



CITY OF  
**West Linn**

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

# **WEST LINN CITY COUNCIL MEETING NOTES April 10, 2017**

## **Call to Order and Pledge of Allegiance**

### **Council Present:**

Mayor Russ Axelrod, Council President Brenda Perry, Councilor Teri Cummings, Councilor Bob Martin, and Councilor Richard Sakelik.

### **Staff Present:**

City Manager Eileen Stein, City Recorder Kathy Mollusky, Assistant to the City Manager Dylan Digby, Citizen Engagement Coordinator Courtney Flynn, City Attorney Tim Ramis, and Consultant John Morgan.

## **Approval of Agenda**

Council President Brenda Perry moved to approve the agenda with an addition of a presentation from *Voices from the Past* under Proclamations, Recognitions, and Scheduled Presentations for the April 10, 2017 West Linn City Council Meeting. Councilor Richard Sakelik seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Brenda Perry, Councilor Teri Cummings, Councilor Bob Martin, and Councilor Richard Sakelik.**

**Nays: None.**

**The motion carried 5 - 0**

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

### [Construction Safety Week Proclamation](#)

#### [Construction Safety Proclamation](#)

Mayor Axelrod read the Construction Safety Week Proclamation.

Rodger Shepherd explained even though we do not have a museum in West Linn, we have a lot of history to experience. He explained what the History Without Walls is, how they take history out into the community. A couple of examples are the Willamette Living History Tour, the Old Time Radio Show, and presentations to kids outside of the classroom. This spring they are launching Voices from the Past: West Linn's Walk of Fame and they did a demonstration of it. This is occurring on May 6 at Mary S. Young Park from 6:00 pm to 8:30 pm. Tickets are \$10 and must be purchased in advance at [www.westlinnhistory.org](http://www.westlinnhistory.org).

### [Consent Agenda](#)

#### [Agenda Report 2017-04-10-01: Approval of Meeting Notes for March 13 and 20, 2017](#)

#### [Draft Notes Information](#)

Council President Brenda Perry moved to approve the modified Consent Agenda for the April 10, 2017 West Linn City Council Meeting, which includes the March 13 and 20, 2017 meeting notes. Councilor Richard Sakelik seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Brenda Perry, Councilor Teri Cummings, Councilor Bob Martin, and Councilor Richard Sakelik.**

**Nays: None.**

**The motion carried 5 - 0**

### [Community Comments](#)

Alice Richmond regarding the Planning Commission Upper Midhill hearing. She feels one of the commissioners was biased and showed disrespect.

Stan Barnwell regarding how to get the median strip on Horton Road, Zeus, and Parkview Terrace maintained like the Salamo Road median.

Evan McKinley regarding "Un-named Creek" on Bland Circle. He would like to name it after the founder of BoyScouts.

Karie Oakes regarding scheduling a meeting regarding City legal services.

[Alice Richmond submittal](#)

### Report from the City Manager

City Manager Stein informed Council they received an appeal on the Upper Midhill development. She will be out of office Tuesday through Friday at the City Manager conference.

### Business from the City Council

#### Council Rules Discussion and Approval

#### Council Rules redlined at 4-3-17 Work Session

#### Draft Council Rules - Clean Copy

Karie Oakes asked Council to add on page 6 that the City Manager evaluation be made public.

Council President Perry is uncomfortable putting that in. It is a private conversation for growth and development. She welcomes public input, but does not want to make the evaluation made public.

Councilor Cummings said the State Attorney Public Meetings Manual authorizes that the City Manager evaluation may be made public.

Mayor Axelrod wants to look at all the information prior to deciding on this. Council is receiving feedback from the community. He does not feel the personal elements of an evaluation need to be public.

Councilor Sakelik feels the public deserves a formal response to their input.

Council President Brenda Perry moved to approve the revised Council Rules. Councilor Richard Sakelik seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Brenda Perry, Councilor Teri Cummings, Councilor Bob Martin, and Councilor Richard Sakelik.**

**Nays: None.**

**The motion carried 5 - 0**

Council President Perry has had unofficial regional wastewater meetings regarding WES with Milwaukie, Happy Valley, Oregon City, Gladstone, and West Linn. Clackamas County represents the unincorporated area where the cities sit as board of governors on WES. The cities want to develop a governing structure where the cities are the board of directors and WES runs the facility. The County is resisting this.

Councilor Martin asked that if proposals are put forward regarding different governance, that the Council is informed and participates before that position is recommended on behalf of the city.

Council President Perry clarified they talk about it, come up with a suggestion, and bring back

to the cities for approval prior to making a decision or recommendation. These are informal meetings, no agendas. She showed a presentation about the National League of Cities (NLC) conference she attended.

[Council President Perry's presentation](#)

Councilor Martin also attended the NLC conference and discussed his experience there.

Councilor Cummings updated Council on the Clackamas County Coordinating Committee (C4) meeting. There is some interest in having the cities share the expense for an affordable house needs assessment.

Councilor Sakelik mentioned Council's Town Hall. One of the items that interested him was doing a System Development Charge (SDC) report.

Mayor Axelrod talked about the future Stafford area designation. The cities have decided to work together on an intergovernmental agreement so the cities will have control of this area in the future. The County is having its first hearing at the County Commissioner's office on Wednesday at 6:00 pm. The Willamette Falls Locks working group met with the Corps of Engineers, the Corps has been directed to pursue the least cost option regarding the locks. This is not a high priority for them.

[Council Business](#)

[Agenda Report 2017-04-10-02: Sunset Elementary School, 2351 Oxford Street, Findings, Final Decision and Order AP-16-01](#)

[Sunset School Information](#)

City Attorney Ramis reminded Council they made a tentative decision favorable to the applicant. The instruction was for staff to prepare findings in support of the decision. Condition 2 has been modified to require that the City Council and not the City Engineer approve the stormwater management plan. The criteria have been met because the plan is supported by the opinion of a qualified engineer and the data in the record. The liner in the detention facility must meet the specifications submitted with the plan.

Council President Brenda Perry moved to uphold the approval of Sunset Primary School Replacement as revised, and adopt the updated findings based on the July 2016 stormwater drainage report and all other evidence found in the record to address the LUBA remand. Councilor Richard Sakelik seconded the motion.

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

**Nays: None.**

**The motion carried 4 - 0**

**[Agenda Report 2017-04-10-03: West Linn Waterfront Public Engagement Plan](#)**

**[WL Waterfront Plan with CCI Comments](#)**

Mayor Axelrod informed everyone of the changes the Committee for Citizen Involvement (CCI) made.

Consultant Morgan informed Council of the website they are creating.

Council President Brenda Perry moved to approve West Linn's Public Engagement Plan  
Councilor Richard Sakelik seconded the motion.

**Ayes: Mayor Russ Axelrod, Council President Brenda Perry, Councilor Teri Cummings,  
Councilor Bob Martin, and Councilor Richard Sakelik.**

**Nays: None.**

**The motion carried 5 - 0**

**[Adjourn](#)**

for Council meeting - April 10, 2017

Mayor Exelrod and Council panel

In reference to the March 22, 2017 planning commissioners meeting on the remand 34 lots - Midhill drive -

I was appalled by one commissioner's uncivil attitude and finger pointing to the applicants on this day's agenda application.

Although it was approved 4 - to - 3. -

As I observed and listened the ripples commissioner farrell ragged the owner/applicants belligerently to the point d'appui, personally attacking this project because of some personal incident.

With all due respect to this effect; this application became a private bias resolution by Mr. farrell versus application.

I realized, then, that commissioner farrell resides within this application's neighborhood. - He should have recused from the process of this project as an honorableman, but instead, he fiercely prejudiced against this proposed development while holding a city appointed duty seat in this chamber.

Also, I noticed city councilor Martin, liaison to this commission, conversing with Mr farrell in instructing decisions at break times! etc! - was there involvement in here! ? -

I was stunned, that the chair allowed such verbose verdictive lashings at the applicants during this processing on the air over his remanded project, where the focus points were derailed.

Commissioner farrell's objections being bias, nevermind that as an appointed person representing City's codes was the least disciplined.

I question the quality of appointed citizen's qualifications

I remain -

Alice Richmond - 59 years Resident of West Linn -

3939 Parker Rd - W.L. -

503 700 0101

# National League of Cities Conference

March 2017

# Healthy Cities

- ▶ How do we stand?
  - ▶ [www.countyhealthrankings.org](http://www.countyhealthrankings.org)
  - ▶ [www.cdc.gov/500cities](http://www.cdc.gov/500cities)

# Healthy Cities

- ▶ What are our issues
  - ▶ Transportation stresses
    - ▶ Work - commute
    - ▶ Local resources
      - ▶ Market accessibility
      - ▶ Library
      - ▶ Community meeting facilities

# The Role of City Leaders in Public Sector Retirement

- ▶ Private Vs. Public
- ▶ Balance between contributions and pay outs
- ▶ Contribution + Investments = Benefits + Expenses
- ▶ No perfect system

# Fostering Small Business Development and Entrepreneurship

- ▶ [YourEconomy.org](http://YourEconomy.org)
- ▶ Labor Deficit Market
- ▶ Beware the squelchers - use the word “no” a lot and constantly put up road blocks

# Economic Development Focus

- ▶ Start-ups and new deals - limited job growth
- ▶ Focus on 2<sup>nd</sup> Stage companies - these are where the opportunities lie
  - ▶ Established local small business
  - ▶ Create 80% of jobs
- ▶ Encourage and Support
  - ▶ Visit
  - ▶ Listen and learn
  - ▶ Show the love
  - ▶ Assure them that your door is always open
  - ▶ Regular meetings
- ▶ Understanding your businesses
  - ▶ Don't assume that you know what they want - ask
  - ▶ Become a trusted source
  - ▶ Foster peer to peer
- ▶ Share success stories

# League of Oregon Cities Priorities

- ▶ **Infrastructure**
  - ▶ Transportation - need to fund the FAST Act
  - ▶ Water - Water Infrastructure Finance Infrastructure Finance and Innovations Act (WIFIA), state revolving loan funds (SRFS) and private activity bonds. Need these supported and fully funded
- ▶ Changes to FEMA flood insurance - will be burdensome to cities and impact local development.
- ▶ Protect Municipal Bond Tax Exemption





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3

I wish to speak during **Community Comments (limited to three minutes):**

Please specify topic (required): Unnamed Creek

I wish to speak during the **Business Meeting (limited to three minutes):**

Please specify agenda report number(s) or topic(s) (required):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**P l e a s e   p r i n t :**

Name: Evan J McKinley

Email (optional): mckinlee@wlls.wlwr.or.us

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): \_\_\_\_\_

Phone (Optional): \_\_\_\_\_

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.



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4

I wish to speak during **Community Comments (limited to three minutes):**

Please specify topic (required): City Structure of legal services for City

I wish to speak during the **Business Meeting (limited to three minutes):**

Please specify agenda report number(s) or topic(s) (required):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**P l e a s e   p r i n t :**

Name: Karie Oakes

Email (optional): \_\_\_\_\_

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): West Linn OR

Phone (Optional): \_\_\_\_\_

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.



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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*):

7a, CC Rules

\_\_\_\_\_

\_\_\_\_\_

**P l e a s e   p r i n t :**

Name: Karie Oakes Email (optional): \_\_\_\_\_

Phonetic spelling, if difficult to pronounce: \_\_\_\_\_

Address (Optional): \_\_\_\_\_ Phone (Optional): \_\_\_\_\_

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.



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## **CITY COUNCIL AGENDA**

Monday, April 10, 2017

5:00 p.m. – Executive Session – Rosemont Room

Pursuant to ORS 192.660(2) (i) To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.

5:30 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 to Council
    - a. Construction Safety Week Proclamation
  4. Consent Agenda
    - a. Agenda Report 2017-04-10-01: Approval of Meeting Notes for March 13 and 20, 2017
  5. Community Comments
  6. Report from the City Manager
  7. Business from the City Council
    - a. Council Rules Discussion and Approval
  8. Council Business
    - a. Agenda Report 2017-04-10-02: Sunset Elementary School, 2351 Oxford Street, Findings, Final Decision and Order AP-16-01
    - b. Agenda Report 2017-04-10-03: West Linn Waterfront Public Engagement Plan
  9. 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.*

# **PROCLAMATION**

**West Linn, Oregon**

**WHEREAS**, construction is vital to our strong local economy yet remains one of the most dangerous professions; and

**WHEREAS**, the nature of the industry is fluid with craftspeople moving from firm to firm and project to project; and

**WHEREAS**, with proper planning, communication and controls, it is possible to eliminate injuries and incidents from construction sites; and

**WHEREAS**, no innovation in safety should be proprietary in order to send every worker across the region home safely after every shift; and

**WHEREAS**, local private and public owners in West Linn have been national leaders in construction safety and have the opportunity to demonstrate leadership once again; and

**WHEREAS** a diversity of stakeholders will enrich the dialogue and accelerate the adoption of best practices; and

**WHEREAS**, SafeBuild Alliance, a local non-profit advocating Zero Incidents through Collaboration has encouraged all members of the building community to share and learn in safety from one another; and

**WHEREAS**, every day should include a focus on safety, a coordinated annual event across the region serves to heighten awareness.

**NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF WEST LINN, I,** Russell Axelrod, Mayor of the City of West Linn herby proclaim the first week of May 2017 to be

## **CONSTRUCTION INDUSTRY SAFETY WEEK**

In West Linn and encourage all West Linn citizens observe this week.

DATED THIS 10TH DAY OF APRIL, 2016.

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RUSSELL B. AXELROD, MAYOR

ATTEST:

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KATHY MOLLUSKY, CITY RECORDER



CITY OF  
**West  
Linn**

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**Agenda Report 2017-04-10-01**

Date: February 27, 2017

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 Meeting 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. March 13, 2017 Council Meeting Notes
2. March 20, 2017 Council Meeting Notes



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# **WEST LINN CITY COUNCIL MEETING NOTES March 13, 2017**

## **Call to Order and Cole Eastman performing the Star Spangled Banner**

### **Council Present:**

Mayor Russ Axelrod, Councilor Teri Cummings, and Councilor Richard Sakelik.

