



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

WEST LINN CITY COUNCIL MEETING NOTES November 8, 2021

[Pre-Meeting](#)

[Call to Order \[6:00 pm/5 min\]](#)

Council Present:

Mayor Jules Walters, Council President Bill Relyea, Councilor Mary Baumgardner, Councilor Rory Bialostosky, and Councilor Todd Jones.

Staff Present:

City Manager Jerry Gabrielatos, City Recorder Kathy Mollusky, City Attorney Bill Monahan, and Acting Police Chief Peter Mahuna.

[Approval of Agenda \[6:05 pm/5 min\]](#)

Council President Bill Relyea moved to approve the November 8, 2021, West Linn City Council Meeting Agenda with the removal of the October 4, 2021 Draft Meeting Notes from consideration under Consent Agenda Item a. Councilor Mary Baumgardner seconded the motion.

Councilor Baumgardner explained she wished to remove the October 4th meeting minutes due to a concern that some of Council's discussion was not included. She wanted to review the minutes and asked other Council members to do the same.

Ayes: Mayor Jules Walters, Council President Bill Relyea, Councilor Mary Baumgardner, Councilor Rory Bialostosky, and Councilor Todd Jones.

Nays: None.

The motion carried 5 - 0

[Public Comments \[6:10 pm/10 min\]](#)

Keith Morris introduced the inaugural group of girls for West Linn Scouts. He asked for Council's feedback on what the scouts could do to improve West Linn.

Councilor suggestions included volunteering in the city parks, being active in City government, providing a young person's perspective to Council, reaching out to community members in assisted living, and creating a list of items they would like to see the City do or have.

[Announcements, Proclamations, and Recognitions \[6:20 pm/20 min\]](#)

[Small Business Saturday Proclamation](#)

[Proclamation](#)

Councilor Jones read the Proclamation, declaring November 27, 2021 as Small Business Saturday in the City of West Linn.

[Veterans Day Proclamation](#)

[Proclamation](#)

Council President Relyea read the Proclamation, declaring that in observance of Veterans Day on Thursday, November 11, 2021, West Linn and the nation honored its armed forces veterans.

[Consent Agenda \[6:40 pm/5 min\]](#)

[Agenda Bill 2021-11-08-01: Approval of Meeting Notes for September 20 and October 4, 2021](#)

[Draft Notes Information](#)

The meeting notes from October 4th were removed from consideration tonight during the Approval of the Agenda.

Council President Bill Relyea moved to approve the Consent Agenda. Councilor Mary Baumgardner seconded the motion.

Ayes: Mayor Jules Walters, Council President Bill Relyea, Councilor Mary Baumgardner, Councilor Rory Bialostosky, and Councilor Todd Jones.

Nays: None.

The motion carried 5 - 0

[Business Meeting \[6:45 pm/5 min\]](#)

[Agenda Bill 2021-11-08-02: Department of Corrections Intergovernmental Agreement](#)

[Dept of Corrections IGA Information](#)

Acting Police Chief Mahuna presented the Agenda Bill, noting the purpose of the intergovernmental agreement (IGA) between the West Linn Police Department (WLPD) and the Oregon Department of Corrections was to have designated, trained WLPD officers gain access to specific records from the Department of Corrections for investigative purposes. He answered questions from Council as follows:

- It was standard practice to listen to calls of people in custody. Notices were posted in correctional facilities and callers were informed they were being recorded. The State now required an agreement to do so, but he did not know the motivation for the agreement.
- He was unaware of any prisoner advocacy that would prevent the practice which had been done for many years.
- All information shared between a person in custody and their attorney was redacted as was any medical information before the WLPD was given access to it.

Council President Bill Relyea moved to approve the IGA with the Department of Corrections and authorize staff to sign it. Councilor Rory Bialostosky seconded the motion.

Ayes: Mayor Jules Walters, Council President Bill Relyea, Councilor Mary Baumgardner, Councilor Rory Bialostosky, and Councilor Todd Jones.

Nays: None.

The motion carried 5 - 0

[Mayor and Council Reports \[6:50 pm/60 min\]](#)

Council President Relyea raised the question about whether the Planning Manager or the Planning Director had the responsibility to make a decision regarding the Water Resource Area Permit and a Willamette River Greenway Permit and Flood Management Area Permit to widen I-205 from the 10th St interchange to the Abernethy Bridge and to perform a seismic retrofit to the bridge. The code specifically mentioned such decisions were the Planning Director's responsibility. Planning Commission Chair Walvatne was uncertain about the code provision and questioned whether Planning Manager Wyss had actually been given such authority.

Deputy City Manager Williams had emailed Chair Walvatne to point out the Planning Director position was no longer used within the City and that the Planning Manager had the full authority to act on the City's behalf in such decisions. However, the Community Development Code (CDC) specifically called out the Planning Director in making those decisions. The lack of clarity could cause confusion for community members researching such a decision and it deprived Council to a certain degree to call up the matter within the required 14-day period if it was not informed of such a decision before it became final. Council needed to take action to close the gaps in the code and to make sure it was given notice of such decisions.

City Attorney Monahan stated he had met with Chair Walvatne and Vice Chair Matthews and explained the opinion that the Planning Director position did not exist currently, though it was called out in the CDC. Community Development Director/Deputy City Manager Williams would technically be considered the Planning Director, but he had the authority to delegate to staff to draft a Planning Department decision. A provision in the CDC spoke to calling up a Planning Director's decision, but the City Attorney's Office had determined the Council did not have that authority. There seemed to be an inconsistency within the code based on a change that the City Council made several years ago when it gave itself the authority to call up decisions made by the Planning Director or Planning Commission. The recommendation to Council was for the Planning Department to add the City Council to the distribution list for Planning Manager decisions. The code specified that a certain number of Council members would have to request calling up a decision.

Council President Relyea noted he had requested during a discussion with Planning Manager Wyss and Chair Walvatne that through an administrative action Council be copied on all Planning Director or Planning Manager decisions to allow it adequate time to call up a decision within the 14-day period.

City Attorney Monahan suggested the Planning Department could make sure the date of issuance of a decision allowed for a Council meeting during the 14-day period.

Mayor Walters noted such procedures would be important for planning decisions that might be controversial or large in scope such as the I-205 project. She suggested Council hold a town hall meeting before a Planning Manager decision to allow the public to give feedback and be heard by Council.

City Manager Gabrielatos noted that the Council had changed its email address to askthecc@westlinnoregon.gov but that change had not been made in all address books. It was a regular practice for Planning staff to send notifications to Council but, since the email change, the notifications had been bouncing. That problem had been corrected. He detailed the process followed for notification of members of the public.

City Attorney Monahan confirmed it was not possible to call back the Planning Manager's decision on the I-205 project because the timeline specified in the CDC had already passed. Though it appeared an error was made with propagating the Council's email address, the

community at large was made aware of the decision in the required time, so that also did not offer an opportunity to call back the decision.

Councilor Baumgardner spoke on behalf of the community members who had reached out to her. She was very unsatisfied with the way this very significant decision had been made.

Councilor Bialostosky pointed out that on the topic of I-205, the Savannah Oaks Neighborhood Association had the standing and opportunity to do a cost-free appeal of the decision to Council but had not done so in the time provided. He wanted to make the point so staff did not believe they had handled the issue incorrectly.

[Reports from Community Advisory Groups](#)

Councilor Baumgardner reported that the Arts and Culture Commission was currently searching for potential places to install public art along Historic Main St. A curated art show would be taking place at the West Linn Public Library at a date to be determined and would become an annual event. A search was underway for preferably local artists of any appropriate medium for work that could be shown at the Library. Those interested should contact Library Director Erickson or come to a future Arts and Culture Commission meeting.

Councilor Jones congratulated the West Linn High School Volleyball Team for winning the State Championship this weekend. Secondly, he had emailed Lobbyist Doug Riggs regarding the infrastructure bill Congress had recently passed to ask if it would be an appropriate use of his time to advise Council on how the City could position itself to take advantage of potential resources, in particular for the \$110 billion allotted specifically for highway and road improvements and its potential use for Hwy 43. The package also had nearly \$50 billion for water infrastructure improvements for which West Linn had a genuine need. He hoped someone was closely tracking the legislation to make sure the City was in the right position with its congressional delegation to make its case as to why those projects were important for the community and for the state.

Mayor Walters reported that the Locks was also included in water infrastructure, and the congressional delegation was very supportive of getting money to the City to restore and repair the Locks. She had a meeting with the Locks Commission last week and she had been appointed by the governor to be on the Locks Commission. Preparations were underway to nominate people for the permanent Willamette Locks Authority oversight group planned to be in place by July. She also reported on the C4 meeting on housing. Discussed was the lag in funding from the Metro Supportive Housing Services Measure passed in May of 2020 with some electeds expressing concern about a gap in services with the eviction moratorium ending and cold weather starting. She hoped to see more funding by spring. The South Fork Water Board met last week without a quorum, but was able to take care of procedural business items. The Metropolitan Mayors' Consortium had a retreat on Saturday and passed some new bylaws. Mayor Jason Snyder of Tigard had been named as Chair of the Executive Committee, Mayor Lacey Beaty of Beaverton was named Vice Chair, and Mayor Walters was nominated to

be on the Executive Committee. Many legislative priorities would receive focus for the short session and planning would be done for the next long session. She also attended the League of Oregon Cities (LOC) Annual Meeting virtually. She had been working since 2019 with former Commissioner Amanda Fritz who had been leading the charge for a Women's Caucus for the LOC. That was officially done on Friday. Finally, the funeral for Mr. Ramis was held on Tuesday and she thanked the staff and Councilors who were able to attend. She requested the Councilors take a look at their 2020 Council Liaison appointments and consider whether they would like to switch to other Community Advisory Groups (CAGs) and forward their preferences to City Manager Gabrielatos for discussion in perhaps a public work session.

Councilor Bialostosky reported he had received an email from Assistant to the City Manager Digby providing an update on the Youth Advisory Council (YAC) meeting last week. The YAC would be attending the Council work session next week to give feedback on Oppenlander Field. He thanked Deputy City Manager Williams for attending the last meeting and giving an update. Councilor Bialostosky had also attended the LOC conference and voted on a couple of bylaws on the Mayor's behalf in her absence.

Council Rules

Public Comment - Karie Oakes

Council discussed at length two sections of the Council Rules, Special Meetings and Emergency Meetings and due to time and fiscal considerations, decided to discuss the remaining Council Rules at a public work session to be scheduled for January in the Bolton Room. The changes made to the Special Meetings and Emergency Meetings items were as follows:

Special Meetings

"No special meetings shall be held without at least 24 hours' notice to the members of the governing body, the news media which requested notice, and the general public. Special meetings are to be utilized ~~only when absolutely necessary~~ ***needed*** and public comments shall be taken at all special meetings. The Mayor, ~~or in the Mayor's absence the President of the Council,~~ may, or at the request of two or more Councilors, ***shall*** call a special meeting for the Council in accordance with state law ***and Charter Chapter 4 Section 13.*** ~~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 Councilor personally or electronically or, if the Councilor is not found, left at their place of residence. All notice requirements of ORS 192.640 shall be satisfied before any special meeting can be conducted.~~

Emergency Meetings

Emergency meetings are special meetings called on less than 24 hours' notice. Such meetings may be called by consent of all available Councilors upon such notice as is appropriate to the circumstances. Council shall identify why the meeting was called on an emergency basis immediately on calling the meeting to order. This shall also be specifically identified in the minutes of the meeting. 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.

a. ~~Special meetings of the Council may also be held at any time by common consent of all Councilors subject to notice requirements being met. Councilors shall keep the City Manager informed of their current telephone numbers.~~

Based on the language in the second sentence under Emergency Meetings, "Such meetings may be called by consent of all available Councilors upon such notice as is appropriate to the circumstances," Council requested City Attorney Monahan research emergency management plans that delegated authority to the city manager or another person to act in a health and welfare emergency.

[City Manager Report \[7:50 pm/5 min\]](#)

City Manager Gabrielatos reported on a meeting last week with staff members who liaised with the Community Advisory Groups (CAGs). Discussion covered how they operated and areas for improvement. He would share an email with Council shortly that discussed the timing of Council and CAG meetings and recommendations on how to better sync them. He had spoken to IT Director Boyle about the antiquated technology used in meetings and its possible replacement. A cost estimate would be put together for replacing the equipment and possibly moving the video screen to another side of the room. Another consideration concerned the feasibility of hiring a communications consultant for the capital needs outreach with the community. According to Finance Director Breithaupt, funding was available for the position from currently vacant positions. Community Development Director Williams reached out to survey companies or polling companies about a survey to take the pulse of the community. Also discussed were a presentation and a website to be put together by the consultant from the survey company.

[Diversity, Equity, and Inclusion Update](#)

No report was given.

Mayor Walters stated she hoped some work could start on an equity plan and on getting the DEI community group going. She understood it had been a busy month and the holidays were upcoming, but she wanted to make sure the commitment to the community was receiving follow-up.

[City Attorney Report \[7:55 pm/5 min\]](#)

City Attorney Monahan spoke about the planned executive session where Council would be updated on any pending litigation. Additionally, many projects had been eliminated from the Project Tracking List so it now reflected the active projects and their statuses. He would present the list to Council next week. Finally, he had been working with the City Manager and members of the legal firm on finalizing negotiations and an analysis with ODOT, and an agenda

item next week would cover the intergovernmental agreement (IGA) with ODOT. He clarified that Council had given direction to make sure the IGA language spoke to the City's responsibility regarding the replacement of the water line, but the IGA would not state the source of funding for it. If Council wanted federal infrastructure funds to be considered, the IGA's language would need to reflect that. Staff had been in discussions with ODOT about using ODOT's federal funds for the City's purposes. However, those funds needed to be used for the specified purpose for which ODOT received them. Representative Schrader would be holding a meeting in Clackamas County on Friday and that would possibly be a good time for the City to request his assistance.

Mayor Walters noted Representative Schrader had fought hard for significant funding for the Willamette Locks and she wanted to be grateful and cognizant of his efforts. Any further asks should be tempered with gratitude for what he had already done. On another matter, she had a discussion with Metro Councilor Christine Lewis and would like to have her speak to Council very soon about 2040 grants, especially regarding Hwy 43. Finally, she expressed appreciation to City Attorney Monahan for stepping up to assist Council. She understood it was not his normal role and that it had been a lot of work during a difficult time.

Adjourn [8:00 pm]

Notes approved 11-8-21.



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

CITY COUNCIL AGENDA

Monday, November 8, 2021

5:00 p.m. – Pre-Meeting – Bolton Room & Webex*

6:00 p.m. – Business Meeting – Council Chambers & Webex*

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|--|------------------|
| 1. Call to Order | [6:00 pm/5 min] |
| 2. Approval of Agenda | [6:05 pm/5 min] |
| 3. Public Comments | [6:10 pm/10 min] |
| 4. Announcements, Proclamations, and Recognitions | [6:20 pm/20 min] |
| a. Small Business Saturday Proclamation | |
| b. Veterans Day Proclamation | |
| 5. Consent Agenda | [6:40 pm/5 min] |
| a. <u>Agenda Bill 2021-11-08-01</u> : Approval of Meeting Notes for September 20 and October 4, 2021 | |
| 6. Business Meeting | [6:45 pm/5 min] |
| a. <u>Agenda Bill 2021-11-08-02</u> : Department of Corrections Intergovernmental Agreement | |
| 7. Mayor and Council Reports | [6:50 pm/60 min] |
| a. Reports from Community Advisory Groups | |
| b. Council Rules | |
| 8. City Manager Report | [7:50 pm/5 min] |
| a. Diversity, Equity, and Inclusion Update | |
| 9. City Attorney Report | [7:55 pm/5 min] |
| 10. Adjourn | [8:00 pm] |

PROCLAMATION

West Linn, Oregon

WHEREAS, the City of West Linn celebrates our local small businesses and the contributions they make to our local economy and community; according to the United States Small Business Administration, there are currently 31.7 million small businesses in the United States, they represent 99.7 percent of all businesses with employees in the United States, are responsible for 65.1 percent of net new jobs created from 2000 to 2019; and

WHEREAS, small businesses employ 47.1 percent of the employees in the private sector in the United States, 88 percent of U.S. consumers feel a personal commitment to support small businesses in the wake of the pandemic, and 92 percent of small business owners have pivoted the way they do business to stay open during the pandemic; and

WHEREAS, 97 percent of Small Business Saturday® shoppers recognize the impact they can make by shopping small, 85 percent of them also encouraged friends and family to do so, too; and

WHEREAS, 56 percent of shoppers reported they shopped online with a small business on Small Business Saturday in 2020; and more than 50 percent of consumers who reported shopping small endorsed a local business on social media or shopped at a local business because of a social media recommendation; and

WHEREAS, the City of West Linn supports our local businesses that create jobs, boost our local economy and preserve our communities; and

WHEREAS, advocacy groups as well as public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday®.

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY OF WEST LINN, that Saturday, November 27, 2021 is:

SMALL BUSINESS SATURDAY®

and we urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday® and throughout the year.

DATED THIS 8TH DAY OF NOVEMBER, 2021.

JULES WALTERS, MAYOR

ATTEST:

KATHY MOLLUSKY, CITY RECORDER

PROCLAMATION

West Linn, Oregon

WHEREAS, the greatest acknowledgement of our freedom is to honor our armed forces veterans who have sacrificed and in many instances paid the ultimate price for our freedom; and

WHEREAS, West Linn recognizes and respects all the veterans throughout our City and the Country for their many contributions; and

WHEREAS, all our armed forces continue to be an inspiration to all of us through their demonstration of courage, leadership and commitment in service to our community and country; and

WHEREAS, it is up to us to ensure that every veteran feels that his or her service to this country is appreciated by their fellow Americans; and

WHEREAS, regardless of how one feels about policies that lead to war, let there be no doubt that veterans serve with honor. They serve to make life better for others; and

WHEREAS, war is never anything to celebrate, but peace is. The peace in between wars and conflicts is brought to you mainly by our veterans; and

WHEREAS, West Linn is dedicated to remembering the legacy of all veterans and recognizes and honors veterans who have served and are still serving our country so that all may pursue life, liberty, and the pursuit of happiness.

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF WEST LINN:

That in observance of Veterans Day on Thursday, November 11, 2021, West Linn proudly joins the rest of our nation to salute and give special honor and recognition to all those who served us in our armed forces and ask all those in West Linn to take this time to recognize those around them that have served.

