



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

# WEST LINN CITY COUNCIL MEETING NOTES October 10, 2022

## [Pre-Meeting](#)

Councilor Jones joined the meeting at 5:14 pm.

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

### **Council Present:**

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

### **Council Excused:**

Mayor Jules Walters.

### **Staff Present:**

City Manager John Williams, City Attorney Bill Monahan, City Recorder Kathy Mollusky, Associate Planner Chris Myers, Public Works Director Lance Calvert, and Library Director Doug Erickson.

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

Councilor Mary Baumgardner moved to approve the agenda for the October 10, 2022, West Linn City Council Meeting adding discussion of the City Council election as Agenda Item 3. Councilor Bill Relyea seconded the motion.

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

**Nays: None.**

**The motion carried 4 - 0**

### City Council Election Discussion

City Manager Williams updated Council about the November 2022 election, noting it was brought to his attention last week that the ballot was incorrect. The November election was to be for two City Councilors and the ballot directed voters to select only one Councilor. He had engaged the Clackamas County Election Division and the Secretary of State's Election Division, the City's legal team and the Clackamas County and Secretary of State's legal teams in order to find a solution. Through discussions, it was discovered some ballots had already been posted to the military and overseas, while other ballots were at the mailing office and were mixed with the City's ballots. Changing the ballots in a weekend would not be feasible given the more than 20,000 needed for West Linn. The Secretary of State had sent a directive, available on the City's website, for the elections to be held in March 2023 using the same candidates, same ballot language and same voters' pamphlet material.

- Responding to a question on what had gone wrong, he said the City had sent wrong information to the Clackamas County Election Division.
- He explained the election could not be held any sooner because Clackamas County needed time to count the votes for the November elections, program the voting equipment and prepare the material for the City's election. March would be the least confusing time.
- He expressed gratitude to City Staff, notably, Community Relations Coordinator Choi, Community Services Director Erickson, City Attorney Monahan and the City Attorney's office, City Recorder Mollusky and others who were not present but had sprung into action and created a postcard, which would be mailed to voters, explaining the way forward.

City Attorney Monahan clarified the relationship between the City Charter and State Authority on elections regarding control. West Linn was a Home Rule Charter Community in which the City created its own election requirements for the City Councilors' and Mayor's terms. This was relevant unless it was impossible for the City to have the election held and coordinated by Clackamas County with the oversight of the Secretary of State's office, who was ultimately the presiding decision maker on elections as established by Statute ORS 246. Within Section 246, if

Council wanted to challenge the interpretation and directive given, there would be an opportunity to seek a Writ of Review, most likely in Salem, where the decision was rendered. The election was less than a month away and there was no opportunity for the City to challenge the decision. If a challenge were made, the City would run the risk of further distorting the public's perception of the election. One very critical thing to the Secretary of State was the necessity of preserving the integrity and fairness of the entire election process. Staff had looked at options, but they would possibly generate challenges. In this case, the State had final authority over elections.

- He noted that the City's Charter stated in Section 10 that unless otherwise specified, the term of office of an elective officer continued until the successor to the office assumed the office. In this application, the election of replacement Council members or continuation of a Council member in March would not directly impact the ability of the Council to function.
- The Charter provides for a vacancy, for example if Councilor's Relyea or Jones could not continue in a position, they could resign their position and because the term would be less than a year, the remaining Council members could appoint someone to fill the remainder of the term, which would expire as soon as a newly elected Council member is seated. This is different from when Mayor Walters gave up the final two years of her Councilor term. Since it was more than a year, there was a requirement for an election, which was how Councilor Jones obtained his position.

Staff responded to Councilor questions as follows:

- The City would be paying the bill for the cost of the election and the cost would probably be in the \$15,000 to \$20,000 range for the special election.
- There would not likely be further costs to candidates running for Council but if there were, Staff would return and discuss the information with Council.
- The directive from the Secretary of State's office limited the election to candidates that had qualified for the ballot meaning the City could not increase the number of people running.
- The voters' pamphlet statements from those running for Council would be limited to statements they had already made, although Staff had not received direction that this meant the County Clerk could waive the fees associated with running for Council. However, Staff could discuss and suggest to the County Elections office that since there would be no new filing and only a carryover that the original cost of the statement paid for by the individual could cover the costs.
- The Secretary of State's office directive stated that other races or measures could appear on the special election meaning that if there was reason to have an item on the March election, it could be done. However, regarding whether or not Mayor Walters would resign the final two years of her position, there was a Charter provision which addressed the filling of a vacancy if one or more years remained in a term of office and was found in Section 31(b) which stated that the vacancy shall be filled at the next available May or November election so bound by this language, in the event of a

vacancy, the City could not put the mayor's position into the March election. There had been no discussion with the Secretary of State's office about pushing the Council member elections to a later date.

- If one of the candidates running in March wanted to run for mayor, and they did not win the election for Council, the Charter states that someone cannot run for two positions in the same election but there is no prohibition of running for a position and putting their name in a future election.
- It was not the norm to talk in a public meeting about potential liability and legal theories that someone could be able to assert against the City, but it was possible that someone could have believed they were damaged and would have to consult their private attorney. As mentioned, a statute talked about the opportunity to challenge a Secretary of State's ruling which common law would apply for.
- With Council elections in March, the certification would happen typically in a few weeks to a month after the election but with the smaller population in West Linn, the vote tallies could happen quickly.
- The exact date of the March election was the second Tuesday, March 14, 2023.
- If Councilor Relyea and Councilor Jones resigned from office before the March election, for example, Section 31(a) of the Charter stated that if less than one year remained in the term of the person who held the vacant office, the vacancy shall be filled by appointment by a majority vote of the remaining Council members and the appointee would be there for the remainder of the unexpired term. "Shall" language was mandatory, however if Council chose not to fill the position or was having difficulty in coming up with a candidate from the community to put in the position, it would be up to someone to file a Writ of Review to force the Council to fill the position.
- Staff confirmed that the City was obligated to fill the position under the Charter language.
- City Attorney Monahan believed there was a residency requirement of 12 months restricting who could be appointed to the Council.

Councilor Jones noted if a Councilor would not complete their term in March and the City appointed someone for the last three or four months of that position, he believed it would be completely inappropriate to select one of the five candidates for office to that position because it would give them a decided advantage heading into the March election. If the City found itself in that position, he hoped it would appoint someone with no interest in continuing the job but who was willing to temporarily do the job.

Council President Bialostosky believed Mayor Kovash who had served three terms ago and had resigned, had not been replaced by Council. Instead, Councilor President Frank served as the interim Mayor. He was unsure if Council's action was inappropriate at the time, but he believed it was based on past practice.

City Attorney Monahan believed the Councilor's recollection was accurate, adding that what had happened was contrary to the Charter language. He believed Council had been given legal advice to make an effort to fill the position, possibly through discussions to find out who would

be candidates. Ultimately, the remedy was someone seeking a Writ of Review to compel Council to make a decision, which was a difficult place to put Council in.

Councilor Jones stated if a vacancy in the mayorship arose, due to Mayor Walters being elected to the State House, he declared that he had no intention of running for Mayor. He had intended to be done with his Council position by late December and had no personal interest in going beyond December but was willing to work with Staff and other Council members to determine what would be best for the city.

#### Public Comment

C.J. Koll cited sections of the City Charter he believed were contrary to the decisions made by the City, County Elections Division, and Secretary of State's Office. He reminded that in 2020, he had asked Council to form a citizens committee to propose changes to the unclear language regarding the election of Councilors. He asked questions about more information for the public, steps being taken to avoid future errors, the costs of noticing the second election, and why a December election could not be held, noting a recall election was held two weeks after a mid-term election in Oregon City in 2021.

City Manager Williams believed Mr. Koll's questions would come back to Council for a future discussion but noted the City had been informed by Clackamas County elections that there was no way to run an election in December because they could not produce ballots in time. He confirmed there had been different dates for elections in the past, but he believed they required more lead time.

City Attorney Monahan reiterated Staff had discussed the November Council election with the Secretary of State's office, County Elections Officer and both of their attorneys. The Secretary of State has the role of looking out for the integrity of all of the elections. It had been impossible to separate the ballots ready to be shipped, and there was no guarantee replacement ballots could be printed. Other concerns regarded getting information to voters on whether an election of Council members would be held and how the County would communicate that other elections would be ongoing. As a result, the Secretary of State intervened and informed Staff the matter did not just concern West Linn's election. An effort had been made to look for alternatives, but the City could not guarantee holding a fair and impartial election.

Council President Bialostosky noted in City Manager Williams' communication to Council, quality controls were being put in place to ensure such an error did not happen again. One measure included having more people reviewing election documents in the future, such as City Attorney Monahan.

Councilor Baumgardner had requested of the former City Manager to have a Charter review process and to hire proper administrative support. She noted Staff was addressing the issue of proper administrative support but wanted to make sure a process on Charter review is started.

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

[Public Comment - Dan Lavery Petition](#)

[Public Comment - Teri Cummings](#)

[Public Comment - Dan Lavery](#)

Dan Lavery stated he was representing many frustrated neighbors and presented a petition from the Tanner Basin neighborhood, which he had also emailed to each member of Council. Some of the 75 neighbors who signed the petition were clearly angry about the level of noise. All agreed the piercing noise needed to be controlled as it was interrupting the quality of daily life; even visitors to his home agreed. He noted no due diligence or site analysis had been completed prior to the siting the pickleball courts, and the same noise issue led to the closure of the pickleball courts at Skyline Ridge Park. The petition did not request closure of the courts, only that the hours of play be limited, a significant sound barrier be installed, the courts be reduced from four to two, and that reservations to the private pickleball club be stopped. Despite two years of complaints to the Parks Department, no meaningful help had been received.

Diane Lavery read statements into the record from two neighbors complaining about the noise from the pickleball courts at Tanner Creek Park and suggesting solutions. She added that although she enjoyed pickleball, she did not like the nonstop noise into her family room and backyard either.

Paul Blankenmeister described his visits to the backyards of the neighbors complaining about the noise and was shocked at how disruptive it really was. He noted the importance of quality of life and community relationships, adding the situation was created by the City not doing the proper due diligence. The community wanted the pickleball issue addressed before next summer, adding outside sports clubs should not take court time from residents citing the additional noise from people talking loudly.

City Manager Williams noted since becoming City Manager about a month ago, he had been exchanging emails with residents regarding the noise and as promised, he would visit and hear the disturbances. He noted some common sense solutions were available, for example, the City could try some sound proofing material at Tanner Creek Park. The support of the Cascade Summit community in signing a petition and giving public comment showed the problem was a significant one. He noted the hours of the day restriction would certainly be possible, but some issues would need to be ironed out, such as pickleball players that would possibly want to play after work. The pickleball courts were not the only sound related complaint, but he believed the City could commit to have the material in place when the use increased in 2023 or sooner.

Council President Bialostosky appreciated all the residents that had signed the petition and shared that Council empathized with them and recognized that noise was an issue.

Councilor Baumgardner noted her 2020 experience, serving on the Parks & Recreation

Advisory Board and based on research she had done in visiting George Rogers Park, she had observed the mitigation measures which could be implemented. She agreed a sound issue existed for nearby residents and while the pickleball courts in Tanner Creek Park were a great resource for the community, it was unfair for individual residents to be affected and she believed the City would need to work with people living near the park to find a solution.

Councilor Jones noted people support what they help create, so he asked that Staff convene those in the neighborhood from different perspectives on pickleball as well as those who are and are not concerned about the noise to discuss possible solutions collectively, rather than expecting the City to determine what needs done. He added he was happy to be involved.

Councilor Relyea noted that as a neighborhood association president, he had also brought issues that affected the quality of life to Council's attention, so appropriate action could be taken. He agreed a study should have been carried out before installing the pickleball courts to see whether it was appropriate for the community. Council would work diligently with the City Manager and other stakeholder groups to address the issue as soon as possible.

Council President Bialostosky noted Council would review the petition and Staff would contact the community to work on solutions.

Teri Cummings encouraged everyone to vote no on Measure 3-587 for the water line replacement, expressing concerns about ODOT's disrespect for West Linn and how language on the City's website was intentionally persuasive towards the water line project and the bond. She believed the City had funding options outside of the bond measure.

Luan Lierman spoke on the ambiguity in Code Chapter 37 regarding indoor verses outdoor usage of a home business and Council's resolve in March 2022 to discuss and possibly amend the Code. She asked if any further action had been taken.

City Manager Williams confirmed Council had not discussed amending the Code yet but noted Council had met with the Planning Commission after the March 2022 meeting and while Chapter 37 Code amendments is on the docket list, Council had not prioritized it above the existing work.

Ms. Lierman asked when a Council meeting to discuss Chapter 37 Code amendments could be held, how often she should follow up, and who she should follow up with.

Council President Bialostosky advised Ms. Lierman to follow up with the Mayor and City Manager as they set the agenda.

City Manager Williams explained how the docket list was reviewed but noted Council could direct Staff to amend the docket list at any time. A number of big projects were currently ongoing, and he believed this Code amendment was just below them on the priority list, until

Council said otherwise. Staff followed the docket, which had an official process found in the Code.

Council President Bialostosky suggested that Ms. Lierman attend and comment at the next planning docket discussion and Council could then discuss whether to prioritize this further. He believed this was Council's way forward. He believed the next docket discussion with the Planning Commission would be held in early 2023.

Councilor Jones noted it was easy for Council to forget matters when other issues came up, so Ms. Lierman's appearance tonight forced Council to rethink the matter and he encouraged her to continue following up with Council.

Council President Bialostosky agreed, noting Council had commented on the matter during its hearing and would continue to look at it going forward.

Leo Groner asked for Council's view on how to proceed with Oppenlander Fields in a way that was fair to both the City and School District in order for the City to get a park.

City Attorney Monahan confirmed the Oppenlander Fields matter was pending litigation, and the City did not want to disclose any of its strategy or activities going through the process publicly, so he advised Council not to discuss the negotiations and potential litigation.

Council President Bialostosky stated Council would not discuss Oppenlander Fields publicly, but Mr. Groner could reach out to Council members individually, although no legal strategies could be discussed, even in that setting.

Karie Oakes spoke on the contractor cutting down trees in Fields Bridge Park without the required permits and approval of construction drawings for the Willamette Falls Dr road improvements without following the public process.

Councilor Jones noted he had read Ms. Oakes' memo and had sent a note to Staff asking for feedback on her concerns. He clarified he was not concerned about the matter.

Councilor Baumgardner reaffirmed what Councilor Jones had said, noting that she was concerned about the same issues.

City Manager Williams stated staff did not have a date when the application would be submitted, but he assured the application would be posted immediately to the City's webpage and community members who were interested would be informed when it was available so they could review it and provide comment on the proposed work at Fields Bridge Park.

- He clarified most of the required land use permits had been applied for and decided by the City, including the school construction itself. The one application remaining was for the Sensitive Lands on the Fields Bridge Park side of the road to complete the roadway

improvements. That application still needed to be put together, submitted and reviewed by City Staff before work could proceed. He believed no work which needed the permit had happened yet and would not happen without that permit approval.

### [Announcements, Proclamations, and Recognitions \[6:20 pm/10 min\]](#)

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

##### [Proclamation](#)

Councilor Jones read the Oregon-City-West Linn Rivalry Day proclamation declaring October 28, 2022 to be Oregon City-West Linn rivalry day.

#### [Indigenous Peoples Day Proclamation](#)

##### [Proclamation](#)

Councilor Baumgardner read the Indigenous Peoples Day Proclamation declaring Monday, October 10 Indigenous Peoples Day.

### [Consent Agenda \[6:30 pm/5 min\]](#)

#### [Agenda Bill 2022-10-10-01: Meeting Notes for July 11 and September 12, 2022](#)

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

#### [Agenda Bill 2022-10-10-02: Intergovernmental Agreement for Regional Inflow & Infiltration Reduction](#)

##### [IGA Information](#)

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

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

**Nays: None.**

**The motion carried 4 - 0**

### [Business Meeting \[6:35 pm/60 min\]](#)

#### [Agenda Bill 2022-10-10-03: Public Hearing: ORDINANCE 1739, AMENDMENTS TO THE WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTERS 2 AND 96 IN ORDER TO CLARIFY WHICH TYPES OF SINGLE-LOT DEVELOPMENT REQUIRE STREET IMPROVEMENTS.](#)

##### [ORD 1739 Information](#)

##### [Presentation](#)

##### [Council President Bialostosky submittal](#)

Council President Bialostosky called the public hearing to order and read the public hearing procedure for legislative matters into the record. City Attorney Monahan cited the applicable approval criteria and confirmed no Councilor had any conflict of interest, and that no member of the audience challenged the participation of any Council member.

Associate Planner Myers gave the staff report on the proposed text amendments to the Community Development Code (CDC) to clarify which types of single lot development required street improvements and codify the use of fee-in-lieu of the construction of street improvements as well as the related criteria. The proposed changes would apply primarily to residential properties that did not require Planning Commission approval, such as single-family homes, remodels, accessory dwelling units (ADUs), etc. Developments not included were properties like subdivisions, planned unit developments (PUDs), Conditional Use Permits, industrial developments, and Class 2 design reviews.

- Staff had gathered information and feedback from two working group meetings in May and June, two work sessions with the Planning Commission, a public hearing on August 17<sup>th</sup> with the Planning Commission, and a Council work session on October 3, 2022. Tonight, Staff was looking for additions to their list or to conclude the matter.
- If approved, the four primary changes resulting from the proposed amendments were:
  - (1) New or remodel commercial construction could use fee-in-lieu if the criteria were met.
  - (2) Regarding residential construction, the new construction of a detached ADU would not require street improvements.
  - (3) New construction of an attached ADU would not require street improvements.
  - (4) The new construction of a single-family home added a fee-in-lieu option if the specified criteria were met or construct the required street improvements.
- He explained fee-in-lieu-of meant that rather than constructing something, the amount that construction would cost could be paid to the City to be utilized for improvements elsewhere, such as for sidewalks.
- He updated on the research he had done so far on how neighboring jurisdictions addressed the issue, as requested Council, noting he was still waiting to speak with other cities' staff members to complete his research.
- He discussed key components regarding Middle Housing created through HB2001 and HB2003, noting demolition triggered street improvements whereas an addition or conversion of an existing single attached dwelling did not. Conversion was defined as no demolition. He was uncertain whether taking out one room was considered conversion, noting more research was needed on the matter.
- Staff was concerned about some middle housing language in OAR 660 which Staff understood to state the City could not require anything for middle housing that was not required for a single-family home. Further research was needed before Staff could bring Council the best recommendations.
- Staff recommended continuing the public hearing to a date certain to allow time for further research regarding neighboring cities so Staff could develop options and give

Council a more complete and comprehensive package to consider. Alternately, Staff could develop all three options they believed to be available right now at a greater depth, so Council could have more to work with. Staff believed it was better to do this right than fast.

- He explained that various codes triggered the need for a permit during renovations or remodels, including the size or height of the structure, type of product being built, a foundation, etc.

Councilor Jones noted when Council began to look at the Code amendments, he understood it was a one or the other decision: a single-family home replacing a single-family home, the City would or would not require street improvements. He believed the street improvements would be triggered depending on certain factors/qualifications. He agreed that though Council was discussing amendments to Chapter 96, the amendments of Chapter 2 were also critical. Much of the language had to be defined very clearly, such as renovation, remodel, tear down, etc., if qualifications were going to be put in place, so people could understand how to gauge those measurements.

Associate Planner Myers noted that was one reason why City Staff wanted to speak with staff in other cities to find out whether the middle ground was working or not, which would better inform West Linn's decisions.

Council President Bialostosky stated he disagreed with the 2018 Council decision because a blanket exemption for all replacements of a single-family home with another single-family home needed context in terms of how big the replacement would be compared to the original structure. In his memo, he proposed as a starting point that adding 250 sq ft or more would trigger street improvements. He suggested some sort of a line, perhaps a sliding scale or a percentage, that did not invite abuse. For example, minor renovations to a home would not incur the huge cost of street improvements, but those replacing a large-scale home with a brand-new home could not use the loophole to avoid paying street improvements, which was contrary to Council's goal of ensuring connectivity and making sure there was a fair policy across the city. He liked the fee-in-lieu option because it addressed people's concerns about having no sidewalks in the neighborhood, for example. He was unsure which proposal he would adopt as an alternative, but he liked a hybrid of Lake Oswego and the sliding scale. He did not want to invite abuse, so a line was needed between demolition and conversion while keeping it clear and objective.

Councilor Relyea asked if all properties in West Linn had paid a Street Improvement Fee, regardless of when built or were half-street improvement requirements implemented after a certain date, so some properties did not pay into the fund. Knowing this would help understand parity since now the City was requiring payment of that fee if a structure was being replaced.

Associate Planner Myers was uncertain about the timing and fees but would research when

street improvements started to consistently be levied. He suspected people did not pay street improvement fees at some point, considering the look of older neighborhoods in the city, adding whether they were incorporated into the city might be another factor. He reiterated Staff's recommendation to continue the public hearing to give Staff time to research and address the questions and bring Council a more robust number of options to consider.

Councilor Relyea believed a cafeteria style plan was needed within the street improvement process as certain neighborhoods could have certain characteristics, such as whether sidewalks were appropriate for a particular section of the neighborhood. Additionally, the City needed to point to criteria that triggered the need for public improvements in the infrastructure, which could relate to replacing the sewer system, needing stormwater control or street lighting, or to addressing safety concerns or incorporating Safe Routes to School. He wanted the City to have such options when coming up with the cost and improvements included in a particular home.

Councilor Baumgartner said the process and circumstances under which sidewalks could be opted out from should be clarified.

Associate Planner Myers suggested a set of three criteria to trigger the option of a fee-in-lieu to pay but not have to build the sidewalks, which somewhat addressed neighborhoods that did not want sidewalks. With the turnover in population and citizenry, 10 or 15 years ago, a neighborhood might not have wanted sidewalks but now it did, so Staff tried to create a Code that could stand the test of time and be as simple and clear as possible.

Councilor Relyea added to help accommodate the ever-changing population, he suggested the City develop criteria for the neighborhood associations to use as they develop their neighborhood association plans, to find out what the community values, such as whether sidewalks should be part of that community's plan.

Council President Bialostosky closed the public hearing.

Councilor Jones clarified he did not necessarily reject the 2018 Council's decision but believed the proper policy was somewhere between yes and no, although he was not sure which area in the middle was best. He deferred to the good judgment of the City's professional planners to return to Council after doing their research with other municipalities and learning from their experiences.

Council President Bialostosky noted he did not reject the 2018 Council's decision but believed that it had opened up the potential abuse for making a much larger structure out of a smaller one without having to pay for the improvements.

Councilor Baumgardner agreed with the comment regarding getting further information on the topic to provide a clear and objective ability to determine which direction Council wanted to go, between yes and no.

Councilor Relyea said he was willing to continue the discussion but did not have a date certain, to allow Staff time to develop the options and complete the research.

Staff agreed the December Planning Commission was the best to accommodate the continued item and provide Staff sufficient time to gather additional information and make a recommendation.

Councilor Bill Relyea moved to continue the public hearing to December 12, 2022, date certain. Councilor Mary Baumgardner seconded the motion.

City Attorney Monahan clarified the public hearing had been closed but Council could reopen the hearing. He believed it would be best for the motion to be amended, adding if it was Council's intent, the public hearing portion of the meeting could be reopened to allow testimony on the new information and concepts.

Councilor Bill Relyea moved to amend the main motion to continue the public hearing to December 12, 2022, date certain, and allow public testimony on all new information present to Council. Councilor Mary Baumgardner seconded the motion.

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

**Nays: None.**

**The motion carried 4 - 0**

#### **[Agenda Bill 2022-10-10-04: Broadway Street Improvements Project \(PW-21-11\)](#)**

##### **[Broadway Street Information](#)**

Public Works Director Calvert gave the staff presentation. A three-lot partition was currently under development along Broadway St that included new sidewalks, planter strips, driveway approaches and utility improvements. Staff was looking to partner with the developer to complete the improvements, specifically the gap between the three-lot partition and Webb St to avoid having a sidewalk to nowhere. He described the sidewalk improvements, noting the developers were responsible for all utility and repaving improvements directly adjacent to their subdivision, while the City would be responsible for paving and sidewalk improvements in front of the two adjacent lots to Webb St, as well as the stormwater improvements along Webb St.

- The developer was contributing the stormwater improvements for the original development approval in front of the two houses, while the City would extend the stormwater improvements beyond the three lots to handle runoff uphill of the three lots.

- The improvements would correct a number of defects in one of the oldest areas of the city, which was a very steep location and much of the existing right-of-way south of the proposed improvements was also in a steep sloped area.
- The developer secured three bids for the City's share of the improvements, with Hal's Construction being the lowest bid at \$267,964.92. The costs would be split up between the Storm Fund and the Street Fund in the City's budget, as well as the Bike and Pedestrian system development charges (SDC) funds for the sidewalk improvements.

Public Works Director Calvert responded to Councilor questions as follows:

- Neighbors in the immediate area were well aware of the improvements because the three-lot partition was mostly constructed, but Staff would be doing outreach as the subject improvements moved forward.
- If Council approval was received tonight, Staff would coordinate with the builder and contractor on an exact start date and work schedule, which would be shared with the public.
- Staff confirmed the work would improve the stormwater runoff issues, noting the bid list showed stormwater work was a substantial part of the improvements. While there was already a stormwater line in Webb St, it would be good to complete more improvements along Webb St down to Hwy 43 due to the limited right-of-way and the City would connect to an existing storm line there.

Councilor Mary Baumgardner moved to act in the capacity of the Local Contract Review Board, move to authorize the City Manager to sign a contract with the lowest responsive and responsible bidder, Hal's Construction, in the amount of \$267,964.92 for the Broadway Street Improvements Project. Councilor Bill Relyea seconded the motion.

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

**Nays: None.**

**The motion carried 4 - 0**

### **[Mayor and Council Reports \[7:35 pm/10 min\]](#)**

#### **Reports from Community Advisory Groups**

Councilor Relyea reported on the Executive Session and General Board meetings he attended of the Regional Water Resources Providers. It was great to network with all the different water providers in the area and hear what they were doing regarding tabletop exercises and emergency preparedness. The group had completed a curtailment exercise in 2021 and were in the process of updating their IGAs. He had requested a copy of the IGA from CEO Parno of the South Fork Water Board so he could review it, share it with Council and determine if the IGA needed to be updated.

Councilor Baumgardner reported on the League of Oregon Cities Conference she attended in Bend. She had learned about sustainability projects, such as a wastewater treatment wetland. She toured the OSU-Cascades Campus being built on a landfill of construction debris, with the goal being to not remove or bring in any material but to safely source their entire fill from the landfill. She also was shown the inside of the stormwater project.

### [City Manager Report \[7:45 pm/5 min\]](#)

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

City Manager Williams noted Community Services Director Erickson had become the leader of the City's DEI internal team. As City Manager, one of his top priorities was to move this discussion forward and Community Services Director Erickson had brought together Staff and they were working to figure out how to get some quick wins in the near future. Staff's intention was to keep the internal work going but also schedule a presentation to inform Council and receive feedback.

Community Services Director Erickson noted on October 20<sup>th</sup>, Staff was meeting with its department heads and Tricia Brand, Vice President at California College of the Arts and the City's consultant, as well as a group from Chemeketa Community College which had a Diversity, Equity, Inclusion and Belonging Certificate program, specifically made for those working in City and Municipal governments. Staff hoped to include both its teams and department heads to go through the process and get certification in the area, which would help to better understand some of the City's internal needs and how outreach could be done across the community.