### **Council Excused:**

Council President Brenda Perry and Councilor Bob Martin.

### **Staff Present:**

City Manager Eileen Stein, City Recorder Kathy Mollusky, Assistant to the City Manager Dylan Digby, Citizen Engagement Coordinator Courtney Flynn, City Attorney Tim Ramis, Parks & Recreation Director Ken Worcester, and Consultant John Morgan.

## **Approval of Agenda**

Councilor Richard Sakelik moved to approve the agenda for the March 13, 2017 West Linn City Council Meeting removing item 7(c) Council Rules approval. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Councilor Teri Cummings, and Councilor Richard Sakelik.**

**Nays: None.**

**The motion carried 3 - 0**

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

### [Senator Richard Devlin Update](#)

Senator Devlin updated Council on the current legislative session.

### [Youth Music Project Presentation](#)

Rachael Sneddon presentation.

### [Consent Agenda](#)

#### [Agenda Report 2017-03-13-01: Approval of Meeting Notes for February 6, 13, and 21, 2017](#)

#### [Draft Notes Information](#)

Councilor Richard Sakelik moved to approve the Consent Agenda for the March 13, 2017 West Linn City Council Meeting which includes the February 6, 13, and 21 meeting notes. Councilor Bob Martin seconded the motion.

**Ayes: Mayor Russ Axelrod, Councilor Teri Cummings, and Councilor Richard Sakelik.**

**Nays: None.**

**The motion carried 3 - 0**

### [Community Comments](#)

Alice Richmond re: handicapped access button missing at city hall.

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

City Manager Stein reported that the Clackamas Cities dinner conflicts with the first budget meeting, she suggested it be moved to Tuesday April 25. The first Town Hall meeting will be March 30 as an open forum. Council would like to discuss Stafford, Hwy 43 funding, and Council goals. Council President Perry arranged a tour of the Lake Oswego-Tigard plant on March 21 at 1:30 p.m.

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

#### [Economic Development Committee Appointment](#)

Mayor Axelrod placed before Council appointing Rachael Vidin to the Economic Development Committee.

Councilor Richard Sakelik moved to approve the Mayor's citizen advisory group appointment. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Councilor Teri Cummings, and Councilor Richard Sakelik.**

**Nays: None.**

**The motion carried 3 - 0**

### [Metropolitan Area Communication Commission Council Liaison](#)

Due to a scheduling conflict and technical reasons, Mayor Axelrod would like to remove Councilor Cummings and appoint Councilor Martin to the Metropolitan Area Communication Commission.

Councilor Richard Sakelik moved to approve the Mayor's liaison appointment. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Councilor Teri Cummings, and Councilor Richard Sakelik.**

**Nays: None.**

**The motion carried 3 - 0**

### ~~C. Council Rules Approval~~

[Draft Council Rules](#)

[Council Rules Redlined at 3-6-17 Work Session](#)

### [Council Business](#)

[Agenda Report 2017-03-13-02: RESOLUTION 2017-04, DESIGNATING RECENTLY ACQUIRED PROPERTY PARCEL 21E 35D 0703, 2445 TANNER DRIVE](#)

[RES 2017-04 Savanna Oaks Information](#)

Parks & Recreation Director Worcester staff report.

Councilor Richard Sakelik moved to Adopt Resolution 2017-04, Designating recently acquired property parcel 21E 35D 0703, 2445 Tanner Drive as amended. Councilor Teri Cummings seconded the motion.

**Ayes: Mayor Russ Axelrod, Councilor Teri Cummings, and Councilor Richard Sakelik.**

**Nays: None.**

**The motion carried 3 - 0**

[Agenda Report 2017-03-13-03: West Linn Waterfront Public Engagement Plan](#)

[WL Waterfront Plan Information](#)

Consultant John Morgan staff report.

### [Community Comments](#)

Peggy Kirkendall handout re: suggestions on how to appoint people to the task force and how to run it.

[Peggy Kirkendall submittal](#)

Mayor Axelrod suggested in the Engagement Plan Strategy, Engagement Participants, Partner Agencies section - he would like non-profits broken out from that group. He also thinks the West Linn Historical Society, the Willamette Locks Commission and Working Group, and PGE should be added.

Consultant Morgan explained the PGE is more of a technical group.

Mayor Axelrod wants language to address that so that PGE does not think we are not engaging them. He wants Tri Met and ODOT added. Under Task Force, Tribes he wants to identify the Confederated Tribes of the Grand Ronde Community. He wants Parks and Recreation to say advisory board. He also wants to engage school groups and Community Development Director John Williams.

[Adjourn](#)



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# **WEST LINN CITY COUNCIL MEETING NOTES March 20, 2017**

## **Call to Order**

### **Council Present:**

Mayor Russ Axelrod, Council President Brenda Perry, Councilor Bob Martin, and Councilor Richard Sakelik.

### **Council Recused:**

Councilor Teri Cummings.

### **Staff Present:**

City Manager Eileen Stein, City Recorder Kathy Mollusky, Citizen Engagement Coordinator Courtney Flynn, Assistant to the City Manager Dylan Digby, Associate Planner Darren Wyss, and City Attorney Tim Ramis.

**Public Hearing: Sunset Elementary School, 2351 Oxford Street, Remand from the Oregon Land Use Board of Appeals (LUBA) on City Council Denial of AP-16-01**

**AP-16-01 Sunset School Information**

**Public Comments**

Mayor Axelrod called the public hearing to order, explaining that Council is holding a proceeding regarding AP-16-01, which was the City Council's decision to uphold the approval of the construction of the new Sunset Primary School. The Land Use Board of Appeals (LUBA) remanded the decision to Council so Council could have a public hearing on the School District's modified storm drainage plan. He explained how the hearing would proceed. This is a limited public hearing based on LUBA's Order. The City is only accepting testimony, argument, or evidence that is related specifically to the modified storm drainage plan and Community Development Code (CDC) 60.070(A)(2), CDC 60.070(A)(3), CDC 60.070(A)(6), CDC 55.130(b), or CDC 92.001(E).

City Attorney Ramis explained the Applicant has the burden of proving there is substantial evidence in the record demonstrating that the criteria are met.

He asked if any member of Council wished to declare a potential or actual conflict of interest: There were none.

He asked if any members of the Council wished to report any site visits or ex parte contacts.

Council President Perry conducted a site visit today.

Councilor Martin also did a site visit today. He talked to a couple of engineers who explained what was happening.

Mayor Axelrod has done two site visits over the last month. Council has received several emails which have been forwarded to staff. At the February 21 Neighborhood Association President's meeting he chatted with Patrick Noe regarding Mr. Noe's concerns about the Council meeting held to remand the matter to Council where citizens were not allowed to testify. It did not change his opinion.

Council President Perry clarified that Councilor Martin and her were not together at Sunset Primary School today.

Councilor Sakelik did a site visit around four or five weeks ago.

City Attorney Ramis asked if there were any challenges to the impartiality of council. There were none.

City Attorney Ramis asked if there were any challenges to Council's jurisdiction. The memo in the packet prepared by Peggy Hennessy will be discussed during the regular testimony.

Karie Oakes challenges Council jurisdiction. She believes the Planning Commission should hear this case. The Code says the public should be able to participate. Throughout the Code, the public is given an opportunity to challenge a decision of a lower body to a higher body. This case should be remanded to the Planning Commission. If that decision is appealed, it would go

to City Council. If Council decides, the only thing citizens can do is take it to LUBA.

City Attorney Ramis stated two people have objected to Council's jurisdiction. Council should rule on this during deliberation.

Peggy Kirkendall feels Council tries to deliberate on things that are not specifically spelled out in the Code. The data in the first plan was insufficient, which is one of the reasons for the remand. She recommends Council consult with an independent Civil Engineer and hydrologist and send to Planning Commission so the plans can be checked and rechecked rather than just done at Council.

Councilor Martin inquired if it Council should talk about this issue now or during deliberation.

City Attorney Ramis replied the Council should hear from all the parties. Written argument was received on this issue. Council should approve the record.

Council President Brenda Perry moved to include the file for AP-16-02 and all submitted arguments attached to Darren Wyss' March 13 memo as the record. Councilor Bob Martin seconded the motion.

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

**Nays: None.**

**The motion carried 4 - 0**

City Attorney Ramis asked if any member of the audience wished to challenge the record. There were none.

Associate Planner Wyss staff presentation.

[Presentation](#)

City Attorney Ramis reminded Council that the remand asks (1) can you find the modified plans were submitted by a registered engineer and (2) can you find that it complies with the criteria and is supported by facts in the record. On the jurisdictional challenge, staff has asked Council to wait until they have heard all the arguments and decide at the deliberation stage. Staff recommends Council accept jurisdiction due to (1) the practical side, this body crafted the conditions that apply. (2) for administrative efficiency, this project is ongoing. It is in everyone's best interest to have the question answered quickly. On the legal side, if you allow a full and complete hearing of the issues, give everyone an opportunity to address all the questions and present the evidence, you will have created a hearing where none of the parties are prejudice.

### Applicant's Presentation

Tim Woodley, director of operations and capital program manager for the school district, let Council know they are appreciative of this opportunity to finalize the record and how construction is progressing on the school.

Tom McPherson, attorney for the school district, argued against the procedural legal argument made by opponents that only the Planning Commission has the authority to hear evidence on remand from LUBA. CDC 99.280 permits Council to receive new evidence into the record. Council crafted the conditions and the school district complied with them, it is proper for Council to hear this remand. Council devised the two conditions. (1) An impervious liner in the stormwater detention facility for purpose of minimizing soil saturation and (2) a smaller footprint to preserve additional trees. Both of these things have been accomplished. These two conditions created a need for an amended stormwater plan. Per CDC 99.280(C)(2), it is completely proper for Council, not Planning Commission, to conduct this hearing on remand. This interpretation of the Council's own development code is not reviewable by LUBA or the courts. ORS 197.892 provides that LUBA shall affirm the local government's interpretation of its own land use regulations unless LUBA determines that the local government's interpretation contradicts a state statute or rule.

Mark Wharry, Civil Engineer for KPFF Consulting Engineers, specializes in water resource in K-12 project design. The conditions the engineers were tasked with were to reconfigure and reduce the size of the facility, save trees, provide an impervious liner, to limit the discharge, and submit the design to the City. They have revised the design to minimize the size as much as practical. The new design has been submitted, sinking the facility further into the ground. There is no berm and it includes a synthetic clay liner for infiltration. This report includes a memo from the geotechnical engineer confirming the suitability of the clay liner and that the discharge flows have no adverse effects. The discharge is restricted to below the current levels of what is running off the site. This is a standard design approach and conforms to design methodology presented in the Portland design manual. It was developed in consultation with West Linn engineering staff. It has been reviewed and was approved by the City on July 11.

Mayor Axelrod inquired about the stormwater facility permeability and infiltration limits.

Mr. Wharry explained that the product has .000007 inches per hour permeability; the liner material is standard in the industry. The stormwater facility is not full all the time, it is designed to filter water into the ground and dry out. Using that level of permeability would take one inch of water 16 years to infiltrate through that liner. It is essentially impermeable in the engineering world.

Mayor Axelrod is concerned the operation and maintenance manual in the packet is for the previous infiltration pond, not for the current detention facility.

Mr. Wharry explained the fundamental operation has not changed since the original design. They incorporated the liner and the shape has changed. The way it does water treatment, retention, and storage is the same as the original design.

Mr. McPherson informed Council it is called an infiltration pond even though the water goes to a storm drain in storm events.

Mr. Wharry explained the design of the pond, growing material, drain rock, and pipe were all in the old design. The way the pond treats and retains water does not change. The only thing that is changed is there is a liner underneath. If Council requires them to update the maintenance plan, they can.

Mayor Axelrod had a question regarding Appendix A. Figure 5. It shows pervious area to north of 100 percent where there are new playfields. It describes a pervious area of 43 percent where it is mostly an impervious area.

Mr. Wharry explained that the green area (the field area off to the side) is 100 percent pervious. The yellow area (the proposed basin area) is 43 percent pervious. The other 57 percent is impervious (the roofs and the paving).

Mr. McPherson asked Council to pay attention to the quantified criteria. The final stormwater drainage plan meets this criteria. There will be no adverse impacts from increased intensity of runoff offsite.

#### Public Testimony

Rob Fernandez, West-Linn Wilsonville School District, thanked staff. We have had some disagreements, but staff has been professional. He believes it is clear that Council is the correct body to hear this matter and make the decision. On behalf of the students, operations group, and parents, he strongly urges Council to move forward on this so they can open the doors in September.

Victoria Meier thanked Council for all that they do. The City should not have to rely on neighbors of Sunset to pay for a lawyer, hydrologist, and civil engineer. She feels the School District and City have used the same people for so long, that it is just habit. It is the City's responsibility to see new plan is based on factual evidence. It needs to be checked by someone rather than rubber-stamped. It is the City's responsibility to protect citizens offsite and downhill. Maybe this would not have to have gone to LUBA if more there were more careful work done.

Alice Richmond heard other citizens say the City Engineer is not competent and they do not trust him. She is confident in him. We pay him. Staff would not be here if they were not competent. They would not jeopardize their paycheck. The City Manager supervises them. There are more vital, important things in the City to be taking care of than rehashing this.

Peggy Hennessy, representing SOS Park and David Dodds. The remand from LUBA is coming back to Council on a conditional use issue. LUBA found the criteria was not met. West Linn's Code 99.060 says the Planning Commission is the body that hears a conditional use application. Council's review authority is limited to the record. She agrees Council is ultimate interpreter of the Code, but it has to be initiated at the Planning Commission. There were four or five different conditional use criteria that LUBA found were not met. The two exceptions are (1) the procedural error that allows you to hear new evidence. (2) the factual error that occurred before the Planning Commission. They understand Council will be the ultimate decision maker, but it is appropriate to start at the Planning Commission.

