories**

Structure Fires	9	Cooking Fires	1
Non-Structure Fires	45	Vehicle Fires	7
Residential Fires	11	Vegetation Fires	24
Commercial Fires	6	False Alarms	96
Critical Patients*	270	MVC with injury	62
Patient Assist	31	MVC unknown injury	45

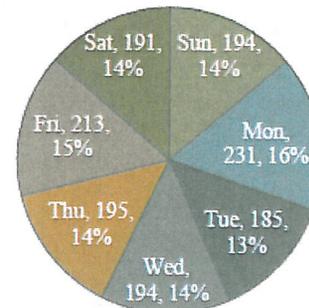
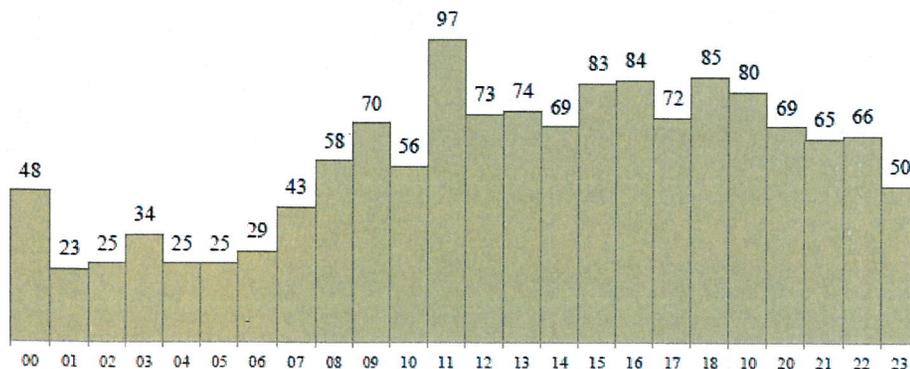


West Linn experienced a 24% increase in incident volume from 2011 to 2015.



\*Critical Patients: Dispatched or found as cardiac arrest, chest pain, heart attack, stroke, seizure, breathing problem, drowning, respiratory distress, respiratory arrest, or trauma system entry. "MVC"=motor vehicle crash.