City Manager Williams stated Community Services Director Erickson oversaw Staff's communications function, so Staff could combine DEI, internal, and external communication. He noted Public Works Director Calvert had sent Council an email reminding them that TriMet's Forward Together Program had reached an outreach phase. TriMet was looking for input this month, and with the tolling new issue, it was important to give TriMet feedback on local transit options. He noted he was trying to have TriMet come before Council before any decisions were made. Neighborhood associations had been inviting him to their meetings, so he was communicating with people on various topics and projects in the city. The Tax Increment Finance Advisory Committee would hold its fourth meeting next week to present the input received from their represented groups. Following that, Staff hoped the Committee would be able to approve a recommendation to the Urban Renewal Agency (URA), not to City Council, which acted as the URA. A separate meeting was needed to review the URAs bylaws, officers, etc. He noted Council had a work session on Monday and if Council wanted to include any materials, the packet went out on Thursday.

City Attorney Monahan noted he could attend next week's meeting, but Mr. Hicks, who had been working with Council on a number of issues, would not be able to attend. If Council wanted someone else from the firm, he would make that request or was it just a preliminary discussion.

Council President Bialostosky confirmed it was a preliminary discussion. He asked if Council should send a formal letter to TriMet or should each Councilor comment individually as they saw fit.

City Manager Williams believed a formal letter was good, noting if Council was interested, he could draft a letter that underlined the need for transit in West Linn, discussed tolling and that Council and the West Linn Community be involved before any transit lines were changed.

Council President Bialostosky directed Staff to create the draft for Council to briefly review and discuss at the work session next week.

Councilor Relyea noted that with regard to DEI, the City would typically have to reach out to marginalized populations intentionally. During the discussion about funding for the historic City Hall property, Council members supported reaching out to tribes in the area to make sure they were included in the development of that facility and the history of the waterfront. He wanted to see tribes included in these developments and advised Staff to speak with Councilor Baumgardner to find out a bit more about the tribe. He also noted Council had gone through an extensive process about a Police Advisory Committee, but he had not seen anything on the docket about a discussion about forming the committee. He hoped to see it added to the docket soon.

City Manager Williams confirmed tribal outreach was part of the DEI efforts as well as individual projects. The Police Review and Recommend was on the November 14<sup>th</sup> agenda. Staff hoped to get the materials out as early as this week to allow extra time for review.

Councilor Baumgardner said she was glad to hear the Police Review and Recommend was coming up. She expressed interest in attending the Neighborhood Association meeting in Robinwood and asked if other Council members might be interested in case there was a quorum issue.

Councilor Jones said he had planned to attend the neighborhood meeting in Robinwood but had other commitments, so he would probably only briefly attend. However, if it was a quorum issue, he was happy to stay away. He clarified his intent with the conversation about legal services next week was simply to bring Council some collected information on how some of the neighboring cities handled legal staff, regarding in-house, contract and combination workers to trigger a Council discussion.

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

Nothing to report.

#### [Adjourn \[7:55 pm\]](#)

Notes approved 1/9/23.





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

## CITY COUNCIL AGENDA

Monday, October 10, 2022

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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 and Pledge of Allegiance [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/10 min]
  - a. Oregon City-West Linn Rivalry Day Proclamation
  - b. Indigenous Peoples Day Proclamation
5. Consent Agenda [6:30 pm/5 min]
  - a. Agenda Bill 2022-10-10-01: Meeting Notes for July 11 and September 12, 2022
  - b. Agenda Bill 2022-10-10-02: Intergovernmental Agreement for Regional Inflow & Infiltration Reduction
6. Business Meeting [6:35 pm/60 min]
  - a. Agenda Bill 2022-10-10-03: *Public Hearing*: ORDINANCE 1739, AMENDMENTS TO THE WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTERS 2 AND 96 IN ORDER TO CLARIFY WHICH TYPES OF SINGLE-LOT DEVELOPMENT REQUIRE STREET IMPROVEMENTS.
  - b. Agenda Bill 2022-10-10-04: Broadway Street Improvements Project (PW-21-11)
7. Mayor and Council Reports [7:35 pm/10 min]
  - a. Reports from Community Advisory Groups
8. City Manager Report [7:45 pm/5 min]
  - a. Diversity, Equity, and Inclusion Discussion
9. City Attorney Report [7:50 pm/5 min]
10. Adjourn [7:55 pm]

*\*City Council and Planning Commission meetings will be conducted in a hybrid format with some Councilors, staff, presenters, and members of the public attending remotely via Webex and others attending in person. The public can watch all meetings online via [www.westlinnoregon.gov/meetings](http://www.westlinnoregon.gov/meetings) or on Cable Channel 30.*

*Submit written comments by email to City Council at [citycouncil@westlinnoregon.gov](mailto:citycouncil@westlinnoregon.gov) or to Planning Commission at [askthepc@westlinnoregon.gov](mailto:askthepc@westlinnoregon.gov). We ask that written comments be provided before noon on the day of the meeting to allow City Council and Planning Commission members time to review your comments.*

*To speak during the meeting, please complete the form located at: <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> by 4:00 pm the day of the meeting to be input into our system. Instructions on how to access the virtual meeting will then be provided to you by email prior to the meeting. If you miss the deadline and would like to speak at the meeting, please fill out the form and staff will send you a link as time allows.*

*If you require special assistance under the Americans with Disabilities Act, please call City Hall 48 hours before the meeting date, 503-657-0331.*

*When needed, the Council will meet in Executive Session pursuant to ORS 192.660 (2).*

# PROCLAMATION

## “Oregon City - West Linn Rivalry Day”

**Whereas**, the Cities of Oregon City and West Linn wish to recognize the efforts of their citizens to create and maintain a positive family environment where children can learn the value of constructive competition; and

**Whereas**, the Cities of Oregon City and West Linn value tradition and history as essential parts of their communities; and

**Whereas**, Oregon City High School and West Linn High School, formerly known as Union High School, have competed valiantly in the sport of football continuously since 1921 (except during the pandemic of 2020); and

**Whereas**, on October 28, 2022, the teams representing these schools will renew their annual rivalry for the 102nd time; and

**Whereas**, this is the longest continuously-played rivalry west of the Mississippi and therefore worthy of recognition; and

**Whereas**, the City Commission of Oregon City desires that the Pioneers again defeat the Lions and the City Council of West Linn desires that the Lions again defeat the Pioneers.

**Now Therefore**, we, the City Commission of Oregon City and the City Council of West Linn, hereby recognize and commend all citizens who have participated in this annual gridiron classic, and support the efforts of the current teams by proclaiming October 28, 2022, to be “Oregon City-West Linn Rivalry Day.” We further recommend, in the spirit of the day, that all citizens wear clothing of the appropriate colors, and refrain from crossing the river, unless business requires, until game time.

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The Honorable Denyse McGriff, Mayor  
City of Oregon City

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The Honorable Jules Walters, Mayor  
City of West Linn

October 2022

# PROCLAMATION

## West Linn, Oregon

**WHEREAS**, the City of West Linn recognizes that the Indigenous People of the lands that would later become known as the Americas have occupied these lands since time immemorial; and

**WHEREAS**, the City recognizes the fact that West Linn is built upon the homelands and villages of the Indigenous Peoples' of this region, without whom the building of the city would not be possible; and

**WHEREAS**, the City recognizes the value of many contributions made to our community through Indigenous Peoples' knowledge, labor, spirituality, technology, science, philosophy, arts and the deep cultural contribution that substantially shaped the character of West Linn; and

**WHEREAS**, the City has a responsibility to oppose the systematic racism towards Indigenous Peoples in the United States, which perpetuates high rates of poverty and income inequality, exacerbates disproportionate health, education, and social stability; and

**WHEREAS**, the City promotes the closing of the equity gap for Indigenous Peoples through policies and practices that reflect the experiences of Indigenous Peoples, ensuring greater access and opportunity, and honoring our nation's Indigenous history and contributions; and

**WHEREAS**, Indigenous Peoples' Day was first proposed in 1977 by a delegation of Native Nations to the United Nations sponsored International Conference on Discrimination against Indigenous Populations in the Americas; and

**WHEREAS**, the United States endorsed the United Nations Declaration on the Rights of Indigenous Peoples (the "Declaration") on December 16, 2010 and the Declaration recognizes that "indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources"; and

**WHEREAS**, Article 15 of the Declaration recognizes the right of indigenous peoples "to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information" and places an obligation on States to "take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society".

**NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF WEST LINN**, that Monday, October 10 2022, is

## **INDIGENOUS PEOPLES' DAY**

in the City of West Linn and we encourage all residents, businesses, organizations, and public institutions to acknowledge, honor, value, and celebrate Indigenous Peoples' historic and current contributions locally and beyond, while also recognizing the ongoing and interconnected struggles of all Indigenous communities locally and beyond.

DATED THIS 10TH DAY OF OCTOBER, 2022

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MAYOR JULES WALTERS

ATTEST:

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KATHY MOLLUSKY, CITY RECORDER



CITY OF  
**West  
Linn**

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**Agenda Bill 2022-10-10-01**

Date: September 20, 2022

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

From: Kathy Mollusky, City Recorder *KM*

Through: John Williams, City Manager

Subject: Draft Meeting Notes

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**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. July 11, 2022 Council Meeting Notes
2. September 12, 2022 Council Meeting Notes



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

# WEST LINN CITY COUNCIL MEETING NOTES July 11, 2022

## [Pre-Meeting](#)

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

#### **Council Present:**

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

#### **Staff Present:**

Deputy City Manager John Williams, City Recorder Kathy Mollusky, City Attorney Bill Monahan, Public Works Director Lance Calvert, Human Resources Director Elissa Preston, and Police Captain Oddis Rollins.

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

Council President Rory Bialostosky moved to approve the agenda as posted with one amendment, adding a discussion and potential vote to suspend the Council Rule found in Section C, 22(d). Councilor Mary Baumgardner seconded the motion.

Councilor Baumgardner asked why the amendment had come up today and whether it should be added to Council's Rules discussion or needs to be today.

Mayor Walters believed that based on feedback received, the rule was unclear, which is why she wanted Council's decision to suspend the rule to be clearly voted on today to ensure everyone understands.

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

**Nays: None.**

**The motion carried 5 - 0**

**[Suspend Council Rule found in Section C, 22\(d\)](#)**

Mayor Walters asked for City Attorney Monahan's suggestion on dealing with the Council Rule now or later in the Business Meeting.

City Attorney Monahan replied the decision was up to Council. He suggested if the Council wanted to utilize the outcome of the vote in the meeting, the appropriate action would be to deal with the matter first.

Mayor Walters agreed, noting she did not want people to feel unheard during public comments without clear direction. She asked Council President Bialostosky to make another motion.

Council President Rory Bialostosky moved to Suspend the City Council Rule found in Section C, 22(d), which requires written comments to be read into the record upon request. Councilor Mary Baumgardner seconded the motion.

Mayor Walters confirmed Council's decision would go into effect immediately, including in today's meeting.

Councilor Baumgardner replied she was not comfortable voting, noting she was unprepared, so she would wait to hear from other Councilors.

Mayor Walters believed Council already made the decision and were now formalizing that decision.

Councilor Jones concurred with Mayor Walters' response.

Councilor Relyea stated the appropriate way to have this discussion would have been to have the item placed on the agenda in a different position than where it was scheduled in order to give the public a chance to comment before Council's discussion and that it was on the agenda

in the right order. He agreed with City Attorney Monahan's advice that the current position was appropriate but did not believe the Council had gone through a process of doing that.

Mayor Walters asked if Councilor Relyea wanted to back up and discuss where the item should be on the agenda.

Councilor Relyea stated the motion would be, I move to place the item currently under discussion, under Subsection 2: Approval of Agenda and prior to Public Comments or receive public comments and then place the item before Item 4 Announcements and Proclamations.

Mayor Walters clarified with Councilor Relyea, if he wanted to vote on the placement of the Agenda Item. She asked Council President Bialostosky for a new motion.

Council President Rory Bialostosky moved to amend the motion and place the discussion on the Council Rule at issue after Public Comment. Councilor Mary Baumgardner seconded the motion.

Councilor Baumgardner said she did not understand why the item was being added now and asked if it could be postponed to the next meeting, so the public had enough time. She understood agenda items need public notice. She thought the rule about two Councilors being able to add an item to the agenda was for an upcoming meeting that would have proper notice, not during the meeting.

Mayor Walters clarified that under the current Council Rules, an Agenda Item could be added at the beginning of a Council meeting, which had been a common occurrence during the previous Council's tenure. She explained the decision was not in any way meant to circumvent any public process and reiterated Council had made the decision to suspend the rule in question a month ago. The decision would just be formalized in the meeting tonight.

Councilor Baumgardner explained she was not against the Rule change, it was about notice and the timing. She was not accustomed to current Council Rules, which allowed Councilors to add items during meetings, adding if other Councilors supported it, she would defer.

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

**Nays: None.**

**The motion carried 5 - 0**

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

Alice Richmond re: the 4th of July event.

John McCabe re: construction times in the code and that the roundabout construction will be allowed from 7:00 pm to 7:00 am.

Karie Oakes re: reading public comments out loud at Council Meetings.

Teri Cummings re: suspending Council Rules.

### [Announcements, Proclamations, and Recognitions \[6:20 pm/5 min\]](#)

#### [National Farmer's Market Week Proclamation](#)

##### [Proclamation](#)

Councilor Baumgardner read the proclamation declaring August 7 to 13 National Farmer's Market Week in conjunction with Wednesdays in Willamette Summer Street Market week.

### [Consent Agenda \[6:25 pm/5 min\]](#)

#### [Agenda Bill 2022-07-11-01: Meeting Notes for June 13, 2022](#)

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

Council President Rory Bialostosky moved to approve the Consent Agenda which contains the Meeting Notes for June 13, 2022. Councilor Mary Baumgardner seconded the motion.

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

**Nays: None.**

**The motion carried 5 - 0**

#### [Suspend Council Rule found in Section C. 22\(d\)](#)

Deputy City Manager Williams noted he and the City Attorney sought clarity on when Council would discuss the issue on suspending Council Rules.

City Attorney Monahan understood the motion was for Council to discuss the added agenda item somewhere in tonight's meeting. He suggested the appropriate time for Council to decide whether the discussion would take place immediately after public comments, which was what Deputy City Manager Williams and he had heard, or had Council planned to put the item elsewhere on the agenda.

Council President Bialostosky understood Councilor Relyea suggested discussing the item after Public Comment.

Mayor Walters clarified she had gone straight to Consent Agenda, so Council could discuss the

matter now, if desired. She confirmed a motion could be made so Council could have the discussion.

Council President Rory Bialostosky moved to Suspend Council Rule found in Section C, 22(d) The motion did not receive a second and was lost.

City Attorney Monahan asked whether the motion was to suspend the Council Rule just for this meeting or to suspend the Council Rule C, 22(d) until Council took action to put it back into application.

Council President Bialostosky understood the motion was to suspend the rule until Council put it back into application and had a chance to fully review the Council Rules. He noted he was unaware the matter was going to be discussed tonight and wanted discussion to hear the Council members' thoughts to help inform whether he was ready to vote to suspend the rule at this time.

Councilor Jones stated he was comfortable with the suspension as he had stated, but clearly other Councilors were not prepared for the discussion tonight. He proposed postponing the matter to an upcoming meeting.

Mayor Walters noted her intention was to make the policy clear, adding Council had been unanimous on its consensus on this issue. She did not want any Councilor to feel apprehensive about the matter, so the item could be moved to another agenda.

Councilor Relyea understood Council had suspended the Council Rule for one meeting due to the volume of public comment and requests on reading comments into the record that were very similar in nature. If Council had read each one of the comments into the record, the majority of Council's meeting time would have been used. He believed the right thing to do would have been to suspend the rule in question for that one meeting, and then have a discussion later about whether changes should be made to the Council Rule overall. Holding a work session was recommended due to the diversity of opinion, based on Ms. Cummings' comments regarding Goal 1, Oregon Land Use, which pertains to public involvement. The Council needed to consult with the City Attorney's office to clarify if public comment was a requirement of the City's Charter, State Law, or if Council had chosen to do it under Council Rules. Mayor Walters emphasized she was not suggesting Council should not receive public comments and, in the interest of time, ordered that the matter be tabled to a future agenda.

#### **[Business Meeting \[6:30 pm/1 hour\]](#)**

**[Agenda Bill 2022-07-11-02: Athey Creek Infrastructure Improvements Intergovernmental Agreement with the West Linn-Wilsonville School District](#)**  
[Athey Creek IGA Information](#)

[Presentation](#)

[Public Comment - Emma Jones](#)

[Public Comment - John McCabe](#)

[Public Comment - Karie Oakes](#)

[Public Comment - Teri Cummings](#)

[Public Comment - Betty Reynolds](#)

Kathie Halicki, President, Willamette Neighborhood Association (WNA), reiterated her request to postpone the vote on the IGA so remaining questions could be addressed about the height of the retaining wall, hours of construction, the impact to wildlife, and access for baseball and to the community garden. Concerns were also expressed about the IGA's impact on the emergency use only designation of the Brandon Place extension and the "no parking" status along Dollar and in the River Heights neighborhood for public and school events.

Karie Oakes said she did not believe Mayor Walters had followed the normal meeting procedure, whereby Staff first presented their report, so the public could then comment afterward. She stated she would reserve her time until after Staff's presentation was made.

Betty Reynolds described several concerns about the IGA and the development and land use process, noting many changes were made to earlier concepts and the fast-track approval process bypassed public notice and public involvement required by Oregon Law and Land Use Goals. She identified several project elements that would negatively impact the environment, including the flood plain, as well as traffic congestion and safety given the roundabout. The verbiage of the IGA and resolution should be carefully reviewed and corrected where necessary after a public hearing on the proposed improvements, all permits were obtained, and a traffic study was conducted.

Teri Cummings requested to be able to provide her comments after the Staff report. No new information had been provided since June 21<sup>st</sup> and she wanted to hear the report as well as the responses to her questions from that date.

Mayor Walters noted that under Section 22, a person was not allowed to speak more than once on one agenda topic. However, she would allow Ms. Cummings and Ms. Oakes to testify a second time.

Public Works Director Calvert presented via PowerPoint the Agenda Bill regarding the IGA, related to further improvements to the property near the Athey Creek Middle School development. The IGA was being considered beyond the previous land use decisions to build the school and the roundabout. The IGA was a financial agreement wherein the City would pay the School District for additional improvements beyond what was required for the new school to save City taxpayers and utility rate payers funds money by coordinating improvements to the area during the time of construction. Such IGA arrangements had been done multiple times in the past. He noted the IGA was not a vote for or against the school or the roundabout, as both projects had already been approved in separate land use decisions and would move

forward as part of the land use process regardless of whether the IGA was approved. His presentation highlighted the infrastructure improvements related to the IGA as well as components of the land use process, including public engagement. He reviewed Staff's responses to questions and comments received from the public and included in the record; many were specific to the school and roundabout projects already approved. His responses to additional questions were as follows:

- A speed radar sign would be placed on the Borland side of the bridge to notify drivers to slow down for the upcoming speed limit change. In addition, like other schools in the community, there were school zone flashers would flash at certain times of the day specified by the District for the 20-mph school zone speed. He believed the normal posted speed in the area was 30 mph, having stepped down as Borland Rd was 45 mph.
- No Rectangular Rapid-Flashing Beacon (RRFB) or flags were currently planned at the Epperly crossing, but if Council wanted, Staff could have that installed through a change order process. He advised waiting to see how everything worked first without the additional expense, noting Council could decide to add the flags or flashing beacons at any time and they were easy to install.
- As set out in the City's Purchasing Policy, any change orders, and changes in cost above a certain threshold would be brought before Council.
- In accordance with City Code, Staff was planning to allow night work on the project, particularly in the area of Willamette Falls Dr, to minimize disruption to those in the park as well as people moving through the area during rush hour.
- Night work would not be associated with the improvements along Dollar St or near the Epperly intersection which was close to residential homes with people trying to sleep. The contractor could work during the day, but there were different traffic control requirements for work done at night versus during the day. He had not yet talked to the contractor to see if they planned to do any night work, but that was typically addressed later and people in the surrounding area would be contacted to try to meet their particular needs.
- Parking was all signed and approved in accordance with City Code requirements. Staff was not proposing any significant changes in parking along Dollar St or other facilities, outside of what was already vetted in the land use process. If Council wished to change or restrict parking around the new school, it could be accommodated through the City's Municipal Code process.
- Multiple questions had been asked about Brandon Place, regarding steepness, slopes, cuts and fills, curves, and TVF&R. All aspects of that project had been approved and adopted as part of the land use approval process and met all of the City's Code requirements as well as TVF&R, which had also signed off on the improvements.
- On the question of clear safety and vision as it related to CDC 42, which was specifically applicable to corner intersections, the roundabout met all the requirements; the guard rail was 2.4 ft tall, which met the City's 3 ft height limit.
- Every structure in the park was in the floodplain, including bathrooms and other features that have power. The retaining walls would be located at the very edge of the floodplain but did not significantly impact the floodplain in the way mentioned and

would be designed to accommodate any kind of flood event through the engineering plans process.

- The walls near the roundabout had a maximum height of approximately 8 ft, exposed above grade. The retaining wall near the nature trail farther to the east of the park was approximately 9 ft. Most of the retaining walls were relatively short but all of them met all of the City's safety requirements, as well as the handrails, safety rails, and fencing as appropriate, which minimized the impact to the park, floodplain, and wetlands while still delivering safe biking and walking features along Willamette Falls Dr.

### Public Comment

Teri Cummings expressed concerns about parking and safety issues, Brandon PI, and the lack of public involvement in the land use process, citing Oregon Land Use Statewide Planning Goal 1. She reiterated the public had been given the same information for three consecutive meetings and that her questions had still not been addressed and would have been helpful to Council. The IGA was needed, but many questions still needed to be answered.

Karie Oakes discussed the need for a land use decision on the City's improvements along Fields Bridge Park, citing issues with the proposed retaining walls and impacts to the habitat conservation area, and expressed concerns about the lack public involvement on the project.

John McCabe noted the difference between the roundabout being a concept and now referenced as approved. He expressed concerns about how Brandon PI would be viewed on Google Maps and suggested removing the roundabout, citing safety concerns, increased traffic, and significantly reduced debt to the School District. He suggested the WNA meeting be broadcast publicly.

Councilor Baumgardner stated she was not against the IGA but had concerns about the public process. She rewatched the July 6, 2021, Council meeting, where the Willamette Falls Drive Concept Plan was presented, and she had interrupted the presentation at 1 hour 30 seconds because the roundabout was not in the Concept Plan. At that time, it was explained that it was a concept only. She did not believe Council was given the opportunity to make an informed decision. She had a lot of questions and concerns about the roundabout, but since it was conceptual, the specifications were not discussed at that time. She asked City Attorney Monahan what the ramifications of the IGA's binding nature and whether a major change or another scenario necessitate breaking the IGA language or leaving the IGA. She said she was mostly concerned about the process.

City Attorney Monahan confirmed the IGA was a binding legal document, which could possibly be modified, but only by both parties. For example, if rock was found during construction that caused extra costs or some change to the plans, it could require the parties to discuss a modification, possibly with a different funding share.

Councilor Baumgardner asked if it was true that the roundabout was going to be built by the

school, even if the City did not participate in the IGA.

City Attorney Monahan replied the reference to the roundabout was not within the body of the IGA. The roundabout was a condition of approval for the School District, and he believed the roundabout was potentially listed as one of the cost items.

Public Works Director Calvert confirmed that the land use process was what drove the School District to build the roundabout. The IGA facilitated the City's ability to build out all the bike and pedestrian improvements on the park side of the roundabout, enabling the City to have a nice entrance and feature to the park that worked and functioned well. If the IGA was not approved, then the School District would move ahead with the roundabout construction and would have to do some sort of connection there that would be less than ideal, but functional. Then the City could come back and do improvements at some future date. Staff recommended to do the improvements now and complete the IGA so that it appeared whole to the public and everything worked well.

Councilor Relyea clarified that Council was not there to talk about the roundabout, because it was not part of the IGA. Based on comments made and questions raised by Councilor Baumgardner, he understood the Concept Plan did not include the roundabout and the IGA did not address the roundabout. The roundabout was part of the land use application approved for the School Districts' school site, so he was confused as to why Council was talking about the roundabout.

Councilor Baumgardner asked if there would be any possibility to modify the plan, for instance for sidewalks and parallel parking on Willamette Falls Dr, if Council approved the IGA.

Public Works Director Calvert replied the IGA was basically to proceed, in accordance with the design plans linked to the agenda. If Council wanted to alter those plans, Staff could bring it up with the School District and its contractor and engineers. The parking shown and proposed on Willamette Falls Dr was in the Willamette Falls Drive Concept Plan approved by Council. While he had heard testimony about not having parking on arterial roads, which was generally true; the adoption of the Concept Plan, which clearly showed the on-street parking in the area, would override that general Transportation Systems Plan (TSP) statement, which was the whole purpose of adopting a more refined concept plan. If Council wished to remove on-street parking from this area of Willamette Falls Dr and deviate from the approved Willamette Falls Drive Concept Plan, Staff could certainly look at that.

He confirmed the deviation would not break the IGA, although the School District would want to move ahead quickly if the City wanted to make such changes. Council would want to move quickly after approval of the IGA because the contractor would start work soon on things like utility work, and every change in a plan set had a ripple effect. Staff did not want to provide stuff in future outreach to the community that was not what the Council or community was anticipating, so Staff had been trying to stay true to the adopted Concept Plan.

Councilor Baumgardner pointed out that she was never comfortable with parking along that stretch of road and had stated so in Council's vote discussion. She had voted for the Concept Plan because it was represented that if Council did not pass it, the City would miss out on funding, and she wanted to look at the long view. However, she was always concerned about the parking on that stretch of road.

Council President Rory Bialostosky moved to approve the proposed Intergovernmental Agreement with the West Linn-Wilsonville School District to complete improvement to city infrastructure near the new Athey Creek Middle School with the city share totaling \$2,072,897.89 and direct the City Manager to sign the IGA. Councilor Todd Jones seconded the motion.

Council President Bialostosky stated he would vote in favor of the IGA. He believed there had been a sufficient public process due to the Willamette Falls Drive Concept Plan that went through vetting and City Staff had carried out the plan. He believed voting against or rejecting the IGA would not make sense because Staff had carried out the City's Plan. There were a lot of benefits to the IGA, including upsizing the water line, improving the stormwater system, and carrying out the Plan Council had adopted. He believed the public process would continue, and he had no doubt Public Works Director Calvert would attend the WNA meeting. Approving the IGA to move something forward did not mean Council could not make changes down the line or that the public process had ended. He hoped the public process would continue and become more robust as the City got closer to construction. He reiterated that he did not see any cons to the IGA.

Councilor Relyea appreciated Public Works Director Calvert and Deputy City Manager John Williams for ensuring that that all the questions which Council had placed before them in previous meetings were part of tonight's presentation. He would vote in favor of the IGA.