Councilor Martin stated the Code used to allow the Planning Commission to review the technical report, now it says the report must be submitted. That has been interpreted that if the report is submitted, the criteria is satisfied. The Planning Commission would not be able to address this.

Ms. Hennessy replied the Code says it must be supported by factual data. You have to make a factual determination that the data supports that the finding will not have adverse impacts or that they will be mitigated, LUBA found five of the approval criteria were not met. This is a new plan that Planning Commission has not seen. Council has already heard this. If it was a procedural error at Planning Commission, it would have been right for you to hear. It has been to LUBA and the City must decide if the brand new stormwater plan meets the criteria. If the Planning Commission looks at it, it could come back to Council.

Council President Perry stated it is not a brand new stormwater facility, just a modified one. Planning Commission and Council have both heard it. If Planning Commission denies it, the school board will appeal, if they approve it, you will appeal. It makes more sense to have Council hear it and get it done. The legal advice was that it met the criteria to come back to Council.

Ms. Hennessy replied your own code says the Planning Commission is the review authority for quasi-judicial review permits. Four or five mandatory standards were not satisfied. It is not a procedural error, it is a substantive error. There was no substantive plan found to be factually supported before the City at the time. Your own attorney memorandum recommended it go back to the Planning Commission because of the City's on the record appeal procedure, it was not possible for the district or opponent to provide expert evidence on the revised plan.

Mayor Axelrod reminded everyone that Council made it clear in the June findings that the Planning Commission approved the storm drainage plan. It was appealed because Council found it did not meet the plan, so Council conditioned the detention facility. It is clear in the findings that it was a minor modification of the plan. If were a major modification, it would go to the Planning Commission. LUBA did not indicate Council was incorrect in that approach. LUBA stated there were two errors that are related to the elements we have to provide. (1) Documentation that needs to be submitted by an engineer and (2) that it was based on factual data. This public hearing is only on the detention facility itself.

Councilor Martin explained when Council writes a condition of approval, it is written to explain that the change will be to the satisfaction of the City Engineer and City standards. This Council ran for office on the promise that they want citizens to be involved and heard. If this takes multiple hearings, we have already have had seven (three at the Planning Commission and four at Council), of which four have addressed the current plan. If citizens want to have ten more hearings to feel that they have been heard, he is inclined to do that in a way that does not damage the other side. He wants it to be fair and he is sympathetic to having people be involved as much as they can.

Patrick Noe, Sunset Neighborhood Association President, has worked hard to achieve a reasonable stormwater solution. They have fought to get permeable pavers and rain gardens established not only to ease water issues, but also to educate children in management of water resources. They have devoted countless hours and spent a lot of money. Save our Sunset brought this to LUBA. LUBA stated the City has provided by its Code that the determination be supported by a registered engineer and by factual data. In that circumstance, it is not sufficient for respondents to argue before LUBA that the future yet to be reviewed drainage and grading plan will meet the CDC requirements. From this statement, it is clear our CDC requirements were not met and the application was not complete. Unless all conditions of approval are met, a project is not supposed to go forward; however, building on the school has been allowed to go forward. The proposed stormwater facility should go back to the Planning Commission. We all want a school built, just not at the sacrifice of the park and neighbors below the building. Residents on Simpson and Tumwater Streets noticed a new spring that begins at the firehall and continues down Simpson Street. It is estimated that 300 gallons per day are running down Simpson to the stormwater drain. They are concerned it could undermine the roadbed. They are concerned the digging of the detention pond is why. The City should hire a hydrologist and civil engineer and formulate a better stormwater plan. Sunset Creek cannot sustain more water. The City needs to enact a better stormwater plan.

Councilor Martin replied the outflow of this facility is metered. The Engineers tell us this design will reduce the flow. Damage is done by the surge, not by how long surge goes on. He asked why he feels this is a problem when it improves the situation.

Mr. Noe is not sure of the engineering personnel nor does he believe the report, which is why they hired a civil engineer. They have to be sure the creek can handle the extra water. Attention has to be paid to downgrade properties, they have to be protected. He wants to make sure it can handle a 10-year or more storm situation.

Mayor Axelrod stated it is going to be less, it is important for people to understand that the City is updating the stormwater plan. There are some pinch points. It is not the schools responsibility to solve the cities stormwater network. The design shows there is going to be less runoff, it is going to improve conditions.

Peggy Kirkendall feels the engineering firm needs to be questioned. LUBA said there was not sufficient data. There is room to have an independent engineer. They are spending their own

money to hire their own engineer. There is not enough data to support the design. They are here to protect the community. The same engineer that approved first plan approved second plan. She asked the Mayor to ask the City Manager to get an independent engineer to review it. It is immaterial if an engineer stamped it since the data was not there to support it.

Mayor Axelrod explained that what LUBA remanded was that Council did not have an approved plan when it made its decision. Now they are bringing the plan to the public. They could not introduce new evidence at the time, could not approve a plan that was not signed. Now they are looking at a design stamped by an engineer.

City Attorney Ramis reminded Council that this is the time where citizens testify and council asks questions.

Councilor Martin asked if LUBA said the data on the original plan was wrong, or if there was not data to support it. He does not want this mischaracterized as something wrong with the data. It is a procedural problem that came about because the condition of approval was to try to get everything everyone wanted.

City Attorney Ramis' understanding is that LUBA did not find wrong data in the original plan or that the testimony was incompetent. Since the plan did not exist, it was not possible to have evidence.

Karie Oakes supports the jurisdictional issue. This is about approval criteria and therefore should be before the Planning Commission. Councilors are calling this a modified plan. The City Attorney said since the plan did not exist, they did not have factual data. Two of you have been on the Planning Commission. She is worried about how this looks tonight, it looks predetermined. Council said it would end up at Council anyway. She feels efficiency has been chosen over public participation. She heard could they could have a number of other hearings. It is not about quantity, it is about quality.

Marla Craft lives downhill from the water retention facility. She was nervous about this year's rain since it has been the heaviest rain on record. Her yard is drier than it has ever been. The water facility is making a difference.

Byron Jolma, Civil Engineer from Battleground Washington, reviewed the documents provided by the SOS group. He was tasked to review the modified drainage report. He has not seen everything. For instance, the drainage report included a permeable liner and the pond is deeper than shown in the plans he was provided. The first item he could not find was establishing a benchmark of what is allowable for post-development flowrate. This is determined by determining pre-development flowrate. What that means is the time a drop of water takes to travel from one end of the basin to the release point. He could not determine this based on the information provided. He had to infer the same time of concertation was used for the pre-developed and the post-developed and that it would be five minutes. He assumed the land use cover to be the Lewis and Clark standard, that is 70 percent of the

rainfall in the forest never hits the ground and takes more than five minutes. It artificially inflates the pre-developed rate of flow and increases the rate you can release post-development. The other item of concern was the modeling of the pond. Rain still falls in the pond, it was modeled as a pervious surface; it should be impervious. Water that lands on water does not go anywhere. The litmus test of drainage report is that it should be able to be reconstructed and validated, he could not do that. He used modeling software that prints out assumptions that were made. This did not meet the burden of proof. If the calculations were erroneous, then the problem carries on through. Typically, there is a requirement to do a downstream analysis. He is not familiar with West Linn's Code. He is concerned about water quality treatment and the depth of the pond. He was not able to tell from the report which areas were pollution generating. When you mix flows, the downside of the pond is that it has to be treated due to pollution.

Councilor Martin stated there really was not sufficient data in the information you were given. Was there anything in the design that would lead you to believe flow in Sunset Creek would be worse than it is now? It would take longer to get to downslope. The water in the post development would come faster off the roof and parking lot. The number says it is able to handle it better. In the pre-developed condition, there was no forest; it was the school and a playing field.

Mr. Jolma replied the time of concentration, five minutes, is not accurate. When you assume five minutes, it is saying the entire basin reaches there at same time. Water from further away in the forest takes longer to get to the peak flow. The key is to offset peaks. He is talking specifically about the area around the pond. In Washington, they have the Lewis and Clark condition when it is already developed. The pre-developed condition is able to be modeled on existing development conditions, he did not see those in the original report.

Council President Perry replied they are replacing a school with a school, a playing field with a playing field. The school may be larger, but more like it switched one for the other. Why would not the same flow count for both?

Mr. Jolma answered in Clark County you are not able to do that. What was where the pond was should have been modeled as grass or something similar.

Mayor Axelrod said very few parking areas go thorough the bioswale. He does not think water quality is problem.

Mr. Jolma responded there is limited amount of space. The detention pond is the primary concern.

#### Applicant Rebuttal

Mr. McPherson reminded Council that water quality is not before the Council, it is not on remand. Pervious pavers and rain gardens would make the situation worse because water

migrates. He wants to focus on the quantifiable criteria before Council. There are no adverse impacts from increased runoff from the site because there is no increased runoff due to the metered outflow from the detention pond.

Mr. Wharry started with it is not easy to digest someone else's design. He knows the site very well. The facility is being constructed per the approved drawings. The topsoil and lawn media are not complete, but it is being built as designed. The flowrate benchmark comment was correct, the offsite flow is modeled pre-development. He assumed 100 percent was impervious. The approximation time they used was 35 minutes. The post development factor used was much higher with a shorter concentration time of 5 minutes, which is conservative. The goal line established is legitimate. Post development flows, compared to Lewis and Clark state (before any development occurs) compared to what is running offsite is technically the requirement. We are substantially below that. Stormwater modeling is complicated, there are a lot of factors and assumptions, it takes engineering judgment. One of his comments was the school district engineers showed as pervious and should be treated as impervious. The response is we did show that part of site as pervious. We have 18 inches of topsoil media. In heavy storm events, the water will be contained in the pond and continue to percolate as a pervious surface would. Beneath the topsoil, is 12 inches layer of open graded drain rock that collects that water and off sites. There is a significant amount of storage not accounted for in the volume of the pond. We are getting into the details of stormwater modeling and methodology, it was developed in consultation with the City. Where the water is being directed now, is currently draining, in its uncontrolled. The designed onsite facilities do not increase the offsite flows. A formalized downstream analysis was not warranted here since we are not increasing flows, we are decreasing flows.

Councilor Martin stated all of this is based on the modeling. Is it normal? He heard this saying, "All models are wrong, some are useful." Is there a validation stamp? Do you go out and do validation to see if your models are useful? He is not sure what else could be done besides build it and test it.

Mr. Wharry replied in the old days, they did not have models, they did analysis by hand. This is higher technology with better, more sophisticated tools. He balances it against his own old school calculations, there is conservativeness built in. These tools have been used and redeveloped over time.

Mayor Axelrod reaffirmed the models are pretty established and accepted in the community.

Council President Perry stated you designed original plan, if look at that one and the modified one and compare, what is your confidence level? Do you consider this plan better than the previous one or comparable?

Mr. Wharry has very high confidence in the new plan. They have developed a model based on runoff that is much higher than what is there now. There was direction to try to minimize the facility footprint to try to save trees. He believes they walked the balance very carefully and

will be a benefit to the land. This plan is comparable to the previous one.

Councilor Sakelik inquired how many projects have you completed that are similar to this one? How many failures have there been? Are they similar models? How many have you done in West Linn?

Mr. Wharry has completed more than 50, there have been zero failures. They are similar techniques, based on techniques that were previously done by hand. He has done three or four in West Linn.

Mayor Axelrod is looking at the pre-existing conditions. There are a lot of areas with completely uncontrolled runoff. It is being controlled now. The discharge to Exeter Street is being removed. If modeled on Lewis and Clark, it is very conservative. We are reducing water runoff because it is being managed. People are getting caught up in the numbers and not seeing the bigger picture. This is more conservative.

Mr. Wharry replied the new project has slightly more roof and pavement area. They are increasing the impervious area and felt it prudent to go back to Lewis and Clark to do the design and restrict flows.

Council President Brenda Perry moved to extend the meeting to 10:00 p.m. Councilor Richard Sakelik seconded the motion.

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

**Nays: None.**

**The motion carried 4 - 0**

#### Questions of Staff

Councilor Martin is sensitive to giving citizens an opportunity to be heard. He does not want to extend the process unfairly. If Council sends it back to the Planning Commission to be more consistent with the Code, that could take another month or so. Is that construed as putting extra burden on applicant? How long until it gets bad?

Mr. Woodley answered they stopped work on the stormwater facility. There is some point of time where risk increases in managing the water onsite, drainage needs to happen. Extending the time would increase the risk to the surrounding area. The construction schedule will feel the impact in around two to three weeks.

City Manager Stein reminded Council there are new Planning Commissioners that would have to be educated on the project.

Council President Perry stated we have had multiple hearings and they are all planned well in

advance. They have given citizens plenty of time. This meeting has been planned. She does not think it is good for either side to extend. She does not see the point on going back to the Planning Commission. If it is approved, the neighbors will appeal. If it is denied, the school will appeal. It makes sense to move forward and make a decision.

Mayor Axelrod would like the two engineers to get together and clarify/resolve the technical issues and come back to Council with those findings. That would extend this a few days, no more than a week. It is not complicated.

Council President Perry will be gone in a few days. She does not think it serves a purpose. We have heard the testimony and there has been adequate time. We need to move on. She would like to see a decision made.

Councilor Martin wants to make sure everyone has been heard. This is the eighth hearing. Right now the storm is causing offsite problems, they heard a backyard next to the site was drier. We are not out of the rainy season. He does not like leaving the citizens at risk. Not having the facility active is not helping, there is all this extra impervious surface. What additional information will we get? The other engineer did not have the information to give us. We want to protect citizens.

Councilor Sakelik see this issue as down to two main points. (1) The adequacy of the plan. He believes due diligence has been done and the engineer is credible due to his historical performance. (2) We ran on citizens first. We have a good plan. We are watching out for citizen's safety. There is no need to go back to the Planning Commission.

Council President Brenda Perry moved to not return it to the Planning Commission, that Council completes this hearing at the Council level tonight. Councilor Richard Sakelik seconded the motion.

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

**Nays: None.**

**The motion carried 4 - 0**

Mayor Axelrod closed the public hearing.