DATED THIS 8TH DAY OF NOVEMBER, 2021

JULES WALTERS, MAYOR

ATTEST:

KATHY MOLLUSKY, CITY RECORDER

Agenda Bill 2021-11-08-01

Date: October 19, 2021

To: Jules Walters, Mayor
Members, West Linn City Council

From: Kathy Mollusky, City Recorder *KM*

Through: Jerry Gabrielatos, City Manager JG

Subject: Draft Meeting Notes

Purpose: Approval of City Council Meeting Notes.

Question(s) for Council:

Does Council wish to approve the attached City Council Meeting Notes?

Public Hearing Required:

None required.

Background & Discussion:

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

Budget Impact:

N/A

Sustainability Impact:

Council continues to present its meeting notes online, reducing paper waste.

Council Goal/Priority:

Guiding Principle #0: Core Services of West Linn City Government. Continue to record and document the proceedings of the West Linn City Council. Guiding Principle #3: Sustainability. Incorporate environmentally sustainable practices in City activities and decision making, including reducing waste generation and energy consumption.

Council Options:

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

Staff Recommendation:

Approve Council Meeting Notes.

Potential Motions:

Approving the Consent Agenda will approve these notes.

Attachments:

1. September 20, 2021 Council Meeting Notes
2. October 4, 2021 Council Meeting Notes



CITY OF
West Linn

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

**WEST LINN
CITY COUNCIL MEETING
NOTES
September 20, 2021**

[Call to Order \[6:00 pm/5 min\]](#)

Council Present:

Mayor Jules Walters, Council President Bill Relyea, Councilor Mary Baumgardner, Councilor Rory Bialostosky, and Councilor Todd Jones.

Staff Present:

City Manager Jerry Gabrielatos, City Attorney Bill Monahan, Finance Director Lauren Breithaupt, Community Development Director John Williams, Public Works Director Lance Calvert, and Assistant to the City Manager Dylan Digby.

[Approval of Agenda \[6:05 pm/5 min\]](#)

Council President Bill Relyea moved to approve the September 20, 2021, West Linn City Council Special Meeting Agenda as posted. Councilor Mary Baumgardner seconded the motion.

Ayes: Mayor Jules Walters, Council President Bill Relyea, Councilor Mary Baumgardner, Councilor Rory Bialostosky, and Councilor Todd Jones.

Nays: None.

The motion carried 5 - 0

Public Comments [6:10 pm/10 min]

Shatrine Krake was unable to provide comment due to technical issues. She provided written comments to Council via email during the meeting, posted below for the public to view.

[Public Comment - Shatrine Krake](#)

Consent Agenda [6:20 pm/5 min]

Agenda Bill 2021-09-20-01: Approval of Meeting Notes for August 16, 2021

[Draft Notes Information](#)

Council President Bill Relyea moved to approve the Consent Agenda as posted. Councilor Mary Baumgardner seconded the motion.

Ayes: Mayor Jules Walters, Council President Bill Relyea, Councilor Mary Baumgardner, Councilor Rory Bialostosky, and Councilor Todd Jones.

Nays: None.

The motion carried 5 - 0

Business Meeting [6:25 pm/15 min]

Agenda Bill 2021-09-20-02: ORDINANCE 1729, CONSENTING TO THE ASSIGNMENT OF THE EXCLUSIVE FRANCHISE AGREEMENT FOR SOLID WASTE, RECYCLING AND YARD DEBRIS COLLECTION SERVICES FROM WEST LINN REFUSE & RECYCLING, INC. TO KAHUT COMPANIES HOLDINGS, INC.

[ORD 1729 Solid Waste Franchise Information](#)

Public Works Director Calvert presented the Agenda Bill for the transfer of a solid waste franchise from the parent company, Kahut Company Holdings, to Waste Connections, a national solid waste provider. The transfer had a closing date of October 1, 2021. The current franchise with West Linn Refuse & Recycling would remain the same. He clarified that no impact would be seen to the rates paid, drivers and garbage collectors would remain the same, and customer service calls would still be received locally. Details about the eight-year rolling term for the franchise were briefly discussed.

Council President Bill Relyea moved to approve first reading of Ordinance 1729, consenting to the assignment of the exclusive franchise agreement for solid waste, recycling and yard debris collection services from West Linn Refuse & Recycling, Inc. to Kahut Companies Holdings, Inc. Councilor Mary Baumgardner seconded the motion.

City Attorney Monahan recommended an amendment to the Ordinance as Section 2 stating, Council declares an emergency because the sale of property will take place on October 1 2021.

Council President Bill Relyea moved to amend Ordinance 1729 as stipulated by Counsel Bill Monahan. Councilor Rory Bialostosky seconded the motion.

Ayes: Mayor Jules Walters, Council President Bill Relyea, Councilor Mary Baumgardner, Councilor Rory Bialostosky, and Councilor Todd Jones.

Nays: None.

The motion carried 5 - 0

Ayes: Mayor Jules Walters, Council President Bill Relyea, Councilor Mary Baumgardner, Councilor Rory Bialostosky, and Councilor Todd Jones.

Nays: None.

The motion carried 5 - 0

Council President Bill Relyea moved to approve second reading for Ordinance 1729, consenting to the assignment of the exclusive franchise agreement for solid waste, recycling and yard debris collection services from West Linn Refuse & Recycling, Inc. to Kahut Companies Holdings, Inc. and adopt the ordinance. Councilor Mary Baumgardner seconded the motion.

Ayes: Mayor Jules Walters, Council President Bill Relyea, Councilor Mary Baumgardner, Councilor Rory Bialostosky, and Councilor Todd Jones.

Nays: None.

The motion carried 5 - 0

[Mayor and Council Reports \[6:40 pm/30 min\]](#)

[Community Advisory Group Appointments](#)

Council discussed at length whether applicants residing in unincorporated parts of the county with a West Linn address were eligible to apply to serve on Community Advisory Groups (CAGs). Section 2.035 of the Municipal Code stated, "All members shall be residents of the City and shall be selected based on their qualifications unless otherwise provided in Sections 2.080 to 2.096." After discussion and consideration of the advice provided by City Attorney Monahan, Council decided to, in the future, modify the applicable Code and encourage the applicants who lived outside of the City limits to reapply then.

Mayor Walters placed before Council her recommendations for CAG appointments as follows:

- For the Sustainability Advisory Board: Gary Smith and Michael Carlson
- For the Historic Review Board: Christopher Owens
- For the Economic Development Committee: Don Williams and Jon Robinson

Council President Bill Relyea moved to approve the appointments to the Community Advisory Groups as posited by Mayor Jules Walters. Councilor Rory Bialostosky seconded the motion.

Ayes: Mayor Jules Walters, Council President Bill Relyea, Councilor Mary Baumgardner, Councilor Rory Bialostosky, and Councilor Todd Jones.

Nays: None.

The motion carried 5 - 0

[Reports from Community Advisory Groups](#)

Due to technical issues, Councilor Baumgardner gave her report during Agenda Item 7c. [1:06:43]

Councilor Baumgardner reported on the Water Environment Services (WES) meeting, noting WES was opening the "co-gen" which would generate power off of the gases created from wastewater processing. They would be powering much of their facility in the future. A Strategic Communication and Engagement initiative was in progress to educate very young students about the importance of clean water and the city's storm water systems.

[Diversity, Equity, and Inclusion Community Advisory Group](#)

City Manager Gabrielatos updated on the DEI initiative. Staff was building on the recommendations shared in the DEI audit report and planned to provide quarterly updates. He wanted to be sure the DEI Community Advisory Group (CAG) had a clear design for their purpose and of how they could help the community move forward.

Mayor Walters noted she had received feedback stating it was essential for the DEI CAG to do some of the defining of their work and role. She hoped that process would move a little quicker.

Councilor Jones recommended the DEI CAG assist in appointments by reaching out to individuals in the community and encouraging them to apply to serve on the CAG. Secondly, he would like the Council to have an intentional equity lens by applying a set of principles and values to major Council and City decisions. He suggested questioning how a decision would impact the community as a whole and the various populations within it. The equity lens model seemed to work in Portland Public Schools and in the Oregon Department of Education.

City Manager Gabrielatos suggested creating an outreach plan and listed many groups and organizations to potentially contact. This would provide opportunities to inform more people and to bring them into the conversations on community happenings.

[City Manager Report \[7:10 pm/60 min\]](#)

[Capital Facilities and American Rescue Plan Act Discussion](#)

[Capital Facilities and ARPA Funding Discussion Information](#)

City Manager Gabrielatos introduced the discussion on ARPA funding. The meeting packet contained a memo from Community Development Director Williams discussing the categories of eligible expenses for ARPA funds. Also included in the meeting packet was a letter from Finance Director Breithaupt to the Utility Advisory Board (UAB) describing funding mechanisms for some of the water infrastructure items.

Community Development Director Williams noted West Linn would receive a total of \$5.9 million in ARPA funds based on its population size, and had recently received half of that amount. The remainder would be available a year from now. Staff wanted to learn Council's next steps regarding ARPA funds. He provided additional details on the eligible categories and noted the amount of funding staff recommended for each. Staff then answered clarifying questions from Council.

Council recommendations included the following:

- Invest in smaller scale but vital water infrastructure projects.
- Schedule a work session on water infrastructure and have a complete picture of the entire water system for West Linn.
- Council should see a copy of the intergovernmental agreement (IGA) between the City and ODOT, and have legal counsel review it for potential cost sharing of the I-205 water line project.
- Council should investigate immediate distribution of ARPA funds to small businesses that might be struggling now.

Director Williams asked for the Council's feedback on the major capital projects listed in the meeting packet. A complete funding plan did not exist for these projects currently, but staff believed Council needed the full picture on the projects in order to have a discussion on them with the community. The six projects were described as follows:

- Purchase Oppenlander Field from the School District for continued fields and park use.
- Develop a list of capital improvement must-haves, such as restrooms, ADA improvements, etc., and those that would be nice-to-have, such as play structures and a dog park.
- Street tree replacement and the stump grinding as a result of the ice storm.
- Update the Water System Master Plan next year.
- Build a new City Operations Facility. The current structure was antiquated and undersized creating increased expenses. Purchase of a property along the I-205 freeway was in process.
- Build an indoor community recreation center, possibly on the City-owned property adjacent to Tanner Creek Park.

Comments and questions from Council to staff and staff answers were as follows:

- A meeting should be held in the near future with the UAB to discuss the water system and funding mechanisms and ways to make up for the potential shortfall.
- Invite the public's input on the capital improvement topics.
- Staff confirmed that the potential source of funding identified for several of the projects was a future general obligation (GO) bond and not the current GO Bond.
- The size of the street tree and stump grinding project was yet to be determined. The first estimate was about \$1.3 million. Staff was discussing possible ways to involve volunteers to further reduce that cost. The expense could be spread out over time.
- The needs and opportunities for the waterfront development should be discussed with the community, but what the plan would call for in the waterfront area was unknown. Staff would add the project to the bottom of the list with a generalized description.
- The final ballot measure needed to be done in February and Council's decision to send the measure to the voters would take place at its February 14, 2022 meeting. Staff intended to conduct public outreach in October, and bring what they learned to Council in November.

Council directed staff to provide information on the timing and cost of a formal survey to receive feedback from the community on the capital improvement projects.

Diversity, Equity, and Inclusion Update

City Manager Gabrielatos stated he did not have anything to add to the information he had shared under Agenda Item 6c.

I-205 Update

City Attorney Monahan clarified that, according to Code, Council only has the ability to review, either through its own initiative or through an appeal, a decision of the Planning Director but not the actual application during the initial review process. The application review would be limited to certain environmental criteria. He confirmed the Planning Director's decision was appealable to the City Council, and Council could call up the limited application for environmental features for review within 14 days of the Planning Director's decision.

Public Works Director Calvert understood that ODOT would be doing more outreach in the coming months. A joint meeting with Council and ODOT was also being planned. ODOT had a dedicated communications team on the project and could provide information on particular matters to Council.

Councilor Baumgardner supported Mayor Walter's suggestion of a town hall to provide the public the chance to comment on the environmental application.

Mayor Walters noted it would be necessary to be clear that the subject would be the environmental impacts and not the other items related to the I-205 project.

City Manager Gabrielatos stated he would follow up on the possibility with Director Calvert and Director Williams. He clarified that he did not have an update on any public process in relation to the police chief search, but confirmed he would like the process to be as inclusive and as full of community engagement as possible.

[City Attorney Report \[8:10 pm/5 min\]](#)

City Attorney Monahan stated he had already covered the memo he had wanted to report on, and that he had passed on to City Attorney Ramis the Council's request to have the overall tracking system presented the next time he attended a Council meeting.

[Adjourn \[8:15 pm\]](#)

DRAFT



CITY OF
West Linn

22500 Salamo Road
West Linn, Oregon 97068
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**WEST LINN
CITY COUNCIL MEETING
NOTES
October 4, 2021**

[Call to Order \[6:00 pm/5 min\]](#)

Council Present:

Mayor Jules Walters, Council President Bill Relyea, Councilor Mary Baumgardner, Councilor Rory Bialostosky, and Councilor Todd Jones.

Staff Present:

City Manager Jerry Gabrielatos, City Attorney Bill Monahan, Planning Manager Darren Wyss, Associate Planner Chris Myers, Public Works Director Lance Calvert, IT Director Shane Boyle, and City Recorder Kathy Mollusky.

[Approval of Agenda \[6:05 pm/5 min\]](#)

Council President Bill Relyea moved to approve the agenda as posted for the October 4, 2021 City Council Special Meeting. Councilor Mary Baumgardner seconded the motion.

Ayes: Mayor Jules Walters, Council President Bill Relyea, Councilor Mary Baumgardner, Councilor Rory Bialostosky, and Councilor Todd Jones.

Nays: None.

The motion carried 5 - 0

[Public Comments \[6:10 pm/10 min\]](#)

[Public Comment - Kathy Selvaggio](#)

Kurt Shusterich started speaking about the Appeal Hearing and was asked to save his comments for the agenda item.

[Appeal of CUP-21-02/DR-21-04/WRG-21-02/MISC-21-04/VAR-21-01/VAR-21-06/LLA-21-02. A proposal to construct a new Athey Creek Middle School at 840 and 945 Dollar Street \[6:20 pm/160 min\]](#)

[Staff Report](#)

[West Linn-Wilsonville Memo](#)

[Kittelsohn Memo](#)

[Public Comment](#)

[Public Comment received after October 1](#)

[Appellant Appeal Packet Memo](#)

Mayor Walters opened the public hearing regarding application AP-21-02, which is a de novo hearing for the appeal of the Planning Commission's approval of CUP-21-02/DR-21-04/WRG-21-02/MISC-21-04/VAR-21-01/VAR-21-06/LLA-21-02 filed by the Willamette Neighborhood Association; a Conditional Use Permit and Class II Design Review to construct a new Athey Creek Middle School at 840 and 945 Dollar Street. This is a quasi-judicial decision. Unlike in legislative hearings, where personal opinion may come into play, quasi-judicial rulings must be grounded in the relevant code, and if the application meets the code, the Council must approve it.

City Attorney Monahan explained the public hearing procedure and that the hearing is a de novo hearing, which means new facts or evidence may be submitted. The record of the Planning Commission Hearing is part of the record; however, the City Council is making an independent decision. All evidence presented to the lower approval authority shall be considered and given equal weight as evidence presented on appeal.

Mayor Walters called the public hearing to order.

City Attorney Monahan covered the legal matters.

The criteria that must be addressed in this hearing are Community Development Code:

- Chapter 11, Single-Family Residential Detached
- Chapter 28, Willamette and Tualatin River Protection
- Chapter 32, Water Resource Area Protection
- Chapter 41, Building Height, Structures on Steep Slopes, Exceptions
- 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
- Chapter 99, Procedures of for Decision-Making: Quasi-Judicial

The Council's role is not political, nor a decision as to where a school should be sited, or if the community needs a replacement middle school; rather whether the subject site is compatible with the City's land use decision criteria. As the City Council is sitting quasi-judicially, any testimony, argument or evidence that speakers give the Council must be directed at these criteria, or at some other criteria in the code or comprehensive plan which the speaker believes should apply to this decision. Only those who have appeared before the City Council, in person or in writing, will have standing to appeal this item to the Land Use Board of Appeals (LUBA). Failure to raise an issue accompanied by statements or evidence sufficient to allow the Council and the parties an opportunity to respond to the issue precludes appeal to LUBA based on that issue.

City Attorney Monahan asked if any members of the Council wished to declare a potential or actual conflict of interest or bias.

Council President Relyea stated he has no potential or actual conflict of interest or bias.

Councilor Baumgardner has no potential or actual conflict of interest or bias. A couple of years ago, prior to running for Council, she was involved with the Willamette Neighborhood Association and attended meetings where public comment was made about the school. She signed a petition that asked that communication be maintained between the school district and the neighborhood while the process was completed. She confirmed she could make a decision based on the record before her and information she would receive tonight, and that she came into this meeting without having a pre-conceived decision.

Councilor Bialostosky stated he has no potential or actual conflict of interest or bias. He also signed the petition, years before he became a Councilor, and he read a statement into the record about the petition and why he chose to sign it. He assured that he would be applying the relevant approval criteria without bias tonight, and that he took the role of quasi-judicial judge seriously.

Councilor Jones stated he is an employee of the West Linn-Wilsonville school district. Because of this, he was concerned people might think he has a conflict of interest, so he reached out to the Oregon Government Ethics Commission. He has in writing a response from the commission

stating that since he has no material interest in this decision, nor does any family member, that he has no conflict of interest, no bias for or against the Applicant or Appellant and will apply the Community Development Code in making a fair decision.

Mayor Walters stated she has a student in the West Linn-Wilsonville school district. He is not a student at Athey Creek nor will he be a student at the proposed Athey Creek School.

City Attorney Monahan asked if any members of the Council wish to report any site visits or ex parte contacts.

Council President Relyea reported has not had any ex parte contact. He has visited the site on multiple occasions to look at the topography, proximity to the road, the grade of the slopes, and suitability of the property for the intend use. He did not witness anything outside of the purview of the report provided in the application.

Councilor Bialostosky said he had visited the site on numerous occasions. He did not see anything different then what is provided in the staff reports.

Councilor Baumgardner stated she has not had any ex parte contact. She has visited the site on numerous occasions and did not see anything different then what staff has informed Council of.