Incident Volumes by Time of Day and Day of Week



**TVF&R Station Responses**

Station 58	62%
Station 59	35%
Station 57	2%
Station 51	1%



*emergency communication system bond*



reducing  
ER  
readmission  
rates

*Mobile Integrated Health partnership with Legacy MPH*



*increasing cardiac arrest survivability*



*tiller trucks and medics deployed in 2016*

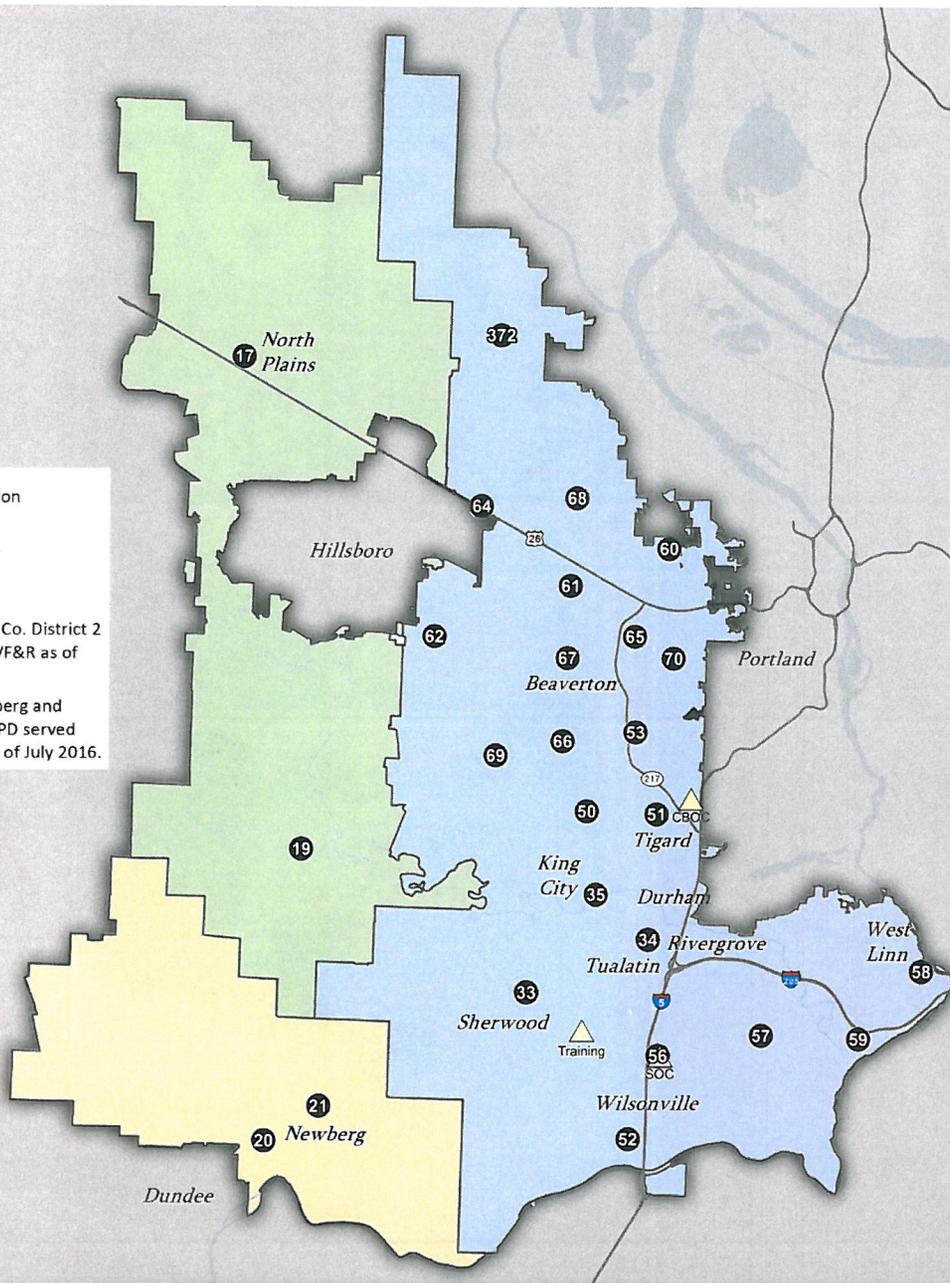


*new boat for the water rescue team based in West Linn*



*recruiting new firefighters*

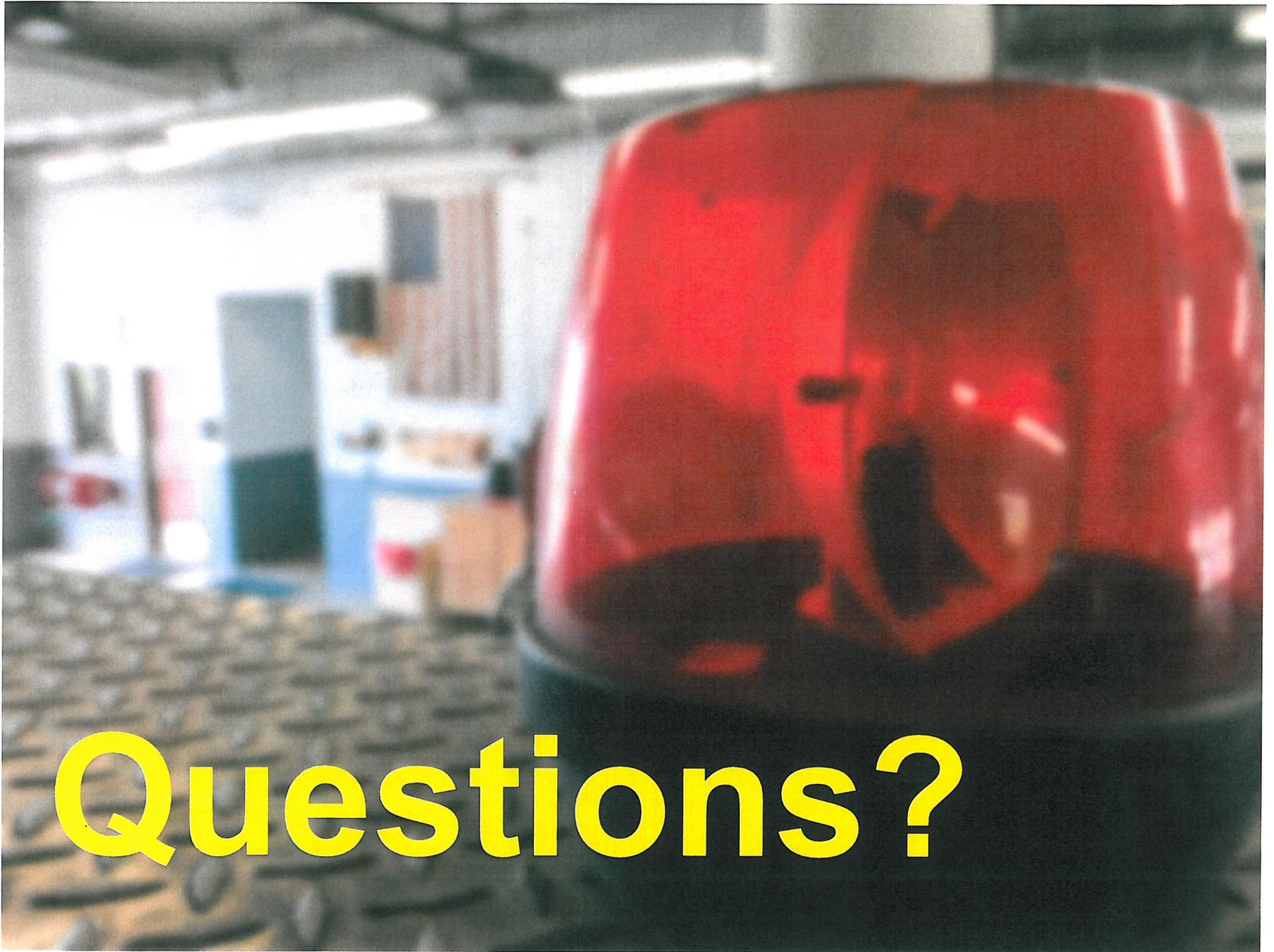
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# Newberg & Central Washington County



*partnerships in 2016 improve regional response*



**Questions?**



CITY OF  
**West  
Linn**

# City Council Hearing – August 8, 2016

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CDC 16-01 Amendments to the  
Community Development Code

# Background



- ❖ West Linn City Council Goal for 2016
  - “Address Community Development Code and Comprehensive Plan Changes”
  - *“Work with the Planning Commission to identify code and plan refinements to address and resolve in sensible packages.”*
  - *“Work with staff to edit and make minor changes, and with special interest task forces, if necessary, for more complex code changes.”*
- ❖ Planning Commission – February 17, 2016
  - Work Session on legislative process - March 2, 2016

# Process for Code Changes



- 🍃 Planning Commission/City Council meeting April 4, 2016
- 🍃 Measure 56 Notice – May 12, 2016
- 🍃 Information on City Website – May 12, 2016
- 🍃 Planning Commission Workshop - May 18, 2016
- 🍃 Notice in Newspaper – May 19, 2016
- 🍃 Planning Commission Hearing – June 1 & 15, 2016;  
Deliberate to recommendation on July 6, 2016
- 🍃 Council Hearing – August 8, 2016

# Proposed Code Changes



## Code Changes

- Office Business Center zoning, including use permitted under prescribed conditions to clarify that ***multiple family as a mixed use must have commercial development that utilizes the entire first floor,***
- Planned Unit Development requirements, ***including a new three acre minimum standard,***
- Water Resource Area Protection, ***referencing the METRO Urban Growth Management Functional Plan and considering new exempt uses,*** and
- ***Removing requirements for easements and dedications*** in Water Resource Areas, Greenways, and tree protection areas.
  - *Including changes to CDC definitions*