Council President Perry said if you have a qualified engineer on a project, the City cannot say I do not like that engineer. She recognizes the complexity of the project. To have someone start over with just the detention pond would not make sense. The engineer and staff are adequate to the task, it meets Code.

Councilor Martin hopes people appreciate how hard the City and Council worked to try to accomplish everything everyone wanted. This was not a compromise, it improved the solution

that would have damaged the park. Those trees are important to the park. All of this was done to save the trees. Citizen efforts were not in vain, you ended up preserving more of the park. He hopes they take this as a win. They should see an improvement in water runoff.

Councilor Sakelik says this is for the greater good for the citizens of West Linn. He was not involved in the original meetings; however, he has read and looked at everything. He truly believe this is in the best interest of the citizens.

Mayor Axelrod said when this came before Council, it was a very limited problem. The park, trees, and properties were threatened. This is a good solution. They saved several trees. Everything was always saturated. Water runoff was causing problems downstream. The City needs to look at managing the stormwater better. Council could not redesign the system. It will be nice after things are revegetated and rebuilt. Council has to be practical and are following the code. This will be a decent design, the park is going to be redesigned, and Bittner Street is going to be redone. One of the matters he wants to see done is that the maintenance and operations plan needs to address the detention facility. He wants operation and maintenance protocols for managing the liner and plantings, all those in the operations and maintenance plan. Incorporate the pieces that show you are going to maintain the pond per engineering standards and all the protocols that need to be followed. He wants Council to enter that into the decision that we have the applicant update the operations and maintenance plan that specifically addresses the detention facility.

Council President Brenda Perry moved to give tentative approval of the plan subject to a review of the findings and conditions that will be brought back for the final decision on April 10. Councilor Richard Sakelik seconded the motion.

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

**Nays: None.**

**The motion carried 4 - 0**

Mayor Axelrod explained if you would like to appeal this decision, you must appeal to LUBA in accordance with LUBA's rules and any applicable provisions in the CDC.

**[Adjourn](#)**

# **City of West Linn**

## **COUNCIL RULES**

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**To be Adopted April 10, 2017**

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**Agenda.** The City Manager shall coordinate with the Mayor (or presiding officer) on the preparation of an agenda of the business to be presented at a regular Council meeting. Council Work Session agendas will be published the Thursday prior to the Work Session. The agenda packet containing all agenda bills will be available for the City Council and public ten calendar days before a regular Council meeting. No items will be added to or removed from the agenda after the agenda packet is published without the approval of the City Council, which shall vote to approve the agenda at the beginning of each Council meeting.

- A. A Council member may place or remove an item on a Council agenda by motion at the beginning of each Council meeting, additions and deletions to the agenda must be approved by a majority of the Council. No action shall be taken on items that are not on the agenda without first modifying the agenda by motion. Council members will endeavor to have subjects they wish considered submitted in time to be placed on the agenda, and shall attempt to notify the City Manager in advance of proposing changes to the agenda.
- B. A Councilor who desires major policy or ordinance research should first raise the issue at a meeting under Council Business. The Council should consider items in light of City priorities and workload and agree to proceed with an issue or ordinance before staff time is spent preparing a report. The Councilor may present information or a position paper or ask for a department report or committee recommendation. Councilors who agree that staff time can be spent on a particular item are not bound to support the issue when it comes before the Council for a vote.

**Agenda Report.** Each item of Council business requiring Council action shall be accompanied by an Agenda Report in a format approved by the Council.

**Annual Report of Boards, Commissions, Committees, and Neighborhood Associations.** Each board, commission, committee, and neighborhood association will annually report to the Council on its activities for the previous year, including their recommendations. The report will be prepared in a format prescribed by the Council.

**Attendance.** Councilors will inform the Mayor and the City Manager if they are unable to attend any meeting. Additionally, the Mayor will inform the Council President and the City Manager regarding any absence by the Mayor.

**Bias and Disqualification.** Prior to the commencement of a quasi-judicial hearing, each Councilor must disclose his or her previous pre-judgment, personal interest or participation in any manner or action on the matter to be heard and shall state whether he or she can participate in the hearing with an open mind. If the Councilor deems him or herself unable to hear the matter impartially, the Councilor has a duty to step down from the hearing and participate as a citizen, if so desired.

- A. Any person may challenge the qualifications or impartiality of any Councilor about to participate in the discussion and decision. The challenger must state facts relied upon from which the party has concluded that the Councilor will not likely participate and/or make a decision in an

impartial manner. Such challenges shall be made prior to the commencement of the public hearing. The Mayor shall then give the challenged member an opportunity to respond. Any such challenge to a Councilor shall require a vote of the Council to accept or deny the challenge. The Councilor being challenged shall not vote unless required by the law of necessity to do so. Such challenges shall be recorded into the record of the hearing. If the City Council majority determines that the member is biased, it may disqualify the member by majority vote from participating in a decision. In which case, the Councilor may participate in the proceedings as a private citizen if the Councilor is a party with standing.

**Business from the Council.** Councilors will report on the regional meetings they attend on behalf of the city.

**Censure.**

- A. The Council has the inherent right to make and enforce its own rules and to ensure compliance with those laws generally applicable to public bodies. The Council, acting as a whole, may reprimand or discipline to the extent provided by law, any member(s) of the council, or any member(s) of a board, commission or committee directly associated with the City Council.
- B. To exercise such right, the alleged offender(s) must first be notified of a finding that reasonable ground exists that a substantial violation has occurred prior to referral for investigation of the Council. Council may hold an executive session to consider the complaints or charges unless the person requests an open hearing according [to ORS 192.660\(2\)\(b\)](#) Discipline of Public officers and employees.
- C. The accused member(s) shall have the right to present a defense to the allegations, including the right to have legal representation at such meeting.
- D. Upon finding that a substantial violation has occurred, the Council may, upon unanimous vote of the balance not accused, proceed with censure or impose a proper sanction.

**City Manager Evaluation.** The evaluation of the City Manager will be performed under the terms of the Manager's contract. According to City Charter Chapter 1V, Section 21 (b), the Council shall provide a mechanism for public input at least annually into the evaluation of the City Manager's performance and shall consider such public input in its evaluation of the performance and tenure of the City Manager.

**City Communications.** As a general policy, the City communication tools (including, but not limited to: newsletter, website, mailers, postcards, bulletin boards, email newsletters and videos) should be used solely for City government related content. Events not sponsored entirely or partially by the City should not be allowed space in City communications. Requests for placement of articles in City communications shall be approved by the City Manager or designee.

**Communication with Staff.** Mayor and Councilors shall respect the separation between policy making and administration by:

- A. Supporting the Council-Manager form of government by adhering to the policy of non-interference in the administration of day-to-day City business, which is directed by the City Manager.
- B. Attempting to work together with the staff as a team in a spirit of mutual confidence and support.
- C. At all times respecting the administrative functions of the City Manager and various department heads, and refraining from actions that would undermine the administrative authority of the City Manager or department heads. In all events, the Council will abide by the City Charter and Municipal Code when dealing with the City Manager.
- D. Limiting all inquiries and requests for information from staff or department heads to those questions that may be answered readily or with only the most minimal of research. Questions of a more complex nature shall be addressed to the City Manager or City Attorney. Such questions should, whenever possible, be put in writing. Questions requiring significant staff time or resources (one hour or more) shall require the approval of the majority of the Council. All pertinent information given by the City Manager or City Attorney to the Mayor or a Councilor should be distributed to all the Councilors.
- E. Limiting individual contacts with City officers and employees so as not to influence staff decisions or recommendations, to interfere with their work performance, to undermine the authority of supervisors or to prevent the full Council from having benefit of any information received.
- F. Respecting roles and responsibilities of staff when and if expressing criticism in a public meeting or through public electronic mail messages.

**Community Comment.** General community comment is established to allow members of the public to speak for five minutes at the beginning of each Council meeting and work session on any community matter other than specific agenda items. The Mayor may adjust comment time according to the length of the agenda or the number of requested speakers. Verbally abusive or slanderous comments are not allowed.

Councilors are not expected to engage in discussions while receiving comments; however may ask clarifying questions with the Presiding Officer's permission. Later, during the business portion of the meeting, Councilors may discuss concerns and direct questions to the City Manager with the understanding that answers from staff may not be immediately available.

Persons requesting to speak must first submit a completed testimony form to the City Recorder. A neighborhood representative may speak as an individual as well as the neighborhood representative when presenting items voted upon by the neighborhood association. When presenting items on behalf of the neighborhood association, the designated representative will be allowed up to 10 minutes for this testimony. When called upon, speakers shall first state their name and city of residence for the record. Copies of written comments and materials are to be handed to the City Recorder to deliver to the

Council and submit to the record. If a speaker wishes to show a presentation, the presentation must be delivered to City staff 48-hours prior to the meeting.

**Conferences and Seminars.** Members of the Council are urged to educate themselves about local government. To that end, and as funding allows, Councilors are urged to attend the League of Oregon Cities functions. Requests to attend other government related conferences, training seminars and meetings will be presented to the Council for approval. Members of the Council who serve on committees or the boards of the League of Oregon Cities, the National League of Cities or other such government group will be reimbursed for reasonable expenses not covered by the respective body. Councilors should share information upon returning.

**Confidentiality.** Councilors will keep all written materials marked as confidential in complete confidence to ensure that the City's position is not compromised. No mention of the information read or heard should be made to anyone other than other Councilors, the City Manager or City Attorney.

- A. If the Council, in executive session, provides direction or consensus to staff on proposed terms and conditions for any type of negotiation whether it be related to property acquisition or disposal, pending or likely claim or litigation, or employee negotiations, all contact with other parties shall be made by designated staff or representatives handling the negotiations or litigation. A Councilor will not have any contact or discussion with any other party or its representative nor communicate any executive session discussion.
- B. All public statements, information, or press releases relating to a confidential matter will be handled by designated staff, the Mayor, or a designated Councilor.
- C. The Council, by resolution, may censure a member who discloses a confidential matter.

**Conflict of Interest.** Councilors shall adhere to State laws concerning conflicts of interest. Conflicts of interest arise in situations where a Councilor has an actual or potential financial interest in the matter before the Council. Under state law, an actual conflict of interest is defined as one that would be to the private financial benefit of the Councilor, a relative or a business with which the Councilor is associated. [ORS 244.020](#). A Councilor must publicly announce potential and actual conflicts of interest, and, in the case of actual conflict of interest, must refrain from participating in debate on the issue or from voting on the issue unless allowed by state law. [ORS 244.120](#).

**Consent Agenda.** In order to make more efficient use of meeting time, the City Manager shall place all items of a routine nature on which no debate is expected on a consent agenda. Any item placed on the consent agenda shall be disposed of by a single motion "to adopt the consent agenda" which shall not be debatable. With the approval of the Council, any Councilor or the Mayor can remove an item from the Consent Agenda. An item removed from the consent agenda shall not receive public testimony unless agreed to by a majority of the rest of the Council. Any item removed from the Consent Agenda will be discussed and considered as the first business item of the meeting.

**Council Rules.** Pursuant to Chapter IV, Section 13, of the City Charter, the Council shall adopt Council rules. The Council shall review its rules at least once every two years. Amendments shall be adopted by a majority vote. The Council rules are not intended to replace or supersede any applicable federal or state laws or regulations, City ordinances or policies, or provisions of the City Charter. These rules may be suspended upon an affirmative vote of the Council.

**Emergency Meetings.** In the case of an emergency, an emergency meeting may be called by consent of all available Councilors upon such notice as is appropriate to the circumstances. The minutes of the emergency meeting shall describe the emergency justifying less than 24 hours' notice. The City shall attempt to contact the media and other interested persons to inform them of the meeting. Councilors are responsible to inform staff of how they can be reached when out of town.

**Ethics.** All members of the City Council shall constantly strive to meet the highest ethical standards in their role of City Councilor. The Council may act to discipline a member of the Council for these violations, up to and including approving a resolution censuring the Councilor. Among these standards are:

- I. Councilors shall review and observe the requirements of the State Ethics Law ([ORS 244.010 to 244.390](#)) dealing with use of public office for private financial gain.
  - A. Councilors shall give public notice of any conflict of interest or potential conflicts of interest and the notice will be reported in the meeting minutes. In addition to matters of financial interest, Councilors shall maintain the highest standards of ethical conduct and assure fair and equal treatment of all persons, claims, and transactions coming before the Council. This general obligation includes the duty to refrain from:
    1. Disclosing confidential information or making use of special knowledge or information before it is made available to the general public.
    2. Making decisions involving business associates, customers, clients, and competitors.
    3. Promoting relatives, clients or employees for boards and commissions.
    4. Requesting preferential treatment for themselves, relatives, associates, clients, coworkers or friends.
    5. Seeking employment of relatives with the City.
    6. Actions benefiting special interest groups at the expense of the City as whole.
- II. Repeatedly violating the Council Rules.

**Executive Sessions.** An executive session (meeting closed to the public) may be held in accordance with the appropriate statutory limits of [ORS 192.660\(2\)](#). All executive sessions shall be audio recorded as provided for in [ORS 192.650\(2\)](#) unless the Council determines that written minutes should be taken.

Material discussed during an Executive Session should not be disclosed, as provided in [ORS 192.610 and 192.660](#).

**Exhibits.** Exhibits presented before the Council in connection with its deliberations on a legislative, quasi-judicial or other substantive matter shall be accepted by the Council and made part of the record. The exhibit shall be marked for identification and referenced in the minutes. The exhibit or a copy thereof shall be provided to the meeting recorder.

**Ex Parte Communications.** When Council receives any ex parte communication, Council should inform the citizen that the Council is interested in his or her perspective; however, because the Council is hearing the associated land use application, Council are advised to refrain from reading and responding to information outside of the public hearing process. Council should inform the citizen that the information received is being forwarded to staff for inclusion in the public record. Council shall then forward all ex parte correspondence received to staff as soon as possible for inclusion in the land use file, and if possible, the record.