Councilor Jones reported he has had one ex parte contact. Weeks ago, a resident sent him an email that said he was at a Willamette meeting and he had stated that he supported having the middle school there. He responded to her in writing that he has not revealed to anyone in any form whatsoever that he did or did not prefer a middle school on that property. When he realized this might be an ex parte contact, he immediately sent it to the City Manager and Planning Department to make it part of the public record. He has run on that property countless times, he has not visited it in his capacity of considering this appeal.

City Attorney Monahan asked Councilor Jones to identify the individual who sent the email.

Councilor Jones replied he believes it was Anita Havemann.

Mayor Walters stated she has not had any ex parte contact. She visited the site a couple of weeks ago to look at Brandon Pl. and where it is located in conjunction with the property. She drove down Dollar St. and up Willamette Falls Dr. to see where the extension would come out on Willamette Falls Dr. She did not see anything that was inconsistent with what was presented in the staff report.

City Attorney Monahan asked if any member of the audience wished to challenge the jurisdiction of the Council to hear this matter.

There were no jurisdiction challenges.

City Attorney Monahan asked if any member of the audience wished to make a challenge as to a conflict of interest of a member of the Council, impartiality, or the ex parte disclosure of any member of the Council.

John McCabe, West Linn, stated he attended an event in 2019 where a member of Council said this was a great measure because taxes will and should be supported. The same person was an endorser of this measure. He believed that Councilor should recuse themselves from this issue. A statement was made that a bond had been paid off, which had not occurred. When asked to identify the Council member being challenged for the record, Mr. McCabe replied that at a work session in 2020 with the School District, a statement was made that the majority of students currently attending Athey Creek Middle School were from the Willamette area. That was a false statement as not even 40 percent of the students who attended Willamette Primary School currently attended Athey Creek. He believed the two Councilors had been tainted by the School District's false information and should not hear this matter. The School District did not release public records if they were reflected badly on it, and that included this information. The two Councilors who had heard the false information that this would be a local walk to school were then Councilors Walters and Relyea.

City Attorney Monahan explained some of the testimony should be part of the hearing tonight because information from a couple of years ago and information in today's application might be different, and that would be the time the Council members and the public would have an opportunity to comment. Two Councilors have been identified and challenged. He explained the challenge process, noting because the challenge was made against the presiding officer and Council President Relyea, it was important another member of Council be nominated by the remaining three Councilors to preside over this portion of the meeting.

Councilor Bialostosky volunteered to be the presiding officer.

Mayor Walters declared she attended Senator Wagner's event in 2019 for the County Commissioners, and the West Linn-Wilsonville and Lake Oswego School Board members that were running for office. She did not remember any discussion about the bond measure. It would not affect how she would rule today. She had endorsed three members of the Commission and two West Linn-Wilsonville School Board members. She did not remember if she endorsed the bond measure in the voter's pamphlet. She did not understand how her political speech applied to this hearing or the legal implications of it.

City Attorney Monahan said everyone has the right to freedom of speech and to vote and, if Mayor Walters could differentiate between the bond measure providing the School District with funding for its long term needs from the deliberations of this individual application to use this property for one of the schools that would be funded, she could participate. He explained the challenge process.

Council President Relyea said he remembered being at the work session with the School

District and asking about boundaries, if changes would take place, and when the information would be available to the public. The superintendent responded that no boundary changes were anticipated. Council President Relyea would not find any decision he made to be based on bias or preference to one group or another. He would look at the objective criteria in the application that dealt with land use criteria in the CDC pertaining to this application.

Shannen Knight, West Linn, challenged Mayor Walters, noting in the neighborhood association meeting, she had lobbied for the school bond, was supportive of the school coming in at that time, and raised funds to get the bond passed. She was concerned that the Mayor might have received money or been endorsed by school board members in her campaign. One of the main initiatives for the Mayor's campaign was based on her support of and collaboration with schools. She wanted clarification that the Mayor's vote would be based on the application and not the Mayor's loyalty and involvement with schools.

Mayor Walters responded that she did not believe she had a conflict and was able to be impartial and make a decision based on the information in front of Council. She supported and lobbied for the bond; however, the bond was not just for Athey Creek Middle School, rather for both cities and a lot of very important programs for the kids. She noted it was important to cultivate relationships with regional partners, the County Commission, the State Legislature, the School District, and others.

Councilor Bialostosky asked the roll to be called regarding the impartiality of Council President Relyea.

Councilor Jones stated it is important that the public has confidence in the individuals making this decision. He has confidence in Council President Relyea to process the information given to him at that work session and not be steered by it one way or another and is comfortable with him remaining a part of the proceedings. He does not wish to disqualify Council President Relyea.

Councilor Baumgardner said she echoed Councilor Jones' summary about impartiality and allowing Council President Relyea to participate in the vote.

Mayor Walters agreed with Councilor Baumgardner's sentiment, noting Council President Relyea works very hard to make sure he is very clear in land use issues. He would not be swayed by anything he heard outside of that, and would consider just the evidence presented. She did not want to disqualify him.

Councilor Bialostosky echoed the sentiments of the other Councilors. Council President Relyea works very hard to familiarize himself with all of the applicable approval criteria and the facts of each case. He voted to not disqualify Council President Relyea.

The vote tally was 4 - 0 to not disqualify Council President Relyea.

Councilor Bialostosky asked the roll to be called regarding the impartiality of Mayor Walters.

Councilor Jones understands Councilors are elected officials and are, by definition, a political body. Tonight they would serve as a quasi-judicial body, which is an entirely different role. He has confidence in the Mayor, in her ability to set aside any political leanings and do her job tonight, to consider the Community Development Code (CDC) to determine if this application meets the Code. He voted no to upholding the challenge and welcomed the Mayor taking part in the deliberations.

Council President Relyea voted no. He did not believe any issues existed with Mayor Walter's past actions, personal, or political relationships that will interfere with her ability to hear the matter, arguments, and staff reports and be unbiased.

Councilor Baumgardner voted no to the challenge and wanted to allow Mayor Walters to participate with full confidence in her ability to be impartial.

Councilor Bialostosky said he would vote no to disqualify because he has faith in the words Mayor Walters said today. Councilors are elected officials with a duty to support things they believe in, like bond measures, and can separate themselves from supporting a bond measure and applying the legal standards for approval criteria.

The vote tally was 4 - 0 to not disqualify Mayor Walters.

City Attorney Monahan stated the challenges to impartiality were concluded. On another matter, he said Karie Oakes wrote a note challenging the notice of the City Council hearing for tonight identifying CDC Section 99.270. A requirement stated that the notice would identify the appellant, issues raised by the appellant, and noted CDC Section 99.325 was inadvertently identified as one of the approval criteria. He did not believe the laws of the notice were fatal as the staff report identified the appellant and the criteria. The challenge raised that the application did not meet the criteria that have been identified was a broad statement and many criteria needed to be addressed. The staff report had all of the information, and it was evident from the amount of participation by letters, emails, and in-person tonight that informing the public of this hearing, what was necessary to take part in it, and the applicable approval criteria, was very well publicized by the City. The error in identifying the proper CDC chapter did not rise to the level of prejudice to a party's substantial rights. The hearing could proceed without re-noticing and delaying the hearing.

Associate Planner Myers gave the staff presentation, providing the history of the application to date, and describing the site, buildings, and activity areas. Frontage and off-site improvements would be made to Dollar St and Willamette Falls Dr. He stated Council's options tonight were to either deny the appeal, which would uphold the Planning Commission's approval and the conditions of approval, deny the appeal with modified conditions of approval, or approve the appeal denying the School District's application. He reviewed the applicable CDC sections,

noting greater detail was available in the staff report. Staff found that all Code criteria were met, with the exception of the criteria within CDC Section 46.070.B, Maximum Distance Allowed Between Parking Area and Use. The applicant requested a variance to that criterion, as well as to the size of on-wall signage addressed in CDC Section 52.300, Permanent Sign Design Standards. Ten conditions of approval were imposed, three of them by the Planning Commission at its August 18th meeting when the application was approved. He noted an error in that Conditions of Approval 3 and 7 were identical and asked for removal of Condition of Approval 7.

Staff Presentation

Mark Butorac, Kittelson & Associates, briefly provided the background on traffic-related matters for the school project to date, focusing on Condition 10 placed by the Planning Commission which would not allow Brandon Pl to be built as a through street. An estimated 200 daily trips would be added to Dollar St for vehicles wanting to access the drop-off point at the school. Vehicles coming out of the neighborhoods to the north would not be able to access the Brandon Pl extension to reach the school. If Brandon Pl was built as a through street, no difference in traffic volume into those neighborhoods was anticipated due to the Tualatin River and other geographical constraints. Currently, the 110 residents on Dollar St access the congested intersection at Ostman Rd and Willamette Falls Dr, and concern existed about adding more congestion. Kittelson's April 14th review recommended that the extension of Brandon Pl would allow the neighborhood to have two points of entry and exit and would result in minimal traffic increases at Ostman Rd and Willamette Falls Dr. Further information was in the meeting packet.

Associate Planner Myers stated staff recommended denial of the appeal, upholding the Planning Commission's decision to approve the application. Staff further recommended removing duplicative Condition of Approval 7, and removing Condition of Approval 10, thus allowing the Brandon Pl extension to be a through street as proposed by the applicant and as stated in the City Council-approved 2016 Transportation System Plan (TSP). Staff responded to clarifying questions from the Councilors as follows:

- Staff anticipated that congestion at Willamette Falls Dr and Ostman Rd would get worse without the Brandon Pl extension because currently the approximately 110 residents must enter and exit the neighborhood via Dollar St and Ostman Rd. The opening of Brandon Pl would allow residents and school staff to use Willamette Falls Dr to enter and exit Brandon Pl in lieu of having to use the Willamette Falls Dr and Ostman Rd intersection. Residents north of Dollar St would have to use that intersection to reach the drop-off area.
- The extension of Brandon Pl was part of the 2016 TSP; providing the extension only for emergency vehicles was recommended by the Planning Commission in August.
- Possible tolling diversion traffic on Willamette Falls Dr was not a part of this application and should not be considered. If the tolling was approved and implemented, the City would have the opportunity to review and provide input.

- As the applicant, the School District was not required to build the proposed pathway from the site to Fields Bridge Park, but staff believed the School District was trying its best to keep a safe environment for the students and understood a pedestrian connection to an existing trail to the park made sense for the cost. Staff and the Planning Commission did not believe a condition of approval for the connection was necessary.
- The School District would be responsible for improvements, such as signs and flashing beacons, but the school speed zone would be implemented by the City.
- Regarding the concern that Brandon PI would be used to avoid backups on Willamette Falls Dr, consideration could be given to speed bumps or other options to discourage usage of Brandon PI in that manner.
- The school would be located adjacent to an arterial per the Comprehensive Plan and Willamette Falls Dr would carry the majority of the school traffic, but the drop-off/pickup area would be off the Brandon PI extension. It was not an unusual plan, but it was affected by the nature of the location and the topography.

Kathie Halicki, President, Willamette Neighborhood Association (WNA), stated she would delegate the rest of the presentation to Laura Wirth.

Laura Wirth provided the background on the appeal, noting it started through actions by members of the community. She contended the issue before Council was whether or not this conditional use application met the required criteria for conditional use permits, and WNA believed it did not. She described in detail how the application failed to meet the requirements in the CDC, noting the site was unsuitable for a school of the proposed size, the proposal generated critical safety issues, and the repercussions of inadequate infrastructure and impractical planning would leave the neighborhood with unlivable conditions. The possible extension of Brandon PI would cause particular traffic safety and congestion issues, and the increased traffic on Dollar St would effectively turn it from a local road into an arterial. The four Planning Commissioners voting to approve the permit did so with the explicit condition that Brandon PI be closed to the public and limited only to emergency vehicle access as noted in Condition 10. More detailed information on the appellant's position was in their appeal packet. They asked Council to support their appeal by considering the application's deficiencies and to ignore the School District's artificial sense of urgency as it had more options than it wanted Council to believe. She then answered questions from the Councilors as follows:

- Community members had spoken to the fire marshal approximately two years ago and understood Tualatin Valley Fire & Rescue (TVF&R) did not want an emergency vehicle-only extension of Brandon PI. It would also be a fundamental change to the City's Master Plan.
- Either extending Brandon PI for the public or just for emergency vehicles failed to meet the Code. The problem was inherent in the site design, and the nature of the size of the school would cause a domino effect of traffic problems on other streets. The site was unsuitable for its proposed purpose.

Bogdana Clarke stated she was part of the WNA and added comments regarding the issues with Brandon Pl. A Brandon Pl extension would help funnel some of the parental traffic onto and off of Dollar St and would help with congestion there and at the Willamette Falls Dr and Ostman Rd intersection. However, it would create bypass traffic using Brandon Pl to avoid backups on Willamette Falls Dr. Extending or not extending Brandon Pl would not meet the Code and would create problems for the entire community. Moving Athey Creek Middle School to the proposed location would not make it centrally-located for the majority of students who would attend. The current campus was much more accessible. The School District also expected the new school to absorb a lot of the areas of growth. Projections showed that those students would come from out of the Willamette area. She addressed questions from Council as follows:

- According to CDC Chapter 60.100, the school was not centrally located for the majority of students, but that did not mean the current Athey Creek Middle School was not centrally located. Accessibility in this case referred to accessibility for the additional students who would come from outside the area. The new school was intended as a neighborhood school but it would not be a neighborhood school for the majority of students who attended the current Athey Creek Middle School. It would also create more challenges for parents who would drive to school on already-congested roads.

Ms. Wirth followed up on the comparison between the current campus and the proposed campus, noting it was not entirely applicable to this situation. The current school was not within the city and it was not being moved to a central location in the city. The Code was engaged because the current Athey Creek School would be moved to a new site within the City of West Linn. She responded to additional questions from Council as follows:

- Referring to Slide 16 and the reference to "trapped" residents, she noted that whether or not Brandon Pl was extended, gridlock and bottlenecks would increase in the area due to the size of the school and the location of the Tualatin River. Access to and from the neighborhood was limited.
- She clarified the appeal packet was submitted today and contained red line versions of the many memos issued on Friday. She also wanted to submit her written argument from today for the record.

[Appellant Presentation](#)

Remo Douglas, Capital Construction Program Manager for the School District, stated the District understood the passion community members felt on both sides of the conversation as he had heard through individual conversations around the neighborhood, as well as through various virtual meetings. The topic was complex, which was why the District has held so many meetings in large and small formats and has made all of the technical studies publicly available along with the recordings of its meetings. It had also posted online answers to questions received from the public. The proposed design of the school has benefited tremendously from

the public process with numerous changes made in response to questions and concerns. The District remained confident in the compliance, appropriateness, and safety of its proposal.

Mercedes Serra, Senior Planner, 3J Consulting, stated the District had given special considerations to the impacts of the proposed design on the predominantly residential surrounding neighborhood. The community raised concerns about the site layout, noise, building massing and size, tree removal, light connectivity, and traffic. Numerous details in the design were direct responses to that feedback. She described the building setback, topography, and enhanced landscaping to buffer noise and visual impacts. To reduce its mass and height the building had been sunken to grade for compatibility with the neighborhood. She addressed the concerns about tree removal and retention, noting 57 percent of the tree canopy on the site would be retained. Lighting for the site was located to prevent light trespass into adjacent properties.

- The District was requesting two Class II variances, one to the required 200 ft distance between parking stalls and the building, and one for the size of the building signage. The proposed parking lots had been located as close as possible to the main entrance of the building given the needs of the school use and other requirements of the Code. All but three stalls in the east parking lot were located within 200 ft of the building. The District proposed one wall sign located on the west face of the building facing Brandon Pl with combined area of 110 ft. The total area of just the lettering would be 21 sq ft.
- The development will include right-of-way improvements to Dollar St and Willamette Falls Dr, and an extension of Brandon Pl from Dollar St to Willamette Falls Dr. The proposed extension of Brandon Pl will provide a needed secondary emergency access route to the neighborhood. The right-of-way improvements including new sidewalks, designated bike lanes, street lighting, pavement replacement, and a pathway for use by the school and surrounding community.
- Access points on the site are designed to encourage out-of-neighborhood traffic to use Willamette falls Dr and Brandon Pl, with buses and staff using Dollar St. This was to minimize the traffic impact on Dollar St and the adjacent neighborhood.

Scott Mansur, Traffic Engineer, DKS Associates, presented the traffic analysis done during the highest traffic volume times for the schools nearby roads. A draft traffic study from October 2020 was shared with the public, and a series of community meetings were held to hear some of the traffic concerns related to the school. A follow-up supplemental memo answered some of the community's questions and concerns. DKS completed the traffic study in June of 2021 and the study was before the Council tonight. It detailed improvements to sidewalks, ramps, etc., and had a comprehensive Safe Routes to School plan. Further key points of his presentation were as follows:

- A roundabout was recommended for safety at the Willamette Falls Dr and Brandon Pl intersection and would have similar traffic volume capacity as a traffic signal.
- Reduced speed limits were recommended on Brandon Pl and Dollar St at 20 mph, 24 hours a day, and to the Clackamas County portion across the bridge for the approach to

the roundabout. A speed feedback sign would encourage slower speeds approaching the city limits and the school.

- Also recommended was to maintain the existing all-ways stop at the Willamette Falls Dr and Ostman Rd intersection. The roundabout and the all-ways stop would discourage I-205 diversion.
- A series of crosswalk school crossings along Willamette Falls Dr were recommended as were pedestrian crossings at the roundabout location with raised medians.
- The applicant agreed with Conditions of Approval 8 and 9 and was not opposed to Condition 10, but wanted the Council to reconsider it. The Planning Commission's goal was to reduce the traffic volume on Dollar St, but the condition would actually increase the volume.
- Not extending Brandon Pl would double the parent trips on Dollar St due to parents wanting to use it as the closest connection and to then pull into people's driveways to turn around. He had witnessed the same effect at Trillium Primary School with a gated neighborhood connection for emergency access. Neighbors' yards were used for turnarounds, causing more congestion.
- The estimated traffic volumes expected on Dollar St were consistent with a residential street, and the thresholds would not be exceeded. Dollar St would be a multi-modal street with bike lanes, sidewalks, and curb extensions, and the speeds would be slow to make it safe for all users.