Councilor Jones appreciated all the information Public Works Director Calvert had shared, noting his presentation plus comments from the public made him more thoroughly consider the IGA. He asked when Council passed the Willamette Falls Drive Concept Plan if the total cost of the entire project had been \$34 million. Public Works Director Calvert said he did not know the specific number but believed it was higher than \$34 million and today, it was even higher. At the time, he had thought it was great that the City had the Concept Plan, but it was disheartening knowing the City had no idea where to find the money to implement the Plan. The fact that within a year, the City already had an opportunity to implement a piece of the Plan that was focused almost exclusively on safety, whether safety of Fields Bridge Park, Dollar St and the Willamette neighborhood, or the safety of the students that would eventually attend the middle school. He was grateful the City was able to partner with the School District and save the taxpayers money in making some of the improvements, which would benefit all the 26,700+ people in the City.

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

**Nays: Councilor Mary Baumgardner.**

**The motion carried 4 - 1**

**[Agenda Bill 2022-07-11-03: RES 2022-09, AUTHORIZING THE CLACKAMAS COUNTY PEACE OFFICERS ASSOCIATION \(CCPOA\) COLLECTIVE BARGAINING AGREEMENT](#)**

**[RES 2022-09 Information](#)**

Deputy City Manager Williams appreciated everyone who had been involved in the process, which had been going on for some time. An unprecedented amount of visibility went into the development of this contract which came from a very unprecedented amount of attention to policing, both nationally and in West Linn. He believed the way that Council, Staff and the community responded and worked on the contract to reach this point should be commended. A lot of Staff, both on the management and union sides had put a tremendous amount of time into the agreement. Two of them, Human Resources Director Preston and Police Captain Rollins, were present and would provide an introduction.

Human Resources Director Preston presented the Agenda Bill, highlighting the background leading to the agreement which stemmed from Council and City Staff looking at the intersection between needed police reforms and the upcoming collective bargaining with the CCPOA back in 2020. She reviewed the process used in developing the agreement, including citizen involvement, the main focus points of negotiation, as well as key components of the proposed agreement, which supported recruitment and retention. The City's appointed bargaining team recommended approval of Resolution 2022-09, thereby authorizing the City to enter into a four-year contract with the CCPOA.

Councilor Baumgardner stated she was honored to be involved as the observer for the bargaining and had learned a lot because she did not have institutional knowledge in the area. She appreciated being given information and having the process explained, specifically thanking Human Resources Director Preston for her help and all of the officers involved, including Police Captain Rollins and Officer Bill Garland.

Mayor Walters thanked Councilor Baumgardner for being Council's liaison at the bargaining sessions and for her commitment for attending all of the sessions.

Council President Rory Bialostosky moved to adopt Resolution 2022-07, authorizing the Clackamas County Peace Officers Association (CCPOA) Collective Bargaining Agreement. Councilor Mary Baumgardner seconded the motion.

Councilor Relyea thanked members of the bargaining team, Human Resources Director Preston, and members of the CCPOA, Mr. Shuback, Councilor Baumgardner, and everyone else involved in the Task Force, as well as the Review and Recommend Committee which would be

formed as a result of these negotiations. He also appreciated the flexibility of the City's team members in accepting the contract and helping Council initiate the process of police reform.

Mayor Walters concurred with Councilor Relyea's comments.

Councilor Baumgardner stated she had omitted to thank Officer Redler for his participation on the union side, adding she appreciated all of the time and effort negotiation takes.

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

**Nays: None.**

**The motion carried 5 - 0**

**[Agenda Bill 2022-07-11-04: RES 2022-10, SETTING COMPENSATION LEVELS FOR MANAGEMENT AND NON-REPRESENTED EMPLOYEES, AND ELECTED OFFICIALS](#)**  
**[RES 2022-10 Information](#)**

Deputy City Manager John Williams noted that Human Resources Director Preston and he were standing in for City Manager Gabrielatos' behalf tonight and were available to answer any questions. He believed the main point was that it reflected the direction the Council had just adopted in the Police contract; this agenda item addressed not just police management, but also general staff management and elected officials as well. Staff recommended moving forward on this item to provide parity, as Staff had often said, the cost of living is something that affected everybody and was best dealt with uniformly across all employees to ensure a benefit to everyone.

Human Resources Director Preston presented the Agenda Bill, noting Council had a couple discussions about cost of living for other employee groups, and the City Manager authorized a management confidential employee group cost of living for Council's consideration. Last year's CPI was 5.5 percent, and while the City was approximately \$97,000 over budget, American Rescue funds could be used to absorb the overage in the current fiscal year. Future budget amendments would be made for the next biennium. Staff recommended approval of the agenda item in order to bring parity across all City employees.

Mayor Walters thanked Human Resources Director Preston and Staff for all of the work on this agenda item. She appreciated the inclusion of a wide range of employees and that compensation was done in an equitable way, and that elected officials were also included.

Council President Rory Bialostosky moved to adopt Resolution 2022-10, setting compensation levels for management and non-represented employees, and elected officials. Councilor Mary Baumgardner seconded the motion.

Councilor Jones said that on his year and a half on Council, he was very appreciative of his working relationship with management and non-representative Staff, who were very responsive and professional. He was grateful for the opportunity to help them weather inflation, just as Council has done for CCPOA.

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

**Nays: None.**

**The motion carried 5 - 0**

### [Mayor and Council Reports \[7:30 pm/10 min\]](#)

#### [Reports from Community Advisory Groups](#)

Councilor Baumgardner reported the public could still sign up for the Sustainability Advisory Board's virtual educational series being held tomorrow at 7 pm by visiting the Sustainability Advisory Board's page on the City's website. The Board was also hosting a booth at the West Linn Old Time Fair and was very excited to have E-bikes. She encouraged those going to the fair to check out the booth. She believed there was an opening on the Arts and Culture Commission and encouraged anyone interested to apply. The Commission was preparing for its community art show, which would be held at the library. The submittal deadline had passed for submissions, but the Commission had seen great artwork from the community, so she was excited for that event in August. She noted she was still fighting tolling.

Council President Bialostosky reported on a dinner he and Councilor Baumgardner attended last Thursday with Chief Mahuna and several PTA members from different schools, as well as School District officials, including the Superintendent. The dinner was held to talk about the City's response to any potential mass shooting, in response to what happened in Uvalde. The discussion was very sobering and powerful. He appreciated Chief Mahuna and the City Staff who attended and for putting on the great event. He noted the Youth Advisory Council official letters of acceptance had gone out, he believed there were about 10 members, some of whom were returning, and some were new. He commended staff for coordinating all the interviews and all their work behind the scenes.

#### [Appoint Community Advisory Group Member](#)

Mayor Walters placed before Council the appointment of Jeff Stallard to the Utility Advisory Board.

Council President Rory Bialostosky moved to approve the Mayor's appointment. Councilor Mary Baumgardner seconded the motion.

Councilor Jones stated he was very grateful that Mr. Stallard had stepped up and was willing to serve on the Utility Advisory Board. Based on his application, it was heartening to read the sentence stating that he has a passion for all things water, having spent the last 14 years of his career focusing on designing, building, and managing water and wastewater projects in the Pacific Northwest. With Mr. Stallard, Council would have added three individuals to the Utility Advisory Board in the past six months, all of whom have immense expertise in water management. He was appreciative of the expertise that was already on the UAB and that had been added. He was happy to support Mr. Stallard's appointment.

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

**Nays: None.**

**The motion carried 5 - 0**

[City Manager Report \[7:40 pm/5 min\]](#)

**Diversity, Equity, and Inclusion Discussion**

Nothing to report.

[City Attorney Report \[7:45 pm/5 min\]](#)

Nothing to report.

[Adjourn \[7:50 pm\]](#)

Draft Notes.



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

# WEST LINN CITY COUNCIL MEETING NOTES September 12, 2022

## Pre-Meeting

### Call to Order and Pledge of Allegiance [6:00 pm/5 min]

#### **Council Present:**

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

#### **Staff Present:**

City Recorder Kathy Mollusky, City Attorney Bill Monahan, City Manager John Williams, Planning Manager Darren Wyss, and Assistant Planner Benjamin Gardner.

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

Council President Rory Bialostosky moved to approve the agenda for the September 12, 2022, West Linn City Council Meeting. Councilor Mary Baumgardner seconded the motion.

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

**Nays: None.**

**The motion carried 5 - 0**

**Public Comments [6:10 pm/10 min]**

Mike Arthur re: jet ski noise on Willamette River.  
Robert Wilson re: jet ski noise on Willamette River.  
Scott Kappes re: jet ski noise on Willamette River.  
Karie Oakes re: ballot title process.

**Announcements, Proclamations, and Recognitions [6:20 pm/15 min]**

**National Preparedness Month Proclamation**

**Proclamation**

Councilor Baumgardner read the National Preparedness Month Proclamation declaring the month of September as National Preparedness Month.

**Constitution Week**

**Proclamation**

Councilor Jones read the Constitution Week Proclamation declaring the week of September 16 through September 22 Constitution Week.

**American Legion Day**

**Proclamation**

Council President Bialostosky read the American Legion Day Proclamation declaring September 16, 2022 American Legion Day.

**Arch Bridge Centennial**

**Proclamation**

Councilor Relyea read the Arch Bridge Centennial Proclamation inviting all citizens to attend the West Linn and Oregon City Arch Bridge Celebration on October 1, 2022.

**Consent Agenda [6:35 pm/5 min]**

**Agenda Bill 2022-09-12-01: Meeting Notes for May 16, June 21, and July 25, 2022**

**Draft Notes Information**

Council President Rory Bialostosky moved to approve the Consent Agenda for the September 12, 2022 West Linn City Council Meeting which includes the May 16, June 21, and July 25, 2022 meeting notes. Councilor Mary Baumgardner seconded the motion.

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

**Nays: None.**

**The motion carried 5 - 0**

**Business Meeting [6:40 pm/30 min]**

**Agenda Bill 2022-09-12-02: Public Hearing: ORDINANCE 1740, VACATING A PORTION OF THE CORNWALL STREET RIGHT-OF-WAY**

ORD 1740 Information

Presentation

Associate Planner Gardner gave the staff presentation explaining the approval criteria are per ORS 271.130 and all the steps staff completed. It would vacate about 12,000 sq. ft. of Cornwall Street right-of way (ROW) and creates a 20 ft. wide public utility easement and public access easement.

In response to Councilors questions, staff responded:

- There have been no public comments.
- Condition of Approval 6 states a pedestrian trail shall be constructed either in the Cornwall Street ROW, an alternate location identified by the City and consistent with the 2013 Trails Master Plan, or the City may accept a fee-in-lieu.
- The ordinance before Council does not decide if a trail is going to be built. It deals with the location of the ROW and the creation of easements.

City Attorney Monahan informed the Mayor the public hearing process needed to be followed.

Mayor Walters stated Council was holding a meeting on MISC-22-08, a City initiated request to vacate a portion of the ROW of Cornwall St. She explained how the hearing would proceed and called to order the public hearing.

City Attorney Monahan explained the legal requirements the criteria it must meet per ORS 271.080 to 271.130. There were no conflict of interests or bias.

In response reporting a site visit or ex parte contact, Councilor Relyea received an email from the Planning Commission Chair Walvatne and he does walk along trail. He did not notice anything outside of Council packet.

There were no challenges the jurisdiction of the Council to hear this matter, Council's impartiality, or Council's ex parte disclosures.

Associate Planner Gardner went through the approval criteria again.

In response to Council's questions, Staff responded:

- Choosing between the three options is a staff decision.
- Staff is working to figure out if there is another viable alternative in this location and will

ensure the developer does their part in the community.

- The site is too steep to construct a trail that will meet the Americans with Disabilities Act (ADA) requirements. Staff is exploring other options with the developer to come up with a solution.
- Item 6, pedestrian trail, is the modified condition of approval Planning Commission Chair Walvatne referred to.
- When it comes to determining which of these three routes will be taken, staff looks for the best solution that works for the community.
- If a trail cannot be built there, staff will look at other options.
- The ROW doesn't come into play with these condition. The City will still have an easement through the site.
- If staff determines the trail can be built, there will be an easement for it.

There was no public testimony and no request for a continuance.

Mayor Walters closed the public hearing.

Council President Rory Bialostosky moved to approve First Reading for Ordinance 1740 vacating a portion of the Cornwall Street right-of-way and set the matter for Second Reading. Councilor Mary Baumgardner seconded the motion.

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

**Nays: None.**

**The motion carried 5 - 0**

Council President Rory Bialostosky moved to approve Second Reading for Ordinance 1740 vacating a portion of the Cornwall Street right-of-way and adopt the ordinance. Councilor Mary Baumgardner seconded the motion.

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

**Nays: None.**

**The motion carried 5 - 0**

[Agenda Bill 2022-09-12-03: City Manager Contract  
CM Contract Information](#)

Public Comment

Karie Oakes re: City Manager recruitment process.

City Attorney Monahan explained the process Council followed.

Councilor Baumgardner agreed with City Attorney Monahan's recitation of events. She discussed Council's and Staff's intention to be transparent.

Public Comment Continued

Rebecca Hollenbeck re: John Williams being an outstanding community partner.

Councilor Jones agreed with Councilor Baumgardner's comments.

Councilor Relyea stated there were a couple of announcements that led people astray in thinking there was a decision made that was not part of the public forum. Council discussed the process and procedure for going forward. Council understands the concerns of the public. The process was made in a public setting, no decisions were made in executive session. He asked Councilors that were not involved in the previous process to review it and make a decision on if the current candidate had the qualifications to fill the role. Council was unanimous in their decision to move forward with contract negotiations. Council has not made a final decision, that is still to come this evening.

Council President Bialostosky was honored to work on the contract, it mostly mirrors the previous City Manager's contract.

City Attorney Monahan stated the intent was to follow the former City Manager's contract. There is no relocation allowance, no probation needed, and the salary is based on a market analysis. Additional benefits puts the City Manager at the same level as other managerial staff - i.e., VEBA and a cost of living allowance. He had them as Deputy City Manager and that would be a take away since he had the benefits before. No additional benefits were added other than a membership to the Oregon City/County Managers Association (OCCMA), the state organization, and the entities that provide continuing education that will benefit the City as he continues to grow his knowledge and expertise. It is for a two-year term and can be extended beyond that.

Councilor Bialostosky added there is a performance incentive of three percent to award. Council will need to come together to decide what's important in a City Manager, what we are hoping he accomplishes, and have a way to reward him if he accomplishes those metrics. The City Manager doesn't have a step scale and COLA like other employees so he tried to find a way for a potential salary increase.

City Attorney Monahan stated there was a merit increase within the contract, but not the specifics. Because there was not a merit review or COLA in the last two years, there is compression between the City Manager's salary and his direct reports. This process allows for the continuation of separation.

Mayor Walters thanked City Attorney Monahan and Council President Bialostosky for their work.

Councilor Relyea asked if Council moves forward with contract, and when the City Manager asks for an increase for outstanding service, that he bring an outline that details the accomplishments.

Mayor Walters thanked Deputy City Manager Williams for his service in the community. He is beloved by the staff and community. He goes out of his way to help solve problems and she is grateful he is here. She hopes when Council offers him a contract, he accepts.

Deputy City Manager Williams responded to Councilor Relyea that he is happy to do that, it is a great idea. We should have clear, written standards we are aiming for. Performance evaluation, the merit increase, he really wants to understand what Council expects from him and the staff. He thanked Mayor Walters for her kind words.

Council President Rory Bialostosky moved to approve the City Manager employment agreement. Councilor Mary Baumgardner seconded the motion.

Councilor Baumgardner stated when Council went into the July 25 meeting, she was interested in entertaining a recruitment process because some people were interested in undertaking a process. It became clear the City had a good candidate and we just had a process. The money the City would save would benefit the community and since we have such a good candidate, it does not make sense to run through a whole outside process. Council has an opportunity to offer this job to Mr. Williams and she is confident in his future success.

Councilor Relyea thanked Mr. Williams for staying onboard and doing what he does to support the City. When he came to West Linn, regional partners reached out and said how lucky the City was to have him onboard. Mr. Williams mentored the previous City Manager and his willingness to step up and accept this position is commendable. His thoughtfulness in making business decisions, his support of the business community and the art program has been outstanding, as well as to our community partners we provide grants to and guiding us through the budget process. He does a great job.

Councilor Jones stated the last month with Deputy City Manager Williams as the Interim City Manager has confirmed to him that he is the right person for this job. Your vision for this City, effective communication both internally and externally tells him he knows this City, what he wants to do, what he is working with, what his assets are, and he is excited to see what he is going to do for this City.

Council President Bialostosky stated negotiating was easy because Deputy City Manager Williams wanted to be here and wanted the job. The City has its challenges budgetary going forward and he trusts Deputy City Manager Williams is the right person for the job. He is

looking forward to seeing what he does and he is glad to serve with him. He thanked Deputy City Manager Williams for taking this difficult job. He is looking forward to seeing him succeed.

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

**Nays: None.**

**The motion carried 5 - 0**

City Manager Williams had his first larger employee group meeting this morning and talked about where the City is going and how we are going to get there. He was raised in a family where public service was important. To be able to do this job in the community he lives in is an honor and a pleasure. He knows this community and is still getting to know it. His first job in public service in Oregon was working for the City of Tigard and City Attorney Monahan was the City Manager. He has had some great role models throughout the years and this job of working for the community is the job he wanted. He has met with hundreds of citizens, all with an interest in their community. We have an amazing staff of around 140. The City has been through a lot in the past couple of years and we have an opportunity to get back on our feet. He has talked with each councilor about their priorities, goals, and items they want to accomplish. He wants to focus on the priorities and get them done. One thing about this job is it takes you away from your family. He thanked his wife who is going to see less of him and the dozens of people he has heard from in the community.

Mayor Walters thanked City Manager Williams' wife. This is a great beginning for West Linn coming out of COVID, natural disasters, and all the things they have been through the last couple of years. This is an opportunity to move forward in a new, strategic way. He is the right person to be here.

#### **[Mayor and Council Reports \[7:10 pm/10 min\]](#)**

##### **Reports from Community Advisory Groups**

Mayor Walters wants Review and Recommend on an agenda. She went to the 911 ceremony and thanked Dean Suhr for arranging it every year. She is grateful for first responders who take care of us and keep us safe. Former Mayor Axelrod and she cut the ribbon on historic city hall which is now on the national registry. Jon George from the Confederated Tribes of Grand Ronde said a prayer. It is exciting that this project is moving forward.

Council President Bialostosky stated he wants to talk about Highway 43 and potentially doing another Tax Increment Financing (TIF) district there to compliment efforts on rezoning. He attended the Oregon Department of Land Conservation and Development (DLCD) and they are discussing the state's policy on land use. He brought up when they impose things on a city and make them undertake planning efforts, that they should fully fund the ability to retain consultants and don't overburden staff. For House Bill 2001, Planning Manager Wyss was so

busy for so long, he was taken away from other local planning efforts.

Councilor Baumgardner stated the Sustainability Advisory Board (SAB) Chair wanted her to bring up adding the tree code update to the planning docket. At the Joint Policy Advisory Committee on Transportation (JPACT) meeting, they received a presentation from the Oregon Department of Transportation (ODOT) about the proposed tolling amendments to the statewide plan. JPACT directed Metro to work with jurisdiction staff to draft a letter to the Oregon Transportation Commission. They will be discussing the letter and asking for approval at an upcoming meeting.

City Manager Williams will reach out first thing in the morning to Clackamas County.

Councilor Relyea asked if the letter to the Marine Board would just be from the Mayor or the whole Council? Five Councilors gave a thumbs up for being on the letter.

Councilor Jones reminded everyone October 1st is the Arch Bridge Centennial. He has been working with the Youth Music Project to line up some youth groups to do some music for it. The Economic Development Committee (EDC) has endorsed TIF and the boundaries for the urban renewal district, he is looking forward to seeing that work.

#### [Community Advisory Group Appointment](#)

Mayor Walters placed before Council appointing Owen Zentil to the Committee for Community Involvement.

Council President Rory Bialostosky moved to approve the Mayor's appointment. Councilor Mary Baumgardner seconded the motion.

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

**Nays: None.**

**The motion carried 5 - 0**

#### [City Manager Report \[7:20 pm/5 min\]](#)

##### **Diversity, Equity, and Inclusion Discussion**

City Manager Williams will bring news to Council and the community about what staff are doing. It is staff's intention to list the tree code on the planning docket, it can be a big piece of work. It gets into environmental regulations that Metro has, it is a complicated big project. Staff agrees it needs changes. The TIF Advisory Committee met last week for the first time. They had some interesting discussion about the project list and the boundaries. Council made a decision to allocate \$200,000 of federal funding to street tree replacement. Staff is working to put a program together. It is going to take two winters so the program is designed to use half the funds the first winter and half in the second winter. Staff has ordered 250 trees of a few

varieties that are suitable for the locations. A contractor is going to install the trees. We are going to announce the program and have a website where people can file a request for a street tree. They will be planted around November when the conditions are favorable. Staff will oversee the placement, checking over the utilities, vision clearance, etc. to make sure they go in the right places. It will not include stump grinding. The trees will be placed between stumps or homeowners can grind the stumps. If any trees are left over, they will be used in City projects. Community members have put staff in touch with Friends of Trees and we may be able to partner with them next year. He doesn't believe all the trees are native; however, they will work in the planter strips. He reminded everyone that the City lost 1,600 street trees.

Councilor Jones asked in addition to all good means of mass communication staff does, he expects staff has kept a list of residence that have requested trees and he would like staff to contact them directly in addition to the outreach to the community.

Mayor Walters thanked Councilor Jones for his idea to get this done for the community.

City Manager Williams stated he wants Council to spend their time on priorities and wants to have a discussion about their priorities and how Council wants to spend its time. It would be helpful to program out these meetings to make sure staff is delivering to Council what they want. He knows the I-205 construction and tolling is important and ODOT is coming in to talk about it and expects we will want them to keep coming back to talk about what they are doing and how they are addressing our local needs. He really wants to land the Review and Recommend Police Oversight Committee this fall. Staff's DEI work has been under the radar, staff have thoughts on next steps he would like to bring to Council. TIF, Council will hear from planners their visioning for Highway 43 and the waterfront. He is hoping to bring Council good news on Historic City Hall. Staff has started having internal conversations regarding the budget. We are hoping to have a process the community can understand and be proud of. He wants to make the budget more interesting and open. He wants to make sure Council is using their time appropriately.

#### [City Attorney Report \[7:25 pm/5 min\]](#)

##### **Legal Project List**

##### [Project List](#)

City Attorney Monahan stated the update of projects is posted. He pointed out that whenever Council gets it, it is already out of date. There are probably 10 items on the list that have been completed. They are continuing to make an effort to explain what projects they are doing and who is working on them. They spoke about having a secondary list of any pending litigation that should be on Council's radar that they will discuss in executive sessions.

#### [Adjourn \[7:30 pm\]](#)

Draft Notes.

**Agenda Bill 2022-10-10-02**

Date Prepared: September 27, 2022

For Meeting Date: October 10, 2022

To: Jules Walters, Mayor  
West Linn City Council

Through: John Williams, City Manager *JRW*

From: Lance Calvert, PE – Public Works Director/City Engineer *LEC*

Subject: Approval of Intergovernmental Agreement for Regional Inflow & Infiltration Reduction

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**Purpose:**

To receive Council approval to enter into a regional Intergovernmental Agreement (IGA) between Water Environmental Services (WES) and partner cities for regional inflow and infiltration reduction.

**Question(s) for Council:**

Does Council wish to partner with regional cities to implement inflow and infiltration reduction standards?

**Public Hearing Required:**

None required.

**Background & Discussion:**

Clackamas County Water Environmental Services (WES) is the City of West Linn's provider of sanitary sewer treatment and operates the Tri-City wastewater plant located in Oregon City. All City of West Linn sewage flows from the city owned sewer pipe collection system to the WES treatment plant. Inflow and Infiltration (I & I) of storm water and/or ground water is a major contributor to the cost of sanitary sewer wastewater treatment. Every year, the City of West Linn completes repairs to reduce I & I from our sanitary sewer pipe network which helps reduce cost of treatment at the WES plant.

WES is developing and implementing a regional I & I program to cost effectively manage peak flows in the regional wastewater collection system and treatment facilities. WES has asked all providers in their service area to participate in the WES proposed I & I abatement program which includes the City of West Linn. All other cities in the WES system have approved the attached IGA in this regard. West Linn staff and legal have reviewed the IGA and believe it is in the best interests of the city to approve the agreement as well.

Several drainage basins located in West Linn are targeted by WES to reduce I & I impacts of peak wet weather flow with planned incremental capital system maintenance and improvements over the next 15 years.

The purpose of the proposed IGA is for the signed parties to evaluate the effectiveness of I & I programs towards the goal of 65% I & I reduction in target areas as well as allowing WES to potentially provide future funding to the city to meet these reduction targets. In addition, the agreement may be extend in 5 year increments as appropriate and agreed to by all parties.

**Budget Impact:**

No budget impacts directly related to the IGA. However, the IGA does allow for WES to assist the city financially in the future as regional funding allows for future I & I capital projects that benefit both parties.

**Sustainability Impact:**

Participation in I & I reduction is a vital component in effective and sustainable sanitary sewer system maintenance and operations.

**Council Options:**

- 1) Approve the proposed IGA to partner with WES on future I & I reduction efforts, or
- 2) Not approve the proposed IGA and work independently on city I & I concerns.

**Staff Recommendation:**

Approve the proposed IGA to allow the City to partner with WES on I & I reduction efforts that benefit both agencies and the region.

**Potential Motion:**

I move to approve the proposed intergovernmental agreement with Clackamas County Water Environmental Services on Inflow and Infiltration and direct the City Manager to sign the attached IGA.

**Attachments:**

1. Water Environmental Services IGA



**RECORDING MEMO**

New Agreement/Contract

Amendment/Change/Extension

Other: \_\_\_\_\_

Originating County Department: \_\_\_\_\_

Purchasing for: \_\_\_\_\_

Other party to contract/agreement: \_\_\_\_\_

Title from Business Meeting Agenda:

After recording please return to:

Clerk to the Board please complete below this line after Board approval \_\_\_\_\_

Board Agenda Date: \_\_\_\_\_

Agenda Item Number: \_\_\_\_\_

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN WATER ENVIRONMENT SERVICES  
AND PARTNER CITIES FOR  
REGIONAL INFLOW AND INFILTRATION REDUCTION**

THIS REGIONAL INFLOW AND INFILTRATION REDUCTION AGREEMENT (this “**Agreement**”) is entered into between Water Environment Services (“**District**”), an intergovernmental entity formed pursuant to ORS Chapter 190, and those Cities (defined below) that execute this Agreement (collectively, the “**Partners**” or individually “**Partner**”). The District and the Partners are collectively referred to as the “**Parties**” and each a “**Party**.”

**RECITALS**

Oregon Revised Statutes Chapter 190.010 confers authority upon local governments to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform.

The District provides sanitary sewer treatment to over 190,000 people in Clackamas County. This service area includes the City of Gladstone, the City of Happy Valley, the City of Johnson City, the City of Milwaukie, the City of Oregon City, and the City of West Linn, all Oregon municipal corporations (collectively the “**Cities**” and each a “**City**”). There are thousands of miles of underground pipes that convey sewage from homes and businesses in Partner jurisdictions to the District’s regional wastewater treatment facilities. Some of those pipes allow clean groundwater to enter the system during the winter, through a process called “infiltration.” In other cases, there are accidental or illicit connections such as downspouts or street drains that allow rain water to enter the sanitary sewer system, through a process called “inflow.” Together, this additional water is called infiltration and inflow, or by its’ industry shorthand “**I/I**.”