**Ex-Parte Contacts and Disqualifications-** In the case of quasi-judicial decisions, Ex-parte contacts consist of being party to any written or verbal communication by a party about a fact that relates to any issue of the hearing that occurs when other interested parties are not present or able to receive the information.

Councilors are advised to refrain from engaging in discussions about a pending quasi-judicial decision outside of the public hearing. However, if a Councilor partakes in or receives written or oral ex-parte contact prior to any such hearing, the Councilor shall disclose the communication for the record and/or reveal the contact and substance of the contact prior to the commencement of the hearing. The Councilor will state whether such contact affects his/her ability to vote on the matter in an impartial manner and whether he/she will participate or abstain. The presiding officer shall then announce the right of interested parties to rebut the substance of the communication. If the Council determines that the Councilor should step down for the hearing by a majority vote, the Councilor would then be allowed to participate in the proceedings as a private citizen.

**Expenses and Reimbursement.** With the exception of quarterly stipends, Councilors will follow the same rules and procedures for reimbursement as those which apply to City employees, set forth in the policy manual. Councilor expenditures for other than routine reimbursable expenses (e.g., conference registration, travel, etc.) will require advance Council approval according to the purchasing rules which apply City wide.

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

**Filling Vacancies on Boards, Commissions and Committees.** When a vacancy occurs on any standing commission, board or committee, a public announcement of the vacancy will be made with sufficient time and information provided regarding the duties of the positions and the process of filing an application.

The Council will interview applicants for the Planning Commission and Budget Committee and may also include interviews for other Boards and Committees. The Mayor, with the approval of the Council, shall fill all vacancies of City committees, boards and commissions.

**Flags, Signs and Posters.** No flags, posters, placards or signs may be carried or placed within the Council chambers in which the Council is officially meeting. This restriction shall not apply to arm bands, emblems, badges or other articles worn on personal clothing or individuals, provided that such devices do not interfere with the vision or hearing of other persons at the meeting or pose a safety hazard.

**Gifts.** On occasion, and within the approved budget, the Council may wish to purchase a gift or memento for someone with City funds. Expenditures of this type shall receive prior approval from the Mayor or a consensus of the Council.

**Legal Advice.** Requests to the City Attorney for advice requiring more than fifteen minutes of legal research shall not be made by a Councilor or the Mayor except with the concurrence of the majority of the Council. Before requesting research or other action by the City Attorney, the Council is encouraged to consider consulting with the City Manager to ascertain whether the request or action can be accomplished more cost-effectively by alternate means. Outside a Council meeting, a Councilor should make requests of the City Attorney through the City Manager. Exceptions to this are issues related to the performance of the City Manager and unique and sensitive personal, yet City business-related requests. The City Attorney shall in either case provide any written response to the full Council and City Manager, except as noted above.

**Liaison to Boards, Commissions and Committees.** To facilitate the exchange of information between the Council and its advisory bodies and standing committees, the Mayor will at least annually make liaison appointments with Council approval to City boards, commissions and committees with Council approval. Councilors shall respect the separation between policy making and advisory boards, commissions and committees by:

- A. Not attempting to lobby or influence boards, commissions and committees on any item under their consideration. It is important for the advisory body to make objective recommendations to the Council on items before them.
- B. Attending meetings of assigned liaison bodies, but should avoid becoming involved in the body's discussions without first explaining his or her role as a Council liaison.
- C. Not voting at the body's meeting on any item.

**Litigation.** The Council will meet in Executive Session with the City Manager and City Attorney within 30 days of the City's receipt of:

- A. A statutory notice of claim, or
- B. A judicial or administrative filing which initiates action against the City.

**Meeting Staffing.** The City Manager will attend all Council meetings unless excused. The City Manager may make recommendations to the Council and shall have the right to take part in all Council discussions but shall have no vote. The City Attorney will attend all regular Council meetings unless excused, and will, upon request, give an opinion, either written or oral, on legal questions. The City Attorney, if requested, shall act as the Council's parliamentarian. The City Manager shall designate a staff or contract person as a meeting recorder who will attend all Council meetings and keep the official journal (minutes) and perform such other duties as may be needed for the orderly conduct of meetings. Department directors or other staff will attend Council meetings upon request of the City Manager.

**Meeting Times.** In accordance with the Chapter IV, Section 13 of the West Linn City Charter, the City Council shall hold a regular meeting at least once each month. It is anticipated that this meeting will take place on the second Monday of each month beginning at 6:30 p.m. Such meetings may be preceded by a work session at 5:30 p.m. All other Council meetings will be either Work Sessions or Special Meetings and typically scheduled on the first and third Monday of each month beginning at 6:00 p.m. Council meetings which exceed three hours in length shall be continued to the following evening or the following Council meeting unless extended by majority vote of the Council. Should the need arise; any member of the Council may request a short break.

**Minutes.** Minutes will be taken in accordance with [ORS 192.650 \(1\)](#). All City Council meetings shall be either audio or audio and video recorded unless the Council determines that written minutes are sufficient for a specific meeting.

**Motions.** When a motion is made, it shall be clearly and concisely stated by its maker. Councilors are encouraged to exercise their ability to make motions and to do so prior to debate in order to focus discussion on an issue and speed the Council's proceedings. The Presiding Officer will state the name of the Councilor who made the motion and the name of the Councilor who made the second. When the Council concurs or agrees to an item that does not require a formal motion, the Presiding Officer will summarize the agreement at the conclusion of discussion. The following rules shall apply to motions during proceedings of the Council:

- A. A motion may be withdrawn by the maker at any time without the consent of the Council.
- B. If a motion does not receive a second, it dies. Certain motions can proceed without a second, including nominations, withdrawal of motion and agenda order.
- C. A motion that receives a tie vote fails.
- D. A motion to table is not debatable unless made during a land-use hearing and precludes all amendments or debate of the issue under consideration. If the motion prevails, the matter may be taken from the table only by adding it to the agenda of the next regular Council meeting at which time discussion will continue. If an item is tabled, it cannot be reconsidered at the same meeting.

- E. A motion to postpone to a certain time is debatable and amendable, and may be reconsidered at the same meeting. The question being postponed shall be considered at a later time, at the same meeting, or at a specified time in the future. A motion to postpone indefinitely is debatable and is not amendable and may be reconsidered at the same meeting only if it received an affirmative vote. The object of this motion is not to postpone, but to reject the question without risking a direct vote when the maker of this motion is in doubt as to the outcome of the question.
- F. A motion to call for the question shall close the debate on the main motion and is not debatable. This motion must receive a second and fails without a majority vote. Debate is reopened if the motion fails.
- G. A motion to amend can be made to a motion that is on the floor and has been seconded. An amendment is made by inserting or adding, striking out, striking out and inserting, or substituting.
- H. Motions that cannot be amended include motion to adjourn, agenda order, lay on the table, reconsideration, and take from the table.
- I. A motion to amend an amendment is in order.
- J. Amendments are voted on first, then the main motion as amended.
- K. Council will discuss a motion only after the motion has been moved and seconded.
- L. The motion maker, Presiding Officer, or meeting recorder should repeat the motion prior to voting.
- M. A motion to continue or close a public hearing is debatable.
- N. A point of order, after being addressed by the Presiding Officer, may be appealed to the body.

**News Media.** The Council recognizes the important role of the news media in informing the public about the decisions, activities and priorities of government. Workspace shall be reserved for members of the press at Council meetings so that they may observe and hear proceedings clearly. See also Executive Sessions. The terms “news media” “press” and “representative of the press” for the purpose of these rules are interchangeable and mean someone who:

- A. Represents an established channel of communication, such as a newspaper or magazine, radio or television station; and either
- B. Regularly reports on the activities of government or the governing body; or
- C. Regularly reports on the particular topic to be discussed by the governing body in executive session.

**Order and Decorum.** A law enforcement officer of the City may be Sergeant-at-Arms of the Council meetings. The Sergeant-at-Arms shall carry out all orders and instructions given by the Mayor for the purposes of maintaining order and decorum at the Council meeting. If the Sergeant-at-Arms determines

that the actions of any person who violates the order and decorum of the meeting constitutes a violation of any provision of the West Linn Municipal Code, the Sergeant-at-Arms may place such person under arrest and cause such person to be prosecuted under the provisions of the Municipal Code, or take other appropriate action as outlined in the West Linn Policy and Procedure Manual.

- A. Any of the following shall be sufficient cause for the Sergeant-at-Arms to, at the direction of the Mayor, or by a majority of the Council present, remove any person from the Council chamber for the duration of the meeting:
  - 1. Use of unreasonably loud or disruptive language, including personal, offensive or slanderous remarks, or actions that are boisterous, threatening or personally abusive.
  - 2. Making of loud or disruptive noise, including applause.
  - 3. Engaging in violent or distracting action.
  - 4. Willful injury of furnishings or of the interior of the Council chambers.
  - 5. Refusal to obey the rules of conduct provided herein, including the limitations on occupancy and seating capacity.
  - 6. Refusal to obey an order of the Mayor or an order issued by a Councilor which has been approved by a majority of the Council present.
  
- B. Before the Sergeant-at-Arms is directed to remove any person from a Council meeting for conduct described in this section, that person shall be given a warning by the Mayor to cease his or her conduct. If a meeting is disrupted by members of the audience, the Mayor or a majority of the Council present may declare a recess and/or order that the Council chamber be cleared.

**Order of Business.** The City Manager shall have the authority to arrange the order of business as is deemed necessary to achieve an orderly and efficient meeting with final approval of the Mayor. In general, the order of business will be as follows:

- A. Call to Order and Pledge of Allegiance to the Flag
- B. Approval of Agenda
- C. Community Comments (five minutes per speaker)
- D. Proclamations, Recognitions and Scheduled Presentations to the Council
- E. Consent Agenda
- F. Business Meeting
  - 1. Items removed from the Consent Agenda
  - 2. Public Hearings

- 3. Ordinances and Resolutions
- 4. Other Business
- G. Business from the Council
- H. Report of the City Manager
- I. Report of the City Attorney
- J. Adjourn

The Mayor may use the gavel to commence the meeting, after each vote and to close the meeting.

**Ordinance Reading and Adoption.** All ordinances and resolutions shall be prepared under the supervision of the City Manager and reviewed and approved as to form by the City Attorney. Ordinances and resolutions may be introduced by a member of the Council, the City Manager, the City Attorney or any department head.

- A. Unless the motion for adoption provides otherwise, resolutions shall be adopted by reference to the title only and effective upon adoption.
- B. The Council may adopt an ordinance in any of the following circumstances:
  - 1. Before being considered for adoption, the ordinance has been read in full at two separate Council meetings.
  - 2. At a single meeting by unanimous vote of the whole Council, after being read twice by title only.
  - 3. Any of the readings may be by title only if no Council member requests to have the ordinance read in full or if a copy of the ordinance is provided for each Council member and three copies are provided for public inspection at the City offices not later than one week before the first reading of the ordinance, and if notice of their availability is given forthwith upon the filing, by written notice posted at City Hall and two other public places in the City or by advertisement in a newspaper of general circulation in the City. An ordinance enacted after first being read by title alone may have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading unless each section incorporating such a difference is read fully and distinctly in open Council meeting as finally amended prior to being approved by the Council.
  - 4. Upon the enactment of an ordinance the custodian of records shall sign it with the date of its passage and the endorser's name and title of office and thereafter the Mayor, or President of the Council acting pursuant to Section 18 of the City Charter, shall sign it with the date of its passage and the endorser's name and title of office. Failure of the Mayor or the President of the Council to sign it shall not invalidate it.

- C. Ordinances shall be effective on the thirtieth (30th) day following the date of adoption, unless the ordinance provides that it will become effective at a later time. An emergency ordinance which includes a provision that the ordinance is necessary for immediate preservation of the public peace, property, health, safety or morals may provide that it will become effective upon adoption.
- D. Ordinances and resolutions shall be adopted by roll-call vote.

**Planning Commission Testimony.** In an effort to maintain the impartiality of the Planning Commission, especially in cases where issues can be remanded by the City Council back to the Planning Commission for review, the following rules are established. For legislative land use matters before the Council, Commissioners may testify as a Commissioner, as a Commission-Representative if so designated by the Commission, or as a citizen. For quasi-judicial hearings or petitions for review before the Council, Commission members, who have participated in the preceding Commission decision, may not testify before the Council on the respective matter.

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

**Public Members Addressing the Council on Agenda Items.** Each person addressing the Council shall first complete a testimony form and give it to the City Recorder prior to discussion of an item on the agenda. A separate form must be completed for each item desiring to be addressed.

- A. When called by the City Recorder, those wishing to address the Council shall come to the designated area and state their name and city of residence in an audible tone. They shall limit their remarks to five minutes unless the Council decides prior to a particular agenda item to allocate more or less time. A Neighborhood Association President or a designated representative of a Neighborhood Association shall limit their remarks to 10 minutes or less. They should address all remarks to the Council as a body and not to any member thereof.
- B. No person, other than the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Mayor. Questions from the public shall be asked of a Councilor or staff through the Mayor. No public member will be allowed to speak more than once on a particular agenda item. A member of the public wishing to testify cannot cede their minutes to another.
- C. The Council shall maintain a forum allowing citizens to testify regarding City-related issues, policy, and Council decisions. Any person making personal, offensive, or slanderous remarks, or who become boisterous, threatening, or personally abusive while addressing the Council may be requested to leave the meeting. The Mayor has the authority to preserve order at all meetings of the Council, to cause the removal of any person from any meeting for disorderly conduct, and to

enforce the rules of the Council. The Mayor may request the assistance of Sergeant-at-Arms to restore order at any meeting.

**Public Records.** The disposition of public records created or received by Councilors shall be in accordance with Oregon Public Records Law. Written information incidental to the official duties of a member of the City Council, including electronic mail messages, notes, memos and calendars (e.g., Outlook calendars and “Day timers”) are public records and are subject to disclosure under the Public Records Law.

**Questioning of Staff by Council Members.** Every Council member desiring to question the staff during a Council meeting shall address the questions to the City Manager, who shall be entitled to either answer the inquiry or designate a staff member to do so.