# OBC – First Floor Commercial



- Office Business Center zoning, including use permitted under prescribed conditions to clarify that multiple family as a mixed use must have commercial development that utilizes the entire first floor,
- The Planning Commission requested information on how other communities treated mixed uses. The information was provided on May 18<sup>th</sup>. There is no staff recommendation to change the proposal. The Planning Commission noted:
  - the appeal on the factor (ConAm) was not based on the “Story, First” definition.
  - the issue identified by the Planning Commission was to provide a clear standard for commercial uses on the first floor;
  - They supported retaining the draft language as it met the clear standard criteria and avoids unintended consequences of potentially impacting other sections of the code.

# PUD – Three acre minimum



- Remove provisions in CDC 24.060 “area of application” section as recommended by the City Attorney
- Inserted a new three acre minimum

The Planning Commission recommended approval of Ordinance 1647 with one change. For Council to take no action on the PUD section and instead requested Council take off the table the draft PUD code and return it to the planning commission for review and recommendations.

# “METRO” Exemption for WRA



- Where construction of a residence was completed before January 1, 2006, the owners or residents shall not be restricted from engaging in any development that was allowed prior to September 22, 2005; unless such development required obtaining a land use decision, or a building, erosion control, or grading permit.
  - January 1, 2006 is the effective date of the METRO Nature in Neighborhoods regulations
  - September 22, 2005 is the date of adoption of the METRO Nature in Neighborhoods regulations

# Exemptions



- ❖ The items identified as exceptions in the 2003 version of Chapter 32 are retained in the 2016 version of Chapter 32.
  - The 2016 Chapter 32 version has all exemptions (stated as exceptions in 2003) but is more flexible than the 2003 version.
  - There are clarified uses (such as installation of utilities in existing rights of way) and new construction allowed as listed exemptions.
  - The METRO Exemption authorized “use of the back yard” those activities are permitted in the current code.
- ❖ Staff recommended no changes to Chapter 32 - Exemptions
- ❖ The Planning Commission recognized that other exemptions may be possible and recommended proposed changes to the Exemptions section in Chapter 32.

# Remove Easements & Dedications



- ✦ Removing requirements for easements and dedications in Water Resource Areas, in Greenways, and in tree protection areas. Along with amending certain CDC definitions
- ✦ Remove required easements or dedications do not remove existing environmental protections.
  - Trees are protected in the city's Tree Code, wetlands and riverine areas are protected in the City's Water Resource area, habitat areas are protected using the City's Habitat Conservation Area protection and these resources are protected under Goal 5.
  - The City's choice to no longer require easements or dedication is a policy choice that does not change the protection regulations required to meet Goal 5 and Goal 15.

# Comments from DLCD



- It appears that the City is eliminating all conservation easements and references to them by striking them out in the definitions sections and all further references to them in the development code. The City may want to reconsider eliminating the option of easements as a tool for protecting resource areas.
- this proposal would effectively eliminate any flexibility and creativity that would allow the city to provide for its share of “needed housing” as defined in ORS 197.303. The department would recommend, as an alternative to PUDs for smaller low-density zoned parcels, that the city incorporate an alternative method of allowing lot size flexibility in situations involving parcels less than 3 acres.

# Planning Commission's Motion/Recommendation



- Commissioner Gary Walvatne moved to recommend approval of Ordinance 1647 with one change. For Council to take no action on the PUD section and instead request Council take off the table the draft PUD code and return it to the planning commission for review and recommendations.
  