Analysis shows that the amount of I/I entering into District’s system is higher than industry norms. This surge of water during wet weather events is approaching the maximum peak flow capacities of the District’s Tri-City and Kellogg Creek water resource reclamation facilities and that of portions of the regional collection system. Excessive I/I can result in higher-than-needed costs to the District’s and Partner’s ratepayers, given that under the Clean Water Act, a treatment provider must convey and treat every drop of water that arrives at a treatment facility as wastewater. This additional treatment capacity and effort for cleaning what is essentially rainwater or groundwater is inefficient and expensive. It can also require upsizing of buried infrastructure at significant cost.

To most effectively reduce excessive I/I, a regional I/I program is needed to manage peak flows in the wastewater collection and treatment systems in the most cost-effective manner. The program is the implementation of the recommended capital improvement program outlined in the Sanitary Sewer Master Plan for Water Environment Services (“**SSMP**”) (Jacobs, 2019). The SSMP identified reduction targets throughout the regional system, not just that portion of the collection system directly managed by the District. All Partner systems were included in the review, except for the City of Johnson City’s collection system; however, leadership for the city has been engaged on this topic.

The SSMP identified 19 sub-basins as priority investment areas (“**Target Areas**”), further described in Exhibit A (“**Technical Memos**”), due to the high rate of I/I present, the cost of conveying the peak flow downstream, and ultimately the cost of treating it. These

Target Areas are located throughout the regional wastewater network, in both District-owned and Partner-owned collection systems.

The SSMP found the most cost-effective alternative for all parties was a sixty-five percent (65%) I/I reduction in the Target Areas by 2040. Removal of 65% in Target Areas over the time period study of 2020-2040 is considered ambitious within the industry and will take a significant amount of investment to reach. However, this yields to lowest cost for ratepayers, resulting in a net savings for the regional system of approximately \$120 million in avoided capital and operational expenditures during the next 20 years, with the cost savings growing larger in the outer years. In order to achieve the lowest cost solution for District ratepayers, a collective effort from all Partners is required to implement this regional I/I reduction.

In 2019, this recommendation was presented to the Technical Advisory Team (“TAT”), made up of District engineers, Partner public works directors, and Partner engineers, which broadly agreed that a focus on 65% level of I/I removal in Target Areas, balanced with other necessary improvements in the collection and plant treatment systems, is the most cost-effective regional solution to managing peak flows. The Water Environment Services Advisory Committee (“District Advisory Committee”) agreed that these targets should be the baseline for the regional discussion in 2019.

In an effort to implement the program recommended in the SSMP and by the advisory committee, the District and the Partners desire to establish a pilot program to determine the long-term feasibility of the District providing funding to Partners in support of projects that will help achieve the collective goal of reducing I/I by 65% in the Target Areas (“Regional I/I Reimbursement Program” or the “Program”). Beyond just this Program, it is the District’s desire that this be the first step towards establishing a more collaborative relationship with the Partners moving forward to address I/I and other regional issues using common studies, common approaches and common solutions.

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

## TERMS

1. **Term.** The Agreement shall be effective between the District and any individual Partner upon execution by the District and Partner (“**Effective Date**”). After District execution, a City may sign on to the Agreement at a later date by executing the signature page below. A lack of execution by one City shall not impact the validity of the Agreement as to any other Partner. The Agreement shall expire on June 30, 2026. It is the intent of the Parties to evaluate the effectiveness of the Program and, if significant progress is being made towards the goal of 65% I/I reduction in Target Areas, continue this approach. The term of this Agreement may be extended by the Parties in five (5) year increments upon a writing signed by all Parties.
2. **Cost Sharing.** The District agrees to reimburse thirty-three percent (33%) of the actual costs incurred by a Partner in the completion of work arising out of a Qualified Proposal that has received an Approval Letter (both defined below) (“**Reimbursement Contribution**”) from revenues received through the collective wholesale sewer rate. The amount the District is contributing reflects the mutual savings to ratepayers with respect to wholesale sewer expenditures through regional collective action. Note that

these contributions are intended to supplement, not replace, collection system service charges already being charged by District or Partners.

### 3. Program Proposal Process.

- A. Qualified Proposals. Partners will identify qualified proposal projects to submit for review. A “**Qualified Proposal**” means a project proposal that meets the base threshold of being designed for I/I reduction purposes and occurring within the Target Areas. A Qualified Proposal should include a project description, project area/boundary, flow-metering data if available (I/I rates), rehabilitation method (if applicable), project statistics (i.e. number of manholes, linear feet of pipe or number of laterals to be rehabilitated), construction schedule, and anticipated I/I flow reduction. Potential eligible projects may include, but are not limited to, flow-metering studies, consulting services to analyze flow-metering results, I/I source identification, rehabilitation design or construction, post-construction flow monitoring, etc.
  - B. Approval of Qualified Proposals. Each Partner will bring forward their proposed projects for approval by the TAT. The TAT will review the proposal and determine if it satisfies the elements of a Qualified Proposal identified in Section A above. If the TAT members approve, by majority vote of those present, a proposal as being an eligible Qualified Proposal, the Partner will be provided with a letter of approval in a form substantially similar to Exhibit B (“Approval Letter”).
  - C. Annual Notification of Proposals. Each Partner agrees to submit an annual list summarizing the potential Qualified Proposals planned for the following year, including their estimated cost, to the District no later than February 1<sup>st</sup> of each year, in order to provide the District with sufficient time to budget appropriately for the upcoming fiscal year. Failure to provide the notice will not automatically prevent funding of a Qualified Proposal, but such funding may be delayed by a fiscal year. Notwithstanding the above, upon execution of the Agreement by a Partner, the Partner may immediately submit Qualified Proposals for the current fiscal year.
  - D. Annual Reports. Each Partner receiving funding pursuant to this Agreement will provide an annual report out to the District Advisory Committee, indicating the projects completed with the funding provided and their anticipated or actual reduction of I/I in the impacted Target Area. The Partners may elect to provide the report at the end of each fiscal year or calendar year.
  - E. TAT Membership. The Parties acknowledge that thus far the TAT has been an informal advisory group of technical experts meeting to share knowledge and collaborate on infrastructure strategy, and that a more formalized procedure will be needed to allow the TAT to effectuate the purposes of this Agreement. Therefore, bylaws will be drafted creating, amongst other provisions, a voting procedure with each of the District and Partners having a single vote for the purposes of approving a Qualified Proposal.
4. **Reimbursement**. In order to receive the Reimbursement Contribution, the Partners agree to submit a single invoice after the completion of the work performed related to their Qualified Proposal, with a copy of their Approval Letter from the TAT included. Invoices shall describe the work performed with particularity, by whom it was performed, and shall itemize and explain the expenses for which reimbursement is

claimed, noting the elements of the project correlated with VI reduction. Reimbursement Contribution payments shall be made by the District to the Partner within forty-five (45) days of receipt of an invoice that complies with the requirements of this section. The District is not obligated to pay any amount in excess of the Reimbursement Contribution amount identified above.

**5. Representations and Warranties.**

A. Party Representations and Warranties. Each Party represents and warrants to the other Parties that it has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of the Party enforceable in accordance with its terms.

**6. Withdrawal; Termination.**

A. Any Partner may withdraw from this Agreement at any point and for any reason upon thirty (30) days' written notice to the District. If one Party withdraws from this Agreement, such withdrawal shall not affect the Agreement with the remaining Partners.

B. The District may terminate the Agreement with any individual Partner at any point and for any reason upon thirty (30) days' written notice. Any termination of the Agreement with an individual Partner shall not affect the Agreement as to the remaining Partners.

C. Either the District or the Partners may terminate this Agreement in the event of a material breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.

D. The District or the Partners shall not be deemed to have waived any breach of this Agreement by any other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.

E. The District may terminate this entire Agreement with all Parties upon fifteen (15) days' written notice in the event the District fails to receive expenditure authority sufficient to allow the District, in the exercise of its reasonable administrative discretion, to continue to perform under this Agreement, or if federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or the District is prohibited from paying for such work from the planned funding source. The District agrees to provide a Reimbursement Contribution for all Qualified Proposals that receive an Approval

Letter prior to the date of termination identified in the notice provided pursuant to this subsection.

- F. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

**7. Indemnification.**

- A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the District agrees to indemnify, save harmless and defend the Partners, and their officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts or omissions of the District or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the District has a right to control.

Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, each Partner agrees to indemnify, save harmless and defend the District, Clackamas County and any other Partner, as well as each of their officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts or omissions of the Partner or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the Partner has a right to control.

- 8. **Dispute Resolution.** In the event of a dispute arising out of this Agreement, the Parties involved in the dispute agree to meet with one another in a good faith attempt to resolve the dispute prior to taking any other action against another Party. In these discussions, city managers will represent the affected Partners and the District will be represented by its Director. If a dispute cannot be resolved through these discussions, then the Parties may seek relief from any available method.
- 9. **Insurance.** The Parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.
- 10. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the business address for the party thereof as published. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Each Party shall provide a separate written designation for notices relating to this Agreement, and any Party may change such Party's contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

## 11. General Provisions.

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon without giving effect to the conflict of law provisions thereof. Any claim between District and Partners that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by any Party of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Each Party, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.
- B. **Compliance with Applicable Law.** All Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by any Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by any other Party.
- D. **Access to Records.** Each Party shall retain, maintain, and keep accessible all records relevant to this Agreement ("**Records**") for a minimum of six (6) years, following Agreement termination or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. Each Party shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, the Party's shall permit the District's or another Party's authorized representatives' access to the Records at reasonable times and places for purposes of examining and copying.
- E. **Work Product.** Reserved.
- F. **Hazard Communication.** Reserved.

- G. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- H. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- I. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. 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 any Party unless in writing and signed by all Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of any Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- J. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- K. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- L. **No Third-Party Beneficiary.** The Partners and the District 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. No contractors or agents of the Partners performing work on Qualifying Projects are considered intended beneficiaries for the purposes of this Agreement.
- M. **Assignment.** No Partner shall assign or transfer any of its interest in this Agreement by bankruptcy, operation of law or otherwise, without obtaining prior

written approval from the District, which shall be granted or denied in the District's sole discretion.

- N. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- O. **Survival.** All provisions in Sections 5, 7, 8 and 10 (A), (C), (D), (G), (H), (I), (J), (L), (Q), and (T) shall survive the termination of this Agreement, together with all other rights and obligations herein which by their context are intended to survive.
- P. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.
- Q. **Time is of the Essence.** With the ambitious goal of reducing VI by 65% in Target Areas, the Parties are encouraged to act expeditiously in submitting and completing Qualified Proposal work.
- R. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- S. **Force Majeure.** Neither the Partners nor District shall be held responsible for delay or default caused by events outside of the Partners' or District's reasonable control including, but not limited to, fire, terrorism, epidemic, riot, acts of God, or war.
- T. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

*Signature Page Follows*

**IN WITNESS HEREOF**, the Parties have executed this Agreement by the date set forth opposite their names below.

**Water Environment Services**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

**City of Gladstone**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of Happy Valley**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of Johnson City**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of Milwaukie**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of Oregon City**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of West Linn**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**IN WITNESS HEREOF**, the Parties have executed this Agreement by the date set forth opposite their names below.

**Water Environment Services**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

**City of Gladstone**

  
\_\_\_\_\_  
Authorized Signatory

*MAYOR*  
\_\_\_\_\_  
Title

*3/3/2022*  
\_\_\_\_\_  
Date

**City of Happy Valley**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of Johnson City**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of Milwaukie**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of Oregon City**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of West Linn**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**IN WITNESS HEREOF**, the Parties have executed this Agreement by the date set forth opposite their names below.

**Water Environment Services**

\_\_\_\_\_

Chair

\_\_\_\_\_

Date

**City of Gladstone**

\_\_\_\_\_

Authorized Signatory

\_\_\_\_\_

Title

\_\_\_\_\_

Date

**City of Happy Valley**

  
\_\_\_\_\_

Authorized Signatory

\_\_\_\_\_

City Manager

\_\_\_\_\_

Title

\_\_\_\_\_

3/14/2020

\_\_\_\_\_

Date

**City of Johnson City**

\_\_\_\_\_

Authorized Signatory

\_\_\_\_\_

Title

\_\_\_\_\_

Date

**City of Milwaukie**

\_\_\_\_\_

Authorized Signatory

\_\_\_\_\_

Title

\_\_\_\_\_

Date

**City of Oregon City**

\_\_\_\_\_

Authorized Signatory

\_\_\_\_\_

Title

\_\_\_\_\_

Date

**City of West Linn**

\_\_\_\_\_

Authorized Signatory

\_\_\_\_\_

Title

\_\_\_\_\_

Date

IN WITNESS HEREOF, the Parties have executed this Agreement by the date set forth opposite their names below.

**Water Environment Services**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Date

**City of Gladstone**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of Happy Valley**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of Johnson City**

*James O Whitehead*  
\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Mayor  
Title

*1-18-2022*  
\_\_\_\_\_  
Date

**City of Milwaukie**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of Oregon City**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of West Linn**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of Milwaukie**

  
\_\_\_\_\_

Authorized Signatory

*City Manager*  
\_\_\_\_\_

Title

*March 1, 2022*  
\_\_\_\_\_

Date

**City of Oregon City**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of West Linn**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

# Exhibit A

## Technical Memos

# Technical Memorandum

Prepared for: Jessica Rinner, PE  
Water Environment Services, Clackamas County, Oregon

Project: Infiltration and Inflow Program Support

Author: Yarrow Murphy, PE  
Leeway Engineering Solutions

Reviewer: Rob Lee, PE, PMP  
Leeway Engineering Solutions

Date: November 9, 2020

Subject: Infiltration and Inflow (I/I) Program Development  
City of West Linn Member Community Program and Summary

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## Introduction

Clackamas Water Environment Services (WES) is developing and implementing a regional infiltration and inflow (I/I) program to cost-effectively manage peak flows in the regional wastewater collection system and treatment facilities. This program supports the implementation of the capital improvement program outlined in the *Sanitary Sewer Master Plan* ([SSMP] completed by Jacobs in 2019). As a member city located within WES’s Regional Service Area, the City of West Linn (City) is implementing I/I abatement as described in this technical memorandum (TM).

This TM describes the City’s program and details the specific requested contributions identified by the City for WES-provided assistance to the City.

## SSMP Recommendations

The SSMP found hydraulic capacity deficiencies through the WES service area resulting from high I/I during the 5-year frequency design storm. These capacity deficiencies will increase over time due to several factors, including system expansion and pipe aging and degradation.

The SSMP evaluated alternatives for providing capacity to convey and/or treat peak 2040 flows. The total investment for each alternative included the present worth value of capital costs to reduce I/I, increase capacity to transport remaining flows, and expand treatment capacity and operation and maintenance costs over a 60-year life. The plan recommended the most cost-effective alternative, which included 65-percent I/I reduction in 19 subbasins throughout WES’s service area by 2040.

## West Linn I/I Reduction Efforts and Recommendations

### I/I Reduction Target Subbasins

Nine of the target 19 subbasins (Highway 43, WL\_2, Willamette 9C-3, Mill Street, 2A-19, Holly, River Street, WL\_1\_2B-1-0 and Bolton 3A-8) are located in West Linn and are shown in Figure 1. West Linn’s Sanitary Sewer Master Plan (Carollo, 2019) had similar recommendations regarding I/I within many of these basins. These subbasins and their characteristics are summarized in Table 1.

Table 1. Characteristics of I/I Reduction Target Subbasins in West Linn Jurisdiction

Subbasin	RDII Reduction Completion	Area (acres)	Length of sewer main (LF [mi])	Number of laterals	RDII Rate <sup>1</sup> (gallons per acre-day)
WL_2	2025	148	42,240 (8)	1,410	25,000
Highway 43	2025	354	107,000 (20.2)	1,570	21,500
Willamette 9C-3	2030 <sup>2</sup>	113	54,000 (10.2)	670	16,300
Mill Street	2030 <sup>2</sup>	287	104,000 (19.7)	990	15,400
2A-19	2030	106	19,000 (3.6)	290	23,200
Holly	2030	94	18,000 (3.4)	540	20,200
River Street	2030	64	11,000 (2.1)	490	18,900
WL_2B-1-0	2030	89	17,000 (3.2)	260	17,100
Bolton 3A-8	2035	284	111,500 (21.1)	1,450	15,800

<sup>1</sup> I/I rate projected for conditions at the reduction timeframe during the design storm with 5-year frequency.

<sup>2</sup> Early start recommended due to impacts to downstream improvements.

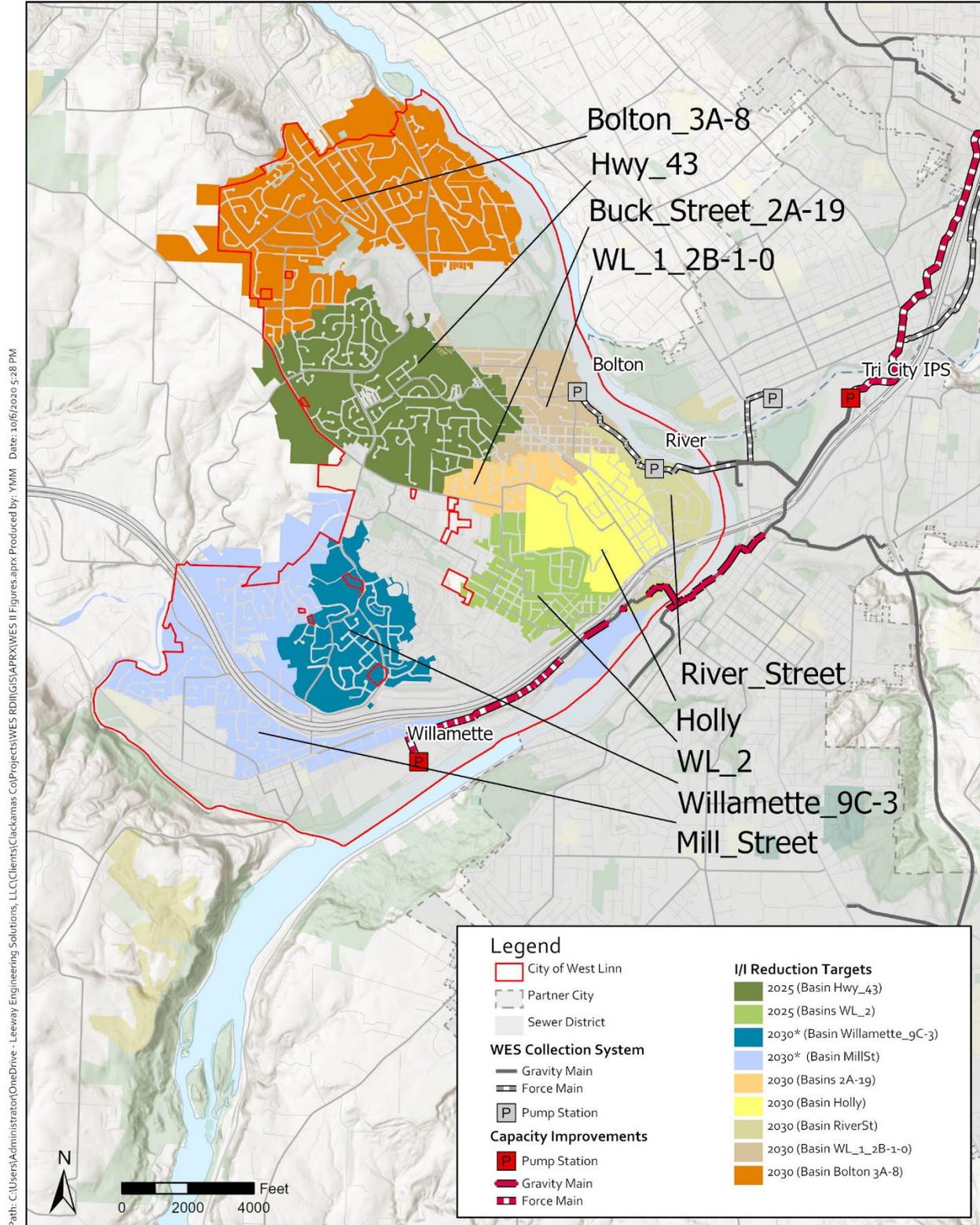


Figure 1. Target Subbasins for West Linn and Capacity Improvements Required for WES's System Given 65% I/I Reduction

## I/I Project Sequencing

Due to the impacts of the peak wet weather flows on the downstream infrastructure, the City’s I/I reduction efforts will be implemented incrementally over the next 15 years, according to the schedule in Table 2. The first phase will include I/I reductions in the WL\_2 and Hwy\_43 subbasins.

As noted in Table 1 and shown in Table 2, early action I/I reduction is recommended for four of West Linn’s subbasins. The need for additional City I/I reduction will depend on the actual amount of I/I reduction from rehabilitation within these first four subbasins.

Table 2. West Linn I/I Reduction Components and Schedule by Targeted Completion Year

Project Name	2025	2030	2035	2040
West Linn I/I Program (2 subbasins: WL_2, Hwy_43)				
West Linn I/I Program (2 basins: Willamette_9C-3, MillSt)				
West Linn I/I Program (4 basins: 2A-19, Holly, RiverSt, WL_2B-1-0)				
West Linn I/I Program (1 basins: Bolton_3A-8)				

## West Linn I/I Reduction Program Meeting Summary

Recognizing that a successful WES-wide I/I reduction program will require collaboration between WES and its member cities, representatives of WES and the City met on April 23, 2020 for a discussion of what might comprise such a program

The City has requested the following support from WES for their I/I reduction effort:

- Coordination on flow monitoring
- Review of differences between West Linn and the WES’s Master Plans modeling

## References

Jacobs. 2019. Sanitary Sewer System Master plan for Water Environment Services.

Carollo. 2019. City of West Linn Sanitary Sewer System Master Plan.



# Technical Memorandum

Prepared for: Jessica Rinner, PE  
Clackamas Water Environment Services, Clackamas County, Oregon

Project: Infiltration and Inflow Program Support

Author: Yarrow Murphy, PE  
Leeway Engineering Solutions

Reviewer: Rob Lee, PE, PMP  
Leeway Engineering Solutions

Date: November 9, 2020

Subject: District Infiltration and Inflow (I/I) Reduction Program Summary

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## Introduction

Clackamas Water Environment Services (WES) is developing and implementing a regional infiltration and inflow (I/I) program to cost-effectively manage peak flows in the regional wastewater collection system and treatment facilities. This program supports the implementation of the capital improvement program outlined in the *Sanitary Sewer Master Plan* ([SSMP] completed by Jacobs in 2019). WES is responsible for implementing I/I abatement as described in this technical memorandum (TM).

## SSMP Recommendations

The SSMP found hydraulic capacity deficiencies through the WES service area resulting from high I/I during the 5-year frequency design storm. These capacity deficiencies will increase over time due to several factors, including system expansion and pipe aging and degradation.

The SSMP evaluated alternatives for providing capacity to convey and/or treat peak 2040 flows. The total investment for each alternative included the present worth value of capital costs to reduce I/I, increase capacity to transport remaining flows, and expand treatment capacity and operation and maintenance costs over a 60-year life. The plan recommended the most cost-effective alternative, which included 65-percent I/I reduction in 19 subbasins throughout WES’s service area by 2040.

## WES I/I Reduction Efforts and Recommendations

### I/I Reduction Target Subbasins

Two of the 19 subbasins (Mt. Talbert and Clackamas) recommended for I/I reduction are located in WES service area and are shown in Figure 1. These subbasins and their characteristics are summarized in Table 1.

Table 1. I/I Reduction Target Basin Characteristics

Characteristic	Mt Talbert	Clackamas
I/I Reduction Timeframe	2025	2040
Area (acres)	1,603	466
Length of sewer main (linear feet, LF)	495,000	68,000
Number of laterals	6,800	2,130
I/I Rate <sup>1</sup> (gpad)	12,400	15,000
Jurisdiction	WES	WES

<sup>1</sup> I/I rate projected for conditions at the reduction timeframe during design storm with 5-year frequency.

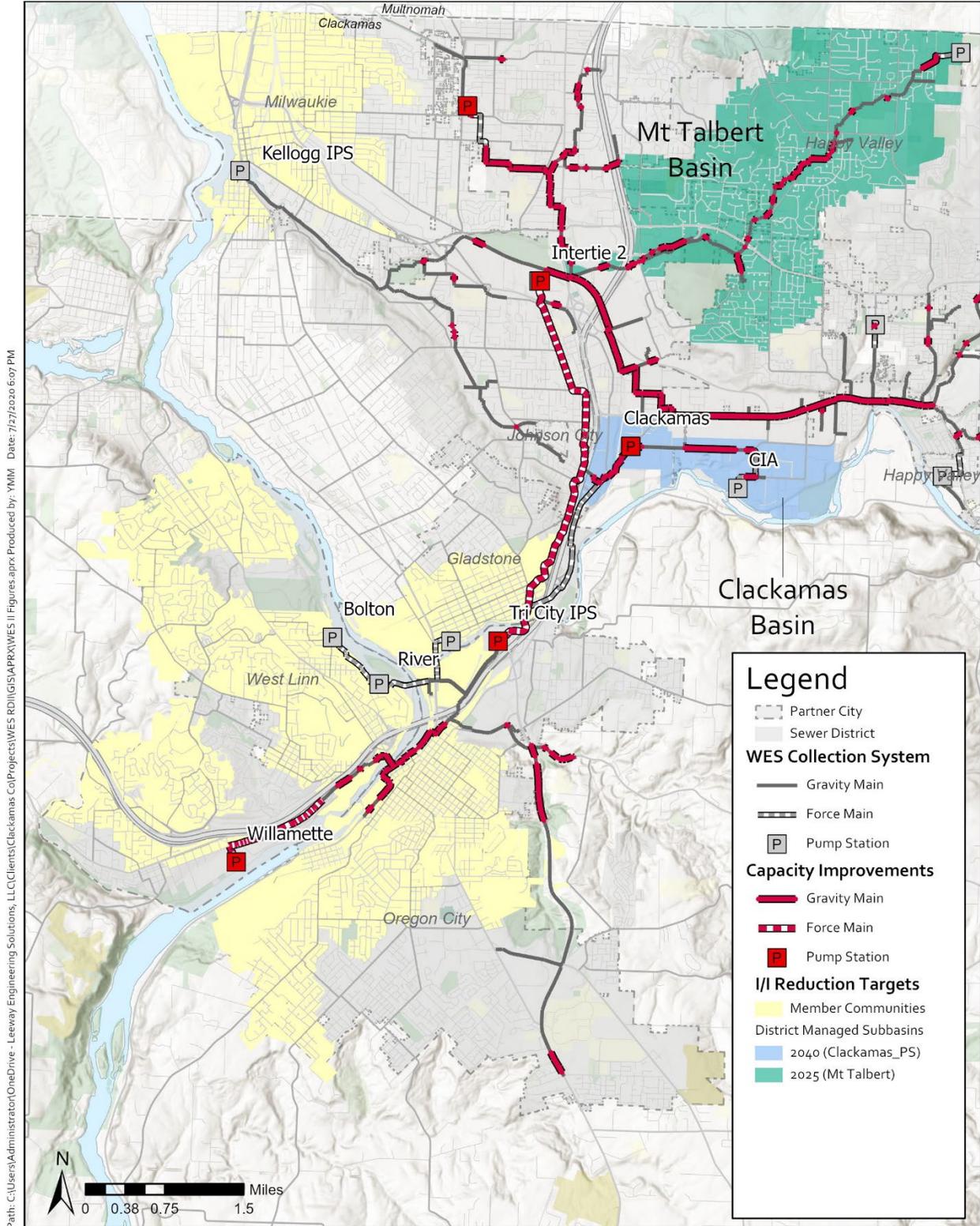


Figure 1. Target Subbasins for the District and Member Cities and Capacity Improvements Given 65% I/I reduction

## I/I Project Sequencing

Due to the impacts of the peak wet-weather flows on the downstream infrastructure, WES’s I/I reduction efforts are planned to be implemented according to the schedule shown in Table 2. WES has already begun work in the Mount Talbert basin. Work already initiated includes smoke-testing, stream walks, and CCTV inspections.