**Quorum.** The quorum requirement for the conduct of Council business is three Council members.

**Reconsideration of Actions Taken.** A member who voted with the majority may move for a reconsideration of an action at the same or the next regular meeting. The second of a motion may be a member of the minority. Once a matter has been reconsidered, no motion for further reconsideration shall be made without unanimous consent of the Council.

**Representing the City.** When any member of the City Council represents the City before another governmental agency, before a community organization or media, the official should first indicate the majority position of the Council. Upon returning, a reasonable effort should be made by the Council to communicate any information or questions pertinent to City business to the full Council within a reasonable timeframe.

- A. The effectiveness of City lobbying in Salem or in Washington, D.C. depends on the clarity of the City’s voice. When Councilors represent the City in a “lobbying” situation, it is appropriate that the Councilors avoid expressions of personal dissent from an adopted Council policy.
- B. When Councilors attend meetings of organizations such as the League of Oregon Cities or the National League of Cities and their boards and committees, they do so as individual elected officials and are free to express their individual views. If the City Council has an adopted policy relating to an issue under discussion, the Councilor is expected to report that fact.
- C. By resolution, the Council may appoint one or two of its members to act as negotiators with groups, individuals, or other governmental entities. Any agreements made by such negotiators shall require approval of the Council as a whole to take effect.

**Parliamentary Procedure.** The Council should follow parliamentary procedure such as Robert’s Rules or Sturgis Parliamentary Procedure.

**Speaking by Council Members.** Any Councilor desiring to be heard shall be recognized by the Mayor, but shall confine his or her remarks to the subject under consideration or to be considered. Councilors will be direct and candid. Councilors will speak one at a time, allowing one another to finish.

**Special Meetings.** The Mayor, or in the Mayor's absence the President of the Council, may, or at the request of two or more members of the Council, call a special meeting for the Council in accordance with state law. Special meetings are to be utilized only when absolutely necessary, and public comment shall be taken at all special meetings.

- A. Written notice of a special meeting shall be given to the Council, media and public, with as much advance (up to 10 days) notice as possible, and no less than 24 hours in advance of the meeting. The notice shall be served on each member personally or electronically, or if the Councilor is not found, left at his or her place of residence. All notice requirements of [ORS 192.640](#) shall be satisfied before any special meeting can be conducted.
- B. Special meetings of the Council may also be held at any time by common consent of all members of the Council subject to notice requirements being met. Councilors shall keep the City Manager informed of their current telephone numbers.

**Televising of Council Meetings.** Acknowledging that the citizenry of West Linn is generally a sophisticated and interested viewing audience, regular business meetings of the Council will be covered gavel-to-gavel live on the City's government access cable channel. Video recordings will be kept permanently.

- A. To enhance viewer interest and understanding of the subject matter, televised meetings of the Council shall, whenever practical, employ the highest technical quality and techniques, such as multiple camera angles and informational captioning. The producer/camera operator should set the scene for the viewer of each agenda item with a planned series of shots in accordance with the City's camera operator's guide.
- B. It is intended that Council meetings be televised in an unbiased, even-handed manner, using camera shots that are appropriate for individual Councilors, witnesses and audience members and are relevant to the discussion.
- C. Video and audio shall be deleted only for the purpose of conforming with applicable laws governing public broadcasts. Editing for the above purpose and for the insertion of informational titles and graphics will be allowed. Portions of videotaped Council meetings may be used in other news and informational broadcasts provided they are not portrayed out of context.
- D. Regular business meetings of the Council shall be televised live and simultaneously videotaped for subsequent replay on the government access channel. Meetings shall be televised and taped in accordance with policies and procedures approved by the City Manager, including the camera operator's guide.

**Testimony Forms.** The testimony forms for land use hearings will have a place for citizens to mark if they are for, against, or neutral on the topic.

**Voting.** Every Councilor, when a question is taken, shall vote. If a Councilor is planning to abstain, the Councilor must declare the intent to abstain prior to the vote.

- A. No Councilor shall be permitted to vote on any subject in which he or she has a conflict of interest.
- B. The concurrence of a majority of the Council members present at a Council meeting shall be necessary to decide any question before the Council. The meeting recorder shall call the roll, and the order of voting shall be rotated on each question such that each Councilor, excluding the Mayor, has an equal opportunity to vote first and second to last. Since the Mayor acts as chair, the Mayor in all instances shall vote last.

**Work Sessions.** Work sessions of the City Council shall be held in accordance with the Oregon Public Meetings Law. [ORS 192.630](#). Whenever circumstances require such a session, it shall be called by the Mayor, City Manager, or two or more Councilors.



## **Agenda Report 2017-04-10-02**

**Date:** March 27, 2017

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

**From:** Darren Wyss, Associate Planner, Community Development Department

**Through:** John Boyd, Planning Manager  
Eileen Stein, City Manager

**Subject:** Adoption of Updated Findings for Sunset Primary School Replacement – AP 16-01

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### **Purpose**

Approval of updated findings in response to the City Council tentative approval of the Sunset Primary School Replacement project on remand from the Land Use Board of Appeals.

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

Should the Council adopt updated findings and finalize its tentative decision from March 20, 2017 to uphold the approval of the West Linn-Wilsonville School District's proposal to replace Sunset Primary School at 2351 Oxford Street?

### **Public Hearing Required:**

None required.

### **Background & Discussion:**

The West Linn City Council held a limited public hearing on March 20, 2017 to address the Land Use Board of Appeals (LUBA) Final Opinion and Order dated January 12, 2017. The LUBA remand addressed the appeal of the City Council's approval of the West Linn-Wilsonville (WLWV) School District's application for a Conditional Use Permit, Class II Design Review, and Class II Variances for the replacement of the Sunset Primary School at 2351 Oxford Street. On remand the City needs to address the two issues that were raised by LUBA regarding the modified storm drainage plan and the City's code criteria, specifically whether the modified plan was "(1) submitted by a registered engineer and (2) supported by factual data."

The Council opened the public hearing on March 20, heard a staff presentation, testimony from the WLWV School District, and testimony from concerned citizens. The Council closed the public hearing and deliberated to a unanimous tentative decision to adopt updated findings and uphold the approval of the Sunset Primary School Replacement. Council directed staff to return with updated findings for approval on April 10, 2017.

### **Budget Impact:**

None

**Council Options:**

1. Adopt updated findings of CUP-15-03, DR-15-17, and VAR-15-01/02;
2. Request staff bring back amended findings.

**Staff Recommendation:**

Staff supports the City Council's March 20, 2017 tentative approval of the West Linn-Wilsonville School District proposal to replace the Sunset Primary School at 2351 Oxford Street.

**Potential Motion:**

1. Move to uphold the approval of the Sunset Primary School Replacement and adopt the updated findings based on the July 2016 Stormwater Drainage Report and all other evidence found in the record to address the LUBA remand.

**Attachments:**

1. West Linn City Council Final Decision and Order
2. The electronic record for the Sunset Primary School Replacement is found below:

[http://westlinnoregon.gov/sites/default/files/fileattachments/planning/project/10848/ap-16-01\\_luba\\_remand\\_agenda\\_packet\\_to\\_cc\\_-\\_3.20.2017\\_-\\_final.pdf](http://westlinnoregon.gov/sites/default/files/fileattachments/planning/project/10848/ap-16-01_luba_remand_agenda_packet_to_cc_-_3.20.2017_-_final.pdf)

[http://westlinnoregon.gov/sites/default/files/fileattachments/planning/project/10848/luba\\_remand\\_supplemental\\_memo\\_-\\_public\\_comments\\_3.13.2017.pdf](http://westlinnoregon.gov/sites/default/files/fileattachments/planning/project/10848/luba_remand_supplemental_memo_-_public_comments_3.13.2017.pdf)

<http://westlinnoregon.gov/planning/2351-oxford-street-conditional-use-permit-class-ii-design-review-and-3-variances-construct>

<http://westlinnoregon.gov/planning/2351-oxford-street-appeal-planning-commission-approval>

**WEST LINN CITY COUNCIL  
FINAL DECISION AND ORDER  
AP-16-01**

This Final Decision and Order amends the June 2, 2016 Final Decision and Order on AP-16-01 and memorializes the decision of the West Linn City Council on the remand of this case from the Land Use Board of Appeals (LUBA).

The scope of the decision is confined to the matters remanded by LUBA for determination by the City.

## GENERAL INFORMATION

<b>APPELLANT:</b>	David Dodds/Save Our Sunset Park 18931 Old River Road West Linn, OR 97068
<b>LUBA REMAND DEADLINE:</b>	ORS 227.181(2) requires the City to take final action on the remand within 120 days of the City receiving a request to proceed. The request was received from West Linn-Wilsonville School District legal counsel on February 13, 2017. Final action must be taken by June 8, 2017.
<b>PUBLIC NOTICE:</b>	Public notice was mailed to all persons with standing, neighborhood associations, and property owners within 500-feet on February 28, 2017. The property was posted with a notice sign on March 9, 2017. The notice was published in the West Linn Tidings on March 9, 2017. The notice requirements of CDC Chapter 99 have been met. In addition, the modified stormwater report (Stormwater Drainage Report, July 2016, prepared by KPFF Consulting Engineers) and LUBA Final Order and Opinion was posted to the City's website February 22, 2017.
<b>SITE LOCATION:</b>	2351 Oxford Street (Sunset Primary School)
<b>LEGAL DESCRIPTION:</b>	Clackamas County Assessor's Map 2S-1E-25DC, Tax Lots 3700, 5800, 6100, 6200, and 6300
<b>SITE SIZE:</b>	6.19 acres
<b>ZONING:</b>	R-10, Single-Family Residential Detached and Attached.
<b>COMP PLAN DESIGNATION:</b>	Low-Density Residential
<b>OWNER/APPLICANT:</b>	West Linn-Wilsonville School District 2755 SW Borland Road Tualatin, OR 97062 Contact: Tim Woodley

## **BACKGROUND**

The West Linn-Wilsonville School District submitted a land use application in November 2015 to replace the Sunset Primary School at 2351 Oxford Street. This application was deemed complete on February 1, 2016. The request required approval by the West Linn Planning Commission for a Conditional Use Permit (CUP-15-03), Class II Design Review (DR-15-17), and Class II Variances (VAR-15-01, VAR-15-02). The School District withdrew a third variance request that was part of the original application, with approval by the Planning Commission, at the April 6, 2016 public hearing.

The proposal was for the purpose of constructing a new Sunset Primary School on the site containing the existing school and included the following improvements:

- Replacing the existing school building with a new 61,680 square foot building
- New on-site circulation and parking
- New sports field and play areas

The project will be conducted in two construction phases to allow the school to operate continuously on the site. The first phase will include construction of the new school building and playground in the general location of the existing playground and sports field. The second phase will commence once the new school building is complete. The second phase includes demolition of the existing school building and constructing a new sports field and parking in that location.

The proposed development site is located in the Sunset Neighborhood and currently contains the existing 54,000 square foot Sunset Primary School and associated driveway, parking, and play areas. The site is zoned R-10, is 6.19 acres, "L" shaped and bordered by Oxford and Bittner Streets, Sunset Park, and residential development. The site is relatively flat and contains a number of significant trees in the southeast portion. Access to the site is provided by Oxford and Bittner Streets, as well as two pedestrian pathways that connect through the residential areas north to Oregon City Boulevard and east to Oregon City Loop.

## **PROCEDURAL HISTORY**

The West Linn Planning Commission held the first of three public hearings on March 16, 2016 to consider the replacement of the Sunset Primary School. The hearing included a staff report, applicant presentation, oral testimony by 11 individuals, several written submittals/exhibits, and applicant rebuttal. The hearing was continued to April 6, 2016 for additional written comments and oral testimony.

The applicant submitted additional materials on March 30, 2016 to address testimony received at the initial hearing. The continued hearing on April 6, 2016 included a staff report, written comments submitted since the previous hearing, oral testimony by four new

participants and four previous participants, and the applicant's rebuttal. The applicant also offered to withdraw VAR-15-03 and the Commission approved the withdrawal. The Commission closed the hearing, granted seven days until noon on April 13, 2016 for written response to new evidence, and continued the hearing to April 13, 2016 for deliberations. After deliberations on April 13, 2016, the Commission approved the applicant's proposal by finding compliance with the applicable criteria:

- Chapter 11, Single-Family Residential Detached, R-10;
- Chapter 38, Additional Yard Area Required, Exceptions to Yard Requirements, Storage in Yards, Projections into Yards;
- Chapter 41, Building Height, Structures on Steep Slopes, Exceptions;
- Chapter 42, Clear Vision Areas;
- Chapter 44, Fences;
- Chapter 46, Off-Street Parking, Loading and Reservoir Areas;
- Chapter 48, Access, Egress and Circulation;
- Chapter 52, Signs;
- Chapter 54, Landscaping;
- Chapter 55, Design Review;
- Chapter 60 Conditional Uses;
- Chapter 75, Variances and Special Waivers;
- Chapter 92, Required Improvements;
- Chapter 96, Street Improvement Construction; and
- Chapter 99, Procedures for Decision Making: Quasi-Judicial.

The Planning Commission approval of CUP-15-03, DR-15-17, and VAR-15-01/02 was appealed on April 28, 2016 by Save Our Sunset Park, pursuant to CDC 99.250. The appellant contended the West Linn Planning Commission misapplied the following provisions of the West Linn Community Development Code:

- CDC 60.070.A(2)
- CDC 60.070.A(3)
- CDC 60.070.A(6); CDC 55.130.B
- CDC 75.020.B
- CDC 92.010.E

The appellant met the application requirements by referencing the application to be appealed, providing a statement of standing, paying the required fee, and identifying the applicable approval criteria that were misapplied. The appellant did not identify grounds for a procedural irregularity, nor did the appellant request the Council re-open the record.