The applicant team answered additional questions from Council as follows:

- In order for the intersection of Ostman Rd and Willamette Falls Dr to operate at Service Level D without the Brandon Pl extension, the TSP identified intersection improvements with additional turn lanes and, at some later point, installation of a traffic signal
- The turn lane once proposed for Willamette Falls Dr was no longer necessary due to the roundabout, which would provide access for left and right turns.
- The design details have changed since the initial application, and there would no longer be a crosswalk near the edge of the bridge in the roundabout. Other adjustments included moving the roundabout a number of feet to the east to improve the line of sight from all four legs of the roundabout to meet standards, and adjustments to the elevations of each approach in order to ensure that drivers, pedestrians, and cyclists could adequately see an appropriate distance.
- The applicant was coordinating with Clackamas County and PGE, which are both property owners in the pathway area, and they had agreed to grant easement access for the proposed footpath.
- The traffic impact for drop-off times started about 20 minutes before the school day started. The afternoon bell would ring at 3:45 pm and parents should arrive a little before that. The pickup and drop-off area was designed to ensure no impacts into the public right-of-way occurred.
- Data on whether the student traffic was predominantly coming from the east or the west was in the document submitted to the City last week detailed by zone. Based on the estimate, about 45 percent of the traffic trips are to and from the west, about 15

percent of the trips would come from the neighborhood streets, and 45 percent would come to and from the southeast.

- Table 1 in the DKS September 30th memo compared the volumes of traffic on Dollar St allowed for the residential land use to those for the proposed school and they were found to be very similar. However, it would not take into account the increased density due to HB 2001
- The orange line on Slide 20 represented the primary Safe Route to School. The blue represented the existing sidewalk, and the dotted lines represented gaps where additional sidewalk would be provided.
- Typically, under land use law and history of appeals regarding infill, the applicant would be responsible for projects adjacent to the frontage. Historically, the District staff and City staff have worked together on implementation of other improvements and, in some cases, the District paid additional monies to support the work.
- The peak commute period typically takes place from around 4:45 pm to 6:00 pm. The proposed long and deliberately curving drive with a wide sidewalk and additional width for the drive loop would provide sufficient space for roughly 20 vehicles to load and unload at a single time while still allowing forward movement of the normal traffic lane in both directions. It was a deliberate attempt to prevent any backup onto the public streets.
- The driveway on the northeast corner of the site would be built as far east as possible to reduce school bus traffic on Dollar St. A very long additional width with striping would be located there for the buses to reduce any kind of backup onto the street.
- Vehicle trips per day were counted over 24 hours on weekdays when the highest traffic volume would happen. For the school, it would be highest from 9:30 am to 10:00 am and again at 3:30 to 4:00 pm. The City traffic consultant noted many of the trips would be just on Dollar St and not the neighborhood streets if Brandon Pl was extended.
- The applicant's traffic analysis took into consideration the analyses from Kittelson and the WNA, so their numbers were reflective of all three studies.
- Enrollment at the current Athey Creek Middle School in 2018 was 702 students and the capacity was 669.
- Based on the light study, no light intrusion would happen on the neighbors' properties from the lights adjacent to the track. A required 15 ft buffer was located at the closest point of the track to the street, an additional 60 ft of right-of-way would extend to the property line, and then the yard would provide additional distance to the structure itself. The evidence in the record clearly indicated that the light would not trespass onto those properties, and the District has evidence in multiple sites where the same system had been installed.
- According to Table 2 in the applicant's memo, 62.4 percent of Athey Creek students had transferred in. Many students come from the District's choice zones where families choose the school their children attend. A substantial number of Athey Creek students come from the Athey Creek and Rosemont Ridge choice zone located in the northern end of the District in the city. The Meridian Creek and Athey Creek Choice Zone was largely rural unincorporated Clackamas County. When coupled with students attending from Rosemont and the few from Wilsonville, it appeared that students were coming

from very far away, but that was due to the nature of the choice zones and to maintain balanced enrollment. From the very center of West Linn, the Rosemont Ridge Middle School zone had 72 students that attended Athey Creek Middle School currently. Thirty-nine students from Athey Creek were listed as out-of-district and a number of reasons existed for that, including homelessness or a family moving but wanting their child to finish their education in the District.

- The applicant had made two statements regarding attendance related to this project: First was to have more children walking to Athey Creek Middle School pursuant to federal, state, and local goals; the second was that more attendees at Athey Creek live in West Linn than outside of it. Figure 1 in the meeting materials showed a colored gradient for the density of students, Around 200 students in 2018 attended Athey Creek from the county, but the majority of students who attended the school lived in West Linn.

Applicant Presentation

Mayor Walters called for a brief recess, then resumed the public hearing.

Council President Bill Relyea moved to extend tonight's meeting for an hour to 10:45 pm and, if needed, to revisit the question at that time. Councilor Mary Baumgardner seconded the motion.

Ayes: Mayor Jules Walters, Council President Bill Relyea, Councilor Mary Baumgardner, Councilor Rory Bialostosky, and Councilor Todd Jones.

Nays: None.

The motion carried 5 - 0

Public Testimony

Rachel Prusak, State Representative, said she was aware the community cared deeply about education and safe neighborhoods. The thoughtful questions from Council and the informative answers reaffirmed her support for the new Athey Creek Middle School and the many benefits it would bring to the community. She had learned recently that the current school location may become a facility with a focus on career and technical education around health occupations. She urged the City Council to support the proposed plan with the Planning Commission's condition of approval. The new Athey Creek Middle School would be a safer, more sustainable, and more accessible school for West Linn's children and a great asset to the city.

Kurt Shusterich, West Linn, stated his concerns about the traffic had been well-covered by the appellant and that they expressed accurately the concerns of the neighborhood.

Marcus Malcum, West Linn, said he fully supported the project and appreciated the School

District's work. He and his family lived in the walk zone and would be utilizing biking and walking to school.

Rebecca Regello, West Linn, read her statement into the record. She did not support the project because the criteria for conditional use were not met and the conditions imposed by the Planning Commission did not resolve the issues. She was concerned about the safety of the students walking and biking to the school. No matter what happened with the Brandon PI extension, negative repercussions would result and the project would create unlivable conditions. She asked Council to deny the permit because the District needed to do better.

Shannen Knight, West Linn, stated she had sent written testimony, but wanted to verbally respond to what she heard tonight. She did not support spending money on buildings that were unneeded and would disrupt the neighbors. The project did not meet the criteria for a conditional use. The additional traffic would be pushed onto narrow streets, and drivers would use the streets to cut through. Community input about the project had been limited. She currently lived across from a school and witnessed the negative impacts.

Steve Elliot, West Linn, stated his points had been covered and he had nothing to add at this time.

Bogdana Clarke, West Linn, said she did not support the District's decision to relocate Athey Creek Middle School. She had attempted to raise many of the same concerns heard from the WNA. The new school project did not meet the criteria for the conditional use, and the planning was insufficient. The burdens of the pandemic had been felt acutely by schools and educators. The School District's budget had been cut and enrollment was declining, including at Athey Creek. She was in favor of WNA's appeal and asked for the City Council to deny the District's application.

Kathie Halicki, West Linn, stated the Athey Middle School project application should have been deemed incomplete due to the School District not meeting with the WNA or providing proper meeting notice as per Code.

Scott Peterson, West Linn, stated he lived on Willamette Falls Dr and was impacted by the increase in traffic. He would have expected to hear from the School District, but had never been invited to anything. The I-205 tolling would impact every arterial in West Linn, but especially Willamette Falls Dr. Any new traffic from school buses and parents was truly significant, and mitigation by roundabouts and speed bumps affected him as well. Council was accountable to the voters, and it was not Council's job to solve West Linn School District's problems. The School District had a piece of property that already had a junior high on it at Wanker's Corner which could be an alternative to the new school. He appealed to Council to make the right decision for the community.

Jim Farrell, West Linn, said he was present this evening because he had four grandkids in the School District, two at Athey Creek. He spoke to the area's history of development and the laws

that restricted it, leading to the quality of life Oregon now enjoyed. He noted the number of bus trips and parent trips already made to Athey Creek Middle School and the cost and impact on the environment. He did not want Council to repeat the mistakes from the 1960s and 1970s before real planning had begun.

Gary Saunders, West Linn, referred to the traffic increase estimated by the traffic study for Dollar St, noting it was unacceptable. Dollar St was not a thoroughfare and was small. He had moved to the neighborhood because it had less traffic and had trees that blocked the sun and weather. The trees would be cut down and the site was way too small for a school of 850 children. The track would be open to the public and the lights would be on until 10:00 p.m. The track's lights would be above street level and would shine into his house. The school should be sited elsewhere. He was in favor of the appeal.

Diane Garrett, West Linn, stated her home would face the track. She would be directly impacted by all of the things mentioned tonight. She was uncertain that the City was prepared to partner with the District in the implementation of this project, specifically about the Safe Routes to School and the sidewalks that were not built out. The City did not have a plan or the budget to do so. The School District pointed out that it would handle its responsibilities and depend on the City to backfill what was still needed to make the project effective. She believed something had been missed and the project had been oversimplified. The bridge work done by the county changed the egress on Dollar St and made the site more constrained. She moved to West Linn for the schools and had a child at Athey Creek Middle School, but she was also a big supporter of the quality of life.

Karie Oakes, West Linn, stated she was the President of the Marylhurst Neighborhood Association (MNA) but was not representing MNA tonight. She had submitted written testimony by email to staff on September 26th but it was not posted as it should have been on October 1st. She continued describing issues with meeting noticing, availability of relevant documents online, and the timing of the pre-application meeting on the same day as the neighborhood association meeting. She encouraged Council to read the meeting notice and note the errors, and to read her written testimony. She believed the application was easy to deny because the Brandon PI extension would cause intersection failures, bollards blocking the road to all but emergency vehicles were not safe, and the applicant had not consulted the fire department on the issue.

Mr. Monahan clarified in response to a question by John McCabe that this was a de novo hearing which allowed the City Council to approve or deny the application or to add or remove conditions tonight. The applicant, like any citizen, had the right to make comments to Council and suggestions on an approval or denial.

John McCabe, West Linn, stated the study done by DKS in January 2020 assumed 50 students would walk to the school. However, since then, the Safe Routes to School had been broadened. At one time, the School District was going to pay for all the sidewalks all the way through Willamette Falls Dr, but now it said it would build only in front of the new school's property.

The School District wanted to remove a guard rail to build the roundabout, but that did not follow federal, state, or county law. Referring to a book that referenced a cemetery Joseph Fields had on his land, now owned by the District, he noted no investigation had been done. Additionally, the parcels to be developed were listed by the federal, state, and county governments as having high earthquake probability, whereas the current location did not. He continued by addressing the potential size of the school, and noted the District's enrollment numbers were declining.

Applicant Rebuttal

Mr. Douglas acknowledged the passion that people have around their homes and life experiences. The School District had made it clear that through every quantifiable means of determining the impacts of the project, it was fully compliant with Code. Guard rails would not be removed at the bridge. The location of the site was central to the students it would serve to the extent possible. The center of West Linn had Rosemont Ridge Middle School with associated choice zones to accommodate enrollment. Regarding safety, significant street improvements directly related to the project would be done and funded and performed by the School District. City staff had already been in conversation about certain other improvements in pursuit of the transportation goals. The District was open to conditions of approval as allowed regarding any improvements that the City Council believed were most necessary to ensure the safety of the students traveling by bike or by foot. The roundabout was a preferred solution in terms of safety for vehicles, pedestrians, and cyclists. The proposed design was coming together in collaboration with staff and had safe sight lines, crossing zones covering short distances, and the facility design would also accommodate bicyclists traveling through the area. The roundabout was fully compliant with Code and with the City's TSP. The traffic counts provided in the study had been studied by two separate third-party firms, and the District had accommodated all comments from each. Written and verbal affirmation confirmed the traffic counts discussed by DKS were reasonable. The project and the street connection were pursuant to the City's goals, and the traffic counts were comparable to that of a typical residential neighborhood that could have the need for a school. The school at Rosemont was built because it was the center of the City at that time. Regarding noticing issues, the District relied on City staff to be responsive about meeting times and notices.

Ms. Serra noted the neighborhood meeting notice was available in the meeting record. A meeting was held with the WNA on November 18th and was the fifth of six community meetings held, though it was the only one with WNA as the host. However, a follow-up meeting was noticed to all property owners within 500 ft of the site and held on January 28th. She read a portion of the notice sent which stated, "The purpose of the meeting was to provide a forum for surrounding property owners and residents to review the proposal and identify issues so that they can be given proper consideration." The meeting was informational, but that did not mean no feedback would be received on the School District's part, rather that it was a public, non-quasi-judicial neighborhood meeting.

Mr. Douglas stated that at the first of six meetings, the District was invited to attend the future

WNA meeting where attendees asked a lot of questions that could not yet be answered. The District had not even selected an architect at the time. The attendees were a little frustrated, but the District had come at their request. No drawings were yet available at the second meeting, but the District wanted to incorporate all of the feedback beforehand. Another two meetings were held, and then the District met with the WNA at the fifth meeting, and decided to hold a sixth meeting due to the amount of feedback. He stayed on the line at both meetings and answered questions until no more were asked. A number of notices were sent to those within 500 ft of the site and a listserv was created to broadcast updates and meeting notices. He personally visited every home that shared a property line or was directly across Dollar St from the site. He left a letter with his contact information on the door of every residence where he did not speak to someone. The vast majority of the feedback was very receptive and positive for this project.

Appellant's Response to Applicant's Rebuttal

Ms. Wirth reiterated that the appeal packet included a memo with detailed responses to the District's and the City's traffic memos as well as the federal transportation study on mini-roundabouts, responses to the updated DKS traffic study, and the appellant's traffic engineer's report which recommended a system-wide model that would better capture the volume of traffic bypassing the problem intersection. The engineer acknowledged that DKS was not required to consider the effects of I-205 tolling, but indicated that it would be a prudent thing to do. She offered further comments as follows:

- Relocating Athey Creek Middle School would not decrease car trips. Kittelson and the appellant's experts agreed that it would decrease bus ridership and increase car trips by 25 percent because fewer kids would have access to buses.
- She clarified that 40 percent of students live in the Athey Creek enrollment area, not the West Linn area. If the number of kids who were transferring out of district was taken into account, the District would be under capacity. The 2020 enrollment numbers showed that Athey Creek Middle School with 655 students was under its capacity of 669.
- The meeting notice that was sent to those within 500 ft of the site was not received by the majority of the neighborhood. Her cul-de-sac received it, but the adjacent one did not. At the first WNA meeting, over 150 people showed up, and that was the first time people learned that the project would be built on Dollar St. The District's marketing materials did not mention that location.
- Peak traffic counts were available in the original DKS report. The peak hour would start closer to 3:30 p.m., not 5:00 p.m. A lot of time was spent discussing traffic, but the District was positioning the new location as a walking school which made sense if 250 kids would be walking. However, she paid to receive the data from the School District which showed 157 students could walk to school, and that number had decreased to 100 which seemed high given the location, the steep topography, and the weight of the kids' backpacks. It made much more sense that more kids would be driven to school. The District showed the number of trips to the new location of Athey Middle School

would increase to 35 percent from 28 percent, increasing traffic in a location that was already a bottleneck.

- The applicant asserted that the increase in regular traffic on Dollar St would be within the normal range of a residential area, but it was unknown if it would be normal for a cul-de-sac in a neighborhood with one access point. The District traffic engineers appeared to not grasp how the parents would drop off their kids and that they wanted the fastest, least complicated route.
- The queues at the current Athey school location spilled out onto Borland St now, though three ways existed to get in and out and all three were used by parents. Comparing the project to a multi-housing development was irrelevant because the plan was not available for the project. DKS had not provided any of the assumptions that were used in their calculations, so it was impossible for the appellant to respond. Their memo from September 30th introduced new numbers and information without any underlying assumptions. The number of cars using Dollar St as a bypass now was not counted. DKS' estimate started with 200 to 300 cars, but now the number was 150 cars, and the reason for the decrease was unknown. The appellant had shown the local roads and Willamette Falls Dr would bear the brunt of the increased trips, and that Dollar St would be used as a second driveway. The math on the last page of DKS' report suggested that without the Brandon Pl extension, vehicle trips to Dollar St would increase. That would mean an increase from 137 cars currently to 275 cars which did not make sense. The assumption that all cars would enter Dollar St to drop off their children and then leave via the Brandon Pl extension also did not make sense.
- Many questionable things had happened with the traffic study, and the appellant had found errors. The information provided also showed that construction costs would continue to go up. This was the most expensive time to build the school and she anticipated the School Board would ask for more money because the original projected costs were not realistic.
- Three of the Planning Commissioners found that the criteria were not met. Other topics were included in the appellant's written response as part of the record.

Ms. Clarke stated the neighborhood had been driven into this plan because it was predicated on the need to preserve the Athey Creek campus for a third option high school. Alternatives should be considered, such as a smaller middle school that served West Linn. Three commissioners rejected City staffs' recommendation because the application did not meet the criteria.

A technical issue caused an interruption in the hearing. Mayor Walters called for a recess then resumed the public hearing at 11:25 p.m. and called for the applicant's final rebuttal.

Applicant's Final Rebuttal

Mr. Douglas noted the continuing disagreements on certain aspects of the application. He hoped the District had been able to demonstrate through the full record that by every quantifiable means the application was fully compliant. The District went to great lengths to

reach out to as many people as possible, hosting its own broadcast opportunities on its website and creating a listserv. The District asked the WNA to extend the meeting invitation to everyone and hundreds of people responded.

- COVID-19 was a challenge to construction, but the project was proceeding with great success and the obstacles would be overcome. The pandemic was impacting enrollment counts, and every school district in the State of Oregon was seeing it. It would not continue forever, and the District believed that in the long-term its enrollment projection data would prove accurate.
- TVF&R had the opportunity to write in any particular explicit concerns beyond those mentioned in writing by other parties, and they had not elected to do so.
- The District was open to conditions of approval that would help the Council feel confident in the further compliance of the design. That could include certain traffic calming measures and deterrence measures. The District could also be open to further discussing how the partnership for some of the other infill projects would work; the District had a long history of successfully doing so with the City.
- In the past, he has had the opportunity to work with individual neighbors whose property abutted the School District's property or were across the street on the buffering between the improvements and their homes. Often the solutions were simple, such as adding additional trees. He would personally commit to having one-on-one conversations with anyone living directly adjacent to the site or directly adjacent to Dollar St along the site's frontage. He did not receive a lot of response to the letters he left on the neighbors' doors, but he would be happy to do it again. He hoped in the event the application was approved that people would take him up on the offer to meet to fine-tune the vegetative buffer.
- The application satisfied all Code requirements and that upholding the decision with conditions deemed appropriate was the correct, legally compliant path.
- Regarding the mention of a cemetery on the site, the applicant had an archaeological study performed with test pits over the entire site and found no notable archaeological evidence. The District still retained that firm and, if the project moved forward, it would engage them to be an active participant while the mass excavation was happening, so they could be present if any historic artifacts were found and could stop any work and be responsive. A raptor specialist was hired to study the possibility of eagles using the site.
- The District chose to do the standard studies for the site on every topic that came up and posted them on the website for everyone to see. The District believed it had been very thorough and responsive.