- The motion passed 5-0
  - Chair Babbitt, Commissioners Metlen, Mathews, Walvatne, Myers

# Planning Commission's Recommendation - continued



- Code Changes as modified by the PC are:
  - Office Business Center zoning, including use permitted under prescribed conditions to clarify that multiple family as a mixed use must have commercial development that utilizes the entire first floor,
  - Water Resource Area Protection, referencing the METRO Urban Growth Management Functional Plan and considering new exempt uses, and
  - Removing requirements for easements and dedications in Water Resource Areas, Greenways, and tree protection areas.
    - *Including changes to CDC definitions*

# Conclusion



Council has three options to consider:

1. Adopt the version of Ordinance 1647 as recommended by the Planning Commission. (Takes no action on the PUD section)
2. Adopt the version of Ordinance 1674 with a modification to return Chapter 24 Planned Unit Development. (Take action on the PUD section)
3. For City Council to take off the table the 2015 draft PUD Code and return it to the Planning Commission for review and recommendations. (An option to complement either 1 or 2 above)

Any questions of staff?

<https://westlinnoregon.gov/planning/miscellaneous-community-development-code-amendments>



# Measure 56



In the November 1998 general election, Oregon voters approved Ballot Measure 56 (BM 56). The measure requires cities and counties to provide affected property owners with notice of a change in zoning classification; adoption or amendment of a comprehensive plan; or adoption or change of an ordinance in a manner that limits or prohibits previously allowed uses.

**ORS 227.186 Notice to property owners of hearing on certain zone change; form of notice; exceptions; reimbursement of cost**

# Exemptions



- ❖ The items identified as exceptions in the 2003 version of Chapter 32 are retained in the 2016 version of Chapter 32.
  - The 2016 Chapter 32 version has all exemptions (stated as exceptions in 2003) but is more flexible than the 2003 version.
  - There are clarified uses (such as installation of utilities in existing rights of way) and new construction allowed as listed exemptions.
  - The METRO exemption returns us to 2005-2006; this version of the code is more restrictive and inflexible.
- ❖ Staff recommends no changes for Exemptions in Chapter 32
  - This recommendation if accepted would remove the proposed code changes for exemptions in Chapter 32 from this draft Ordinance.

# Exceptions - 2003 versus 2016



Item from 2003	2003 Chapter 32	2016 Chapter 32
Definition of Development	As written	Unchanged from 2003
<b>Exceptions/Exemptions</b>		
"...restore existing utility service or to reopen a public thoroughfare..."	32.020.D.1	32.040.B.1 or 32.040.C.2
"...routine maintenance of any existing drainageway..."	32.020.D.2	32.040.A
"... maintenance of legally established structures or utilities and roads..."	32.020.D.3	32.040.B.1 (utilities, roads) 32.040.C.2 (non-conforming structures)
"...repair or replacement of structures, utilities or roads damaged by fire or other cause..."	32.020.D.4	32.040.B.1 or 32.040.C.2.b (roads or utilities) 32.040.C.3 (non-conforming burned down or otherwise damaged)
"Interior remodel of structure as long as the use is not changed."	32.020.D.4	32.040.C.2.a (interior remodel of non-conforming structures)

# Exemptions allowed currently



<b>Exemption allowed in 2016 - new construction allowed in WRA</b>		
<b>Items from 2016</b>	<b>2003 Chapter 32</b>	<b>2016 Chapter 32</b>
...eaves, balconies, decks, pop outs and similar additions may cantilever over outer boundary...	N/A	32.040.D.1
"...accessory structure, less than 120 sq.ft. and under 10 ft. tall within 50 feet of water resource or 10 feet beyond top of slope..."	N/A	32.040.D.2 Note limited to one accessory structure and does allow structures prior to 1/1/06 to remain
"...Water permeable patio or deck within 30 inches of original grade and construction of approved water permeable footpaths..."	N/A	32.040.D.3
"Fences may be built to within 50 feet of the water resource or behind the top of slope (ravine), whichever is greater."	N/A	32.040.D.4
"...establishment of unpaved trails..."	N/A	32.040.B.2 In generalized corridors in a parks or trails master plan provided criteria (a – c) are met. This includes foot bridges in (sub b.)

My name is Kathleen Lairson, I live at 6126 Irving St in West Linn.