The appeal hearing was held on May 23, 2016. The Appellant presented oral argument, followed by oral argument from the Applicant, and the public. The appeal hearing was continued to May 24, 2016 for Council questions and deliberation. Council closed the public

hearing on May 24, 2016 and a motion was made to deny the appeal AP-16-01 and tentatively affirm and modify the Planning Commission's decision to approve the Sunset Primary School Replacement, and adopt the Planning Commission's findings and conditions of approval, except to the extent modified by a new condition, defined during the May 24, 2016 hearing as:

*"Reconfigure and reduce size of proposed stormwater detention facility to provide for an impervious lined stormwater detention facility and to preserve a minimum of 7 trees that were originally proposed for removal to accommodate the stormwater detention facility."*

The motion passed three votes in favor and two votes opposed. The proceeding was continued to May 26, 2016 and staff were directed to prepare final language of the condition for consideration by the Council.

On May 26, 2016, the Council deliberated briefly before retaining the original draft condition as stated above. The Council also determined there was insufficient time to prepare final findings that day and asked the Applicant if it would grant a short extension so the Council could adequately prepare its findings. The Applicant agreed to an extension and the appeal hearing was continued to June 2, 2016.

On June 2, 2016, the Council adopted the Final Decision and Order (Exhibit CC-3) to deny the appeal and affirm the Planning Commission decision with additional conditions of approval.

The Council decision was appealed to the Land Use Board of Appeals (LUBA) and after the record was finalized, LUBA held oral argument on December 8, 2016. LUBA issued its Final Opinion and Order on January 12, 2017 (Exhibit CC-2), which sustained the first and second assignment of errors and denied the third and fourth assignments of error. On remand the City needs to address the two issues that were raised by LUBA regarding the modified storm drainage plan and the City's code criteria, specifically whether the modified plan was "(1) submitted by a registered engineer and (2) supported by factual data."

### **CITY COUNCIL JURISDICITON**

The City Council determined that the evidentiary hearing following LUBA's remand of the case would be conducted by the City Council. In testimony and in a memorandum, Counsel Peggy Hennessey objected on behalf of her clients, urging that the matter should first be heard by the Planning Commission. Some other witnesses joined in this objection.

The City Council has considered the objection and the relevant Code provisions and for several reasons reaffirms its decision to conduct the remand hearing before the City Council.

The objection is based on the provisions of the City Code which govern the conduct of quasi-judicial appeals from the Planning Commission to the City Council. In most cases, these

appeals are conducted based on the record made before the Planning Commission and no new evidence is accepted during the Council hearing. The Code does, however, allow the City Council the discretion to accept new evidence where it finds that:

1. A procedural error was committed that prejudiced a party's substantial right, and reopening the record before the Council is the only means of correcting the error; or
2. A factual error occurred before the lower decision making body through no fault of the requesting party, that is relevant to an approval criterion and material to the decision.

The objection to Council jurisdiction is based on the argument that neither of these conditions are satisfied and therefore only the Planning Commission can accept new evidence regarding the compliance of the modified Stormwater design with applicable criteria.

The City Council has considered the cited Code provision and finds that the text of the Code does not expressly address the applicable procedure for conduct of a hearing after remand from LUBA. The cited provisions control hearings on appeals from the Planning Commission or other lower decision making bodies, but not remands from LUBA. The Council must therefore determine a fair process to conduct the proceeding.

In our view the procedural posture of the case is different than a matter coming before the Council on appeal from the Planning Commission. After the Council's earlier deliberation and decision, the case was reviewed by LUBA which affirmed part of the decision and remanded part of the decision. On remand, the Council found itself again at the deliberation stage, but with guidance from LUBA as to the issues the Council must consider. Our judgment is that the hearing should be reopened to accept evidence and argument on the issues identified by LUBA. We interpret the Code provision regarding appeals from the Planning Commission to be inapplicable to this situation.

Conduct of the evidentiary hearing at the Council level is reasonable based on several considerations. First, there has been no prejudice to any party. All participants were given the opportunity to present and rebut evidence and to offer argument. Second, the City Council itself imposed the condition which is the subject of the hearing. It is therefore most familiar with the relevant aspects of the record and the reasoning and analysis that led to the conclusion that imposing a condition requiring a modified Stormwater design was necessary to assure compliance with the applicable criteria. Finally, considerations of administrative efficiency are relevant in this case because the City has expended a very large amount of its staff capacity on the matter and because it is important to all parties to the case to know the outcome as soon as possible because the school project is already under construction.

Alternatively, we do not interpret our authority to accept evidence under 99.280(C) as restrictively as those who argue that it prevents our consideration of new evidence. We

interpret Subsection (C)(2) broadly to include errors of the type made in this case. Had no error been made, it would not have been necessary for the City Council to impose new conditions related to the Stormwater design. Based upon this determination, if Section 99.280(C) was applicable to this remand proceeding, the Council would conduct an evidentiary hearing and consider new evidence.

## CONDITION 2

In its decision LUBA ruled that Condition 2 of the June 3, 2016 decision did not obviate the need for public hearing on compliance of the modified stormwater facility design with applicable code criteria. Accordingly, we are modifying Condition 2 to reflect that the modified plan must be reviewed by the City Council in a public hearing. Condition 2 is amended as follows:

***2. Engineering Standards. All public improvements and facilities associated with the approved site design, including but not limited to street improvements, driveway approaches, curb cuts, utilities, grading, onsite and offsite stormwater, street lighting, easements, easement locations, and connections for future extension of utilities are subject to the City Engineer's review, modification, and approval. These must be designed, constructed, and completed prior to the issuance of the final building certificate of occupancy.***

***2a. The Applicant shall reconfigure and reduce the size of proposed stormwater detention facility to provide for an impervious lined stormwater detention facility and to preserve a minimum of 7 trees that were originally proposed for removal to accommodate the stormwater detention facility.***

***2b. The stormwater discharge offsite from the modified detention facility must achieve or be less than the reduced discharge rates specified in the approved CUP application.***

***2c. Applicant shall submit to the City Engineer Council for review and approval in a public hearing, under adopted engineering standards, an amended stormwater management plan incorporating the modified detention facility, supported by the calculations required by the City's engineering standard, and signed by a registered engineer.***

## FINDINGS

As required by Condition 2 of the Council's June 2, 2016 decision in this case, and pursuant to the Council's February 17, 2017 Order reopening the record in this case, the Applicant submitted a modified storm drainage design and a supporting report. The Council conducted

a hearing to take evidence and determine whether the modified plan and report satisfied the applicable criteria. Based on the findings herein, the Council concluded that the modified plan satisfies the applicable criteria and meets the requirements of Condition 2.

#### A. Matters of Conflicting Evidence and Other Issues

##### 1. Liner Impermeability

The Council questioned the Applicant's representatives regarding the characteristics of the pond liner, seeking information on the degree of permeability of the product employed in the design. The design specifications indicate that the liner is only very slightly porous. The responsive testimony included that the liner was sufficiently impermeable that it would take sixteen years for one inch of water to infiltrate through to the soil underlying the pond.

The Council interprets the Condition 2(a) requirement of "an Impervious lined stormwater detention facility" to mean a liner which meets Section 604.03 of the City Standard Construction Specifications resulting in no measurable water loss over a standard two hour hydrostatic test. The functional objective of the condition is to reduce infiltration of water into the soil to a level below what is occurring in the area of the pond in a predevelopment condition. The testimony supports a finding that the liner allows only a minute amount of infiltration and that level is below what occurs in the predevelopment condition. And, City Standard Construction Specification requires testing of the liner to meet the required standard. The Council therefore finds that the liner design specification satisfies the requirements of Condition 2(a).

##### 2. Discharge into Sunset Creek

Application opponents reviewed the claim that there would be increased intensity of runoff from the site and that the design did not sufficiently mitigate the adverse impact from increased runoff. In response, the Applicant offered expert testimony as well as an updated Stormwater Drainage Report dated July 2016. In summary, the Applicant's evidence supports the conclusion that the post development level of runoff will be below the predevelopment level. If reliable, this evidence supports the conclusion that runoff from the site will not be intensified and that the stormwater system design mitigates the impact of stormwater flowing from new structures and impervious surfaces allowed by approval of the application. The Council questioned Applicant's engineering expert regarding his experience, credentials and the results of prior stormwater projects in West Linn. We find the testimony and the report credible and reliable in light of the experience of the project engineer which includes 50 projects completed over more than 20 years with no failures. At least three of these designs were constructed in West Linn with no failures.

Opponents also offered expert testimony which questioned certain aspects of the report, the design and how the project was being constructed. This witness indicated that he did not have full information about the project. The applicant's engineer effectively responded to

the questions raised, identifying the benchmarks employed to compare pre and post development runoff, affirming that the pond was being built to the designed specifications and pointing out that runoff from the site would no longer be discharged into Sunset Creek in an uncontrolled manner. He also offered persuasive testimony that the computer model employed to predict stormwater runoff characteristics yields results consistent with his long experience using conventional calculation methods.

We find that the Applicant's responsive expert testimony to be credible and we are satisfied that the points raised in opposition do not undermine the credibility of the Stormwater Drainage Report dated July 2016, or the supporting testimony provided by the Applicant.

B. Findings Addressing Applicable Criteria.

**Community Development Code Chapter 55.130.B**

**55.130 GRADING PLAN**

**The grading and drainage plan shall be at a scale sufficient to evaluate all aspects of the proposal and shall include the following:**

...

**B. A registered civil engineer shall prepare a plan and statement that shall be supported by factual data that clearly shows that there will be no adverse impacts from increased intensity of runoff off site, or the plan and statement shall identify all off-site impacts and measures to mitigate those impacts. The plan and statement shall, at a minimum, determine the off-site impacts from a 10-year storm.**

Finding: The applicant submitted a modified Stormwater Drainage Report (Report) in July 2016 to address the conditions of approval imposed by the West Linn City Council in its Final Decision and Order dated June 2, 2016 (Exhibit CC-3). The Report was prepared by a registered civil engineer from KPFF Consulting Engineers. The Report complies with the City of West Linn Design Standards. The Report provides factual data showing no adverse impacts from increased intensity of runoff from the site, including from a 100-year storm. Moreover, the Report sets forth factual data convincingly showing that the intensity of runoff off-site will be reduced, not increased, for all stormwater events up to and including a 100-year storm. Therefore, no off-site measures are necessary for stormwater purposes. The Report and supporting testimony of the applicant's consulting engineer, who oversaw preparation of the Report, show that the proposed development and stormwater plan will reduce offsite runoff to Lewis & Clark Levels (pre-development conditions). This criterion is met.

**Community Development Code Chapter 92.010.E**

**92.010 PUBLIC IMPROVEMENTS FOR ALL DEVELOPMENT**

*The following improvements shall be installed at the expense of the developer and meet all City codes and standards:*

...

***E. Surface drainage and storm sewer system. A registered civil engineer shall prepare a plan and statement which shall be supported by factual data that clearly shows that there will be no adverse impacts from increased intensity of runoff off site of a 100-year storm, or the plan and statement shall identify all off-site impacts and measures to mitigate those impacts commensurate to the particular land use application. Mitigation measures shall maintain pre-existing levels and meet buildout volumes, and meet planning and engineering requirements.***

Finding: The applicant submitted a modified Stormwater Drainage Report (Report) in July 2016 to address the conditions of approval imposed by the West Linn City Council in its Final Decision and Order dated June 2, 2016. The Report was prepared by a registered civil engineer from KPFF Consulting Engineers. The Report complies with the City of West Linn Stormwater Management Manual and the City of West Linn Design Standards. The Report provides factual data showing no adverse impacts from increased intensity of runoff from the site, including from a 100-year storm. Moreover, the Report sets forth factual data convincingly showing that the intensity of runoff off-site will be reduced, not increased, for all stormwater events up to and including a 100-year storm. Therefore, no off-site measures are necessary for stormwater purposes. The Report and the supporting testimony of the applicant's consulting engineer, who oversaw preparation of the Report, show that the proposed development and stormwater plan not only maintain pre-existing levels, but reduce stormwater discharge intensity from the site. West Linn Engineering staff reviewed the Report and determined that the modified design and Report meets all engineering requirements. This criterion is met.

**Community Development Code Chapter 60.070.A(2)**

**60.070 APPROVAL STANDARDS AND CONDITIONS**

***A. The Planning Commission shall approve, approve with conditions, or deny an application for a conditional use, except for a manufactured home subdivision in which case the approval standards and conditions shall be those specified in CDC 36.030, or to enlarge or alter a conditional use based on findings of fact with respect to each of the following criteria:***

(...)

***2. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and natural features.***

Finding: The applicant submitted a modified Stormwater Drainage Report (Report) in July 2016 to address the conditions of approval imposed by the West Linn City Council in its Final Decision and Order dated June 2, 2016. The Report calculations now account for an impervious liner and a reduced footprint for the stormwater facility to preserve additional significant trees on the site. The impervious liner addressed and eliminated all concerns of oversaturation of soils and offsite runoff with potential adverse impacts to significant trees, city properties, and private properties. With the modified design and Report, the applicant has shown the characteristics of the site are suitable for the proposed use because additional trees will be retained on-site due to the decreased area of the stormwater facility. In addition, the conditions of approval result in stormwater containment within the detention facility. The detention facility addresses and eliminates any concern that shallow landslide hazards mapped by the Department of Geology and Mineral Industries (DOGAMI) in the vicinity of the project site could be at a higher risk of landslide because the project will not increase soil saturation.

Evidence and testimony was presented during the 2016 hearings by Pacific Hydro-Geology (PHG) geologist Malia Kupillas, a registered geologist in Oregon, regarding soil saturation impacts and tree retention concerns with the original Stormwater Drainage Report. The applicant responded to those concerns by reducing the size of the detention facility, adding an impervious liner (as required by conditions of approval), and modifying its Stormwater Drainage Report with the July 2016 Report. The July 2016 Report provides substantial and convincing evidence that the detention facility will reduce the infiltration of stormwater, thereby reducing the landslide risk. Therefore, the City relies on the modified Report with supporting testimony of the applicant's consulting engineer who oversaw preparation of the Report, and it finds the evidence in that Report to be substantial and persuasive with regard to soil saturation impacts. This criterion is met.