Staff Comments

There were none.

Questions of Staff

Staff addressed questions from the Council or the appellant as follows:

- Chapter 60 of the Code was very subjective and discretionary. Phrases which stated that schools attracting a regular significant volume of users should, to the greatest extent possible, be centrally located presented difficulties for a planner due to the subjective and discretionary aspects of the criteria. Staff found that the District's findings met the intent of the criteria in Chapter 60. The Planning Commission took staff's recommendation, the application, and the staff report and weighed them against all the other information submitted and found that the information submitted by the applicant for both CDC Sections 60.100 and 60.070 and Chapters 7 and 12 in the Comprehensive Plan was consistent with the criteria for the City of West Linn. Staff stood by its recommendations and the Planning Commission's decision to approve the application.
- Comprehensive Plan Goal 7 pertained to natural disasters. The applicant submitted the required geotechnical report that was included in the meeting packet. A number of items must be addressed in the report, and the applicant hired a geotechnical engineering firm to produce the report. It analyzed the site and made a series of recommendations on how to mitigate any potential issues, and found the site was suitable for the proposed development. The School District would retain the geotechnical engineer through the development process either to be on site or to be on call for any anomalies that might be encountered. The geotechnical report would be submitted to the building official who would use the information as part of the permitting and inspection process. Staff relied on the geotechnical report and criteria requirements to make their findings. Staff found it met Comprehensive Plan Goal 7 and CDC Section 55 130.E, which outlined what needed to be in that report, as well as some recommendations on how to mitigate any concerns.
- Comprehensive Plan Goal 12 concerned transportation, and staff relied on experts trained and educated in their fields and who were certified through the state. Staff needed to trust the information they received as the best possible to make their decisions. Bottleneck traffic formed by not having enough access routes and connectivity to allow for multiple routes. Staff leaned on what the transportation experts from the City engineering staff and Kittelson & Associates recommended, and had not seen anything that did not meet Goal 12.

Councilor Jones encouraged the other Councilors to consider the specific statements outlined on Comprehensive Plan Page T-3 as they weighed the issues.

Staff confirmed they had emphasized the phrase from CDC Chapter 60.100 which stated, "...to the greatest extent possible, be centrally located relative to the majority of the population they will serve."

- Regarding CDC Chapter 60.070, which addressed site size and dimension, suitability of site characteristics, and that the facility would provide an overall benefit to the city, staff stated they had to rely on what the design and the experts told them to make their determinations on the appropriateness of the site and project. Staff had seen no evidence to the contrary, and the experts hired seemed to believe the site did work for the design the School District had created. Some of the decisions planners had to make were difficult, like whether the facility would provide an overall benefit to the city. Staff had not seen that quantified in any way, but believed the site would not take away from the city.
- Staff relied on the applicant's testimony and responses to the criteria in the Code to determine the suitability of a project. It was very discretionary so, as staff was making a recommendation that they believed met the intent of the Code, the ultimate decision was made by the Planning Commission, which had recommended approval of this application.
- Staff would consult with Public Works on any plans to make the sidewalk connections discussed earlier that are the responsibility of the City.

Council President Bill Relyea moved to extend the meeting to 12:30 a.m. Councilor Mary Baumgardner seconded the motion.

Council President Relyea proposed to continue the hearing to a date certain to give Council adequate time to discuss the matter. He had several questions for the City Attorney and many issues to raise with Council. He withdrew his motion.

Council President Bill Relyea moved to continue the public hearing for the appeal filed by the Willamette Neighborhood Association of CUP-21-02/DR-21-04/WRG-21-02/MISC-21-04/VAR-21-01/VAR-21-06/LLA-21-02, A proposal to construct a new Athey Creek Middle School at 840 and 945 Dollar St, to Thursday, October 7, 2021, at 6:00 p.m., date certain. Councilor Mary Baumgardner seconded the motion.

Ayes: Mayor Jules Walters, Council President Bill Relyea, Councilor Mary Baumgardner, and Councilor Rory Bialostosky.

Nays: Councilor Todd Jones.

The motion carried 4 - 1

City Attorney Monahan requested that for the sake of time for Thursday's meeting, the Councilors send any specific questions on the appeal for staff or himself to City Manager Gabrielatos to prepare responses.

[Adjourn \[9:00 pm\]](#)

Draft Notes.

DRAFT



Agenda Bill 2021-11-08-02

Date Prepared: 10/11/2021

For Meeting Date: 11/8/2021

To: Jules Walters, Mayor
West Linn City Council

From: Captain Oddis Rollins, WLPD

Through: Peter Mahuna, Acting Chief
Jerry Gabrielatos, City Manager *JG*

Subject: IGA Between Department of Corrections and WLPD

Purpose

To enter into an IGA that allows WLPD officers access to Department of Corrections (DOC) specific records for investigative purposes.

Question(s) for Council:

Should WLPD enter into an IGA with DOC to have the ability to access the Correctional Communication Systems (CCS) secure network for investigation reasons?

Public Hearing Required:

None required.

Background & Discussion:

This will be an initial agreement between WLPD and the Oregon DOC. Until now, West Linn police investigators have not had a simple and effective tool to access and review specific information from inside the Oregon DOC. The DOC is proposing to allow designated trained “users” within the WLPD access to their secure CCS network for investigatory purposes.

Budget Impact:

\$0

Sustainability Impact:

Increasing the WLPD’s capacity and ability to successfully investigate and solve crime through the additional of valuable investigative resources and tools helps to maintain the livability of the community and sustains a healthier environment for all West Linn citizens.

Council Goal/Priority:

Principal #2: Maintain livability and affordability for all, Principal #3: Support a sustainable and healthy environment for all

Council Options:

There are no additional options for the Council to consider.

Staff Recommendation:

We completely recommend accepting this IGA. The DOC is proposing to allow “users” within the WLPD access to their secure CCS network for investigatory purposes. The ability to access this information will greatly enhance the WLPD’s ability to investigate and solve criminal activity.

Potential Motion:

Move to approve WLPD to enter into IGA with DOC.

Attachments:

1. IGA between Oregon DOC and WLPD.

INTERGOVERNMENTAL AGREEMENT
between
OREGON DEPARTMENT OF CORRECTIONS (IGA #6251)
and
WEST LINN POLICE DEPARTMENT

This Agreement (“Agreement”) is between the State of Oregon, acting by and through its Department of Corrections (“DOC”), and West Linn Police Department (herein referenced as “Local Government”), both individually without distinction as “Party” and collectively as the “Parties”.

1 AUTHORITY

This Agreement is entered into pursuant to the authority granted by ORS 190.110 allowing state agencies to enter into agreements with units of local government for the performance of any or all functions and activities that a Party of the agreement, its officers, and agents have the authority to perform.

2 PURPOSE

DOC agrees to authorize and grant DOC approved Local Government staff and their designated staff (“USER” or “USERS”) access onto its contracted Correctional Communication Systems (CCS) secure network for the purpose of using the ENFORCER Program for reviewing Adults In Custody (“AIC”) phone calls and related information and data regarding DOC AIC subject to compliance with the terms and conditions of this Agreement. Under this Agreement, this type of data and AIC information expressly excludes any medical information or data as protected by HIPPA or other applicable policy, rule or statute. Under this Agreement, any and all data and AIC information accessed under this Agreement ***is not authorized*** for release to the public or use in any other way without expressed written permission from DOC as obtained only thru the DOC Inspector General’s Office designated representative (paragraph 4.3 below).

The Local Agency USER shall be permitted a fixed and limited duration CCS access to DOC AIC information to help determine patterns and preferences to assist in investigations and prosecutions. AIC information may also be used to assist in locating individuals who are wanted or placed upon “abscond” status. This Agreement does not permit the USER or approved Local Government to extend CCS system access to contractors; all USERS must complete an access authorization form.

3 EFFECTIVE DATE AND DURATION

This Agreement shall begin on upon signature by all Parties (“Effective Date”) and shall remain in effect for 2 years unless either terminated by either Party in accordance with Section 8 or extended by an amendment.

4 AGREEMENT ADMINISTRATORS

4.1 DOC’s Agreement Administrator is:

Charles Kliewer
Oregon Department of Corrections
2575 Center Street NE
Salem, OR 97301-5780
Email: Charles.P.Kliewer@doc.state.or.us
Telephone: 503-945-9029

4.2 DOC's CCS Point of Contact is:
(for system use, training, and other system-related issues)

CCS – PMO Business Support
Oregon Department of Corrections
2575 Center Street NE
Salem, OR 97301-5780
Telephone: 503-945-9085

4.3 DOC's IG Point of Contact is:
(for initiating access requests and other Investigational Information issues)

Jerry K Plante
Oregon Department of Corrections
2575 Center Street NE
Salem, OR 97301-5780
Email: Jerry.K.Plante@doc.state.or.us
Telephone: (503) 945-0979

4.4 LOCAL GOVERNMENT's Agreement Administrator is:

- Oddis Rollins, Capt.
- West Linn Police Department
- 1800 8th Ave.
- West Linn, OR 97068
- ORollins@westlinnoregon.gov
- Telephone: (503) 260-5135

4.5 The Parties Agreement Administrators (or other individual POC names) as identified above may be revised upon notification to the other Party's Agreement Administrator of such change. The notification must be in writing and indicate the effective date; however, such revisions shall not require a formal execution of an Amendment to the Agreement if no other changes to the Agreement terms and conditions are being made.

5 RESPONSIBILITIES OF EACH PARTY

5.1 Responsibilities of LOCAL GOVERNMENT

5.1.1 This Agreement does not authorize the Local Government agency to sub-delegate its DOC-CCS access to any other agency or sub-contractor representatives.

5.1.2 The Local Government shall work diligently to ensure that its USERS and all other Local Government personnel and agents comply fully with DOC's policies and administrative rules concerning activity under this Agreement, including the "CCS User's Access Agreement" attached as "Exhibit B" to this Agreement.

5.1.3 As a step toward implementation of this agreement, the Local Government shall submit to DOC's Agreement Administrator a list of those agent(s) / officials of their organization as covered within the scope of this AGREEMENT to whom it wishes DOC to grant CCS access. The Local Government agrees to keep a list of USERS current at all times and shall notify the DOC Agreement Administrator (4.1 above) within 24 hours upon the occasion when a USER status change occurs that may impact risk to CCS access or AIC – CCS information use (e.g.: investigation terminations, staff duty reassignment to duties not involving a need for CCS

Access, USER's departure / suspension / termination, etc.) This action is required in order to maintain compliance to CJIS standards and proper DOC CCS security requirements.

5.1.4 Should circumstances occur and upon the Local Government's written request, this Agreement may remain in-force for a specified duration of dormancy if so desired.

5.1.5 No Local Government official or agent shall be granted CCS Access unless and until the Local Government and their agent(s) / official (s) have complied with this Section, and DOC has granted approvals for CCS Access

5.1.6 Local Government shall take steps to situate any computer terminals and/or display stations which are used to access AIC information via CCS Access in such a way as to provide maximum safeguarding and security for this information.

5.1.7 CCS Access Request Process

5.1.7.1 Local Government officials seeking CCS Access shall submit a completed and signed DOC CCS Access Request Form, CD1679 to the DOC IG point of contact (4.3 above). This form, among other things, sets forth his/her obligation to comply with all DOC regulations and policies pertaining to DOC's computer information system and comply with all Information Security protocol. Such regulations and policies, include but are not limited to the following Oregon Administrative Rules which are hereby incorporated into the Agreement by this reference and which may be accessed at the websites identified below, or other website as identified in writing by DOC:

Oregon Administrative Rule 291-005 Network Information System Access and Security, at: http://arcweb.sos.state.or.us/pages/rules/oars_200/oar_291/291_005.html

Oregon Administrative Rule 291-039 Release of Public Information, at: http://arcweb.sos.state.or.us/pages/rules/oars_200/oar_291/291_039.html

Oregon Administrative Rule 291-070 Records Management, at: http://arcweb.sos.state.or.us/pages/rules/oars_200/oar_291/291_070.html

5.1.7.2 Generally, CCS Access should only be requested for the duration of the authorizing action and is limited to a maximum of 90 days. CCS Access may be renewed prior to expiration if desired / warranted by written request to the DOC IG point of contact (4.3 above). USER Access will automatically terminate on the end date as established upon authorization on file within DOC.

5.1.7.3 CCS Access Revocation / Restorations

DOC reserves the right to deny or terminate USER Access or Local Government CCS Access at any time and in its sole and absolute discretion. USERS who incur a DOC CCS Access revocation shall be immediately removed from the Local Government authorized USER master list. Any re-instatement request action for a revoked USER must be made in writing to the DOC IG POC and approved by the DOC Inspector General prior to restoration of USER access. A Local Government revocation shall follow this same process.

5.2 Responsibilities of DOC

5.2.1 DOC Agreement Administrator shall exercise overall management of this Agreement on behalf of the DOC Inspector General.

5.2.2 DOC shall receive, process, and issue user profiles to USERS and allow USER CCS Access upon their approved request.

5.2.2 DOC shall provide USERS with CCS training upon request to the DOC ICS POC (4.3 above) as well as providing access to the CCS vendor's customer service for assistance.

5.2.3 DOC CCS Program Management Office (PMO) shall oversee and audit CCS Access of Local Government's USERS to maintain DOC and PMO contract security requirements.

6 CONSIDERATION AND PAYMENT TERMS

There shall be no monetary consideration from either Party to the other Party under this Agreement.

7 SECURITY; NO RELEASE OF INFORMATION

7.1 Local Government access to AIC information as obtained in use of CCS Access is limited to authorized USERS only. Such USERS shall access AIC information for official uses only as outlined above in the applicable sections of this Agreement.

7.2 DOC reserves the right to limit the number of USERS as well as the number of USERS on line at any one time.

7.3 Generally, under this Agreement, DOC agrees to provide '*read only*' level CCS Access to the Local Government and their authorized USERS. Upon Local Government's special request, DOC will consider additional access to specific USERS.

7.4 USERS shall use CCS Access to obtain / view AIC information only, pursuant to security procedures detailed in Oregon Administrative Rule 291-005 and are subject to the same security requirements as any other DOC ICS user. Although USERS are not to directly access DOC's computer information system, they are held to the same standards related to security of the information and the system. USERS shall not share his/her password(s) with any other person.

7.5 Local Government does agree to inform the DOC Agreement Administrator and the DOC CCS POC immediately at such time as it becomes aware of any security breach whatsoever or any other reason to revoke USERS' ICS Access approval.

7.6 Any breach of security by Local Government caused by a negligent or intentional disregard of the provisions of this Agreement shall result in the immediate shutdown of all DOC ICS Access portals and AIC information access through the CCS Access by the Local Government and their USERS.

7.7 Local Government agrees that information accessed through DOC CCS Access shall not be released by the Local Government to any third party without prior written authorization from DOC. Each such request for release of information by the Local Government shall be directed to the DOC IG POC (4.3 above). DOC shall respond in writing on a timely basis directly to the requestor and will copy the Local Government with the response.

8 TERMINATION

8.1 This Agreement may be terminated at any time by mutual written consent of the Parties.

8.2 Either Party may terminate this Agreement upon 15 days written notice to the other.

8.3 Either Party may terminate this Agreement, in whole or in part, immediately upon written notice to the other Party, or at any such later date as the Parties may establish in such notice, upon the occurrence of any of the following events:

8.3.1 Either Party fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in the Party's reasonable administrative discretion, to pay for the Party's performance under this Agreement.

8.3.2 Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that either Party's performance under this Agreement is prohibited or the Party is prohibited from paying for such performance from the planned funding source;

8.3.3 A Party commits any material breach or default of any covenant, warranty or obligation under this Agreement, or fails to perform its duties under this Agreement within the time specified herein or any extension thereof, or so fails to pursue its duties as to endanger the aggrieved Party's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured within 20 business days after delivery of the aggrieved Party's notice to the other Party of such breach, default, or failure, or within such longer period of cure as the aggrieved Party may specify in such notice.

9 AMENDMENTS

The terms of this Agreement may not be waived, altered, modified, supplemented or otherwise amended, in any manner whatsoever, except by written mutual agreement signed by authorized representatives of the Parties.

10 NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given hereunder shall be given in writing by email, personal delivery, facsimile, or mailing the same, postage prepaid, to LOCAL GOVERNMENT's or DOC's Agreement Administrator at the address, number or email address set forth in this Agreement, or to such other addresses or numbers as either party may indicate in writing to the other Party pursuant to this Section 10. Any communication or notice so addressed and mailed shall be effective five (5) days after mailing. Any communication or notice delivered by facsimile shall be effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. To be effective against DOC, any notice transmitted by facsimile must be confirmed by telephone notice to DOC's Agreement Administrator. Any communication or notice given by personal delivery shall be effective when actually delivered. Any communication or notice given by email shall be effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.

11 SURVIVAL

All rights and obligations shall cease upon termination or expiration of this Agreement, except for the rights and obligations set forth in Sections 7, 10, 11, 13, 15, 18 and 20.

12 SEVERABILITY

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions

shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

13 DISCLAIMER OF WARRANTIES

DOC expressly disclaims the accuracy, timeliness, completeness, adequacy and/or suitability of DOC's information for Local Government's particular purpose.

14 COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed shall constitute an original.

15 CONTRIBUTION

See Exhibit A.

16 REPORTING REQUIREMENTS

The Parties agree that DOC shall be the Reporting Party for purposes of ORS 190.115, Summaries of Agreements of State Agencies. DOC shall submit a summary of this Agreement to the Oregon Department of Administrative Services within the 30-day period immediately following the effective date of the Agreement.

17 COMPLIANCE WITH LAW

In connection with each Party's activities under this Agreement, LOCAL GOVERNMENT and DOC shall comply with all applicable federal, state and local laws and regulations.

18 NO THIRD PARTY BENEFICIARIES

DOC and the Local Government are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

19 FORCE MAJEURE

Neither Party of this Agreement shall be held responsible for delay or default caused by fire, riot, or acts of God, sovereign, public enemy or war which is or are beyond that Party's reasonable control.