I here tonight to talk to you about how upset I was to hear about our Police Department and how racism seems to still be an issue in this city.

To give you my history, I served on the City Council in the 1980's for 8 years my final two years as mayor. I had multiple conversations with the City Manager and the Police Chief about racial profiling in the city and how that was not something we wanted to be known for.

In the late 1990's I was working on my undergraduate degree at Marylhurst University and in one of my Saturday classes I had a black man. One day he was late to class and I could see he was upset about something, so I talked to him at our first break. He told me he was late because he was stopped in West Linn by the Police for DWB. I had to ask what that was and his reply was Driving While Black. I realized that we had not made progress in the ten years since I was on the council. I told him that was very upsetting for me to hear and I wanted him to know that was not the attitude of the majority of citizens as far as I knew.

In 2006 when working on my Masters degree at Marylhurst University I had another class with a different black man and he arrived late and announced to the class he was stopped in West Linn for DWB. This time I didn't have to ask what that meant. He said he loved to study at Marylhurst University, but to get to campus he needed to drive through West Linn or Lake Oswego and both were known for DWB stops.

Now here we are at 2016 and we have a police officer who posts on face book racial statements about killing people who are protesting for black lives matter. I'm asking you to make sure we as a city are taking steps to get overt racism addressed with staff, so the citizens do not have to be embarrassed about the behavior of city staff again. I know it takes time and effort, but that is something we must do for the good of our city and the respect of all people..

I know there is an internal investigation going on presently. I understand that the police officer in question spend a great deal of his career with the Portland Police and I hope we did our do diligence when he was hired here to check out his reason for leaving Portland. I hope there will be a report to the citizens of the actions being taken to make sure we don't have to read about this again in the newspaper.

Thank You.

Unless you've been living on another planet it's hard to ignore the spate of civil unrest, political division and economic instability that has surged across the headlines and cable news channels. How many of us almost dread the idea of turning on the evening news? Especially when the news is in stark contrast to the manicured little league and soccer fields of a bucolic, sunny, 74 degree West Linn afternoon. You can draw real parallels to Garrison Keelors meme, "A town where all the women are strong, the all men are good looking and all the children are above average." We're easily disconnected from such events thousands of miles away and seem almost foreign.

It's very easy to compartmentalize and disconnect oneself from events of the day. Replays of Ferguson, Missouri, Baton Rouge, and Dallas though highly unlikely to occur in West Linn, share a common ingredient. Mere recall of Ferguson, Baton Rouge, and Dallas jar your senses. Undergirding these events is a serious lack of trust between a segment of the community and its police department. To anyone believing this concern is exaggerated or hyperbole in the context of serene West Linn, let me remind you Officer Tom Newberry's post to Facebook in reference to Black Lives Matter protests was that a day of protest by the movement should be called "a day of target practice".

Recent racist commentary offered on Facebook by Officer Newberry is a signal; a red flag warranting concerns regarding the values and culture shared by those who are sworn to uphold the law, with Honesty, Integrity and Service.

Everyone is entitled to their right of free speech, but that does not include yelling fire in a theater; there is a higher bar for police officers.

It's more that reasonable for WL citizens to ask to what extent this "red flag", seen to be manifesting itself (ALL ACROSS THE NATION), might be creeping/crept into our community? Alternatively we could wait until someone is beaten, shot or worse. Addressing matters of policing, does not imply a rush to righteous indignation, castigation and/or recriminations all around. This should be a time of calm, serious introspection and transparency for the citizens and city government of West Linn.

Among matters ripe for discussion and public review:

What are the recent statistics for arrest and citations/traffic stops?

What percentage are People of Color?

What are the Hiring practices, psychological screening for police officers?

How are WL police officers evaluated?

What if any diversity training is required of West Linn police officers?

What if any People of Color are employees of the City of West Linn?

These are activities that can be conducted in parallel with any investigation and might provide insight helpful to the overall concept of policing in West Linn. I believe these are very basic questions that should be answered by the next meeting of the City Council.