WES is also expanding its permanent flow monitoring program which will be used for further refinement of I/I reduction measures. The final phase of the District’s I/I reduction will apply to the Clackamas Basin.

*Table 2. Program Components and Schedule by Targeted Completion Year*

Project Name	Owner	2025	2030	2035	2040
WES I/I Program (1 subbasin: Mount Talbert)	District				
Permanent Flow Monitoring	District				
WES I/I Program (1 basin: Clackamas)	District				

## References

Jacobs. 2019. Sanitary Sewer System Master Plan for Water Environment Services.



# Technical Memorandum

Prepared for: Jessica Rinner, PE  
Clackamas Water Environment Services, Clackamas County, Oregon

Project: Infiltration and Inflow Program Support

Author: Yarrow Murphy, PE  
Leeway Engineering Solutions

Reviewer: Rob Lee, PE, PMP  
Leeway Engineering Solutions

Date: November 9, 2020

Subject: Infiltration and Inflow (I/I) Program Development  
City of Oregon City Member Community Program and Summary

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## Introduction

Clackamas Water Environment Services (WES) is developing and implementing a regional infiltration and inflow (I/I) program to cost-effectively manage peak flows in the regional wastewater collection system and treatment facilities. This program supports the implementation of the capital improvement program outlined in the *Sanitary Sewer Master Plan* ([SSMP] completed by Jacobs in 2019). As a member city located within WES’s Regional Service Area, the City of Oregon City (City) is implementing I/I abatement as described in this technical memorandum (TM).

This TM describes the City’s program and details the specific requested contributions identified by the City for WES-provided assistance to the City.

## SSMP Recommendations

The SSMP found hydraulic capacity deficiencies through the WES service area resulting from high I/I during the 5-year frequency design storm. These capacity deficiencies will increase over time due to several factors, including system expansion and pipe aging and degradation.

The SSMP evaluated alternatives for providing capacity to convey and/or treat peak 2040 flows. The total investment for each alternative included the present worth value of capital costs to reduce I/I, increase capacity to transport remaining flows, and expand treatment capacity and operation and maintenance costs over a 60-year life. The plan recommended the most cost-effective alternative, which included 65-percent I/I reduction in 19 subbasins throughout WES’s service area by 2040.

## Oregon City I/I Reduction Efforts and Recommendations

### I/I Reduction Target Subbasins

Four of the target 19 subbasins (M05, M08, M10 and M12) are located in Oregon City and are shown in Figure 1. Oregon City’s Sanitary Sewer Master Plan (Brown and Caldwell, 2014) also recommended these basins for rehabilitation. These subbasins and their characteristics are summarized in Table 1.

Table 1. I/I Reduction Target Subbasin Characteristics

Characteristic	M05	M08	M10	M12
I/I Reduction Timeframe	2030	2025	2025	2030
Area (acres)	509	107	70	522
Length of sewer main (linear feet, LF)	118,000	52,000	22,000	113,000
Number of laterals	2,180	300	210	1,920
I/I Rate <sup>1</sup> (gpad)	15,000	48,000	41,100	20,200
Jurisdiction	Oregon City	Oregon City	Oregon City	Oregon City

<sup>1</sup> I/I rate projected for conditions at the reduction time frame during design storm with 5-year frequency.

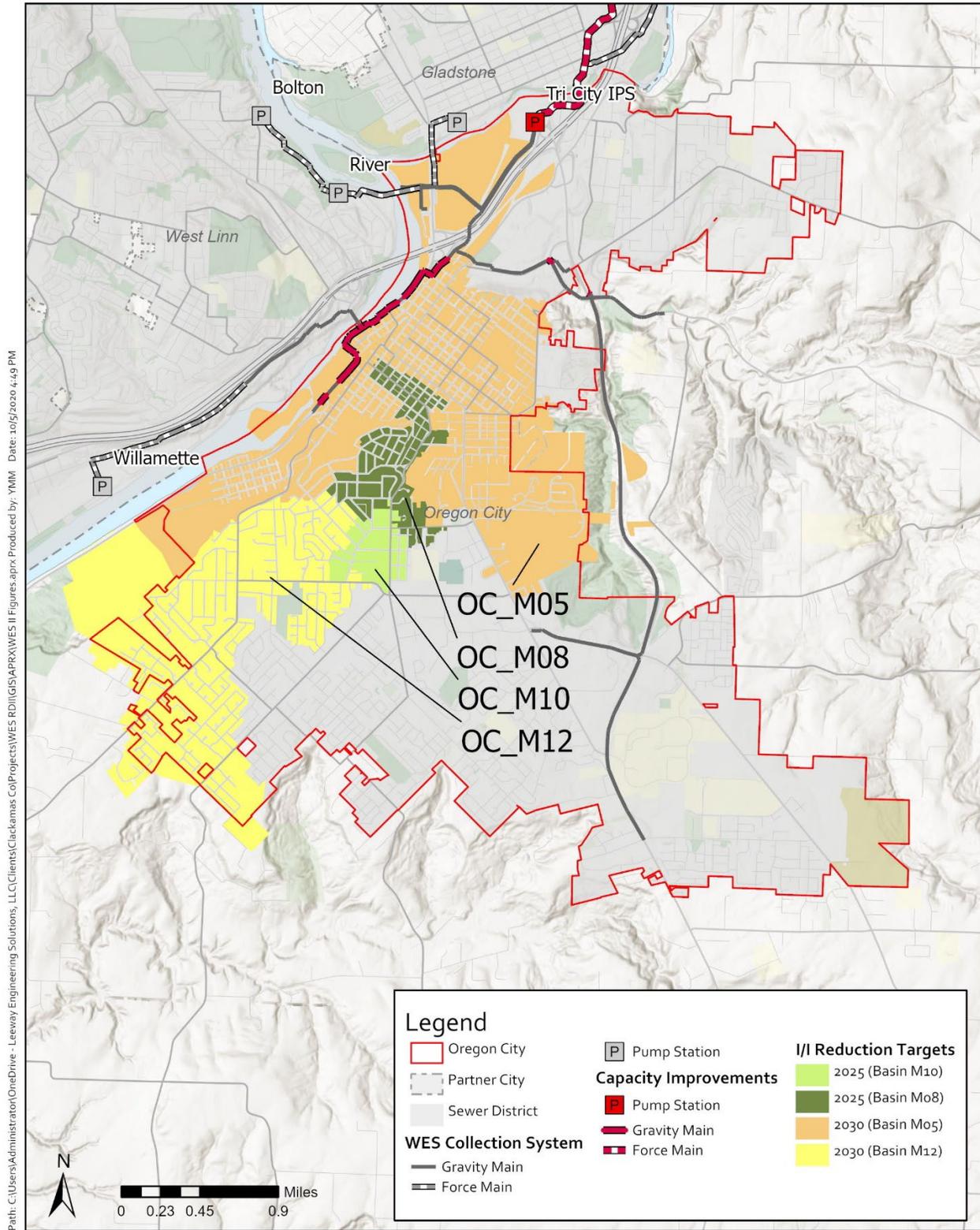


Figure 1. Target Subbasins for Oregon City and Capacity Improvements Required for WES's System Given 65% I/I Reduction

## I/I Project Sequencing

Due to the impacts of the peak wet weather flows on the downstream infrastructure, the City’s I/I reduction efforts are planned to be implemented incrementally over the next 10 years, according to the schedule in Table 2. The City has already begun to implement the first phase, which will include I/I reductions in the M08 and M10 subbasins. Work already initiated includes smoke-testing, dye-testing, disconnection of cross-connected inflow sources, and development of a private source I/I policy.

The need for additional I/I reduction within the Oregon City I/I reduction target subbasins will depend on the success of early rehabilitation measures offset by flow increases over time due to system degradation and expansion.

Table 2. Oregon City I/I Reduction Components and Schedule by Targeted Completion Year

Project Name	Owner	2025	2030	2035	2040
Oregon City I/I Program (2 subbasins: M08 and M10)	Oregon City				
Oregon City I/I Program (2 basins: M05 and M12)	Oregon City				

## Oregon City I/I Reduction Program Meeting Summary

Recognizing that a successful WES-wide I/I reduction program will require collaboration between WES and its member cities, representatives of WES and the City met on April 21, 2020 for a discussion of what might comprise such a program.

The City has requested the following support from WES for their I/I reduction effort.

- A template for pipe bursting and CIPP lining standard specifications.
- Access to permanent flow metering data.
- Provide/contract flow metering consultant services to do pre- and post-I/I reduction project metering within member community sewer systems.
- Provide/contract flow meter data analysis to identify I/I severity and I/I reduction success.
- Funding to support private lateral rehabilitation. The program is structured to have cost sharing between the private owner and Oregon City. The City requests WES contribute to the individual lateral rehabilitation, in addition cost sharing with the City for its share.
- Provide cost sharing for the private lateral owners with a reduction in their utility bill during the payback period, if the owner is participating in Oregon City’s private lateral rehabilitation program. The payback period is to be determined.

## References

Jacobs. 2019. Sanitary Sewer System Master plan for Water Environment Services.

Brown and Caldwell. 2014. City of Oregon City Sanitary Sewer Master Plan.

# Technical Memorandum

Prepared for: Jessica Rinner, PE  
Clackamas Water Environment Services, Clackamas County, Oregon

Project: Infiltration and Inflow Program Support

Author: Yarrow Murphy, PE  
Leeway Engineering Solutions

Reviewer: Rob Lee, PE, PMP  
Leeway Engineering Solutions

Date: November 9, 2020

Subject: Infiltration and Inflow (I/I) Program Development  
City of Milwaukie Member Community Program and Summary

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## Introduction

Clackamas Water Environment Services (WES) is developing and implementing a regional infiltration and inflow (I/I) program to cost-effectively manage peak flows in the regional wastewater collection system and treatment facilities. This program supports the implementation of the capital improvement program outlined in the *Sanitary Sewer Master Plan* ([SSMP] completed by Jacobs in 2019). As a member city located within WES’s Regional Service Area, the City of Milwaukie (City) is implementing I/I abatement as described in this technical memorandum (TM).

This TM describes the City’s program and details the specific requested contributions (if any) identified by the City for WES-provided assistance to the City.

## SSMP Recommendations

The SSMP found hydraulic capacity deficiencies through the WES service area resulting from high I/I during the 5-year frequency design storm. These capacity deficiencies will increase over time due to several factors, including system expansion and pipe aging and degradation.

The SSMP evaluated alternatives for providing capacity to convey and/or treat peak 2040 flows. The total investment for each alternative included the present worth value of capital costs to reduce I/I, increase capacity to transport remaining flows, and expand treatment capacity and operation and maintenance costs over a 60-year life. The plan recommended the most cost-effective alternative, which included 65-percent I/I reduction in 19 subbasins throughout WES’s service area by 2040.

## Milwaukie I/I Reduction Efforts and Recommendations

### I/I Reduction Target Subbasins

One of the target 19 subbasins (Milwaukie Basin) is located in Milwaukie and is shown in Figure 1. The Milwaukie subbasin’s characteristics are summarized in Table 1.

Table 1. I/I Reduction Target Subbasin Characteristics

Characteristic	Milwaukie Subbasin
I/I Reduction Timeframe	2040 <sup>1</sup>
Area (acres)	1,087
Length of sewer main (linear feet, LF)	221,000
Number of laterals	5,850
I/I Rate <sup>2</sup> (gpad)	17,100
Jurisdiction	Milwaukie

<sup>1</sup> I/I reduction efforts should begin no later than approximately 2025.

<sup>2</sup> The I/I rate projected for conditions at the reduction timeframe during design storm with 5-year frequency.

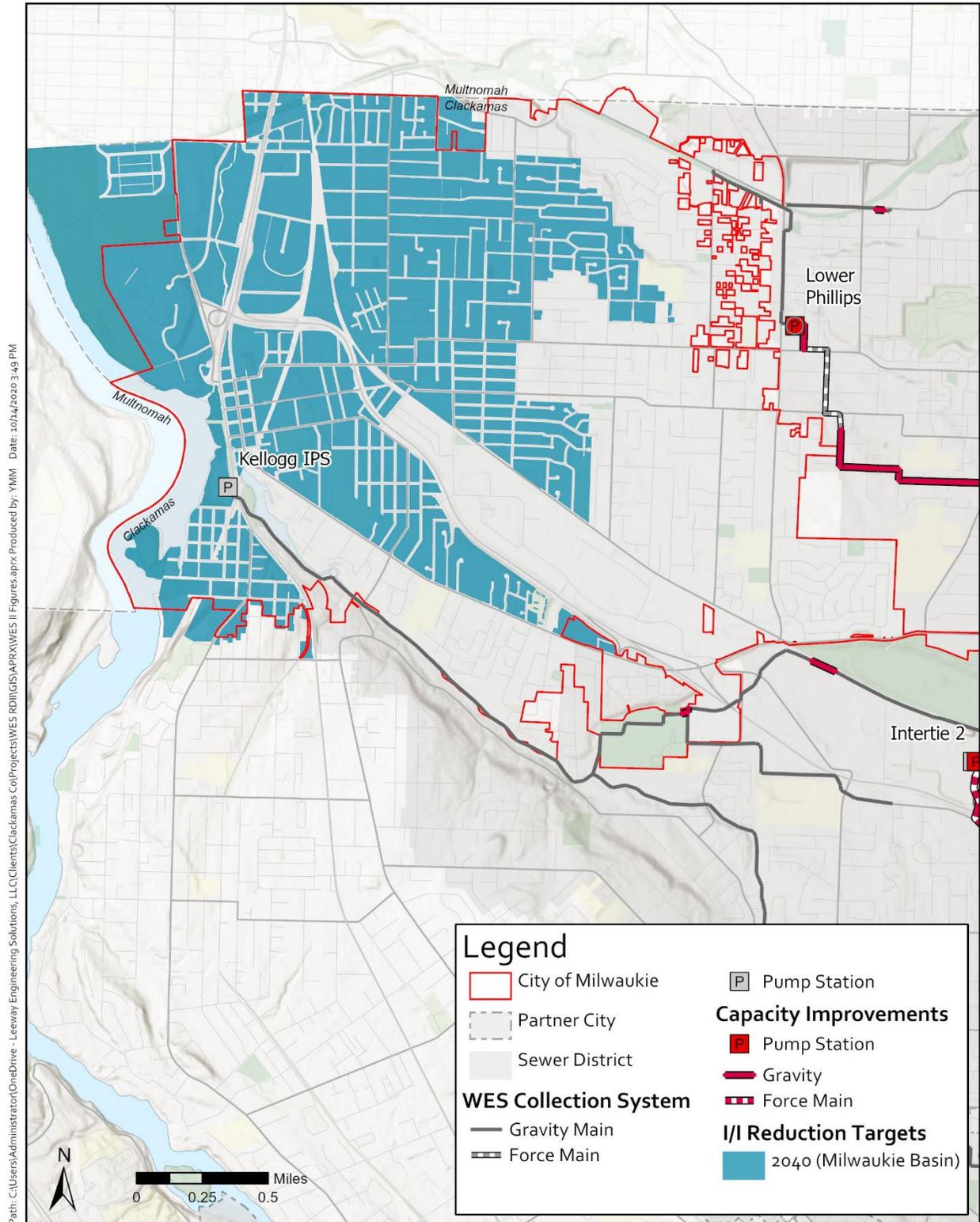


Figure 1. Target Subbasins for Milwaukee and Capacity Improvements Required for WES's System Given 65% I/I Reduction

## I/I Project Sequencing

Because of the large size of the Milwaukie Basin and the effects of the peak wet weather flow on the downstream infrastructure, the City’s I/I reduction efforts should begin no later than 2025 and will continue until 2040, as indicated in Table 2. The need for additional I/I reduction within the Milwaukie Subbasin will depend on the success of early rehabilitation measures offset by flow increases over time due to system degradation and expansion.

Table 2. Milwaukie I/I Reduction Program Components and Schedule by Targeted Completion Year

Project Name	2025	2030	2035	2040
Milwaukie I/I Program (1 subbasin: Milwaukie Basin)				

## City of Milwaukie I/I Reduction Program Meeting Summary

Recognizing that a successful WES-wide I/I reduction program will require collaboration between WES and its member cities, representatives of WES and the City met on April 22, 2020 for a discussion of what might comprise such a program.

City staff did not make any specific requests for support from WES.

## References

Jacobs. 2019. Sanitary Sewer System Master plan for Water Environment Services.

# Technical Memorandum

Prepared for: Jessica Rinner, PE  
Clackamas Water Environment Services, Clackamas County, Oregon

Project: Infiltration and Inflow Program Support

Author: Yarrow Murphy, PE  
Leeway Engineering Solutions

Reviewer: Rob Lee, PE, PMP  
Leeway Engineering Solutions

Date: November 9, 2020

Subject: Infiltration and Inflow (I/I) Program Development  
City of Gladstone Member Community Program and Summary

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## Introduction

Clackamas Water Environment Services (WES) is developing and implementing a regional infiltration and inflow (I/I) program to manage peak flows cost-effectively in the regional wastewater collection system and treatment facilities. This program supports the implementation of the capital improvement program outlined in the *Sanitary Sewer Master Plan* ([SSMP] completed by Jacobs in 2019). As a member city located within WES’s Regional Service Area, the City of Gladstone (City) is implementing I/I abatement as described in this technical memorandum (TM).

This TM describes the City’s program and details the specific requested contributions identified by the City for WES-provided assistance to the City.

## SSMP Recommendations

The SSMP found hydraulic capacity deficiencies through the WES service area resulting from high I/I during the 5-year frequency design storm. These capacity deficiencies will increase over time due to several factors, including system expansion and pipe aging and degradation.

The SSMP evaluated alternatives for providing capacity to convey and/or treat peak 2040 flows. The total investment for each alternative included the present worth value of capital costs to reduce I/I, increase capacity to transport remaining flows, and expand treatment capacity and operation and maintenance costs over a 60-year life. The plan recommended the most cost-effective alternative, which included 65-percent I/I reduction in 19 subbasins throughout WES’s service area by 2040.

## Gladstone I/I Reduction Efforts and Recommendations

### I/I Reduction Target Subbasins

Three of the target 19 subbasins (1\_1010, 2\_20400, and US\_1\_10100 & DS\_2\_20400) are located in Gladstone and are shown in Figure 1. The recommendations in WES’s SSMP were consistent with the *City of Gladstone Sanitary Sewer Master Plan*, completed in 2017 by Murray, Smith and Associates. These subbasins and their characteristics are summarized in Table 1.

Table 1. I/I Reduction Target Subbasin Characteristics

Characteristic	1_10100	2_20400	US_1_10100 & DS_2_20400
I/I Reduction Timeframe	2025	2025	2030
Area (acres)	191	201	0.2
Length of sewer main (linear feet, LF)	28,000	38,500	1,584
Number of laterals	709	915	10
I/I Rate <sup>1</sup> (gpad)	18,900	17,100	23,700
Jurisdiction	Gladstone	Gladstone	Gladstone

<sup>1</sup> I/I rate projected for conditions at the reduction timeframe during design storm with 5-year frequency.

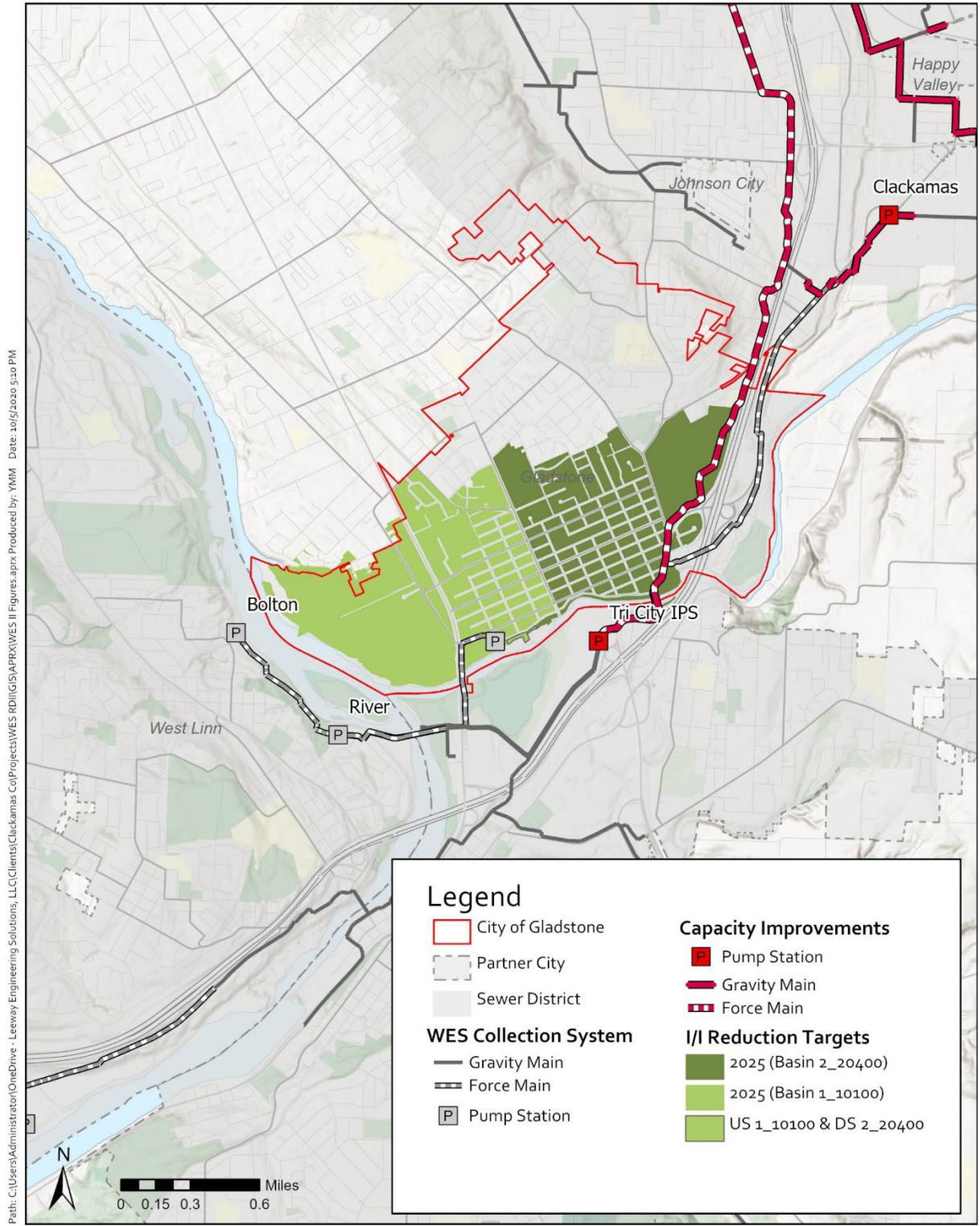


Figure 1. Target Subbasins for Gladstone and WES Capacity Improvements Required Given 65% I/I Reduction

## I/I Project Sequencing

Due to the impacts of the peak wet-weather flows on the downstream infrastructure, the City’s I/I reduction efforts are planned to be implemented by 2025 for basins 1\_10100 and 2\_20400, as indicated in Table 2. The SSMP recommended that the second phase of I/I reduction will include subbasin US 1\_10100 & DS 2\_20400 with targeted completion date of 2030. However, due to size and efficiencies gained while implementing the I/I reduction efforts in the other two highest priority basins and regulatory requirements from the Oregon Department of Environment Quality, the City is moving forward with accelerating their I/I reductions in all three basins. Work already initiated in the target basins includes smoke testing, CCTV inspection, disconnection of cross connections and development of an I/I abatement plan.

Table 2. Gladstone I/I Reduction Components and Schedule by Targeted Completion Year

Project Name	2025	2030	2035	2040
<b>I/I Program Phase 1 (2020 to 2025)</b>				
2 subbasins: 1_10100, 2_20400				
1 subbasin: US 1_10100 & DS 2_20400 (moved up for efficiency)				

## Gladstone I/I Reduction Program Meeting Summary

Recognizing that a successful WES-wide I/I reduction program will require collaboration between WES and its member cities, representatives of WES and the City met on April 23, 2020 for a discussion of what might comprise such a program.

On May 14, the City has requested the following support from WES for their I/I reduction effort:

- Combine field efforts
- RFP templates
- Outreach templates
- Private source I&I code revision template or sample language
- Share Barton PS flow data
- Assist in analyzing master plan data compared to current data to determine improvements
- Post construction analysis

## References

Jacobs. 2019. Sanitary Sewer System Master plan for Water Environment Services.

Murray, Smith and Associates. 2017. City of Gladstone Sanitary Sewer Master Plan.

## Exhibit B

### Form Letter

[Insert Date]

[Insert Name]

[Insert Address]

RE: Regional I/I Reimbursement Program – [Insert Qualified Proposal Title or Description]

Dear \_\_\_\_\_,

Thank you for the submittal and presentation of your Qualified Proposal to the Technical Advisory Team (“TAT”).

This letter serves as notification that the TAT has approved your project for reimbursement as a part of the Regional I/I Reimbursement Program, in accordance with the terms of the IGA for Regional Inflow and Infiltration Coordination (“IGA”). The total amount of fund reimbursed will be determined in accordance with Section 2 of the IGA.

Please retain a copy of this letter in your records, as you will be required to provide it along with documentation of your expenses when you seek reimbursement from Water Environment Services once your project is complete.

On behalf of WES and all the cities participating in this I/I reduction effort, we appreciate your commitment to addressing this regional issue. Thank you!

Sincerely,

Chair,  
Technical Advisory Team

**Agenda Bill 2022-10-10-03**

Date Prepared: September 28, 2022

For Meeting Date: October 10, 2022

To: Jules Walters, Mayor  
West Linn City Council

Through: John Williams, City Manager *JRW*

From: Darren Wyss, Planning Manager *DSW*

Subject: Chapter 96 Code Amendment Package Public Hearing

---

**Purpose:**

To hold a public hearing and consider adoption of Ordinance 1739, the proposed Chapter 96 Code Amendment Package.

**Question(s) for Council:**

Should the Council adopt the proposed Chapter 96 Code Amendment package as recommended by the West Linn Planning Commission?

**Public Hearing Required:**

Yes

**Background & Discussion:**

The intention of the Chapter 96 Code Amendment Project is to clarify which types of development require street improvements, at what point those improvements must happen, and whether the City should allow a fee-in-lieu of constructing street improvements and if yes, in what circumstances. The proposed changes relate only to single-lot development. The proposed changes do not include subdivisions, large commercial developments, conditional use permits, or industrial developments. The changes are specific to single-lot development, primarily residential properties that do not require Planning Commission approval.