**Community Development Code Chapter 60.070.A(3)**

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

Finding: The applicant submitted a modified Stormwater Drainage Report (Report) in July 2016 to address the conditions of approval imposed by the West Linn City Council in its Final Decision and Order dated June 2, 2016. The Report calculations now account for an impervious liner and a reduced footprint for the stormwater facility to preserve additional significant trees on the site. The impervious liner addressed and eliminated all concerns of oversaturation of soils and offsite runoff with potential adverse impacts to significant trees, city properties, and private properties. With the modified design and Report, the applicant has shown the proposal will provide for a facility that is consistent with the overall needs of the community because additional trees will be retained on-site due to the decreased area of the stormwater facility. In addition, the conditions of approval result in stormwater containment within the detention facility. The impervious lined detention facility addresses

and eliminates any concern that soil saturation downslope will potentially have negative impacts on mature trees in the vicinity of the project site because the project will not increase soil saturation.

Evidence and testimony was presented during the 2016 hearings by Pacific Hydro-Geology (PHG) geologist Malia Kupillas, a registered geologist in Oregon, regarding soil saturation impacts and tree retention concerns with the original Stormwater Drainage Report. The applicant responded to those concerns by reducing the area of the detention facility, adding an impervious liner (as required by conditions of approval), and modifying its Stormwater Drainage Report with the July 2016 Report. The July 2016 Report provides substantial and convincing evidence that the detention facility will reduce the infiltration of stormwater, thereby reducing potential impacts to mature trees downslope. Therefore, the City relies on the modified Report with supporting testimony of the applicant's consulting engineer, who oversaw preparation of the Report, and it finds the evidence in that Report to be substantial and persuasive with regard to soil saturation impacts. This criterion is met.

**Community Development Code Chapter 60.070.A(6)**

***6. The supplementary requirements set forth in Chapters 52 to 55 CDC, if applicable, are met.***

Finding: The applicant submitted a modified Stormwater Drainage Report (Report) in July 2016 to address submittal requirements found in CDC 55.130.B (per LUBA remand) and allow the community to review the Report and provide comment at a public hearing. The Report satisfies the conditions of approval imposed by the West Linn City Council in its Final Decision and Order dated June 2, 2016. (Finding for CDC 55.130.B). This criterion is met.

**Condition 2**

***2. Engineering Standards. All public improvements and facilities associated with the approved site design, including but not limited to street improvements, driveway approaches, curb cuts, utilities, grading, onsite and offsite stormwater, street lighting, easements, easement locations, and connections for future extension of utilities are subject to the City Engineer's review, modification, and approval. These must be designed, constructed, and completed prior to the issuance of the final building certificate of occupancy.***

***2a. The Applicant shall reconfigure and reduce the size of proposed stormwater detention facility to provide for an impervious lined stormwater detention facility and to preserve a minimum of 7 trees that were originally proposed for removal to accommodate the stormwater detention facility.***

**2b. The stormwater discharge offsite from the modified detention facility must achieve or be less than the reduced discharge rates specified in the approved CUP application.**

**2c. Applicant shall submit to the City Council for review and approval in a public hearing, under adopted engineering standards, an amended stormwater management plan incorporating the modified detention facility, supported by the calculations required by the City's engineering standard, and signed by a registered engineer.**

Finding: In its June 2, 2016 Final Decision and Order the City Council determined that satisfying the above criteria required submission of a modified stormwater design in compliance with the requirements of Condition 2. The applicant has submitted a modified design and Storm Drainage Report. The record indicates that the stormwater detention facility has been redesigned to preserve a minimum of seven trees that were originally proposed for removal and to provide for an impervious liner that allows only a minute amount of infiltration into the soil, less than occurs in the undeveloped condition. The calculations provided in the Stormwater Drainage Report demonstrate that the modified design for the detention facility achieves discharge rates equal to or less than the original design. The calculations in the Report are signed by a registered engineer and have been reviewed and approved by the City's Engineer under adopted engineering standards. We find that the condition is satisfied by the documents submitted by the Applicant.

#### **ORDER**

The Council modifies its June 2, 2016 decision in AP-16-01 to amend Condition 2, approve the modified storm drainage design and to adopt Supplemental Findings addressing the compliance of the modified stormwater design with applicable criteria.

# West Linn's Waterfront Public Engagement Plan

## Introduction

The City of West Linn is preparing to Master Plan the Willamette River waterfront area located generally south of I-205 and between the Willamette Neighborhood on the west and the Arch Bridge area on the east. This area is significant and historic, but does not fulfill its potential for new investment in public and private uses, opportunities for restoration and preservation, redesigned and better functioning transportation, and serving as a major focal point in which the community will benefit, find value and excitement, and have great civic pride.

To initiate the Master Plan process in 2016, the City reengaged property owners that participated in the draft Arch Bridge-Bolton Concept Plan in 2014. These discussions addressed regional planning interests, new development opportunities, and potential measures and alternatives to preserve property values consistent with the expanded, long-term Master Plan goals.

Late in 2016 the City staff also initiated a draft memorandum framing the approach to the Master Plan project, and building on previous planning efforts and knowledge. On December 19, 2016, the Council concurred on general scoping elements for the Master Plan. These core elements for future planning were approved:

- *Plan for the entire waterfront area with redevelopment potential upstream from the I-205 Abernathy Bridge*
- *Plan in the context of the Willamette Falls area and the several focused groups and projects actively involved in significant enhancement of the area and programs surrounding the falls, including Oregon City's Willamette Falls Legacy Project.*
- *Integrate more public spaces and experiences in the project designs and plans*
- *Work to create transportation systems which minimize negative impacts on the community and development potential of the area*
- *Work within a framework of financial feasibility based on market and financing realities*
- *Broadly engage the community in establishing project values and direction and in developing plans and programs.*

The staff memorandum framing a proposed Master Plan approach will be brought to the Council for review in May. This public engagement document is a key part of the planning process moving forward. It identifies the overall community engagement tools and processes which will be the underpinning of the planning work.

## Engagement Plan Goals

- *Broadly engage the community in establishing project values and direction and in developing plans and programs*

# West Linn's Waterfront Public Engagement Plan

- *Adopt and implement the Master Plan with broad community support, ownership, and commitment for moving forward to completion*

## Engagement Plan Objectives

- *Create a strong sense of community ownership and support of the West Linn's Waterfront Project plan and implementation*
- *Offer educational and meaningful input opportunities throughout the engagement and implementation processes*
- *Proactively engage citizens where they are, meaning attending community events, meetings, and other gatherings to provide information and gather input*
- *Provide opportunities for the community to come together to learn about the project, review its directions, and offer meaningful comment and direction*
- *Create the result of a positive adoption process*

## Engagement Plan Strategy

### Engagement Participants

- **Citizens**
  - *Engage where they are*
  - *Provide opportunities to engage in larger forums (workshops)*
- **Organizations**
  - *Neighborhood Associations*
  - *Community Organizations*
  - *Civic Organizations (Chamber of Commerce, Rotary Club, etc.)*
  - *Groups associated with the West Linn-Wilsonville School District*
- **Business Community**
  - *Property Owners*
  - *Business Owners*
    - Notably West Linn Paper Mill, Portland General Electric (PGE), and others in planning area*
- **Residential Owners in the project area**
- **Partner Entities**
  - *Oregon City*
  - *Clackamas County*
  - *Metro*
  - *Oregon Department of Transportation*
  - *TriMet*

# West Linn's Waterfront Public Engagement Plan

- *Tualatin Valley Fire & Rescue (TVF&R)*
- *Department of Land Conservation and Development (DLCD)*
- *Willamette Falls Heritage Area Coalition*
- *Willamette Falls Legacy Project*
- *Willamette Falls Locks Commission*
- *Corp of Engineers*
- *City Boards and Commissions*
  - *Economic Development Committee*
  - *Planning Commission*
  - *Historic Review Board*
  - *Parks & Recreation Board*
  - *Committee for Citizen Involvement*

## Strategy

- *Goal: Create meaningful input*
  - *Citizens have the information they need to make meaningful input*
  - *Decision makers receive meaningful input to help make good decisions*
  - *All input is recorded and tracked, with a response developed for all input, either individually or aggregately based on topics. This response document is widely available showing people how their input was used.*
  - *Levels of engagement and response are tracked with regular reports provided to a task force and/or Committee for Citizen Involvement (see discussion of task force below) for evaluation and making recommendations for adjustment to the engagement activities to improve performance.*

The engagement strategy is based on City staff holding conversations with citizens throughout the community, individually, in groups, and in gatherings. Using this input, Staff will be responsible for providing information, answers, responses, and drafts of material to help both educate the public and to stimulate meaningful input. However, the key to the engagement strategy is to have Staff listen carefully, record the major points and ideas raised, and then to report to the community what was heard at each event, how the information was used, and answers to questions raised. This process will be nimble and adaptive, and will be efficient at broadly providing information and gathering input.

During the planning process, project- and topic-specific committees will be formed to work on specific issues (see final section below). And, as the Plan will eventually result in amendments to the Comprehensive Plan, and amendments to the Development Code and zoning map, the Planning Commission and City Council will go through the appropriate hearing and decision making process to formally adopt the proposals. One of the committees to be formed toward the end of the process may be a citizen committee to help finalize the Comprehensive Plan and Development Code changes in accordance with West Linn Development Code Chapter 98. Because the overall Master Plan scoping process is more broad and multidisciplinary in nature, and sometimes

# West Linn's Waterfront Public Engagement Plan

complex, it is best left to a direct community engagement strategy rather than a more focused topic-specific committee structure.

The engagement strategy is broken into six elements which are described below, and illustrated on the timeline found at the end of this report. This strategy does not commit to specifically using all these tools or when they will be used, but rather identifies the tool box of engagement options to support the planning process. It is anticipated all tools in the box will be used, but the process needs to be nimble and adaptable to best meet the project and community goals. Therefore, it must adapt based on what is effective and what is not to help assure the highest level of meaningful public engagement. The elements are:

- *Electronic and Social Media*
- *Public Outreach – Early in the Project*
- *Community Engagement – direct contact tools and events*
- *Public Outreach – Later in the Project*
- *Media Relations*
- *Citizen topic-specific committees*

## Electronic and Social Media

- *Utilize existing and new social media platforms to promote information and events related to the core elements of the Project:*
  - *Project Website (note – this is under development at this time)*
  - *Project Facebook Page*
  - *City of West Linn Facebook page link to project page*
  - *City of West Linn Twitter*
  - *City of West Linn YouTube*
  - *West Linn Instagram*
  - *Nextdoor*
- *Create project emailed newsletter*
  - *Published no less than bi-weekly*
  - *Project updates*
  - *Upcoming events*
  - *Key stories*
  - *Human interest stories*
  - *Distribution list*
    - *Starts with current City email list*
    - *Active and persistent solicitation of new subscribers*

## Public Outreach – Early in the Project

- *Make presentations with these three key elements:*
  - *Here is what we have learned*
  - *Here are potential options*
  - *What do you think?*

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- *Compile results and provide feedback to all groups participating in presentations*
- *Targeted Groups:*
  - *Neighborhood Associations*
  - *Civic Groups (Rotary, etc.)*
  - *School related groups*
  - *Others upon request*
- *Timeline – start in April and continue through September*

## Community Engagement – direct contact tools and events

- *Hold open houses or workshops*
- *Focus on ideas and solutions*
  - *Traffic circulation*
  - *Land uses*
  - *Design*
- *Results in general consensus on solutions to the major issues*
- *Conduct site and project tours for groups and all-comers on a regular basis*
- *Provide copies of informational material to local groups, businesses*
- *Postcards, posters, print newsletter, newspaper advertisements, community board, utility bill*

## Public Outreach – Later in the Project

- *Return to the groups participating in earlier presentations and open houses plus others as appropriate*
- *Make presentations with these two key elements:*
  - *Here is what the community has created so far*
  - *What do you think?*
- *Compile results and provide feedback to all groups participating in presentations*

## Media Relations

- *Persistent activity throughout project*
- *Publicity gained via news outlets (The Tidings, The Oregonian, TV stations, etc.)*
- *Actions to earn publicity include:*
  - *Press releases*
  - *Encourage reporters to attend community and group events*
  - *Encourage reporters to subscribe to project accounts for email, twitter, etc.*
  - *Personal relationships and reliable responses to reporters*

## Project- and Topic-Specific Committees

Committees will be established at times to facilitate the planning process. For example, a transportation committee will be established early to work on critical infrastructure needs and opportunities, and alternative approaches or options to address the many

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transportation challenges important to the broader Master Plan concepts that the community will eventually create for the larger waterfront area.

As the Master Plan elements come together, there will be other project- and topic-specific areas where citizen committees will work with staff to resolve issues, and create draft solutions and proposals for community review. For example, committee’s may address topics such as design standards, historic preservation, environmental restoration, and infrastructure financing. These will be set up by the Council, as needed and appropriate, based on the outcomes of the overall Master Plan process and the likely phasing of future development plans and projects for the larger waterfront area.

Chapter 98 of the Development Code calls for the creation of a legislative working group when there are legislative land use changes proposed for the Code. The working group helps draft the amendments. The Staff and Council can determine when a working group is necessary.

As the Master Plan will incorporate the larger waterfront area, currently proposed as three sub-districts, refined Comprehensive Plan policies and Development Code amendments will be created to support the Master Plan. These are legislative changes. It is recommended the Council form focus groups on these topics, as needed, when the specific legislative changes are being developed.

Public Engagement Plan - Tentative Schedule - West Linn's Waterfront Project

Task	2017			2018				2019	
	2nd Qtr	3rd Qtr	4th Qtr	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	1st Qtr	2nd Qtr
Electronic and Social Media									
Media Relations									
Public Outreach - Early									
Community Engagement - Direct Contact, Tools, and Events									
Public Outreach - Later									
Citizen Committees, Project/Topic-Specific (as needed)									
Adoption Process									