## Community Comments Testimony August 8<sup>th</sup> 2016

My mom was born before women had the right to vote in this country, and America has made significant progress. But she taught me early in my life that if you are not part of the solution, you are part of the problem.

We have a problem in West Linn right now. My stomach sank when I heard an investigative reporter on KGW announce that one of our West Linn officers apparently had on his personal Facebook posts fake photos of black people being hurled into the air as they were being hit by a vehicle. The accompanying comments on "Black Lives Matter" demonstrators were chilling.

As the Tidings reported: "The West Linn Police Department announced July 15 that (an officer) has been placed on paid administrative leave while the department investigates a series of social media posts made in reference to the "Black Lives Matter" movement.

The posts, which were made on (the officer's) Facebook account, stated "Good luck with that" in reference to another user urging "Take them all out," while another read, "When encountering such mobs remember, there are 3 pedals on your floor. Push the right one all the way down."

"We have to investigate. We don't know the intent, but at face value it doesn't look good" stated Chief Timeus.

Truly our beliefs can lead to our actions. So let's investigate the underlying issue, the "elephant in the room". The Washington Post had a recent article about black people being killed by police. The Post published several facts based on their real-time database which tracks fatal police shootings. According to their statistics:

**"Black Americans are 2.5 times as likely as white Americans to be shot and killed by police officers**

What can be done about this issue in West Linn right now? If it is determined that this officer did have a personal social media account as described in the reports,

he should be subject to the appropriate employment sanction. Second, there should be frequent diversity training. Third, an in-depth analysis should be completed focusing on who is getting stopped in their cars on West Linn streets and why. Fourth, a strong policy on the appropriate use of social media should be implemented. And fifth, we should examine employment practices that have led to a predominantly male and white police force.

It is up to every single one of us inside and outside of the police force to make sure that we are part of the solution by speaking out and not being afraid to do so. Our WL Police Department is an organization we should be proud of and the vast majority of our police officers are, hopefully, as upset about this issue as colleagues as we are as citizens.

Thank you,

Roberta Schwarz

Citizen of West Linn

I'm from a family of police officers a former FBI agent, former Chief of Police of major metropolitan city, a Police Captain, and Highway patrol officers. and a niece wounded in the line duty.

I was the chair of my former San Jose neighborhoods police relationship task force and have ridden numerous times on night and day patrols. Our family formed strong ties to the patrol offices that regularly patrolled our downtown neighborhood street and we always left our back gate unlocked so that on any day or night those officers could grab a coke from our vintage coke machine.

Moving from an urban setting to West Linn was an interesting adjustment. I soon realized crime was negligible and the racially diverse Police force I was so familiar with now appeared to be all white and all male excluding a single female code enforcer. My interaction with the police was no longer a daily

happening of a friendly wave or a stop to chat and I rarely if ever even saw a West Linn police officer.

I now have lived in West Linn for twelve years and it wasn't until the last 2-3 years that I noticed what appeared to me to be a dramatic up tic in traffic stops. At first I didn't question the regularity but when the frequency at which I witnessed them grew I also became aware that many of the individuals I witnessed being stopped appeared to me to be persons of color.

I have a very solid understanding and respectful viewpoint of the kind of work an officer must do and at the same time a guarded skepticism when it comes to traffic stops when it involves people of color whether it be Hispanic, Asian or African American, and reinforced by chilling national statistics.

My observations have made me wonder if in West Linn like many other towns across the country are using "Law enforcement officers" as part of the revenue gathering system. And I've wondered as well if perhaps an officers performance rating and

or promotions are in part evaluated on the number of arrest or citations issued?

Therefore, exactly what is the performance criteria for West Linn Police Department? Are officers rewarded and promoted for compiling stats related to traffic citations and arrests? And our officers ever rewarded for being “Officer Friendly” one who helps families work through personal issues and improve communication?

Recently, West Linn Police Officer Tom Newberry placed West Linn in the national spot light with his racially charged invectives on Facebook. Aside from being alarmingly sophomoric, blatantly racists, and a shameful embarrassment to West Linn it is a red flag that such repugnant attitudes can exist anywhere, even West Linn.