The Chapter 96 Code Amendment project is a policy analysis aimed at determining which types of single-lot development require street improvements and the associated code clean up.

Chapter 96 of the Community Development Code (CDC) governs when street improvements are required for development. It is the intention of the Planning and Engineering Departments to clarify which types of development require street improvements, at what point those improvements must happen, and whether we should allow a fee-in-lieu of constructing street improvements. Clarifying these requirements will remove uncertainty for property owners and create clear and objective standards by which Planning and Engineering staff can evaluate development applications.

**Budget Impact:**

No immediate impact.

**Sustainability Impact:**

N/A

**Council Options:**

1. Adopt Ordinance 1739 as presented in Attachment 1;
2. Adopt Ordinance 1739 with changes; or
3. Do not adopt Ordinance 1739.

**Staff Recommendation:**

Approve CDC-22-03, as recommended by the Planning Commission, by adopting Ordinance 1739 following a public hearing

**Potential Motion:**

1. Move to adopt Ordinance 1739 as recommended by the Planning Commission
2. Move to adopt Ordinance 1739 with the following changes to the Planning Commission recommendation
3. Move to not adopt Ordinance 1739 as recommended by the Planning Commission

**Attachments:**

1. Ordinance 1739
2. Planning Commission Recommendation Memorandum, dated August 22, 2022
3. Staff Memo for City Council Work Session, dated September 12, 2022
4. Staff Memo and DLCD Comment Letter, dated September 27, 2022
5. Planning Commission Staff Report and Findings, August 17, 2022
6. Affidavit of Notice for City Council Public Hearing

**ORDINANCE NO. 1739****AN ORDINANCE ADOPTING TEXT AMENDMENTS TO THE WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTERS 2 AND 96 IN ORDER TO CLARIFY WHICH TYPES OF SINGLE-LOT DEVELOPMENT REQUIRE STREET IMPROVEMENTS.**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~lined through~~ and additions are **bold underlined**.

**WHEREAS**, Chapter II, Section 4, of the West Linn City Charter provides: Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

**WHEREAS**, the City Council, in response to policy questions regarding when and where street improvements were required, prioritized a project on the West Linn Planning Docket to develop a package of text amendments with the goal of increasing clarity and consistency within Chapter 96 of the Community Development Code regarding development standards and process requirements applicable to the construction of street improvements for single-lot development; and

**WHEREAS**, the City Council appointed a working group to review Chapter 96 of the Community Development Code and make a recommendation of text amendments to the Planning Commission, which they did on June 22, 2022; and

**WHEREAS**, the West Linn Planning Commission (PC) held two work sessions on July 14 and August 3, 2022; and

**WHEREAS**, the PC held a public hearing, which was noticed in accordance with City standards, on August 17, 2022, and recommended approval of the proposed Chapter 96 and Chapter 2 Code Amendment Package; and

**WHEREAS**, the City Council held a work session on October 3, 2022; and

**WHEREAS**, the City Council held a public hearing, which was noticed in accordance with City standards, on October 10, 2022, to consider the Planning Commission recommendation, receive public testimony, and evaluate the decision-making criteria; and

**WHEREAS**, the City Council's decision is based on the findings contained in these Whereas Clauses, together with findings, conclusions, and substantial evidence found in the associated land use record file CDC-22-03, which is incorporated by this reference.

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

**SECTION 1. CDC Chapter 2 Amendments.** The West Linn Community Development Code Chapter 2: Definitions is amended to include new text as shown in Exhibit A.

**SECTION 2. CDC Chapter 96 Amendments.** The West Linn Community Development Code Chapter 96: Street Improvement Construction is amended to include new text and rescind existing text as shown in Exhibit B.

**SECTION 3. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 4. Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions of the ordinance were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION 5. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 2-4) need not be codified and the City Recorder or the designee is authorized to correct any cross-references and any typographical errors.

**SECTION 6. Effective Date.** This ordinance shall take effect on the 30<sup>th</sup> day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, and duly PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
JULES WALTERS, MAYOR

ATTEST:

\_\_\_\_\_  
KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

Chapter 02  
DEFINITIONS

Sections:

02.010 INTERPRETATION

02.030 SPECIFIC TERMS AND WORDS

2.010 INTERPRETATION

For the purpose of this code, certain terms or words used herein shall be interpreted as follows:

- A. The word “shall” is mandatory, the word “may” is permissive.
- B. The words “used” or “occupied” shall include the words “intended, designed, or arranged to be used or occupied.”
- C. The word “lot” or “parcel” includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- D. Words not specifically defined herein shall have the meaning specified in Webster’s Third New International Dictionary of the English Language, Unabridged. (Ord. 1604 § 1, 2011; Ord. 1636 § 2, 2014; Ord. 1732 § 2 (Exh. A), 2022)

02.030 SPECIFIC WORDS AND TERMS

For the purpose of these regulations, the following terms or words are defined as follows:

**Street improvements. Typically includes sidewalk, planter strip, curb, gutter, drainage, and pavement improvements in the public right-of-way when conditioned as part of property development.**

**Through street. A street that connects two or more adjacent streets to one another.**

Chapter 96  
STREET IMPROVEMENT CONSTRUCTION

Sections:

96.010 Construction Required

96.020 Fee-in-Lieu

96.030 Standards

96.010 CONSTRUCTION REQUIRED

- A. Street improvements for residential construction are required when:
1. Construction of a new single-family attached or detached structure (Replacement of an existing structure is exempt); or
  2. Construction of a new multi-family structure; or
  3. Increase in dwelling unit density on-site (Accessory Dwelling Units are exempt).
- B. Street improvements for commercial construction are required when:
1. Construction of a new commercial structure; or
  2. Remodel of an existing commercial structure with an increase in floor area that requires additional parking; or
  3. Change in use that requires additional parking; or
  4. Construction that increases the dwelling unit density on-site; or
  5. Construction which requires a change in type, number, or location of accessways; or
  6. Replacement of an existing structure that requires additional parking.

96.020 FEE-IN-LIEU

- A. An applicant may apply for a waiver of street improvements and the option to pay a fee-in-lieu (in accordance with the city's adopted fee structure) of constructing street improvements if one of the following are met:
1. Located on a cul-de-sac with no existing curb and/or no existing sidewalk ; or
  2. Located on a street less than 1,320 linear feet in length and not planned as a through street; or
  3. Located more than 1,320 linear feet from nearest street improvements on the same street or connecting street.

**96.030 STANDARDS**

**Street improvements shall be installed according to the City standards and shall be completed prior to the issuance of any occupancy permit for the new or remodeled structure or building. In unimproved areas of the City, the City Engineer may grant a time extension of the provisions of this section; provided the applicant submit sufficient security in amount and quantity satisfactory to the City Attorney to assure payment of such improvement costs.**

Chapter 96  
STREET IMPROVEMENT CONSTRUCTION

Sections:

96.010 Construction Required

96.020 Standards

96.010 CONSTRUCTION REQUIRED

~~A. — New construction.~~

~~1. — Building permits shall not be issued for the construction of any new building or structure, or for the remodeling of any existing building or structure, which results in an increase in size or includes a change in use, including building permits for single-family dwellings but excepting building permits for alteration or addition to an existing single-family dwelling, unless the applicant for said building permit agrees to construct street improvements as required by the land use decision authorizing the construction activity. The placement of new curbs and the drainage facilities required shall be determined by the City Manager or the Manager's designee.~~

~~2. — If the building permit did not require a prior land use decision, the applicant shall construct street improvements which shall include curbs, sidewalks, drainage facilities, and pavement widening to meet new curbs, along all City streets which abut the property described in the building permits.~~

~~3. — An applicant for a building permit may apply for a waiver of street improvements and the option to make a payment in lieu of construction. The option is available if the City Manager or the Manager's designee determines the transportation system plan does not include the street improvement for which the waiver is requested.~~

~~4. — When an applicant applies for and is granted a waiver of street improvements under subsection (A)(3) of this section, the applicant shall pay an in-lieu fee equal to the estimated cost, accepted by the City Engineer, of the otherwise required street improvements. As a basis for this determination, the City Engineer shall consider the cost of similar improvements in recent development projects and may require up to three estimates from the applicant. The in-lieu fee shall be used for in-kind or related improvements.—~~

~~B. — Remodeling of an existing building.~~

~~1. — Building permits shall not be issued for the remodeling and conversion of any existing building or structure which results in an increase in size or includes a change of use excepting building permits for the alteration or addition to an existing single-family dwelling, unless:~~

~~a. — The applicant for said building permit agrees to construct street improvements; and~~

~~b. — The City Manager or the Manager's designee determines that the remodeling of a structure or change of use is sufficient to cause construction of street improvements.~~

~~2. The determination of whether the remodeling of an existing building or structure is sufficient to cause the property owner to construct street improvements, shall be made by the City Manager or the Manager's designee. This determination shall be based upon finding that the increase in building size or change of use results in either:~~

- ~~a. An increase in floor area which creates the need for additional on-site parking in accordance with the Community Development Code; or~~
- ~~b. A change in use that results in a need for additional on-site parking; or~~
- ~~c. An increase in the dwelling unit density on the site; or~~
- ~~d. A change in the type, number, or location of accessways where off-site traffic will be affected.~~

~~3. An applicant for a remodeling of an existing building or structure change may apply for a waiver of street improvements and the option to make a payment in lieu of construction utilizing the process described in subsection (A)(3) of this section.~~

~~C. Replacement of an existing building.~~

~~1. Building permits shall not be issued for the replacement of any existing building or structure which results in an increase in size unless:~~

- ~~a. The applicant for said building permit agrees to construct street improvements; and~~
- ~~b. The City Manager or the Manager's designee determines the the replacement is sufficiently increased in size to cause construction of street improvements.~~

~~D. Notwithstanding any other provisions of this chapter, in cases where the issuance of the building permit pertains to the construction or reconstruction of a building or structure within a large development owned by the same owner or owners, the City Council may, in its sole discretion, authorize the installation of street improvements of equivalent cost on another portion of the total development area. (Ord. 1314, 1992; Ord. 1442, 1999; Ord. 1544, 2007; Ord. 1547, 2007; Ord. 1590 § 1, 2009; Ord. 1613 § 21, 2013)~~

**96.020 STANDARDS**

~~Street improvements shall be installed according to the City standards and shall be completed prior to the issuance of any occupancy permit for the new or remodeled structure or building. In unimproved areas of the City, the City Engineer may grant a time extension of the provisions of this section; provided, that the applicant provides sufficient security in amount and quantity satisfactory to the City Attorney to assure payment of such improvement costs.~~



## Memorandum

Date: August 22, 2022  
To: West Linn City Council  
From: West Linn Planning Commission  
Subject: CDC-22-03 Recommendation

---

The Planning Commission held a public hearing on August 17, 2022, for the purpose of making a recommendation to the City Council on adoption of the proposed West Linn Community Development Code Amendments to Chapters 2 and 96 found in Land Use File CDC-22-03. The proposal before the Planning Commission was forwarded by the Council-appointed 2022 CDC Code Amendment Working Group after its discussion at two meetings. The proposal was discussed at Planning Commission work sessions on July 20 and August 3, 2022.

The Planning Commission considered public testimony during its legislative hearing on the proposed Chapter 96 Code Amendment Package. One community member provided oral testimony, at the public hearing, not in support of the proposed code amendment package, but rather supported a broader proposal with Neighborhood Association involvement.

After conducting the public hearing, the Commission discussed the fee-in-lieu of construction option, how fee-in-lieu funds would be spent, and how the Chapter 96 code amendments work with the middle housing bill. The Commission deliberated and voted four (Walvatne, Erwin, Carr, Metlen) to two (Mathews and Pellett) to recommend City Council adopt the proposal as presented.

Respectfully,

A handwritten signature in blue ink that reads "Gary Walvatne". The signature is written in a cursive style.

Gary Walvatne  
Chair, West Linn Planning Commission



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## CITY OF West Linn

Date: September 12, 2022  
To: Jules Walters, Mayor  
Members, West Linn City Council  
From: Chris Myers, Associate Planner  
Subject: Chapter 96 Code Amendments

---

The Chapter 96 Code Amendment project is a policy analysis aimed at determining which types of single-lot development require street improvements and the associated code clean up.

Chapter 96 of the Community Development Code (CDC) governs when street improvements are required for development. It is the intention of the Planning and Engineering Departments to clarify which types of development require street improvements, at what point those improvements must happen, and whether we should allow a fee-in-lieu of constructing street improvements. Clarifying these requirements will remove uncertainty for property owners and create clear and objective standards by which Planning and Engineering staff can evaluate development applications.

**Types of Development Included:** The Chapter 96 Code Amendment proposal is specific in scope. The proposed changes relate only to single-lot development. The proposed changes do not include subdivisions, large commercial developments, conditional use permits, or industrial developments. These proposed changes are specific to single-lot development, primarily residential properties that do not require Planning Commission approval. The purview and approval authority of the Planning Commission will not change based upon the proposed code amendments.

**The Process:** As the first step in the process staff presented information and had discussions regarding street improvements and single-lot development with the 2022 CDC Amendment Working Group on May 25, 2022. At that meeting, staff presented two tables to the working group. The first table showed the current Chapter 96 requirements for **commercial** single-lot development and the proposed changes (page 15 of the Working Group meeting packet, link below). The second table showed the same for single-lot **residential** development (page 16 of the Working Group meeting packet, link below). After discussion, staff asked three questions of Working Group members:

1. Which types of development shall require half-street improvements?
2. Do we allow a fee-in-lieu of constructing half-street improvements?
3. If we allow a fee-in-lieu, do we designate areas within the City where a fee-in-lieu is allowed? Or do we utilize a set of criteria, which if met, would allow fee-in-lieu?

Click the link below for the Working Group meeting packet:

[2022 CDC Working Group Meeting 5 Packet](#)

The next step in the process was a second meeting with the 2022 CDC Amendment Working Group held on June 22, 2022. At the request of the Working Group, staff wrote two versions of proposed new code

language. Those two options were part of the 2022 CDC Working Group meeting 6 packet. Option 1 (page 14 of the meeting packet, link below) lists a set of proposed criteria for the street improvement waiver and fee-in-lieu option. Option 2 (page 15 of the meeting packet, link below) proposes a City adopted street improvement fee-in-lieu map.

Click the link below for the Working Group meeting packet:

[2022 CDC Amendment Working Group Meeting 6 Packet](#)

**Working Group Recommendation:** At the conclusion of the 2022 CDC Working Group meeting on June 22 members recommended to the Planning Commission:

1. Utilize a specific set of criteria to determine whether a waiver of street improvements for a fee-in-lieu is allowed. Working Group members felt that a map would be too difficult, costly, and time consuming to create and maintain.
2. Accessory Dwelling Units should not require construction of street improvements or a fee-in-lieu
3. Working group members confirmed the City Council decision in 2018 that replacing a single-family home with a new single-family home does not require street improvement construction.

On July 14, 2022 the Planning Commission (PC) held it's first of two scheduled work sessions to discuss the 2022 CDC Working Group recommendation of proposed text amendments to Chapter 96. At the July 14 meeting PC members asked staff to add two definitions to the code amendment package. The first was a definition for **Street Improvements** and the second was for the term **Through Street**. PC members also asked for further clarification within the proposed fee-in-lieu criteria that the working group recommended. The clarifications PC members wanted consisted of adding language about curb/gutter and sidewalk on a cul-de-sac and more specific language regarding nearest street improvements. The specific edits can be viewed in the PC Meeting Packet for August 3, 2022 meeting packet at the links below.

Click the links below for the Planning Commission meeting packet and video:

[Planning Commission Meeting Packet July 20, 2022](#)

[Planning Commission Meeting Packet July 20, 2022 Video](#)

At the August 3, 2022 PC work session, per the outcome of the first PC work session, staff brought forward two new definitions requested by the PC as well as edited code criteria language for the fee-in-lieu option. Staff discussed the changes made based upon PC input at the first work session as well as addressed several other clarifying questions requested by the PC. The questions and staff answers can be viewed in the August 3, 2022 PC work session packet at the link below.

Click the links below for the Planning Commission meeting packet and video:

[Planning Commission Meeting Packet August 3, 2022](#)

[Planning Commission Meeting August 3, 2022 Video](#)

**Planning Commission Recommendation:** At the conclusion of the Planning Commission public hearing on August 17, 2022 Commission members approved the proposed code amendment language as presented (See link for specific language):

<https://westlinnoregon.gov/planning/community-development-code-chapter-96-street-improvement-construction-amendments>

**Chapter 96 Amendment Schedule:**

CDC Code Amendment Working Group meeting 1 May 25, 2022

CDC Code Amendment Working Group meeting 2 June 22, 2022

Planning Commission work session 1 July 20, 2022

Planning Commission work session 2 (if needed) August 3, 2022

Planning Commission public hearing August 17, 2022

City Council work session October 3, 2022

City Council public hearing October 10, 2022

**Summary of Outcomes:** Approval of the proposed Chapter 96 Code Amendment language will accomplish four outcomes:

1. Codify the 2018 City Council decision regarding replacement of a single-family home with a new single-family home
2. Exempt Accessory Dwelling Units from required street improvements
3. Implement a fee-in-lieu of street improvement construction (under certain conditions)
4. Create and implement a set of clear and objective criteria for fee-in-lieu

**Questions for City Council:** Below are questions staff are asking of City Council members:

1. Do you agree with the Planning Commission recommendation?
2. If not, what changes should be made?
3. Is there further information Council would like from Staff?

Below is additional information intended to clarify terms utilized in the Chapter 96 code amendment discussion and proposed code language.

**Street improvements:** Also known as, half-street improvements are commonly required during single-lot development. The City requires a property owner to build a curb, gutter, sidewalk, planter strip, drainage, and pavement improvements as needed. The required improvements extend to the mid-point of the right-of-way. Half-street improvement requirements are how streets and sidewalks are connected and completed when previous development was not part of a subdivision or planned unit development (PUD).

**Fee-in-lieu:** In the past, the City of West Linn has allowed some development to forgo building half-street improvements and instead pay the estimated cost of the half-street improvements called a fee-in-lieu. This process has been loosely defined in the CDC. There are several challenges to a fee-in-lieu program. First, the estimates for half-street improvements are typically much lower than the actual cost. Construction companies giving the estimate realize they are not going to be hired and thus submit an inaccurate and typically very low estimate. Second, construction costs fluctuate depending on labor, product costs, permitting fees, etc... Lastly, it has been difficult, without clear and objective standards, to figure out which developments allow a fee-in-lieu.

**Accessory Dwelling Units (ADU):** Accessory Dwelling Units are small secondary structures typically found in a backyard or as an attached but separate unit of a single-family home. Current CDC standards

require the construction of half-street improvements when an ADU is built. ADUs must meet all zoning requirements including setbacks, lot coverage, and Floor to Area Ratio. The Planning and Engineering Departments feel the requirement of half-street improvements for the construction of an ADU is a barrier to entry for property owners and isn't proportional to the size and impact of such projects. Accessory Dwelling Units can be helpful to community members for numerous reasons such as aging in place, caregiver living quarters, multigenerational living space, downsizing, additional monthly income, and many more.

**Walk Shed/Ped Shed:** Within the proposed code amendment language is a list of criteria which if met would allow a property owner to pay a fee-in-lieu rather than build street improvements. The criteria list includes references to 1320 feet or one-quarter mile. This is a commonly used distance in transportation planning, engineering, and urban design. A Walk Shed also known as a **Ped Shed** will take the average person approximately five minutes to walk and is roughly the length a person is willing to walk to reach a destination. Below is a link with a description and examples of what a Walk Shed is and why they are important.

Click the link below for more information and details on pedestrian walking sheds:

[Walk Shed/Ped Shed Description](#)



# CITY OF West Linn

## Memorandum

Date: September 27, 2022

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

From: Chris Myers, Associate Planner

Subject: Oregon Department of Land Conservation and Development (DLCD) Letter

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On September 22, 2022, West Linn Planning Staff received a comment letter from DLCD regarding proposed Chapter 96 Code Amendments. In the letter, DLCD Community Services Director, Gordon Howard, offered input on the proposal, including confirming the proposed changes comply with state statute and administrative rules, but also addressing concerns about potential impacts on housing outcomes in the community. Mr. Howard offered three comments related to the proposed code amendments.

First, DLCD supports the exemption of street improvements for the construction of Accessory Dwelling Units (ADU). It is DLCD's belief that this action should encourage the construction of more ADUs and therefore expand the limited lower-cost housing options in West Linn.

Second, Mr. Howard expressed concern over the 2018 City Council policy decision to allow the replacement of a single-family home with a new single-family home without constructing half-street improvements. DLCD believes that this will incentivize "tear-downs" of existing older/smaller housing stock and encourage replacement with larger and more expensive new homes. Conversely, a property owner is not exempt if they convert an existing single-family home into a duplex thereby making it more expensive to build middle housing.

During the HB2001 process, the West Linn community was asked to comment on thirteen different policy questions, one of which was waiving street improvements for middle housing types. The community responded overwhelmingly (82 percent of survey respondents) that the City should not exempt middle housing from street improvements. Therefore, the proposed changes, which do not exempt middle housing from constructing street improvements, are consistent with prior feedback from the community.



# CITY OF West Linn

Lastly, DLCD expressed concern over the lack of a “rough proportionality” analysis for development in West Linn. Below is the definition of Rough Proportionality as stated in the Community Development Code:

***Rough proportionality. The allowed relationship between an exaction imposed to comply with a City code standard and the impact of the proposed development that is alleviated through imposition of the exaction.***

City staff is currently working with the City Attorney’s office to develop and implement a rough proportionality test for all new development. This test will be applied consistently and will also protect the City from legal challenges associated with exactions related to public improvements.

In summary, Mr. Howard confirmed that the proposed Chapter 96 Code Amendments are legally compliant with state statutes and administrative rules, but DLCD is urging West Linn to consider the policy decisions applied through the code and potential consequences and cost burdens of the new standards on the development of housing.



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

Community Services Division

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)

September 22, 2022

Darren Wyss  
Planning Manager  
City of West Linn  
22500 Salamo Rd.  
West Linn, OR 97068



Re: Proposed Amendment to West Linn Development Code Chapter 96

Dear Mr. Wyss,

Thank you for sending notice to the Department of Land Conservation and Development (DLCD) of the proposed amendments to Chapter 96 of West Linn's development code. DLCD has reviewed the proposed amendments and offers the following input to West Linn:

The proposed amendments will impact the cost of housing development in West Linn by requiring full improvements to street frontages, or fees-in-lieu of improvements. The exemption of ADUs from these standards is helpful in encouraging ADU development, and DLCD agrees that the city should make this distinction.

While the proposal is legally consistent with the state's new middle housing rules because it imposes the same standards on middle housing types as it does for single dwellings, DLCD has concerns about the consequences the proposed language will have in providing for good housing outcomes in the city.

By exempting replacement of single dwellings from providing street improvements, the city may be incentivizing "tear-downs" of existing older housing stock and replacement with large, more expensive homes. This dynamic has occurred already in our region as the housing market has become heated. Under the proposed code, a property owner could tear down a modestly-sized home and replace it with a much larger home without having to build any street improvements, while another owner who wants to convert a single dwelling into a duplex without adding more building area would be subject to costly street improvements.

In the first case, the city loses a more affordable house and gains a home likely only affordable to very high income individuals and does not gain any new housing overall. In the second case, the city would gain a new unit that is more affordable than a typical new house, while retaining existing housing. DLCD urges West Linn to consider the disparity in how different projects would be burdened (or not) with additional costs.

DLCD also has concerns about the lack of rough proportionality analysis in both the current findings and in the process for applying these standards. Based on recent conversations with city staff, we understand that the staff plan to analyze each individual proposal for rough proportionality at the time of building permit review. DLCD highly encourages the city to follow through on this intent, especially in situations such as corner lots, lots along major roadways that require more significant frontage improvements, or excessively long frontages, where improvements would be very costly. The city may also want to consider providing for a process for applicants to request exemptions or reductions to these standards to account for these situations.

In summary, DLCD does not dispute the consistency of the proposed amendments with state rules, but urges West Linn to consider the consequences and fairness of the standards on the development of housing.

Please don't hesitate to contact DLCD with any questions. Your Regional Representative, Kelly Reid, can be reached at [kelly.reid@dlcd.oregon.gov](mailto:kelly.reid@dlcd.oregon.gov) or 971-345-1987.

Sincerely,

A handwritten signature in blue ink that reads "Gordon W. Howard". The signature is written in a cursive style and is positioned to the left of a vertical yellow line.

Gordon Howard  
DLCD Community Services Director

cc. Kelly Reid, DLCD Regional Representative



CITY OF  
**West Linn**

**STAFF REPORT  
FOR THE PLANNING COMMISSION**

**FILE NUMBER:** CDC-22-03

**HEARING DATE:** August 17, 2022

**REQUEST:** To consider adoption of text amendments to West Linn Community Development Code Chapters 2 and 96. The proposed amendments were recommended by the City Council appointed 2022 Code Amendment Working Group.

**APPROVAL CRITERIA:** Community Development Code (CDC) Chapters 98 and 105

**STAFF REPORT PREPARED BY:** Chris Myers, Associate Planner

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## GENERAL INFORMATION

**APPLICANT:** City of West Linn

**DESCRIPTION:** The City of West Linn proposes to amend its Community Development Code (CDC) to clarify which types of single-lot development require street improvements. The Planning Commission will review the proposal and make its own recommendation to City Council, who is the final decision-maker.

**APPROVAL  
CRITERIA:**

Community Development Code (CDC) Chapter 98 provides administrative procedures for legislative amendments to the Comprehensive Plan and/or the Community Development Code. Section 98.100 of the CDC lists the factors upon which a decision shall be based. These are briefly described below and addressed in greater detail in a separate Section of this report:

1. The Statewide Planning Goals and rules adopted under ORS Chapter 197 and other applicable state statutes;
2. Any federal or state statutes or rules found applicable;
3. Applicable plans and rules adopted by the Metropolitan Service District (Metro);
4. The applicable Comprehensive Plan policies and map; and,
5. The applicable provisions of implementing ordinances.

**PUBLIC NOTICE:** Legal notice was published in the West Linn Tidings on August 3, 2022 and provided to required public agencies and persons who requested notice in writing on July 28, 2022.

**120-DAY RULE:** Not applicable to this legislative action.

## EXECUTIVE SUMMARY

The Chapter 96 Code Amendment project is a policy analysis aimed at determining which types of single-lot development require street improvements and the associated code clean up. The West Linn City Council directed the Planning Department to develop a package of text amendments with the goal of increasing clarity and consistency within Chapter 96 of the Community Development Code regarding development standards and process requirements applicable to the construction of street improvements for single-lot development.

Chapter 96 of the Community Development Code (CDC) governs when street improvements are required for development. It is the intention of the project to clarify which types of development require street improvements, at what point those improvements must happen, and whether the City should allow a fee-in-lieu of constructing street improvements and if yes, in what circumstances. Clarifying these requirements will remove uncertainty for property owners and create clear and objective standards by which Planning and Engineering can evaluate development applications.

The City Council will hold two work session on September 19 and October 3, 2022 to discuss the Chapters 2 and 96 code amendment recommendations from the Planning Commission. The City Council will hold a public hearing on October 10, 2022 to consider the Planning Commission recommendation, receive public testimony, evaluate the decision-making criteria, and finalize the code amendment package.