20 MERGER, WAIVER AND MODIFICATION

This Agreement and all exhibits constitute the entire agreement between the Parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by duly Authorized Representatives of both Parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. BOTH PARTIES, BY THE SIGNATURE BELOW OF THEIR AUTHORIZED REPRESENTATIVES, HEREBY ACKNOWLEDGE THAT THEY HAVE READ THIS AGREEMENT, UNDERSTAND IT, AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

21 SIGNATURES

In witness whereof, the Parties have executed this Agreement as of the dates set forth below.

STATE OF OREGON acting by and through its Department of Corrections

Eric McDowell, Contracts Officer

Date

West Linn Police Department

Name, Title

Date

EXHIBIT A CONTRIBUTION

If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Either party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which DOC is jointly liable with the LOCAL GOVERNMENT (or would be if joined in the Third Party Claim), DOC shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the LOCAL GOVERNMENT Agency in such proportion as is appropriate to reflect the relative fault of DOC on the one hand and of the LOCAL GOVERNMENT Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of DOC on the one hand and of the LOCAL GOVERNMENT Agency on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. DOC's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if DOC had sole liability in the proceeding.

With respect to a Third Party Claim for which the LOCAL GOVERNMENT Agency is jointly liable with DOC (or would be if joined in the Third Party Claim), the LOCAL GOVERNMENT Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by DOC in such proportion as is appropriate to reflect the relative fault of the LOCAL GOVERNMENT Agency on the one hand and of DOC on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the LOCAL GOVERNMENT Agency on the one hand and of DOC on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. The LOCAL GOVERNMENT Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

Alternative Dispute Resolution

The parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

EXHIBIT B
CCS USER'S ACCESS AGREEMENT

- 1) **PURPOSE:** The purpose of this Exhibit B is to assure clarity of procedure and responsibilities related to the unit supervision and their staff who will have access to the DOC CCS data and systems. This Exhibit B must be reviewed and signed by each Local Government staff person requesting access to CCS, and their supervising authority. This form can be duplicated and updated / resubmitted following the initial signing of the Agreement in order to reflect the change of the supervisor at any time while the Agreement is in-force.

- 2) **PROCESS OVERVIEW:** To initiate or amend the an authorized USER's CCS system access, the Local Government official seeking CCS Access shall submit a completed and signed DOC CCS Access Request Form, CD1679 to the DOC IG point of contact (paragraph 4.3 of the Agreement) for each staff member seeking CCS Access. Once the request is approved, DOC will coordinate with Local Government to provide CCS training and access credentials to the identified unit staff. Due to the sensitivity of the data, Local Government/USERS agree that those work stations that will be used for accessing the CCS data be appropriately configured and located so as to not permit non-authorized individuals to observe or otherwise access the CCS data and information. Usage of the CCS is subject to monitoring and should unauthorized activity be detected USER and/or Local Government CCS access may be immediately revoked / suspended without warning by DOC action. The CCS-PMO will notify the Local Government and USERS Supervisor should this occur. Any reinstatement request action for a revoked USER must be made in writing to the DOC IG POC and approved by the DOC Inspector General prior to restoration of that User's access privileges.

Generally, USER CCS Access will be initially authorized for a term of 90 days to support the authorizing action. USER CCS access may be renewed prior to expiration of the current term should that be desired / warranted by submitting a written request to the DOC IG point of contact (paragraph 4.3 of the IGA). USER and Local Government CCS access will automatically terminate on the end date as established on the ODOC CCS Access Request Form on file within DOC.

- 3) **Supervisor Responsibilities:** By signing this form USER's direct supervisor agrees to properly safeguard CCS data and access to this information as described in Section 2) and this Section 3), including agreeing to:
 - a) Monitor and remain aware of staff CCS access and usage.
 - b) Ensure access to CCS outside of the secure site is not permitted unless specific written authorization from DOC IG and DOC CCS-PMO has been obtained.
 - c) If at any time a USER no longer requires access to the CCS, supervisor agrees to notify DOC CCS-PMO *within* 24 hours of knowledge so that system safeguards may be enabled. This can occur for many legitimate reasons, including but not limited to: (a) extended leave periods {greater than three weeks} – (b) permanent or temporary case re-assignment – (c) departure of the staff employee. Supervisor also agrees to maintain and provide DOC a current Master List of all Local Government's authorized USERS, and whenever the User Master List is updated, to provide an updated copy directly to the DOC IG point of contact (paragraph 4.3 of the Agreement) and DOC's CCS Point of Contact (paragraph 4.2 of the Agreement).

4) USER RESPONSIBILITIES: By signing this form USER(S) agree to properly safeguard CCS data and access to this information as described in the Agreement Section 7.7, Exhibit B Section 2) and Exhibit B Section 4). Due to the sensitivity of the information contained within the DOC CCS and the means and methods used to capture this data, sharing information sourced from the DOC CCS with unauthorized persons or members of the public is prohibited and may cause termination of access and formal disciplinary or legal action. Furthermore, the sharing of information gained from the DOC CCS with lawyers (defense and/or prosecution) REQUIRES DOC IG written permission in advance and for each occurrence. USER shall not provide any information obtained from the CCS to a third party, including information related to Public Information Requests. USER agrees that Public Information Requests shall be routed back to DOC for evaluation and response.

Failure to comply with Exhibit B Section 3 and Exhibit B Section 4 could be considered a material breach or default of this Agreement and the Agreement may be terminated per Section 8.3.3 of the Agreement.

(SIGNATURES ON FOLLOWING PAGE)

5) SIGNATURES - Local Agency User(s) and assigned Supervisor(s) [Circle as appropriate]

Supervisor / User

Name (*Print / Sign*), Title

Date

Supervisor / User

Name (*Print / Sign*), Title

Date

Supervisor / User

Name (*Print / Sign*), Title

Date

Supervisor / User

Name (*Print / Sign*), Title

Date

4) SIGNATURES - DOC Agency IG POC and CCS-PMO Administrator

Name (*Print / Sign*), DOC Agency IG POC

Date

Name (*Print / Sign*), DOC CCS-PMO Administrator

Date

City of West Linn

COUNCIL RULES

Adopted June 24, 2019

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Section A: Authority, Council Vacancies, and Terminology

1) **Authority.** Pursuant to Chapter IV, Section 13, of the West Linn City Charter ("the Charter"), the Council shall adopt Council Rules. The Council shall review its rules ~~at least once every two years as it deems necessary~~ Amendments shall be adopted by a majority vote. The Council rules are established protocols for conducting business in accordance with the City Charter. They are not intended to replace or supersede any applicable federal or state laws or regulations, or provisions of the Charter. Any conflict between these Rules or those laws and regulations previously mentioned will result in the laws and regulations taking precedence. These rules may be suspended upon an affirmative vote of the Council.

~~2)~~ **Council Vacancies.** The office of a member of the Council becomes vacant:

~~a. Upon the Councilor's:~~

- ~~i. Death;~~
- ~~ii. Adjudicated incompetence; or~~
- ~~iii. Recall from the office; or~~

~~b. Upon declaration by the Council of the vacancy in case of the Councilor's:~~

- ~~i. Failure, following election or appointment to the office, to qualify for the office within ten (10) days after the time for the term of office to begin;~~
- ~~ii. Absence from the City for 30 days without Council's consent or from all meetings of the Council for a 60-day period;~~
- ~~iii. Ceasing to reside in the City;~~
- ~~iv. Ceasing to be a qualified elector under Oregon law;~~
- ~~v. Conviction of a public offense punishable by loss of liberty; or~~

~~3)2)~~ Resignation from the office. As described in Chapter V11, Section 30 of the City of West Linn Charter.

The Council will fill the vacancy of the office in accordance with Chapter VII, Section 31 of the Charter.

~~4)3)~~ **Terminology.** The terms "Council" and "Councilors" include the Mayor. The "Mayor" is noted specifically when they have a duty or responsibility in addition to their role as a member of "Council." The term "Council" means City Council.

Section B: Meeting Time, Location, and Frequency

~~1) **Public Meetings Law.** A public meeting is any meeting conducted by a state, regional or local governing body to decide or consider any matter. Thus, any meeting conducted by this Council in which a matter is decided or considered must comply with Oregon's Public Meetings Law (ORS 192.610 – 192.690).~~

~~2) **Regular Meeting.** In accordance with the Chapter IV, Section 13 of the Charter, the Council shall hold a regular meeting ~~to conduct Council business~~ at least once each month in the City. This meeting will usually be on the second Monday of the month at City Hall, beginning at 6:~~30~~00 p.m., unless otherwise designated. Additional regular meetings may be scheduled, if necessary, ~~a second regular meeting may be scheduled, usually on the fourth Monday of the month.~~ Such meetings will be preceded by a pre-meeting session at 5:00 p.m. unless changed by consent of the Council. These pre-meetings are intended to be procedural and administrative, not deliberative. Council meetings which exceed 10:00 pm shall be continued to a following Council Meeting unless extended by majority vote of the Council.~~

~~3) **Work Sessions.** Work sessions are permitted to present information to the Council ~~ahead of regular or special meetings.~~ Work sessions are subject to Oregon's Public Meetings Law, ORS 192.610 to 192.690, and the Council shall not take any formal or final action on any matter during the work session. Work sessions are typically scheduled on the first and third Monday of the month, beginning at 6:00 p.m. If circumstances require ~~an additional~~ work session, it shall be called by the Mayor and, City Manager, or two or more Councilors ~~and scheduled when a quorum of the Council is available and when staff and a public venue for the session are available.~~ Public comment will be taken at the beginning of each Work Session or at another time if allowed by the Mayor.~~

~~4) **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 proposed executive sessions shall be attended by the City Attorney or designated legal advisor. All Councilors shall be consulted for availability before an executive session is scheduled. Staff shall properly arrange and notice the executive session on the City's online meetings/agenda page, if known in advance within 24 hours after being scheduled. 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 shall be governed by ORS 192.610 and 192.660. Representatives of the news media shall be allowed to attend executive sessions, other than those sessions during which the Council conducts deliberations with persons designated to carry on labor negotiations, or where the matter involves litigation and the news media is a party to the~~

litigation. No executive session may be held for the purpose of taking any final action or making any final decision.

- ~~5) **Special Meetings.** No special meetings shall be held without at least 24 hours' notice to the members of the governing body, the news media which have requested notice and the general public. Special meetings are to be utilized ~~only~~ when ~~absolutely necessary~~needed, and public comment shall be taken at all special meetings. The Mayor, ~~or in the Mayor's absence the President of the Council,~~ may, or at the request of two or more Councilors, shall call a special meeting for the Council in accordance with state law and Charter Chapter 4 Section 13. ~~Special meetings will typically be scheduled in a similar manner as a regular meeting, including a pre-meeting.~~~~
- ~~6) 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 Councilor personally or electronically, or if the Councilor is not found, left at their place of residence. All notice requirements of ORS 192.640 shall be satisfied before any special meeting can be conducted.~~

7)4) Emergency Meetings. Emergency meetings are special meetings called on less than 24 hours' notice. Such meetings may be called by consent of all available Councilors upon such notice as is appropriate to the circumstances. Council shall identify why the meeting was called on an emergency basis immediately upon calling the meeting to order. This shall also be specifically identified in the minutes of the meeting. 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.

- ~~a. Special meetings of the Council may also be held at any time by common consent of all Councilors subject to notice requirements being met. Councilors shall keep the City Manager informed of their current telephone numbers.~~

8)5) 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.
- 7) **Location**. Council meetings shall be held at City Hall. In the event City Hall is not available for a meeting, the Council shall meet at a venue open to the public which is located within the jurisdictional limits of the City.

Section C: Meetings and Protocols

- 1) **Parliamentary Procedure.** The Council shall use the latest version of Robert's Rules of Order (<http://www.rulesonline.com/rror-12.htm> as of 5-22-19) as a guideline for parliamentary procedure unless these rules provide a different guideline or Council changes them pursuant to Section A 1), above.
- 2) **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 President pro tempore for the meeting by majority vote.
- 3) **Agenda.** The City Manager shall coordinate with the Presiding Officer on the preparation of an agenda of the business to be presented at every Council meeting. This agenda should be consistent with the City's business needs, Council's priorities, and prior scheduling discussions. 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 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 Council, which shall vote to approve the agenda at the beginning of each Council meeting.
 - a. When two or more Councilors present an item to be put on a future agenda, the Mayor and City Manager shall schedule it as soon as possible, but within four weeks unless the Council majority agrees on a later date.
 - b. A Councilor may place or remove an item on a current 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. Councilors 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.
 - c. A Councilor who desires major policy or ordinance research should first raise the issue at a work session or 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.

- d. Council and staff will discuss upcoming agendas and competing priorities at each meeting including the possibility of a future meeting without full background materials from staff or make an interim decision on timing and process.

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

5) **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 Presiding Officer. 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. Public Comments (five minutes per speaker)
- d. Announcements, Proclamations, and Recognitions
- e. Scheduled Presentations to the Council
- f. Consent Agenda
- g. Business Meeting
 - i. Items removed from the Consent Agenda
 - ii. Public Hearings
 - iii. Ordinances and Resolutions
 - iv. Other Business
- h. Mayor and Council Reports
 - i. City Manager Report
 - j. City Attorney Report
- k. Adjourn

The Presiding Officer may use the gavel to commence the meeting, to maintain order, after each vote, and to close the meeting.

6) **Quorum.** A majority of members of the Council shall constitute a quorum for its business. In the event a quorum is not present, the Councilors present shall adjourn to some fixed time.

7) **Order and Decorum.** All members of the public are encouraged to follow the Council's Guidance for Civil Discourse (<https://westlinnoregon.gov/citycouncil/council-guidelines-civil-discourse>) and are expected to follow all points of order as set forth by the Presiding Officer during public comment session and throughout entirety of the Meeting.

The Presiding Officer shall preserve order and decorum and decide all points of order, subject to appeal in the Council.

- a. Any of the following shall be sufficient cause for the Sergeant-at-Arms to, at the direction of the Presiding Officer, remove any person from the Council chamber for the duration of the meeting:
 - i. Engaging in disruptive, dangerous, or threatening behavior. A person disrupts a meeting of the Council if the person engages in any conduct that obstructs or impedes the orderly carrying on of the business of the meeting. Such conduct includes, but is not limited to:
 1. Any conduct that substantially prevents any other person from hearing, viewing or meaningfully participant in the meeting;
 2. Any conduct that substantially interferes with ingress or egress to or free movement within the Council meeting;
 3. Shouting over or otherwise disrupting, any person who is recognized by the Presiding Officer;
 4. Any conduct that substantially interferes with City business conducted by the City staff present at the session; or
 - ii. Failure to obey any reasonable direction of the Presiding Officer.
- b. Before the Sergeant-at-Arms is directed to remove any person from a Council meeting for conduct described in this section, the Presiding Officer shall give a warning to cease and desist from such the conduct. If a meeting is disrupted by members of the audience, the Presiding Officer or a majority of the Council present may declare a recess and/or order that the Council chamber be cleared.
- c. Any person removed from the Council meeting may still submit written testimony or materials to the Council Clerk for inclusion in the record.
- d. 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 Presiding Officer for the purposes of maintaining order and decorum at the Council meeting.

8) 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 approved by a single motion “to adopt the consent agenda” which shall not be debatable. Any Councilor can request to move an item from the Consent Agenda to the regular Agenda for further discussion.

9) 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 Councilor, 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:
 - i. Before being considered for adoption, the ordinance has been read fully and distinctly in opening Council meetings on two different days.
 - ii. At a single meeting by unanimous vote of the whole Council, after being read twice by title only, as long as no Council member requests the ordinance to be read in full. In the event such request is made, the ordinance may be adopted at a single meeting by unanimous vote of the Council upon being read first in full and then by title.
 - iii. Any of the readings may be by title only if no Councilor present at the meeting requests to have the ordinance read in full or if a copy of the ordinance is provided for each Councilor 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.
 - iv. 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 shall include a statement of explanation regarding the basis for the declaration of emergency, shall become effective upon adoption.
- d. Ordinances and resolutions shall be adopted by roll-call vote.

10) 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.

11) 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 it 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.

The City Attorney will attend all regular Council meetings unless excused and will provide either written or oral advice and opinions on legal matters. The City Attorney shall act as the Council's parliamentarian.

12) Speaking by a Councilor. Any Councilor desiring to be heard shall be recognized by the Mayor and shall confine their 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. All Councilors and the Mayor shall have an equal amount of time to speak specifically and succinctly on a subject.

13) Voting. Every Councilor, when a question is taken, shall vote. Secret ballots are prohibited. Absent compelling circumstance, Councilors should not abstain from voting. 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 they have a conflict of interest.
- b. The concurrence of a majority of Councilors 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.

14) Reconsideration of Actions Taken. A Councilor 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.

15) Minutes. Written minutes of Council regular meetings will be taken by staff. Additionally, Council shall provide an audio, video, or digital recording of its meetings, which are the official records of the City.

Neither a full transcript nor a full recording of the meeting is required, except as otherwise provided by law. The written minutes or recording must give a true reflection of the matters discussed at the meeting and the views of the participants. Minutes shall include the following information:

- a. Members present;
- b. Motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition;

- c. Results of all votes and the vote of each member by name;
- d. The substance of any discussion on any matter; and
- e. A reference to any document discussed at the meeting.

Staff will post draft notes online within two weeks of the meeting. Minutes will remain draft until approved. They will be posted on the agenda for approval at the next regular business meeting. Minutes made available to the public must be made available to persons with disabilities in a form usable by them.

16) Meeting Staffing. The City Manager shall attend all meetings of the Council unless excused therefrom by the Council or the Mayor. The City Manager should advise Council if unable to attend a meeting. 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 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.

17) Questioning of Staff by Council. Councilors 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.

18) 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.

19) General Public Comment. The Council shall maintain a forum allowing citizens to testify regarding City-related issues, policies, Council decisions, or any other matter. General public 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 items on the agenda. Councilors are expected to be respectful of a member of the public during public comment. Councilors should not engage in discussions while receiving

public comments as this part of the agenda is not meant for debate; however, Councilors may comment at the conclusion of the public comment period to correct the record as to any inconsistent or inaccurate information stated. Councilors may ask clarifying questions with the Presiding Officer's permission and may discuss concerns and direct questions raised by the public to the City Manager with the understanding that answers from staff may not be immediately available.

20) Specific Agenda Item Comments. Comments on specific agenda items will be taken during the time Council discusses them. The Mayor may adjust comment time according to the length of the agenda, but not the number of speakers without Council consent.