So what are the statistics regarding traffic stops and arrests in West Linn? Why haven't those statistics been publically updated since 2009 and what percentage are individuals of Color?

It has become an embarrassment for me to have to warn, service technicians, trades people, landscapers and family friends of color to please

exercise caution when driving into and through WL. Sadly, most related they had already been forewarned.

My brother and uncle has made me acutely aware, many different types of profiling can be used to assist in legitimate investigations and can be a valuable tool to fight crime and support neighborhoods. But if racial profiling is used to increase city revenue, build an officer's resume, or even done so because of racism it then becomes an equal opportunity to destroys lives and squander public trust.



CITY OF

# West Linn

#1

I wish to speak during **Community Comments** (limited to three minutes):

Please specify topic (required): ~~Community Comments~~ Community Comment General

I wish to speak during the **Business Meeting** (limited to three minutes):

Please specify agenda report number(s) or topic(s) (required):

Community Comments

Please print:

Name: Sheri O Papp

Email (optional): \_\_\_\_\_

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): 2119 Greene St. W.L.

Phone (Optional): 503 723-0057

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CITY OF

# West Linn

#2

I wish to speak during **Community Comments** (limited to three minutes):

Please specify topic (required): Community Comments

I wish to speak during the **Business Meeting** (limited to three minutes):

Please specify agenda report number(s) or topic(s) (required):

Please print:

Name: KEN PAPP

Email (optional): \_\_\_\_\_

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): 2119 Greene

Phone (Optional): \_\_\_\_\_

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CITY OF

# West Linn

#13

I wish to speak during **Community Comments** (limited to three minutes):

Please specify topic (required): Comments

I wish to speak during the **Business Meeting** (limited to three minutes):

Please specify agenda report number(s) or topic(s) (required):  
Community Comments general

Please print:

Name: Kathy Lairson Email (optional): \_\_\_\_\_

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

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CITY OF

# West Linn

#4

I wish to speak during **Community Comments** (limited to three minutes):

Please specify topic (required): General topic

I wish to speak during the **Business Meeting** (limited to three minutes):

Please specify agenda report number(s) or topic(s) (required):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please print:

Name: Roberta Schwarz Email (optional): on file

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

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CITY OF

# West Linn

I wish to speak during **Community Comments** (limited to three minutes):

Please specify topic (required): Speeding

I wish to speak during the **Business Meeting** (limited to three minutes):

Please specify agenda report number(s) or topic(s) (required):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Please print:**

Name: Nolan Mackrill Email (optional): \_\_\_\_\_

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

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CITY OF

# West Linn

I wish to speak during **Community Comments** (limited to three minutes):

Please specify topic (required): \_\_\_\_\_ X

I wish to speak during the **Business Meeting** (limited to three minutes):

Please specify agenda report number(s) or topic(s) (required):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Please print:**

Name: Alice Richmond Email (optional): \_\_\_\_\_ X

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): \_\_\_\_\_ Phone (Optional): 5037230105



CITY OF

# West Linn

I wish to speak during **Community Comments** (limited to three minutes):

Please specify topic (required): EOA

I wish to speak during the **Business Meeting** (limited to three minutes):

Please specify agenda report number(s) or topic(s) (required):

9. a. Agenda Report 2016-04-11-01: Ordinance 1645

**Please print:**

Name: Alan Smith

Email (optional): aalansmith57@gmail.com

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): \_\_\_\_\_

Phone (Optional): \_\_\_\_\_

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CITY OF

# West Linn

I wish to speak during **Community Comments** (limited to three minutes):

Please specify topic (required): \_\_\_\_\_

I wish to speak during the **Business Meeting** (limited to three minutes):

Please specify agenda report number(s) or topic(s) (required):

on the question brought up  
on e. development

**Please print:**

Name: Alice Richmond

Email (optional): X

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): 3939 Parker Rd

Phone (Optional): 503 723 0101

This form is subject to public records laws. If requested, it may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law.