The proposed amendments to Chapter 96 will accomplish three outcomes:

1. Codify the 2018 City Council decision that street improvements are not required when replacing a single-family home with a single-family home.
2. Exempt accessory dwelling units from constructing street improvements
3. Clarify that a fee-in-lieu of construction is acceptable under certain conditions

## PUBLIC COMMENT

No public comments were received prior to publishing this staff report.

## RECOMMENDATION

Staff recommends the Planning Commission finds the 2022 Working Group recommendation, with minor modifications to clarify language, to meet the necessary approval criteria. Therefore, staff recommends the Planning Commission **RECOMMEND** to the West Linn City Council that it approves Ordinance 1739, adopting amendments to West Linn CDC Chapters 2 and 96.

## PROJECT BACKGROUND AND PURPOSE

In the Fall of 2021 the West Linn City Council appointed a working group to review proposed code amendments for HB2001, Chapter 96: Street Improvements, and Clear and Objective Standards.

The intention of the Chapter 96 Code Amendment Project is to clarify which types of development require street improvements, at what point those improvements must happen, and whether the City should allow a fee-in-lieu of constructing street improvements and if yes, in what circumstances. The project was prioritized as many older neighborhoods in the City currently do not have curb/gutter/sidewalk improvements and the community was questioning why 50 or 100 foot sections of improvements were being constructed as part of redevelopment projects where no other improvements existed. The idea was the improvements would be better utilized if located in areas where missing connections could be built.

The proposed changes relate only to single-lot development. The proposed changes do not include subdivisions, large commercial developments, conditional use permits, or industrial developments and are primarily residential properties that require neither staff nor Planning Commission approval.

The City Council appointed working group held its first Chapter 96 Street Improvements meeting on May 25, 2022. The working group reviewed staff's draft proposal of text amendments to Chapter 96. At that meeting, staff presented two tables to the working group. The first table showed the current Chapter 96 requirements for **commercial** single-lot development and the proposed changes (page 15 of the Working Group meeting packet, link below). The second table showed the same for single-lot **residential** development (page 16 of the Working Group meeting packet, link below).

Click the link below for the Working Group meeting packet and video:

[2022 CDC Working Group Meeting 5 Packet](#)

[2022 CDC Working Group Meeting 5 Video](#)

After discussion, staff asked three questions of Working Group members:

1. Which types of development shall require half-street improvements?
2. Do we allow a fee-in-lieu of constructing half-street improvements?
3. If we allow a fee-in-lieu do we designate areas within the City where that is allowed? Or do we utilize a set of criteria, which if met, would allow fee-in-lieu?

The working group agreed with the proposal that a fee-in-lieu should be allowed, but didn't find consensus on whether using clear and objective criteria or using a map was the better option to determine when it is allowed. The working group did agree that Accessory Dwelling Units should be exempt from constructing street improvements and directed staff to bring back code language for both the clear and objective criteria and map options on when to allow fee-in-lieu.

The second meeting with the 2022 CDC Amendment Working Group was held on June 22, 2022. Per the outcome of the Working Group Meeting 1, staff brought two versions of proposed new code language back to the group for feedback and a final recommendation on a code amendment package to the West Linn Planning Commission. The first version consisted of proposed code language for a fee-in-lieu with three specific criteria. The second version consisted of the addition of a fee-in-lieu that would be tied to a map that would highlight certain areas of the city that would allow the option of a fee-in-lieu. Those options can be found in the meeting packet below.

Click the link below for the Working Group meeting packet and video:

[2022 CDC Amendment Working Group Meeting 6 Packet](#)

[2022 CDC Working Group Meeting 6 Video](#)

At the conclusion of the 2022 CDC Working Group meeting on June 22 members recommended to the Planning Commission:

1. City code shall utilize a specific set of criteria to determine whether a waiver of street improvements for a fee-in-lieu under prescribed conditions is allowed as stated in option one listed above.
2. Accessory Dwelling Units should not require construction of street improvements or a fee-in-lieu
3. Codify the City Council policy decision from 2018 that replacing a single-family home with a new single-family home does not require street improvement construction.

On July 14, 2022 the Planning Commission (PC) held it's first of two scheduled work sessions to discuss the 2022 CDC Working Group recommendation of proposed text amendments to Chapter 96. At the July 14 meeting PC members asked staff to add two definitions to the code amendment package. The first was a definition for **Street Improvements** and the second was for the term **Through Street**. PC members also asked for further clarification within the proposed fee-in-lieu criteria that the working group recommended. The clarifications PC members wanted consisted of adding language about curb/gutter and sidewalk on a cul-de-sac and more specific language regarding nearest street improvements. The specific edits can be viewed in the PC Meeting Packet for August 3, 2022 meeting packet at the links below.

Click the links below for the Planning Commission meeting packet and video:

[Planning Commission Meeting Packet July 20, 2022](#)

[Planning Commission Meeting Packet July 20, 2022 Video](#)

At the August 3, 2022 PC work session, per the outcome of the first PC work session, staff brought forward two new definitions requested by the PC as well as edited code criteria language for the fee-in-lieu option. Staff discussed the changes made based upon PC input at the first work session as well as addressed several other clarifying questions requested by the PC. The questions and staff answers can be viewed in the August 3, 2022 PC work session packet at the link below.

Click the links below for the Planning Commission meeting packet and video:

[Planning Commission Meeting Packet August 3, 2022](#)

[Planning Commission Meeting August 3, 2022 Video](#)

Below is a brief explanation of the changes made to the two CDC chapters that are part of the proposed Chapter 96 Code Amendment Package:

CDC Chapter 2: Definitions

- Added definition for “through-street”
- Added definition for “street improvements”

CDC Chapter 96: Street Improvements

- Amended code language for commercial and residential construction requirements for street improvements, section 96.010 (A-B).
- Added a section for fee-in-lieu criteria, section 96.020

**FINDINGS**  
**PLANNING COMMISSION STAFF REPORT**  
**August 17, 2022**

**APPLICABLE CRITERIA AND COMMISSION FINDINGS**

West Linn Community Development Code

Chapter 98 - Procedures for Decision Making: Legislative

CDC 98.035 Citizen Engagement in Legislative Changes

*A. Purpose. The purpose of a legislative working group is to provide a forum to discuss different points of view on a proposed land use legislative change.*

*B. New and modified land use legislative changes to this code will be developed by a representative working group of citizens and assisted by planning staff, unless the City Council determines that a working group is not necessary.*

*1. After receiving direction from the City Council, the Committee for Citizen Involvement shall recommend a purpose, goals, and a list of appointees for each proposed working group to the City Council for approval.*

*2. The working group will contain interested stakeholders, a member of the Planning Commission, and a staff representative.*

*3. The working group shall comply with WLMC 2.060 regarding the selection of officers and the other generally applicable citizen advisory group provisions.*

**Findings:** In 2021, City Council determined a working group was necessary for the upcoming House Bill 2001 state mandated code changes, clear and objective code amendments, and Chapter 96 code amendments. City Council tasked the West Linn Committee for Community Involvement (CCI) with recommending a purpose, goals, and list of appointees. The CCI met and made its recommendation on November 23, 2021. City Council then appointed 12 members and four (4) alternates to the working group, including two (2) Planning Commissioners, on December 13, 2021. At its first meeting, the working group selected a chair to facilitate the meetings per WLMC 2.060. Meetings were conducted according to WLMC 2.060 and other generally applicable provisions.

*C. Conduct of working group meetings.*

*1. Staff will prepare a suggested draft of the proposed changes. This draft will provide a starting point for discussion and education.*

*2. The working group will use the draft as a starting point for discussion, but then reconcile the implications of the draft with the goals established by the Council for the working group.*

*3. After each working group meeting staff will incorporate approved changes and prepare an updated working draft.*

*4. All working group meetings will be public meetings with an opportunity for anyone in attendance to provide public comment. The meetings and minutes will be conducted in accordance with the Council Rules, West Linn Municipal Code, City Charter, and State law.*

*5. In the event a consensus cannot be reached on an issue, the working group will prepare alternatives. Each alternative and its rationale will be presented to the Planning Commission.*

*6. Prior to submission to the Planning Commission, proposed code changes will be submitted to the City Attorney for review. The review should be limited to the identification of areas where the proposed*

language conflicts with other parts of this code, State law or Federal law. As an alternative, legal counsel may attend and advise during the creation of the draft.

D. Presentation to the Planning Commission. When the working group reaches consensus that the code changes are ready, the proposed code changes will be presented by the Director to the Planning Commission pursuant to CDC 98.040(A)(2). If the working group fails to reach a consensus on the code changes, all proposals will be presented to the Planning Commission. Pursuant to CDC 98.110(A), the Planning Commission shall recommend approval, denial, or approval with modifications to the Council.

**Findings:** Working group meetings were held consistent with the procedures above. Staff prepared draft changes and presented relevant technical information as a starting point for discussion. The draft changes evolved in an iterative manner, with staff revising the text as directed and presenting the revised draft for consideration and approval. All meetings were open to the public and streamed live. On June 22, 2022, after two meetings, the working group made its recommendation on a proposed Chapter 96 Code Amendment package for Planning Commission consideration.

*CDC 98.040 Duties of Director*

A. The Director shall:

1. If appropriate, or if directed by the City Council or Planning Commission in their motion, consolidate several legislative proposals into a single file for consideration;

**Findings:** The proposal is for one legislative action. Adopting CDC code amendments to Chapters 2 and 96 Street Improvements.

2. Upon the initiation of a legislative change, pursuant to this chapter:

a. Give notice of the Planning Commission hearing as provided by CDC [98.070](#) and [98.080](#);

**Findings:** The Planning Commission public hearing will be held on August 17, 2022 with the City Council public hearing scheduled for October 10, 2022. Legislative notice was provided as required and documentation can be found in Exhibit PC-5. Notice was provided to the Department of Land Conservation and Development on July 12, 2022, meeting the required 35-day notice timeline. Measure 56 Notice, per ORS 227.186, was not required as part of this proposal.

b. Prepare a staff report that shall include:

1) The facts found relevant to the proposal and found by the Director to be true;

2) The Statewide planning goals and rules adopted under Chapter 197 ORS found to be applicable and the reasons why any other goal or rule is not applicable to the proposal except that goals 16 through 19 which are not applicable to the City of West Linn need not be addressed;

3) Any federal or State statutes or rules the Director found applicable;

4) Metro plans and rules the Director found to be applicable;

5) Those portions of the Comprehensive Plan found to be applicable, and if any portion of the plan appears to be reasonably related to the proposals and is not applied, the Director shall explain the reasons why such portions are not applicable;

6) Those portions of the implementing ordinances relevant to the proposal, and if the provisions are not considered, the Director shall explain the reasons why such portions of the ordinances were not considered; and

7) An analysis relating the facts found to be true by the Director to the applicable criteria and a statement of the alternatives; a recommendation for approval, denial, or approval with modifications; and at the Director's option, an alternative recommendation;

**Findings:** Relevant facts and associated analysis for applicable Statewide Planning Goals, federal and state statutes and rules, Metro Functional Plan requirements, West Linn Comprehensive Plan goals and policies, and West Linn Community Development Code criteria are found in the sections of the Staff Report below.

c. *Make the staff report and all case file materials available 10 days prior to the scheduled date of the public hearing under CDC [98.070](#);*

**Findings:** The staff report, proposed amendments, and all other associated project materials were made available on August 5, 2022, twelve days prior to the hearing.

d. *Cause a public hearing to be held pursuant to CDC [98.070](#);*

**Findings:** The West Linn Planning Commission is scheduled to hold the first evidentiary public hearing on August 17, 2022, with the West Linn City Council scheduled to hold its public hearing and make a final decision on October 10, 2022.

*CDC 98.100 Standards for Decision*

A. *The recommendation of the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:*

1. *The Statewide planning goals and rules adopted under Chapter 197 ORS and other applicable State statutes;*

*Statewide Planning Goal 1 – Citizen Involvement:*

*This goal outlines the citizen involvement requirement for the adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.*

**Findings:** The City has a citizen involvement program, which has been acknowledged by the State. This legislative process to review the proposed amendments will require two public hearings (one before the Planning Commission on August 17, 2022 and one before City Council on October 10, 2022) pursuant to CDC Chapter 98.

In developing code amendments, the City Council appointed a working group. All working group meetings were open to the public. A list of public meetings and outreach opportunities where public feedback could/can be submitted are listed below.

- Working Group meeting, May 25, 2022
- Working group meeting, June 22, 2022
- Planning Commission work session 1, July 20, 2022
- Planning Commission work session 2, August 3, 2022
- Planning Commission public hearing August 17, 2022
- City Council work session 1 September 19, 2022
- City Council work session 2 (if needed) October 3, 2022
- City Council public hearing October 10, 2022

Information was distributed throughout the process via the City's website and email communications. The aforementioned venues provided the opportunity for gathering feedback and comments.

The Planning Commission held work sessions on July 20 and August 3, 2022. The work sessions were open to the public and noticed in accordance with City rules and regulations. All work session materials, including meeting recordings and summaries, were available on the City's website. All of the aforementioned venues provided the opportunity for gathering feedback and comments.

As part of the legislative process, public notice requirements for the Planning Commission and City Council public hearings were met (see Exhibit PC-5). The notice was sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the August 3, 2022 issue of the West Linn Tidings. The notice invited public input and included the phone number and email address of a contact person to answer questions. The notice also included the address of the City's webpage where the draft of the proposal can be viewed.

Statewide Planning Goal 2 – Land Use Planning:

*This goal outlines the land use planning process and policy framework. The Comprehensive Plan was acknowledged by DLCD as being consistent with the statewide planning goals.*

**Findings:**

The City of West Linn has an acknowledged Comprehensive Plan and enabling ordinances. The amendments to the West Linn Community Development Code are being undertaken to ensure clear and objective standards exist for when street improvements are required for single-lot development.

The amendments are being processed in accordance to the City's adopted procedures, which requires any applicable statewide planning goals, federal or state statutes or regulations, Metro regulations or plans, comprehensive plan policies, and the City's implementing ordinances be addressed as part of the decision-making process. The amendments are being processed as a post-acknowledgement plan amendment (PAPA) and noticing requirements have been met. All applicable review criteria have been addressed within this staff report; therefore, the requirements of Goal 2 have been met.

Statewide Planning Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces:

*This goal requires the inventory and protection of natural resources, open spaces, historic sites and areas.*

**Findings:** The City is currently in compliance with the State's Goal 5 program and Metro's Title 13: Nature in Neighborhoods program, which implements Goal 5. The amendment does not alter the City's acknowledged Goal 5 inventories or associated land use programs. No changes will occur to current natural resource protections. As a result, the amendments are in compliance with Goal 5 process requirements.

Statewide Planning Goal 6 – Air, Water, and Land Resource Quality:

*To maintain and improve the quality of air, water, and land resources of the state.*

**Findings:** The City is currently in compliance with Metro's Title 3: Water Quality and Flood Management program, which implements Goal 6. The amendments do not alter the City's acknowledged land use programs regarding water quality. The amendments are consistent with Goal 6.

Statewide Planning Goal 7 – Areas Subject to Natural Hazards:

*To protect people and property from natural hazards.*

**Findings:** The City is currently in compliance with Goal 7 and Metro’s Title 3: Water Quality and Flood Management program. No changes will occur to city programs related to flood management or other natural hazards. The amendments are consistent with Goal 7.

Statewide Planning Goal 8 – Recreational Needs:

*This goal requires the satisfaction of the recreational needs of the citizens of the state and visitors.*

**Findings:** The proposed amendments do not address or alter any City recreational programs or land use requirements related to parks and recreation. The amendments are in compliance with Goal 8.

Statewide Planning Goal 9 – Economic Development:

*To provide adequate opportunities for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.*

**Findings:** The City is currently in compliance with Goal 9 and Metro’s Title 4: Industrial and Other Employment Areas. The amendments do not alter the City’s compliance with Goal 9.

Statewide Planning Goal 10 – Housing:

*To provide adequate housing for the needs of the community, region and state.*

**Findings:** The City is currently in compliance with Goal 10 and has implemented new code in compliance with Oregon House Bill 2001. The amendments do not alter the City’s compliance with Goal 10.

Statewide Planning Goal 11 – Public Facilities and Services:

*To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as framework for urban and rural development.*

**Findings:** The City is currently in compliance with Goal 11 through its acknowledged Comprehensive Plan. This includes an adopted Public Facility Plan as required by Oregon Revised Statute 197.712 and Oregon Administrative Rule 660-011. The Public Facility Plan shows the City’s water, sanitary sewer, transportation, and stormwater facilities have adequate capacity to service development. The proposed amendments do not alter the City’s compliance with Goal 11 and are consistent with this goal.

Statewide Planning Goal 12 – Transportation:

*To provide and encourage a safe, convenient, and economic transportation system.*

**Findings:** The City is currently in compliance with Goal 12 and Metro’s Regional Transportation Plan through its acknowledged Comprehensive Plan and TSP as required by Oregon Administrative Rule 660-012 (Transportation Planning Rule). The proposed amendments do not significantly affect an existing or planned transportation facility.

Statewide Planning Goal 13 – Energy Conservation:

*Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based on sound economic principles.*

**Findings:** The City is currently in compliance with Goal 13 through its acknowledged Comprehensive Plan. The amendments do not alter the City’s compliance with Goal 13 and are consistent with this goal.

Statewide Planning Goal 14 – Urbanization:

*To provide for orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

**Findings:** The City is currently in compliance with Goal 14 and Metro’s Title 11: Planning for New Urban Areas through its acknowledged Comprehensive Plan and land use regulations. The City also has a signed Urban Growth Management Agreement with Clackamas County as required by ORS 195.065. The amendments do not alter the City’s compliance with Goal 14 and are consistent with this goal.

Statewide Planning Goal 15 – Willamette River Greenway:

*To provide for keeping the land green along the banks of the river and providing for recreation access.*

**Findings:** The City is currently in compliance with Goal 15 through its acknowledged Comprehensive Plan and land use regulations. The amendments do not alter the City’s compliance with Goal 15 and are consistent with this goal.

**Conclusion:** Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable Statewide Planning Goals.

2. Any federal or State statutes or rules found applicable;

Oregon Administrative Rules. Chapter 660, Division 12: Transportation Planning Rule

**Findings:** The Transportation Planning Rule implements Statewide Planning Goal 12 to provide and encourage a safe, convenient, and economic transportation system. If an amendment to a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the City must either find the changes consistent with the planned facilities or adopt measures to improve the facilities. The amendments do not alter the City’s compliance with goal 12 and are consistent with this goal.

**Conclusion:** Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable federal or state statutes or rules.

3. Applicable plans and rules adopted by the Metropolitan Service District;

The Metro Urban Growth Management Functional Plan

**Findings:** The purpose of the Metro Urban Growth Management Functional Plan (UGMFP) is to recommend and require changes to city comprehensive plans and implementing ordinances in order to achieve regional goals and objectives. These goals and objectives include housing capacity and choices, water quality and flood management, industrial and employment lands, protection of natural areas, and urbanization patterns. The City of West Linn is currently in compliance with the UGMFP. Metro staff was sent notice of the proposal and provided the opportunity to comment. The proposed changes will not impact compliance with requirements found in the UGMFP.

**Conclusion:** Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable plans and rules adopted by Metro.

#### 4. The applicable Comprehensive Plan policies and map;

##### Goal 1: Citizen Involvement

*Policy 2. Support neighborhood associations as a forum for discussion and advice on issues affecting the community.*

**Findings:** Notice was sent to the president of all eleven recognized neighborhood associations for the Planning Commission work sessions on July 20 and August 3, 2022 work as well as the public hearing scheduled for August 17, 2022. Notice will be sent to all eleven recognized neighborhood associations for the City Council work sessions on September 19 and October 3 as well as the City Council public hearing on October 10, 2022. Each president had the opportunity to relay information back to the associations for feedback and comment. Meeting agendas and materials were available for review and comment on the City's website.

*Policy 3. Encourage individuals to organize and work in groups to develop recommended programs or position on various issues.*

**Findings:** The City Council appointed a working group for code amendments. Both working group meetings were open to the public for feedback and comment. The Planning Commission held two work sessions (July 20 and August 3, 2022) and a public hearing (August 17, 2022). All Planning Commission meetings were open to the public. City Council is scheduled to have two work sessions (September 19 and October 3, 2022) and a public hearing (October 10, 2022). All City Council meetings will be open to the public. Meeting agendas and materials are available for review and comment on the City's website.

*Policy 4. Provide timely and adequate notice of proposed land use matters to the public to ensure that all citizens have an opportunity to be heard on issues and actions that affect them.*

**Findings:** As part of the legislative process, public notice of the Planning Commission and City Council public hearings was sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the August 3, 2022 issue of the West Linn Tidings. The notice invited public input and included the phone number and email address of a contact person to answer questions. The notice also included the address of the City's webpage where the entire draft of the proposed amendment could be viewed.

The Planning Commission held work sessions on July 22 and August 3, 2022 that were open to the public and noticed in accordance with City rules and regulations. All work session materials, including meeting recordings and summaries, were available throughout the process on the City's website. All of the aforementioned venues provided the opportunity for gathering feedback and comments.

City Council will hold work session on September 19 and October 3, 2022. The City Council public hearing will be held October 10, 2022. All work sessions and public hearings will be open to the public. All materials for the work sessions and public hearing, including meeting recordings and summaries will be made available throughout the process on the City's website. All of the aforementioned venues provided the opportunity for gathering feedback and comments.

*Policy 5. Communicate with citizens through a variety of print and broadcast media early in and throughout the decision-making process.*

**Findings:** Information was distributed throughout the process via the City website and email communications. The aforementioned venues provided the opportunity for gathering feedback and comments. The Planning Commission work sessions, were open to the public and noticed in accordance with City rules and regulations. All work session materials, including meeting recordings and summaries, were available throughout the process on the City's website. All of the aforementioned venues provided the opportunity for gathering feedback and comments.

As part of the legislative process, public notice of the Planning Commission work sessions and public hearing were sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the August 3, 2022 issue of the West Linn Tidings. The notice invited public input and included the phone number and email address of a contact person to answer questions. The notice also included the address of the City's webpage where the entire draft of the proposed amendment could be viewed. The aforementioned venues provided the opportunity for gathering feedback and comments.

Goal 2: Land Use Planning

Goal 5: Open Spaces, Scenic and Historic Areas & Natural Resources

Goal 6: Air, Water & Land Resources Quality

Goal 7: Areas Subject to Natural Disasters and Hazards

Goal 8: Parks and Recreation

Goal 9: Economic Development

**Findings:** None of the goals or policies under Goals 2-9 apply to this application.

Goal 12: Transportation

1. Provide a transportation system for the City of West Linn that:
  - a. Provides for maximum mobility while encouraging modes of transportation other than the automobile.
  - b. Provides for connectivity within and between neighborhoods, developments and community centers, using new and existing transportation services consistent with Metro's street and walkway spacing standards, the 2008 West Linn Transportation System Plan and 2013 West Linn Trails Plan.
  - c. Is convenient, safe, and efficient.
  - d. Maintains the cohesiveness of the City's neighborhoods.
  - e. Is built with consideration for community priorities and affordability.
  - f. Respects and preserves the natural environment on both a neighborhood and City-wide basis.
2. Provide a cost-effective balanced transportation system, incorporating all modes of transportation (including motor vehicle, bicycle, pedestrian, transit, and other modes).
3. Develop transportation facilities that are accessible to all members of the community and minimize out-of-direction travel.

**Findings:** The City has an adopted Transportation System Plan (TSP). The comprehensive plan Goal 12 is aimed at providing a transportation system that provides options other than the automobile, connects neighborhoods to one another, is convenient and safe, incorporates all modes of transportation, and is accessible to all members of the community. The proposed Chapter 96 code amendments will enable an increased level of flexibility in connecting neighborhoods to schools, community centers, and other

services throughout West Linn. Utilizing a fee-in-lieu, under certain conditions, the City can construct street improvements such as sidewalks for larger community benefit.

Goal 13: Energy Conservation

Goal 14: Urbanization

Goal 15: Willamette River Greenway

**Findings:** None of the goals or policies under Goals 13-15 apply to this application.

**Conclusion:** Based on the analysis above, the Commission finds the proposed amendments are consistent with applicable West Linn Comprehensive Plan policies and map.

5. The applicable provisions of the implementing ordinance.

Chapter 105 – Amendments to the Code and Map

CDC 105.030 Legislative Amendments to this Code and Map

*Legislative amendments to this code and to the map shall be in accordance with the procedures and standards set forth in Chapter 98 CDC.*

**Findings:** The legislative process is being carried out in conformance with CDC Chapter 98 per Findings found in this Staff Report.

**Conclusion:** Based on the analysis above, the Commission finds the proposed amendment is consistent with applicable provisions of the implementing ordinance.

**EXHIBIT PC-1 – PROPOSED COMMUNITY DEVELOPMENT CODE AMENDMENTS**

## ORDINANCE NO. 1739

### AN ORDINANCE ADOPTING TEXT AMENDMENTS TO THE WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTERS 2 AND 96 IN ORDER TO CLARIFY WHICH TYPES OF SINGLE-LOT DEVELOPMENT REQUIRE STREET IMPROVEMENTS.

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~lined through~~ and additions are **bold underlined**.

**WHEREAS**, Chapter II, Section 4, of the West Linn City Charter provides: Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

**WHEREAS**, the City Council, in response to policy questions regarding when and where street improvements were required, prioritized a project on the West Linn Planning Docket to develop a package of text amendments with the goal of increasing clarity and consistency within Chapter 96 of the Community Development Code regarding development standards and process requirements applicable to the construction of street improvements for single-lot development; and

**WHEREAS**, the City Council appointed a working group to review Chapter 96 of the Community Development Code and make a recommendation of text amendments to the Planning Commission, which they did on June 22, 2022; and

**WHEREAS**, the West Linn Planning Commission (PC) held two work sessions on July 14 and August 3, 2022; and

**WHEREAS**, the PC held a public hearing, which was noticed in accordance with City standards, on August 17, 2022, and recommended approval of the proposed Chapter 96 and Chapter 2 Code Amendment Package; and

**WHEREAS**, the City Council held a public hearing, which was noticed in accordance with City standards, on October 10, 2022, to consider the Planning Commission recommendation, receive public testimony, and evaluate the decision-making criteria; and

**WHEREAS**, the City Council's decision is based on the findings contained in these Whereas Clauses, together with findings, conclusions, and substantial evidence found in the associated land use record file CDC-22-03, which is incorporated by this reference.

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

**SECTION 1. CDC Chapter 2 Amendments.** The West Linn Community Development Code Chapter 2: Definitions is amended to include new text as shown in Exhibit A.

**SECTION 2. CDC Chapter 96 Amendments.** The West Linn Community Development Code Chapter 96: Street Improvement Construction is amended to include new text and rescind existing text as shown in Exhibit B.

**SECTION 3. Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 4. Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions of the ordinance were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION 5. Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 2-4) need not be codified and the City Recorder or the designee is authorized to correct any cross-references and any typographical errors.