21) Verbal Comments and Testimony.

Each member of the public who desires to speak during public comment shall first complete a testimony form and give it to the City Recorder. A separate form must be completed for each item to be addressed.

When called by the City Recorder, each speaker shall come to the designated area and state their name and city of residence in an audible tone.

No member of the public will be allowed to speak more than once on a particular agenda item, except when speaking as a representative of a Neighborhood Association or Citizens Advisory Group. No member of the public will be allowed to cede their minutes to another person. Questions from the public shall be asked of a Councilor, City Attorney, or staff through the Presiding Officer.

No person, other than a Councilor and the person having the floor, shall be permitted to enter into any discussion, either directly or through a Councilor, without the permission of the Presiding Officer.

22) Written Comments, Documents, and Testimony Forms.

- a. Any speaker who wishes to make an electronic presentation, must deliver the presentation to City staff at least two business days prior to the meeting or work session in order to be posted on the agenda. No speaker(s) shall be allowed to make an electronic presentation without it being posted two (2) business days prior to our meeting for computer security purposes; however hard copies may be provided at the meeting for each Councilor, City Recorder, City Manager, City Attorney and one (1) for the public.
- b. Written comments and documents must be submitted to the City Recorder by 4:00 PM, two business days before the meeting in order to have the comments posted on a particular agenda item prior to the meeting (City Hall is closed every other

Friday). Council will still receive written comments after this deadline but may not have time to read it before the meeting. All written material submitted after the deadline or during a meeting, will be added to the record.

- c. Any person bringing written comments or materials to the meeting shall give them to the City Recorder who will hand them to the Council and place them in the record.
- d. Comments submitted shall be read into the record upon request of the commentator or any member of Council subject to Section D 2), above.
- e. 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.

23) Neighborhood Association/Citizen Advisory Group Comments. A representative of a Neighborhood Association or a Citizen Advisory Group shall be granted up to 10 minutes to speak on items voted on or discussed by the neighborhood association, unless the time allotted for that agenda item was previously adjusted. A member of the public who has testified in their individual capacity is not disqualified from speaking in their representative capacity, as long as the person identifies the capacity at the beginning of their comments.

24) Flags, Signs and Posters. Flags, posters, placards, signs, or other similar items may be brought into Council chambers provided that such items do not impede the orderly carrying on of the business of the meeting.

Section D: Quasi-Judicial Land Use Matters

- 1) **Bias and Disqualification.** Prior to the commencement of a quasi-judicial hearing, each Councilor must disclose their previous pre-judgment, personal interest or participation in any manner or action on the matter to be heard and shall state whether they can participate in the hearing with an open mind. If the Councilor is 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 Presiding Officer shall then give the challenged Councilor 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 Council majority determines that the Councilor is biased, it may disqualify the Councilor 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.

- 2) **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](#).

- 3) **Ex Parte Communications.** When Council receives any ex parte communication, Council should inform the citizen that the Council is interested in their 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 by staff as soon as possible for inclusion in the land use file and the record.

- 4) **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 their ability to vote on the matter in an impartial manner and whether they 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.

- 5) **Planning Commission Testimony.** In an effort to maintain the impartiality of the Planning Commission, especially in cases where issues can be remanded by the 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, Commissioners who have participated in the preceding Commission decision may not testify before the Council on the respective matter.

Section E: Council Expectations

1) **Code of Conduct.** All business of the City shall be conducted in a civil manner where the dignity and rights of individuals and organizations are respected and honored pursuant to the Council's Guidelines for Civil Discourse (<https://westlinnoregon.gov/citycouncil/council-guidelines-civil-discourse>) and the City's Personnel Policies (<https://westlinnoregon.gov/humanresources/personnel-policies>).

The description of "Prohibited Conduct", as set forth in Section 2, Policy Against Harassment of the City's Personnel Policies, will be applied to determine whether harassment occurred. Upon a finding that a violation has occurred, the Council may, upon unanimous vote of the balance of the Council not accused, proceed with censure or other appropriate sanctions.

2) **Ethics.** All Councilors shall review and observe the requirements of state ethics law ([ORS 244.010 to 244.390](#)) and shall constantly strive to meet the highest ethical standards in their role of Councilor. The Council may act to discipline a Councilor for ethical violations, up to and including approving a resolution censuring the Councilor.

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

- a. At all times attempting to work together with staff in a spirit of mutual confidence and support and uphold the City Charter and Municipal Code by respecting the administrative functions of the City Manager and City Departments.
- b. 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 one Councilor should be distributed to all the Councilors.
- c. 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.
- d. Respecting the roles and responsibilities of staff as hired professionals when and if expressing criticism in a public meeting or email communications. Instead, engage in civil, respectful, and constructive conversations that uphold the integrity of the City.

- e. Noticing councilor/staff member prior to meeting when a council or staff member is planning to be publicly critical of another to allow for fair response.

4) **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 or a designated Councilor.
- c. The Council, by resolution, may censure a Councilor who discloses a confidential matter.

5) **Councilor Statements to Media or Other Organizations.** When a Councilor represents the City before another governmental agency, an organization or the media, the Councilor shall state the official position of the City, as approved by the majority of Council. When a Councilor appears in their personal capacity before another governmental agency, an organization or the media, the Councilor shall state they are expressing their own opinion and not that of the City before giving their statement.

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.

6) **Censure and Discipline.**

- a. The Council has the right to make and enforce these rules and to ensure compliance with those rules 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 Council for a violation of these rules, city policies, city ordinances, the Charter, or state laws applicable to governing bodies.
- 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\(2\)\(b\)](#).

- 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 of the Council not accused, proceed with censure or other appropriate sanctions.

Section F: General Policies and Procedures

- 1) **Attendance.** Councilors shall inform the City Manager and all fellow Councilors if they are unable to attend a Council meeting. Scheduled meetings will be held if there is a quorum unless the Council agrees to reschedule. Additionally, the Mayor will inform the Council President and the City Manager regarding any absence by the Mayor.
- 2) **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. All Meeting agenda and tentative agendas shall be dated as to when changes have been made so the Council, City Staff, and Public can easily recognize what is the most up to date information.
- 3) **Conferences, Seminars and Regional Meetings.** Councilors are urged to educate themselves about local and regional government issues and to participate in appropriate conferences, seminars, and regional meetings.
 - a. Council will set an annual allotment for expenses for government related activities at the beginning of each year for Council members, including expenses for serving on a board or a committee not covered by the organization. Councilors must obtain Council approval for expenses if it may exceed the Councilor's annual allotment.
 - b. Councilors shall share information about the conference or share information of interest from these events within a month of attending if possible.
 - c. City Manager will similarly share important information learned at conferences and regional meetings.
- 4) **Council Reports.** Councilors will report on the regional meetings they attend on behalf of the city.
- 5) **Compensation, Expenses and Reimbursement.** Councilors receive salaries per [Chapter III, Section 11](#) of the Charter for their service to elected office, which is adjusted annually according to CPI-W per City Ordinance 1690. Federal tax regulations consider elected officials to be "public employees" for tax and payment purposes, which is explained at: <https://www.irs.gov/government-entities/federal-state-local-governments/tax-withholding-for-government-workers>. In contrast, an elected official is not an employee for purposes of Fair Labor Standards Act (wage & hour laws), ORPLRA (labor relations), Title VII of the Civil Rights Act (employment discrimination based on protected class), Age

Discrimination in Employment Act, the Affordable Care Act (healthcare reform), or the Unemployment Insurance Act.

With the exception of quarterly salaries, 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. Councilors may utilize a city-issued credit card, if desired, for City-related expenses pursuant to adopted budget guidelines.

- 6) **Gifts.** A gift is defined as something of economic value given to a public official, for which the official does not pay an equal value. [ORS 244.020\(7\)](#). No member of the Council, their relatives or household members, shall solicit or receive any gift(s) with a total value of more than \$50 from any single source who could reasonably be known to have a financial interest in the official actions of the Council. On occasion, and within the approved budget, the Council may approve the purchase a gift or honorarium using City funds. Expenditures of this type shall receive prior approval from the majority of the Council.

Section G: Legal Inquiries, Litigation and Custody of Public Records

- 1) **Legal Inquiries.** Councilors may make legal inquiries to the City Attorney. The City Attorney will determine if the inquiry requires more than approximately fifteen minutes of legal research. If it does, that inquiry will not be answered until the Council approves it. 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, unless the inquiry is related to the performance of the City Manager or a unique and sensitive personal matter to City business. The City Attorney shall, in either case, provide any written response to the full Council and City Manager, except as noted above.

- 2) **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.

- 3) **Public Records Law.** A public record is any writing with information about the conduct of public business that is prepared, owned, used, or retained by a public body. This Council and any board, department, or commission thereof are considered a public body and thus must comply with Oregon's Public Records Law ([ORS 192.410-192.505](#)).

- 4) **Custodian of Public Record.**
In accordance with [Section 23\(c\)\(3\)](#) of the Charter, the City Manager shall designate a custodian of records to create, maintain, care for or control public records.

Section H: Boards, Committees, Citizen Advisory Groups and Neighborhood Associations

1) 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.

2) 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, Budget Committee, and Historic Review Board 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.

3) 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. 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.
- b. It is important for the advisory body to make objective recommendations to the Council on items before them.
- c. Attending meetings of assigned liaison bodies but should avoid becoming involved in the body's discussions without first explaining their role as a Council liaison.
- d. Not voting at the body's meeting on any item.

4) Minutes of Citizen Advisory Group Meetings.

Written minutes of citizen advisory group meetings will be taken by the staff liaison and if not available, the Chair or their designated substitute. However, citizen advisory groups shall also provide an audio recording of their meetings. Minutes shall include the following information:

- a. Members present;
- b. Motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition;
- c. Results of all votes and the vote of each member by name;
- d. The substance of any discussion on any matter; and

- e. A reference to any document discussed at the meeting.

Staff will post Draft Minutes online within two weeks of the meeting. Minutes will remain draft until approved. Minutes will be posted on the agenda for approval at the next regular business meeting.

- 5) **Minutes of Neighborhood Associations Meetings.** Neighborhood Associations are required to take minutes when they have been asked to advise the Council or they act on their own accord in an advisory capacity to the City per West Linn Code 2.100(4)(c)(2). https://westlinnoregon.gov/sites/default/files/fileattachments/city_council/page/5641/chapter_2.pdf). Council prefers that Neighborhood Associations provide a record of attendance, quorum, and recommendation.

Section I: Other Provisions

- 1) **City Manager and City Attorney Evaluation.** The evaluation of the City Manager will be performed under the terms of the Manager's contract and City Charter. The Council shall perform an annual evaluation on the City Attorney under the terms of the City Attorney's contract.

Section A: Authority, Council Vacancies, and Terminology

- 1) **Authority.** Pursuant to Chapter IV, Section 13, of the West Linn City Charter ("the 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 established protocols for conducting business in accordance with the City Charter. They are not intended to replace or supersede any applicable federal or state laws or regulations, or provisions of the Charter. Any conflict between these Rules or those laws and regulations previously mentioned will result in the laws and regulations taking precedence. These rules may be suspended upon an affirmative vote of the Council.

- 2) **Council Vacancies.** The office of a member of the Council becomes vacant:
 - a. Upon the Councilor's:
 - i. Death;
 - ii. Adjudicated incompetence; or
 - iii. Recall from the office; or
 - b. Upon declaration by the Council of the vacancy in case of the Councilor's:
 - i. Failure, following election or appointment to the office, to qualify for the office within ten (10) days after the time for the term of office to begin;
 - ii. Absence from the City for 30 days without Council's consent or from all meetings of the Council for a 60-day period;
 - iii. Ceasing to reside in the City;
 - iv. Ceasing to be a qualified elector under Oregon law;
 - v. Conviction of a public offense punishable by loss of liberty; or
 - vi. Resignation from the office, which is required to run for another seat if prior to end of term.

The Council will fill the vacancy of the office in accordance with Chapter VII, Section 31 of the Charter.

- 3) **Terminology.** The terms "Council" and "Councilors" include the Mayor. The "Mayor" is noted specifically when they have a duty or responsibility in addition to their role as a member of "Council." The term "Council" means City Council.

Section B: Meeting Time, Location, and Frequency

- 1) **Public Meetings Law.** A public meeting is any meeting conducted by a state, regional or local governing body to decide or consider any matter. Thus, any meeting conducted by this Council in which a matter is decided or considered must comply with Oregon's Public Meetings Law (ORS 192.610 – 192.690).
- 2) **Regular Meeting.** In accordance with the Chapter IV, Section 13 of the Charter, the Council shall hold a regular meeting to conduct Council business at least once each month in the City. This meeting will usually be on the second Monday of the month, beginning at 6:30 p.m., unless otherwise designated. Additional regular meetings may be scheduled if necessary, ~~a second regular meeting may be scheduled, usually on the fourth Monday of the month.~~ Regular meetings shall be noticed ten days in advance and ~~Such meetings will be~~ preceded by a pre-meeting session at 5:00 p.m. unless changed by consent of the Council. These pre-meetings are intended to be procedural and administrative, not deliberative.
- 3) **Work Sessions.** Work sessions are permitted to present information to the Council ahead of regular or special meetings. Work sessions are subject to Oregon's Public Meetings Law, ORS 192.610 to 192.690, and the Council shall not take any formal or final action on any matter during the work session. Work sessions are typically scheduled on the first and third Monday of the month, beginning at 6:00 p.m. If circumstances require an additional work session, it shall be called by the Mayor, City Manager, or two or more Councilors ~~and scheduled when a quorum of the Council is available and when staff and a public venue for the session are available.~~ Public comment will be taken at the beginning of each Work Session or at another time if allowed by the Mayor.
- 4) **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 proposed executive sessions shall be attended by the City Attorney or designated legal advisor. All Councilors shall be consulted for availability before an executive session is scheduled. Staff shall properly arrange and notice the executive session on the City's online meetings/agenda page within 24 hours after being scheduled. 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 shall be governed by ORS 192.610 and 192.660. Representatives of the news media shall be allowed to attend executive sessions, other than those sessions during which the Council conducts deliberations with persons designated to carry on labor negotiations, or where the matter involves litigation and the news media is a party to the litigation. No executive session may be held for the purpose of taking any final action or making any final decision.

5) **Special Meetings.** Special meetings are to require at least 24 hours' notice and should be utilized only when absolutely necessary, and public comment shall be taken at all special meetings ~~it is not possible to provide ten days' notice for a regular meeting and shall be held in accordance with City Charter Section 13.~~ The Mayor, ~~or in the Mayor's absence the President of the Council,~~upon the Mayor's own motion- may, or at the request of two ~~or more Councilors,~~members of the Council, shall by giving notice thereof to all members of the Council then in the City, call a special meeting for the Council ~~in accordance with state law.~~ Public notice shall be given as required by State law. Special meetings of the Council may also be held at any time by common consent of all members of the Council (*In the Mayor's absence the President of the Council, may, or at the request of two or more Councilors, call a special meeting for the Council in accordance with state law.) will typically be scheduled in a similar manner as a regular meeting, including a pre-meeting work session and community comments. *Discuss this.

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 Councilor personally or electronically, or if the Councilor is not found, left at their place of residence. All notice requirements of ORS 192.640 shall be satisfied before any special meeting can be conducted.

6) **Emergency Meetings.** Emergency meetings are special meetings called on less than 24 hours' notice. Such meetings may be called by consent of all available Councilors upon such notice as is appropriate to the circumstances. Council shall identify why the meeting was called on an emergency basis immediately upon calling the meeting to order. This shall also be specifically identified in the minutes of the meeting. 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.

a. Special meetings of the Council may also be held at any time by common consent of all Councilors subject to notice requirements being met. Councilors shall keep the City Manager informed of their current telephone numbers.

7) **Televising and Recording of Council Meetings.** ~~Acknowledging that the citizenry of West Linn is generally a sophisticated and interested viewing audience,~~All regular, special, and emergency ~~-business meetings and work sessions~~ of the Council will be covered gavel-to-gavel live on the City's government access cable channel. Pre-meeting work sessions and Council interview sessions for Community Advisory applicants will be audio-recorded. Audio and v~~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.a.~~ 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.

~~e.b.~~ Video and audio shall be deleted only for the purpose of conforming ~~with to~~ 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.c. Regular business meetings of the~~ Council meetings 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?).

8) Location. Council meetings shall be held at City Hall. In the event City Hall is not available for a meeting, the Council shall meet at a venue open to the public which is located within the jurisdictional limits of the City.

Section C: Meetings and Protocols

- 1) **Parliamentary Procedure.** The Council shall use the latest version of Robert's Rules of Order (<http://www.rulesonline.com/rror-12.htm> as of 5-22-19) as a guideline for parliamentary procedure unless these rules provide a different guideline or Council changes them pursuant to Section A 1), above.
- 2) **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 President pro tempore for the meeting by majority vote.
- 3) **Agenda.** The City Manager shall coordinate with the Presiding Officer on the preparation of an agenda of the business to be presented at every Council meeting. This agenda should be consistent with the City's business needs, Council's priorities, and prior scheduling discussions. 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 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 Council, which shall vote to approve the agenda at the beginning of each Council meeting.
 - a. When two or more Councilors present an item to be put on a future agenda, the Mayor and City Manager shall schedule it as soon as possible, but within four weeks unless the Council majority agrees on a later date.
 - b. A Councilor may place or remove an item on a current 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. Councilors will endeavor to ~~have-submit~~ subjects they wish to be 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.
 - c. A Councilor who desires major policy or ordinance research should first raise the issue at a work session or 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.

~~d. Council and staff will discuss upcoming agendas and competing priorities at each meeting including the possibility of a future meeting without full background materials from staff or make an interim decision on timing and process.~~

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

5) **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 Presiding Officer except the order of items: a. Call to Order and Pledge of Allegiance and b. Approval of the Agenda shall not be changed. 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. Public Comments (five minutes per speaker)

e.d. Clarifying questions/response/request information from City Manager

d.e. Announcements, Proclamations, and Recognitions

e.f. Scheduled Presentations to the Council

f.g. Consent Agenda

g.h. Business Meeting

i. Items removed from the Consent Agenda

ii. Public Hearings

iii. Ordinances and Resolutions

iv. Other Business

h.i. Mayor and Council Reports

i.j. City Manager Report

j.k. City Attorney Report

k.l. Adjourn

The Presiding Officer may use the gavel to commence the meeting, to maintain order, after each vote, and to close the meeting.

6) **Quorum.** A majority of members of the Council shall constitute a quorum for its business. In the event a quorum is not present, the Councilors present shall adjourn to some fixed time.

7) **Order and Decorum.** All members of the public are encouraged to follow the Council's Guidance for Civil Discourse (<https://westlinnoregon.gov/citycouncil/council-guidelines-civil-discourse>) and

are expected to follow all points of order as set forth by the Presiding Officer during public comment session and throughout entirety of the Meeting.

The Presiding Officer shall preserve order and decorum and decide all points of order, subject to appeal in the Council.

- a. Any of the following shall be sufficient cause for the Sergeant-at-Arms to, at the direction of the Presiding Officer, remove any person from the Council chamber for the duration of the meeting:
 - i. Engaging in disruptive, dangerous, or threatening behavior. A person disrupts a meeting of the Council if the person engages in any conduct that obstructs or impedes the orderly carrying on of the business of the meeting. Such conduct includes, but is not limited to:
 1. Any conduct that substantially prevents any other person from hearing, viewing or meaningfully participant in the meeting;
 2. Any conduct that substantially interferes with ingress or egress to or free movement within the Council meeting;
 3. Shouting over or otherwise disrupting, any person who is recognized by the Presiding Officer;
 4. Any conduct that substantially interferes with City business conducted by the City staff present at the session; or
 - ii. Failure to obey any reasonable direction of the Presiding Officer.
- b. Before the Sergeant-at-Arms is directed to remove any person from a Council meeting for conduct described in this section, the Presiding Officer shall give a warning to cease and desist from such the conduct. If a meeting is disrupted by members of the audience, the Presiding Officer or a majority of the Council present may declare a recess and/or order that the Council chamber be cleared.
- c. Any person removed from the Council meeting may still submit written testimony or materials to the Council Clerk for inclusion in the record.
- d. 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 Presiding Officer for the purposes of maintaining order and decorum at the Council meeting.

8) 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 approved by a single motion “to adopt the consent agenda” which shall not be debatable. Any Councilor can request to move an item from the Consent Agenda to the regular Agenda for further discussion.

9) 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 Councilor, 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:
 - i. Before being considered for adoption, the ordinance has been read fully and distinctly in opening Council meetings on two different days.
 - ii. At a single meeting by unanimous vote of the whole Council, after being read twice by title only, as long as no Council member requests the ordinance to be read in full. In the event such request is made, the ordinance may be adopted at a single meeting by unanimous vote of the Council upon being read first in full and then by title.
 - iii. Any of the readings may be by title only if no Councilor present at the meeting requests to have the ordinance read in full or if a copy of the ordinance is provided for each Councilor 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.
 - iv. 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 shall include a statement of explanation regarding the basis for the declaration of emergency, shall become effective upon adoption.
- d. Ordinances and resolutions shall be adopted by roll-call vote.

10) 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.

11) 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 it 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.

The City Attorney will attend all regular Council meetings unless excused and will provide either written or oral advice and opinions on legal matters. The City Attorney shall act as the Council's parliamentarian.

12) Speaking by a Councilor. Any Councilor desiring to be heard shall be recognized by the Mayor and shall confine their 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. All Councilors and the Mayor shall have an equal amount of time to speak specifically and succinctly on a subject.

13) Voting. Every Councilor, when a question is taken, shall vote. Secret ballots are prohibited. Absent compelling circumstance, Councilors should not abstain from voting. 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 they have a conflict of interest.
- b. The concurrence of a majority of Councilors 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.

14) Reconsideration of Actions Taken. A Councilor 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.

~~15)~~ **Minutes.** ~~Staff shall take w~~Written minutes ~~at each of Council r~~Regular, Special and Emergency Council ~~meetings will be taken by staff. Minutes are not expected to be verbatim.~~ Additionally, Council shall provide an audio, video, or digital recording of its meetings, which are the official records of the City.

~~16)~~

~~17)~~**15)** ~~Neither a full transcript nor a full recording of the meeting is required, except as otherwise provided by law. Editing of audio, video or digital recordings is not allowed, except as permitted by law.~~ The written minutes or recording must give a true reflection of

the matters discussed at the meeting and the views of the participants. Minutes shall include the following information in accordance with ORS 192.650(1):

- a. Members present;
- b. Motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition;
- c. Results of all votes and the vote of each member by name;
- d. The substance of any discussion on any matter; and
- e. A reference to any document discussed at the meeting.

Staff will post an electronic record of the meeting within 48 hours and will post -draft notes online as soon as possible within two weeks of the meeting. Minutes will remain draft until approved and. ~~They~~ will be posted on the agenda for approval at the next regular business meeting. Minutes made available to the public must be made available to persons with disabilities in a form usable by them per ADA accessibility.

18)16) Meeting Staffing. The City Manager shall attend all meetings of the Council unless excused therefrom by the Council or the Mayor. The City Manager should advise Council if unable to attend a meeting. 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 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.

19)17) Questioning of Staff by Council. Councilors 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.

20)18) 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.

21)19) General Public Comment. Revise to accommodate virtual meetings. Currently not possible for a person to speak and question a Council member's bias etc. Is there a way for people attending virtual meetings to raise hand to speak during public comments? The Council shall maintain a forum allowing citizens to testify regarding City-related issues, policies, Council decisions, or any other matter. General public 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 items on the agenda. Councilors are expected to be respectful of a member of the public during public comment. Councilors should not engage in discussions while receiving public comments as this part of the agenda is not meant for debate; however, Councilors may comment at the conclusion of the public comment period to correct the record as to any inconsistent or inaccurate information stated or: Councilors may ask clarifying questions with the Presiding Officer's permission and may discuss concerns and direct questions raised by the public to the City Manager with the understanding that answers from staff may not be immediately available.

22)20) Specific Agenda Item Comments. Comments on specific agenda items will be taken during the time Council discusses them. The Mayor may adjust comment time according to the length of the agenda, but not the number of speakers without Council consent.

23)21) Verbal Comments and Testimony.

Revise to accommodate virtual meetings. Each member of the public who desires to speak during public comment shall first complete a testimony form and give it to the City Recorder. A separate form must be completed for each item to be addressed.

When called by the City Recorder, each speaker shall come to the designated area and state their name and city of residence in an audible tone.

No member of the public will be allowed to speak more than once on a particular agenda item, except when speaking as a representative of a Neighborhood Association or Citizens Advisory Group. No member of the public will be allowed to cede their minutes to another person. Questions from the public shall be asked of a Councilor, City Attorney, or staff through the Presiding Officer.

No person, other than a Councilor and the person having the floor, shall be permitted to enter into any discussion, either directly or through a Councilor, without the permission of the Presiding Officer.

24)22) Written Comments, Documents, and Testimony Forms.

- a. Any speaker who wishes to ~~make an electronic presentation~~ submit written comments to the record of a meeting, must deliver ~~the presentation~~ a paper or

electronic copy -to City staff at least ~~two~~one business days prior to the meeting or work session by 4:00 pm in order for it to be posted on the agenda. ~~No speaker(s) shall be allowed to make an electronic presentation without it being posted two (2) business days prior to our meeting for computer security purposes; however~~Council will still receive written comments after this deadline but may not have time to read it before the meeting. All written material submitted after the deadline or during a meeting, will be added to the record after the meeting. ~~Hard~~ copies may also be provided at in-person Council meetings. Written comments or materials brought to the meeting shall be given to the City Recorder who will hand them to the Council and place them in the record. Please provide a copy ~~the meeting~~ for each Councilor, the City Recorder, City Manager, City Attorney and one ~~(1)~~copy for the public.

- b. ~~Written comments and documents must be submitted to the City Recorder by 4:00 PM, two business days before the meeting in order to have the comments posted on a particular agenda item prior to the meeting (City Hall is closed every other Friday). Council will still receive written comments after this deadline but may not have time to read it before the meeting. All written material submitted after the deadline or during a meeting, will be added to the record. Any speaker wishing to make an electronic presentation at a meeting shall submit a copy of the electronic presentation to City staff at least two (2) business days prior to the meeting for computer security purposes.~~
- c. ~~Any person bringing written comments or materials to the meeting shall give them to the City Recorder who will hand them to the Council and place them in the record.~~
- cd. Comments submitted ~~shall~~may be read into the record upon request of the ~~commentator~~submitter at Council discretion. ~~or any member of Council subject to Section D 2), above.~~
- ed. 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.

25)23) Neighborhood Association/Citizen Advisory Group Comments. A representative of a Neighborhood Association or a Citizen Advisory Group shall be granted up to 10 minutes to speak on items voted on or discussed by the neighborhood association, unless the time allotted for that agenda item was previously adjusted. A member of the public who has testified in their individual capacity is not disqualified from speaking in their representative capacity, as long as the person identifies the capacity at the beginning of their comments.

26)24) Flags, Signs and Posters. Flags, posters, placards, signs, or other similar items may be brought into Council chambers provided that such items do not impede the orderly carrying on of the business of the meeting.

Section D: Quasi-Judicial Land Use Matters

- 1) **Bias and Disqualification.** Prior to the commencement of a quasi-judicial hearing, each Councilor must disclose their previous pre-judgment, personal interest or participation in any manner or action on the matter to be heard and shall state whether they can participate in the hearing with an open mind. If the Councilor is 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 Presiding Officer shall then give the challenged Councilor 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 Council majority determines that the Councilor is biased, it may disqualify the Councilor 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.

- 2) **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.

- 3) **Ex Parte Communications.** When Council receives any ex parte communication, Council should inform the citizen that the Council is interested in their 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 by staff as soon as possible for inclusion in the land use file and the record.

- 4) **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 their ability to vote on the matter in an impartial manner and whether they 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.

- 5) **Planning Commission Testimony.** In an effort to maintain the impartiality of the Planning Commission, especially in cases where issues can be remanded by the 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, Commissioners who have participated in the preceding Commission decision may not testify before the Council on the respective matter.

Section E: Council Expectations

- 1) **Code of Conduct.** All business of the City shall be conducted in a civil manner where the dignity and rights of individuals and organizations are respected and honored pursuant to the Council's Guidelines for Civil Discourse (<https://westlinnoregon.gov/citycouncil/council-guidelines-civil-discourse>) and the City's Personnel Policies (<https://westlinnoregon.gov/humanresources/personnel-policies>).

The description of "Prohibited Conduct", as set forth in Section 2, Policy Against Harassment of the City's Personnel Policies, will be applied to determine whether harassment occurred. Upon a finding that a violation has occurred, the Council may, upon unanimous vote of the balance of the Council not accused, proceed with censure or other appropriate sanctions.

- 2) **Ethics.** All Councilors shall review and observe the requirements of state ethics law (ORS 244.010 to 244.390) and shall constantly strive to meet the highest ethical standards in their role of Councilor. The Council may act to discipline a Councilor for ethical violations, up to and including approving a resolution censuring the Councilor.

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

- a. At all times attempting to work together with staff in a spirit of mutual confidence and support and uphold the City Charter and Municipal Code by respecting the administrative functions of the City Manager and City Departments.
- b. 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 one Councilor should be distributed to all the Councilors.
- c. 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.
- d. Respecting the roles and responsibilities of staff as hired professionals when and if expressing criticism in a public meeting or email communications. Instead, engage in civil, respectful, and constructive conversations that uphold the integrity of the City.

- e. Noticing councilor/staff member prior to meeting when a council or staff member is planning to be publicly critical of another to allow for fair response.

4) **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 or a designated Councilor.
- c. The Council, by resolution, may censure a Councilor who discloses a confidential matter.

5) **Councilor Statements to Media or Other Organizations.** When a Councilor represents the City before another governmental agency, an organization or the media, the Councilor shall state the official position of the City, as approved by the majority of Council. When a Councilor appears in their personal capacity before another governmental agency, an organization or the media, the Councilor shall state they are expressing their own opinion and not that of the City before giving their statement.

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.

6) **Censure and Discipline.**

- a. The Council has the right to make and enforce these rules and to ensure compliance with those rules 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 Council for a violation of these rules, city policies, city ordinances, the Charter, or state laws applicable to governing bodies.
- 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).

- 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 of the Council not accused, proceed with censure or other appropriate sanctions.

Section F: General Policies and Procedures

- 1) **Attendance.** Councilors shall inform the City Manager and all fellow Councilors if they are unable to attend a Council meeting. Scheduled meetings will be held if there is a quorum unless the Council agrees to reschedule. Additionally, the Mayor will inform the Council President and the City Manager regarding any absence by the Mayor.
- 2) **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. All Meeting agenda and tentative agendas shall be dated as to when changes have been made so the Council, City Staff, and Public can easily recognize what is the most up to date information.
- 3) **Conferences, Seminars and Regional Meetings.** Councilors are urged to educate themselves about local and regional government issues and to participate in appropriate conferences, seminars, and regional meetings.
 - a. Council will set an annual allotment for expenses for government related activities at the beginning of each year for Council members, including expenses for serving on a board or a committee not covered by the organization. Councilors must obtain Council approval for expenses if it may exceed the Councilor's annual allotment.
 - b. Councilors shall share information about the conference or share information of interest from these events within a month of attending if possible.
 - c. City Manager will similarly share important information learned at conferences and regional meetings.
- 4) **Council Reports.** Councilors will report on the regional meetings they attend on behalf of the city.
- 5) **Compensation, Expenses and Reimbursement.** Councilors receive salaries per Chapter III, Section 11 of the Charter for their service to elected office, which is adjusted annually according to CPI-W per City Ordinance 1690. Federal tax regulations consider elected officials to be "public employees" for tax and payment purposes, which is explained at: <https://www.irs.gov/government-entities/federal-state-local-governments/tax-withholding-for-government-workers>. In contrast, an elected official is not an employee for purposes of Fair Labor Standards Act (wage & hour laws), ORPLRA (labor relations), Title VII of the Civil Rights Act (employment discrimination based on protected class), Age

Discrimination in Employment Act, the Affordable Care Act (healthcare reform), or the Unemployment Insurance Act.

With the exception of quarterly salaries, 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. Councilors may utilize a city-issued credit card, if desired, for City-related expenses pursuant to adopted budget guidelines.

- 6) **Gifts.** A gift is defined as something of economic value given to a public official, for which the official does not pay an equal value. ORS 244.020(7). No member of the Council, their relatives or household members, shall solicit or receive any gift(s) with a total value of more than \$50 from any single source who could reasonably be known to have a financial interest in the official actions of the Council. On occasion, and within the approved budget, the Council may approve the purchase a gift or honorarium using City funds. Expenditures of this type shall receive prior approval from the majority of the Council.

Section G: Legal Inquiries, Litigation and Custody of Public Records

- 1) **Legal Inquiries.** Councilors may make legal inquiries to the City Attorney. The City Attorney will determine if the inquiry requires more than approximately ~~fifteen~~ thirty minutes of legal research. If it does, that inquiry will not be answered until the Council approves it. ~~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, unless the inquiry is related to the performance of the City Manager or a unique and sensitive personal matter to City business. The City Attorney shall, in either case, provide any written response to the full Council and City Manager, except as noted above.
- 2) **Litigation.** The City Manager shall inform Council within twenty-four (24) hours and will arrange for Council to meet in Executive Session with the City Manager and City Attorney within 30 days of the City's upon receipt of:
 - a. A statutory notice of claim, or
 - b. A judicial or administrative filing which initiates action against the City.
- 3) **Public Records Law.** A public record is any writing with information about the conduct of public business that is prepared, owned, used, or retained by a public body. This Council and any board, department, or commission thereof are considered a public body and thus must comply with Oregon's Public Records Law (ORS 192.410-192.505).
- 4) **Custodian of Public Record.** In accordance with Section 23(c)(3) of the Charter, the City Manager shall designate a custodian of records to create, maintain, ~~care for or control public records~~ and provide timely access to Council Records upon appropriate request.

Section H: Boards, Committees, Citizen Advisory Groups and Neighborhood Associations

1) 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.

2) 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, Budget Committee, and Historic Review Board 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.

3) Liaison to Boards, Commissions and Committees.

To facilitate the exchange of information between the Council and its advisory bodies, ~~and~~ standing committees, and regional partners, the Mayor or the Council ~~—~~will at least annually make liaison appointments with Council approval to City boards, commissions, and committees. The Mayor and Councilors shall respect the separation between policy making and advisory boards, commissions, and committees by:

a. Respecting the important for role of the advisory body to make objective recommendations to the Council on items before them.

~~a-b.~~ Not attempting to vote, lobby or influence the vote of the community advisory boards, commissions, and committees on any item under their consideration.

~~b. It is important for the advisory body to make objective recommendations to the Council on items before them.~~

c. Attending meetings of assigned liaison bodies and clearly explain role of a Council liaison, especially to community advisory groups before giving input on matters under discussion. but should avoid becoming involved in the body's discussions without first explaining their role as a Council liaison.

~~d. Not voting at the body's meeting on any item.~~ Sharing information about votes, questions and suggestions of advisory groups during Mayor and Council Reports.

4) Minutes of Citizen Advisory Group Meetings.

Written minutes of citizen advisory group meetings will be taken per Council Rules by the staff liaison ~~and or~~ if not available, the

Chair or their designated substitute. ~~However, and~~ citizen advisory groups shall also provide an audio recording of their meetings. ~~Minutes shall include the following information:~~

- ~~5) Members present;~~
- ~~6) Motions, proposals, resolutions, orders, ordinances, and measures proposed and their disposition;~~
- ~~7) Results of all votes and the vote of each member by name;~~
- ~~8) The substance of any discussion on any matter; and~~
- ~~9) A reference to any document discussed at the meeting.~~

Staff ~~will~~ shall post Draft Minutes online as soon as possible within two weeks of the meeting. Minutes will remain draft until approved. ~~Draft m~~Minutes will be posted on the agenda for approval at the next regular business meeting.

10)4) Minutes of Neighborhood Associations Meetings. Neighborhood Associations are required to take minutes when they have been asked to advise the Council or they act on their own accord in an advisory capacity to the City per West Linn Code 2.100(4)(c)(2). https://westlinnoregon.gov/sites/default/files/fileattachments/city_council/page/5641/chapter_2.pdf). Council prefers that Neighborhood Associations provide a record of attendance, quorum, and recommendation.

Section I: Other Provisions

- 1) **City Manager and City Attorney Evaluation.** The evaluation of the City Manager will be performed under the terms of the Manager's contract and City Charter. The Council shall perform an annual evaluation on the City Attorney under the terms of the City Attorney's contract.