**SECTION 6. Effective Date.** This ordinance shall take effect on the 30<sup>th</sup> day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the \_\_\_\_ day of \_\_\_\_\_, 2022, and duly PASSED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
JULES WALTERS, MAYOR

ATTEST:

\_\_\_\_\_  
KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

Chapter 02  
DEFINITIONS

Sections:

02.010 INTERPRETATION

02.030 SPECIFIC TERMS AND WORDS

2.010 INTERPRETATION

For the purpose of this code, certain terms or words used herein shall be interpreted as follows:

- A. The word “shall” is mandatory, the word “may” is permissive.
- B. The words “used” or “occupied” shall include the words “intended, designed, or arranged to be used or occupied.”
- C. The word “lot” or “parcel” includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- D. Words not specifically defined herein shall have the meaning specified in Webster’s Third New International Dictionary of the English Language, Unabridged. (Ord. 1604 § 1, 2011; Ord. 1636 § 2, 2014; Ord. 1732 § 2 (Exh. A), 2022)

02.030 SPECIFIC WORDS AND TERMS

For the purpose of these regulations, the following terms or words are defined as follows:

**Street improvements. Typically includes sidewalk, planter strip, curb, gutter, drainage, and pavement improvements in the public right-of-way when conditioned as part of property development.**

**Through street. A street that connects two or more adjacent streets to one another.**

Chapter 96  
STREET IMPROVEMENT CONSTRUCTION

Sections:

96.010 Construction Required

96.020 Fee-in-Lieu

96.030 Standards

96.010 CONSTRUCTION REQUIRED

- A. Street improvements for residential construction are required when:
1. Construction of a new single-family attached or detached structure (Replacement of an existing structure is exempt); or
  2. Construction of a new multi-family structure; or
  3. Increase in dwelling unit density on-site (Accessory Dwelling Units are exempt).
- B. Street improvements for commercial construction are required when:
1. Construction of a new commercial structure; or
  2. Remodel of an existing commercial structure with an increase in floor area that requires additional parking; or
  3. Change in use that requires additional parking; or
  4. Construction that increases the dwelling unit density on-site; or
  5. Construction which requires a change in type, number, or location of accessways; or
  6. Replacement of an existing structure that requires additional parking.

96.020 FEE-IN-LIEU

- A. An applicant may apply for a waiver of street improvements and the option to pay a fee-in-lieu (in accordance with the city's adopted fee structure) of constructing street improvements if one of the following are met:
1. Located on a cul-de-sac with no existing curb and/or no existing sidewalk ; or
  2. Located on a street less than 1,320 linear feet in length and not planned as a through street; or
  3. Located more than 1,320 linear feet from nearest street improvements on the same street or connecting street.

**96.030 STANDARDS**

**Street improvements shall be installed according to the City standards and shall be completed prior to the issuance of any occupancy permit for the new or remodeled structure or building. In unimproved areas of the City, the City Engineer may grant a time extension of the provisions of this section; provided the applicant submit sufficient security in amount and quantity satisfactory to the City Attorney to assure payment of such improvement costs.**

Chapter 96  
STREET IMPROVEMENT CONSTRUCTION

Sections:

96.010 Construction Required

96.020 Standards

96.010 CONSTRUCTION REQUIRED

~~A. — New construction.~~

~~1. — Building permits shall not be issued for the construction of any new building or structure, or for the remodeling of any existing building or structure, which results in an increase in size or includes a change in use, including building permits for single-family dwellings but excepting building permits for alteration or addition to an existing single-family dwelling, unless the applicant for said building permit agrees to construct street improvements as required by the land use decision authorizing the construction activity. The placement of new curbs and the drainage facilities required shall be determined by the City Manager or the Manager's designee.~~

~~2. — If the building permit did not require a prior land use decision, the applicant shall construct street improvements which shall include curbs, sidewalks, drainage facilities, and pavement widening to meet new curbs, along all City streets which abut the property described in the building permits.~~

~~3. — An applicant for a building permit may apply for a waiver of street improvements and the option to make a payment in lieu of construction. The option is available if the City Manager or the Manager's designee determines the transportation system plan does not include the street improvement for which the waiver is requested.~~

~~4. — When an applicant applies for and is granted a waiver of street improvements under subsection (A)(3) of this section, the applicant shall pay an in-lieu fee equal to the estimated cost, accepted by the City Engineer, of the otherwise required street improvements. As a basis for this determination, the City Engineer shall consider the cost of similar improvements in recent development projects and may require up to three estimates from the applicant. The in-lieu fee shall be used for in-kind or related improvements.~~

~~B. — Remodeling of an existing building.~~

~~1. — Building permits shall not be issued for the remodeling and conversion of any existing building or structure which results in an increase in size or includes a change of use excepting building permits for the alteration or addition to an existing single-family dwelling, unless:~~

~~a. — The applicant for said building permit agrees to construct street improvements; and~~

~~b. — The City Manager or the Manager's designee determines that the remodeling of a structure or change of use is sufficient to cause construction of street improvements.~~

~~2. The determination of whether the remodeling of an existing building or structure is sufficient to cause the property owner to construct street improvements, shall be made by the City Manager or the Manager's designee. This determination shall be based upon finding that the increase in building size or change of use results in either:~~

- ~~a. An increase in floor area which creates the need for additional on-site parking in accordance with the Community Development Code; or~~
- ~~b. A change in use that results in a need for additional on-site parking; or~~
- ~~c. An increase in the dwelling unit density on the site; or~~
- ~~d. A change in the type, number, or location of accessways where off-site traffic will be affected.~~

~~3. An applicant for a remodeling of an existing building or structure change may apply for a waiver of street improvements and the option to make a payment in lieu of construction utilizing the process described in subsection (A)(3) of this section.~~

~~C. Replacement of an existing building.~~

~~1. Building permits shall not be issued for the replacement of any existing building or structure which results in an increase in size unless:~~

- ~~a. The applicant for said building permit agrees to construct street improvements; and~~
- ~~b. The City Manager or the Manager's designee determines the the replacement is sufficiently increased in size to cause construction of street improvements.~~

~~D. Notwithstanding any other provisions of this chapter, in cases where the issuance of the building permit pertains to the construction or reconstruction of a building or structure within a large development owned by the same owner or owners, the City Council may, in its sole discretion, authorize the installation of street improvements of equivalent cost on another portion of the total development area. (Ord. 1314, 1992; Ord. 1442, 1999; Ord. 1544, 2007; Ord. 1547, 2007; Ord. 1590 § 1, 2009; Ord. 1613 § 21, 2013)~~

**96.020 STANDARDS**

~~Street improvements shall be installed according to the City standards and shall be completed prior to the issuance of any occupancy permit for the new or remodeled structure or building. In unimproved areas of the City, the City Engineer may grant a time extension of the provisions of this section; provided, that the applicant provides sufficient security in amount and quantity satisfactory to the City Attorney to assure payment of such improvement costs.~~

**EXHIBIT PC-2 – DRAFT PLANNING COMMISSION TRANSMITTAL LETTER TO CITY  
COUNCIL**

## Memorandum

Date: May 20, 2022  
To: West Linn City Council  
From: West Linn Planning Commission  
Subject: CDC-22-03 Recommendation – CDC Chapter 96 Code Amendment Package

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The Planning Commission held a public hearing on August 17, 2022, for the purpose of making a recommendation to the City Council on adoption of the proposed CDC Chapter 96 Code Amendment Package. The proposal was previously discussed at Planning Commission work sessions on July 20, 2022 and August 3, 2022.

After conducting the public hearing, the Commission deliberated and voted # to # to recommend City Council adopt (or adopt with changes or not adopt) the proposal as presented (with the following changes or explain not adopt recommendation). Written testimony was submitted by # community members and # community members provided oral testimony at the public hearing.

The primary topics of the testimony included:

- Topic 1
- Topic 2
- Topic 3
- Etc.

Respectfully,

Gary Walvatne  
Chair, West Linn Planning Commission

**EXHIBIT PC-3 – AFFIDAVIT AND NOTICE PACKET**

**AFFIDAVIT OF NOTICE  
LEGISLATIVE DECISION**

We, the undersigned, certify that, in the interest of the party (parties) initiating a proposed legislative change, the following took place on the dates indicated below:

**PROJECT**

File No.: **CDC-22-03**

Project: **Chapter 96 Code Amendments**

Planning Commission Hearing: **August 17, 2022**

City Council Hearing: **October 10, 2022**

**MAILED NOTICE**

Notice of Upcoming Hearing was mailed at least 10 days before the Planning Commission and City Council hearings, per Section 98.070 and 98.080 of the Community Development Code to:

ODOT	8/2/22	<i>Lynn Schroder</i>
METRO	8/2/22	<i>Lynn Schroder</i>
TRIMET	8/2/22	<i>Lynn Schroder</i>
Clackamas County Planning Department	8/2/22	<i>Lynn Schroder</i>
All Neighborhood Associations	8/2/22	<i>Lynn Schroder</i>
Stafford/Tualatin CPO	8/2/22	<i>Lynn Schroder</i>
City of Lake Oswego	8/2/22	<i>Lynn Schroder</i>
Oregon City	8/2/22	<i>Lynn Schroder</i>
Transportation Advisory Board	8/2/22	<i>Lynn Schroder</i>
Economic Development Committee	8/2/22	<i>Lynn Schroder</i>
Committee for Citizen Involvement	8/2/22	<i>Lynn Schroder</i>
Budget Committee	8/2/22	<i>Lynn Schroder</i>

**WEBSITE**

Notice was posted on the City's website at least 20 days before the Planning Commission and City Council hearings, per Section 98.070 and 98.080 of the CDC:

7/28/22	<i>Lynn Schroder</i>
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**TIDINGS**

Notice was posted in the West Linn Tidings at least 10 days before the Planning Commission and City Council hearings, per Section 98.070 and 98.080 of the CDC.

8/3/22	<i>Lynn Schroder</i>
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**STAFF REPORT**

The proposed amendments and staff report were posted on the website and provided to Planning Commissioners at least 10 days before the hearing, per Section 98.040 of the CDC.

8/5/22	<i>Lynn Schroder</i>
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**STAFF REPORT**

The proposed amendments and staff report were posted on the website and provided to the City Council at least 10 days before the hearing, per Section 98.040 of the CDC.

8/5/22	Chris Myers
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**FINAL DECISION**

A Notice of Final Decision was mailed to the Department of Land Conservation and Development and persons who

participated in the proceedings or otherwise requested such notice no later than 5 working days after the final decision per Section 98.140 of the CDC.

	<i>Lynn Schroder</i>
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**CITY OF WEST LINN  
PUBLIC HEARING NOTICE  
CDC-22-03**

**TO ADOPT TEXT AMENDMENTS TO THE WEST LINN COMMUNITY DEVELOPMENT CODE  
CHAPTERS 2 AND 96 IN ORDER TO DETERMINE WHICH TYPES OF SINGLE-LOT DEVELOPMENT  
REQUIRE STREET IMPROVEMENTS.**

The West Linn Planning Commission will hold a hybrid public hearing on **Wednesday, August 17, 2022 at 6:30 p.m.** in the Council Chambers of City Hall, 22500 Salamo Road, West Linn, to consider adoption of text amendments to West Linn Community Development Code Chapters 2 and 96. The purpose of the amendments is to determine which types of single-lot development require street improvements and the associated code clean up.

Following the Planning Commission hearing, the Commission will make a recommendation to the City Council. The Council will make a final decision regarding the Commission recommendation following its own hybrid public hearing on **Monday, October 10, 2022 at 6:00pm** in the Council Chambers of City Hall.

At least 10 days prior to the hearings, a copy of the proposed amendments and associated staff report will be available for inspection at no cost at City Hall and on the City website <https://westlinnoregon.gov/planning/community-development-code-chapter-96-street-improvement-construction-amendments>. Alternately, copies may be obtained for a minimal charge per page.

The hybrid hearings will be conducted in accordance with the rules of CDC Chapters 98 and 105. The public can attend in person or watch the meeting online at <https://westlinnoregon.gov/meetings> or on Cable Channel 30.

The Commission and Council will receive a staff presentation and invite both oral and written testimony at the public hearings. The Body may continue the public hearing to another meeting to obtain additional information, leave the record open, or close the public hearing and take action on the proposed amendments as provided by state law.

Anyone wishing to present written testimony for consideration should submit all materials before 12:00 pm on the meeting day or in-person at the hearing. Persons interested in party status must establish standing by submitting oral or written testimony before or at the public hearings. Written comments may be submitted to [cmyers@westlinnoregon.gov](mailto:cmyers@westlinnoregon.gov). Failure to raise an issue in person or by letter before the close of the hearing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

To participate remotely during the meeting, please complete the form at: <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> by 4:00 pm on the meeting day. Staff will email a Webex invitation before the meeting. If you do not have email access, please call 503-742-6061 for assistance 24 hours before the meeting. If you require special assistance under the Americans with Disabilities Act, please call City Hall 48 hours before the meeting date 503-657-0331.

For further information, please contact Chris Myers, Associate Planner, at City Hall, 22500 Salamo Road, West Linn, OR 97068, (503)742-6062 or [cmyers@westlinnoregon.gov](mailto:cmyers@westlinnoregon.gov).

Publish: West Linn Tidings, August 3, 2022



**NOTICE OF UPCOMING  
PLANNING MANAGER DECISION**

**PROJECT # CDC-22-03  
MAIL: 8/2/2022 TIDINGS: 8/3/22**

**CITIZEN CONTACT INFORMATION**

To lessen the bulk of agenda packets and land use application notice, and to address the concerns of some City residents about testimony contact information and online application packets containing their names and addresses as a reflection of the mailing notice area, this sheet substitutes for the photocopy of the testimony forms and/or mailing labels. A copy is available upon request.

**AFFIDAVIT OF NOTICE  
LEGISLATIVE DECISION**

We, the undersigned, certify that, in the interest of the party (parties) initiating a proposed legislative change, the following took place on the dates indicated below:

**PROJECT**

File No.: **CDC-22-03**

Project: **Chapter 96 Code Amendments**

Planning Commission Hearing: **August 17, 2022**

City Council Hearing: **October 10, 2022**

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**TIDINGS**

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**STAFF REPORT**

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8/5/22	<i>Lynn Schroder</i>
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**STAFF REPORT**

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9/30/22	<i>Lynn Schroder</i>
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**FINAL DECISION**

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participated in the proceedings or otherwise requested such notice no later than 5 working days after the final decision per Section 98.140 of the CDC.

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**Agenda Bill 2022-10-10 -04**

Date Prepared: September 26, 2022

For Meeting Date: October 10, 2022

To: Jules Walters, Mayor  
West Linn City Council

From: Lance Calvert, PE – City Engineer/Public Works Director *LEC*

Through: John Williams, City Manager *JRW*

Subject: Broadway Street Improvements Project (PW-21-11)

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**Purpose**

Council approval for the Broadway Street Improvements Project for frontage improvements and stormwater infrastructure improvements at the intersection of Broadway St. & Webb St.

**Question(s) for Council:**

Should the City partner with the Developer to construct new sidewalk and ADA ramp, and to make improvements to stormwater infrastructure in Broadway Street?

**Public Hearing Required:**

None required

**Background & Discussion:**

DreamBuilder Custom Homes, Inc. is developing 5769, 5759, and 5749 Broadway St. and is constructing frontage improvements including new sidewalk, planter strip, driveway approaches, and utility improvements. Additional street and storm infrastructure public improvements between the new development and the intersection of Broadway St. and Webb St. are necessary. In order to maximize public improvements in the most cost effective manner, partnering with the developer is required.

These improvements will provide overall benefit by extending public pedestrian infrastructure where currently lacking and by providing a new ADA ramp at the above referenced intersection. At the time of the planned street improvements, the City will also install improved stormwater infrastructure to address existing runoff in the area as well as to accommodate the anticipated increase of stormwater due to the development of the three lots.

**Budget Impact:**

\$95,313.50 from the Storm Fund. Funds are budgeted and available.

\$166,352.22 from the Streets and Bike/Ped SDC Fund. Funds are budgeted and available.

**Sustainability Impact:**

Not applicable.

**Council Goal/Priority:**

Goal 3 – Support a sustainable and healthy environment for all. Improve public and multimodal infrastructure

**Council Options:**

1. Award the contract to the lowest responsive and responsible bidder, Hal’s Construction.
2. Cancel the bid solicitation and retain the capital funds.

**Staff Recommendation:**

Approve the contract with Hal’s Construction to construct the Broadway Street Improvements, including sidewalk, curb, gutter, and storm infrastructure.

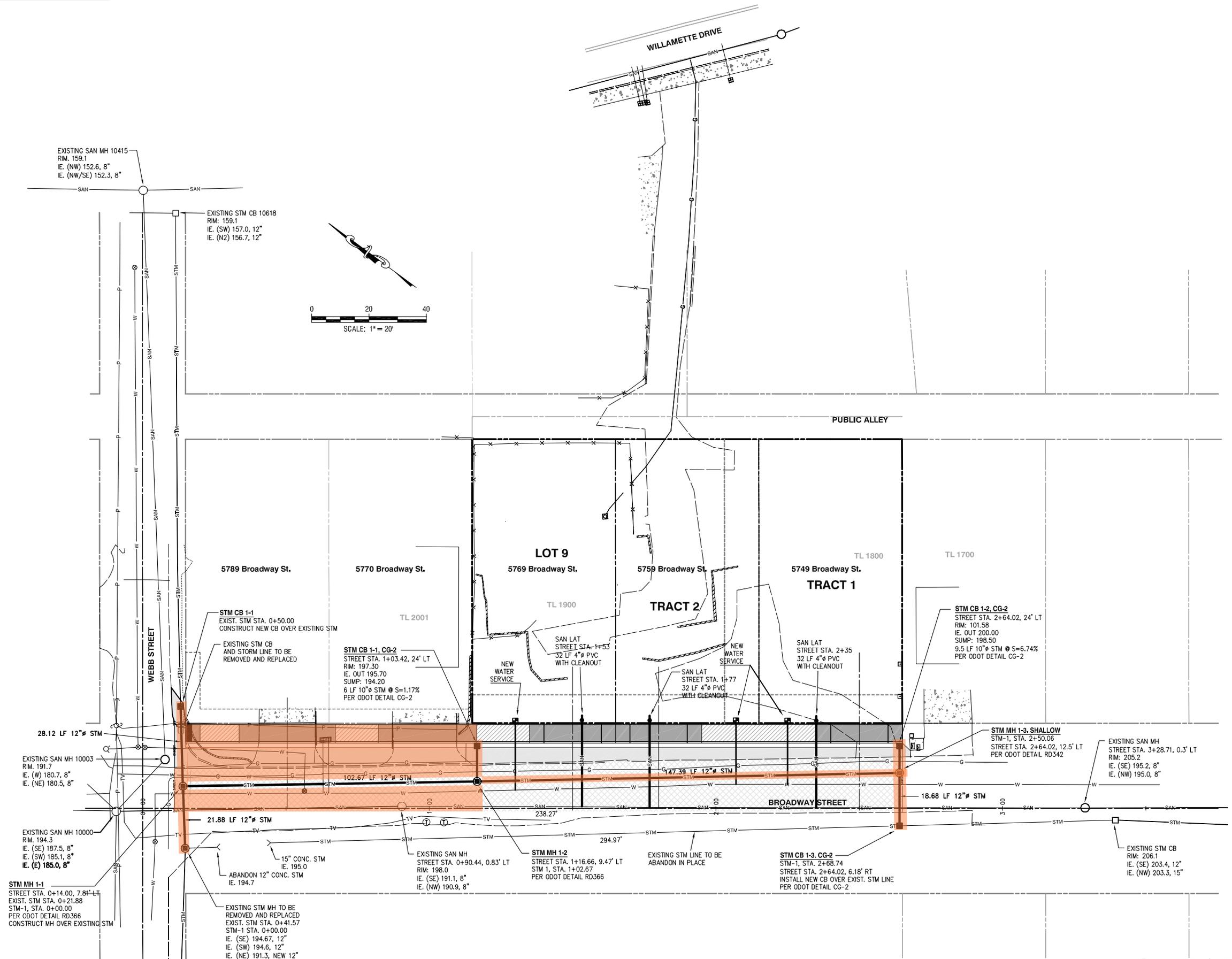
**Potential Motion:**

Acting in the capacity of the Local Contract Review Board, pass a motion authorizing the City Manager to sign a contract with the lowest responsive and responsible bidder, Hal’s Construction, in the amount of \$267,964.92 for the Broadway Street Improvements Project.

**Attachments:**

1. Bid Results
2. Work Agreement Exhibit
3. <https://westlinnoregon.gov/publicworks/broadway-street-improvements>







CITY OF

# West Linn

## Public Comment Form

I wish to speak during Public Comment on a topic not related to an agenda item (comments are limited to five minutes):

Please specify topic (required): ELECTIONS

I wish to speak on the agenda item listed below (comments are limited to five minutes):

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

Please print:

Name: CJ KOLL

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

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

City: WEST LINN State: OR Zip: 97068

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

Please submit this form to the City Recorder along with copies of any material to be handed out to the Council.



CITY OF

# West Linn

## Public Comment Form

I wish to speak during Public Comment on a topic not related to an agenda item (comments are limited to five minutes):

Please specify topic (required): Pickleball near Tanner Creek

I wish to speak on the agenda item listed below (comments are limited to five minutes):

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

Please print:

Name: Dan Lavery

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

Address (Optional): 3908 Maple Dr

City: West Linn State: OR Zip: 97068

Email (Optional): laveryd@gmail.com Phone (Optional): \_\_\_\_\_

Please submit this form to the City Recorder along with copies of any material to be handed out to the Council.



CITY OF

# West Linn

## Public Comment Form

I wish to speak during Public Comment on a topic not related to an agenda item (comments are limited to five minutes):

Please specify topic (required): Pickleball Noise Nuisance

I wish to speak on the agenda item listed below (comments are limited to five minutes):

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

Please print:

Name: Diana Lavery

Phonetic spelling, if difficult to pronounce: Diana

Address (Optional): 3408 Chelan Drive

City: West Linn State: OR Zip: 97068

Email (Optional): ~~blavery@westlinn.gov~~ Phone (Optional): \_\_\_\_\_

Please submit this form to the City Recorder along with copies of any material to be handed out to the Council.



CITY OF

# West Linn

## Public Comment Form

I wish to speak during Public Comment on a topic not related to an agenda item (comments are limited to five minutes):

Please specify topic (required): Tanner Creek Park - Pickleball Noise

I wish to speak on the agenda item listed below (comments are limited to five minutes):

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

Please print:

Name: Paul Blankenmeister

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

Address (Optional): 3486 Chaparral Loop

City: WL State: OR Zip: 97068

Email (Optional): pblankenmeister@gmail.com Phone (Optional): 503-781-7587

Please submit this form to the City Recorder along with copies of any material to be handed out to the Council.



I wish to speak during Public Comment on a topic not related to an agenda item (comments are limited to five minutes):

Please specify topic (required): Community Comment

I wish to speak on the agenda item listed below (comments are limited to five minutes):

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

**Please print:**

Name: Teri Cummins

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

Address (Optional): address on file

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Email (Optional): \_\_\_\_\_ Phone (Optional): 503-515-4751

**Please submit this form to the City Recorder along with copies of any material to be handed out to the Council.**

**Subject:**

FW: city council speech

*Snapshot of the item below:*

Thank you for the opportunity to speak to the city council.

My name is Dan Lavery and I live in Cascade Summit close to the Tanner Creek park.

A number of frustrated neighbors who wanted to speak were unable to come tonight.

I am here to represent many of those Tanner Basin neighbors and ask for help from the West Linn City Council, regarding the overwhelming noise coming from the pickleball courts in Tanner Creek Park.

I am also here to present our petition from the Tanner Basin neighborhood.

Please refer to the petition I emailed to the city council regarding the excessive pickleball noise coming from Tanner Creek Park.

The petition was signed by 75 neighbors. Most neighbors signed enthusiastically and some are clearly very angry about the level of noise. My wife plays Pickleball and some of our neighbors signing the petition are also pickleball players. All agree the noise needs to be controlled in our previously quiet community.

We have lived in the same house, close to Tanner Creek Park, for 23 years and we have never had an issue with noise until one of the tennis courts was turned into four pickleball courts.

Every summer we eat outside, entertain neighbors, friends and family and enjoy spending time on our deck and in our yard.

Since the pickleball courts were installed, we now avoid going into our beautiful, and inviting backyard and keep all of our windows closed to shelter from the unrelenting and nerve-racking noise. The hard paddle and hard ball create a piercing noise that even travels into our closed home. The orientation of the pickleball play creates a direct line of fire into our area. The

degree of noise is clearly unreasonable and negatively affecting our quality of life. Visitors to our house all express the same sentiment.

It is our understanding there there was no due diligence or site analysis completed prior to the placement of the pickleball courts at Tanner Park.

The same pickleball noise issue at Skyline Ridge Park lead to closure of those courts.

The requests in our petition are for the same noise reduction interventions that have recently been taken at George Rogers Park in Lake Oswego. Limiting the hours of play and installing a significant sound barrier.

Since the petition was initiated, it has also become clear that the level of noise coming from the courts is directly related to the number of people playing on the courts. If all 4 courts are being used at the same time, the noise goes from a nuisance level to completely intolerable. This most commonly occurs when the courts are reserved by a private pickleball club.

To help correct this toxic noise pollution we are asking for the 4 following interventions:

1. Limit and enforce the hours of play from 9 AM to 6 PM. These are essentially the same total hours as at George Rogers Park .
2. Placement of a sound barrier as directed by an acoustic engineer ASAP and certainly before next May. This may only need to be done on one or two sides.
- 3 Stop reservations of the courts by the private pickleball club which invariably encourages use of all four courts.
4. Reduce the number of courts from 4 to 2 with the courts designed for use by people in our local community.

If a satisfactory plan for noise reduction cannot be found we will ask that the courts be moved.

We love our city, our neighborhood, community and our house. Our two young granddaughters live 1/4 mile away. We do not want to be forced to move because of the intrusive and nerve-racking noise. So far we have not received any meaningful help

from the parks department and we ask that the City Council help us achieve an acceptable level of noise control and restore some peace and quiet to our homes.

I will end with a quote from the president of the Lake Oswego Pickleball club during their recent discussion at the Lake Oswego City Council meeting:

“ If by enjoying my pleasure I am harming another’s well-being, should I continue my action?”

Thanks for your time and we appreciate what you do.

October 10, 2022

### **Please Vote NO on Measure 3-587**

Dear Mayor Walters and City Council members, I have seen how difficult and complicated the waterline and tolling issues have been and I sympathize with you for how unfair and inflexible ODOT has been to West Linn despite everything our City has done to accommodate ODOT's projects. For example, voters agreed to allow ODOT use West Bridge Park and the McClean house area as a staging area and the use of other greenspace areas for an indefinite period of time. I would like to see ODOT treat West Linn with more respect and be a good partner.

I am also concerned about how the City is presenting the waterline issue.

As of today, October 10, 2022, a questionable explanation about the Abernethy (I-205) Bridge Water Line Replacement is posted on the [City webpage titled, Public Survey: Capital Infrastructure Funding Projects 2022](#), that is inappropriately persuasive in favor of passing the bond measure as follows:

“West Linn receives its entire water supply via a pipe under the I-205 Bridge. This pipe must be replaced at West Linn's expense when the State replaces the bridge (expected to begin in 2022). The City will seek funding assistance from the State and Federal Government for this project; however, West Linn's cost could be as much as \$14 million. West Linn voters will likely see a bond measure in November 2022 for this expense. **If the measure does not pass, the money will come from deferring water maintenance activities on West Linn's water system. This could lead to increased problems with breaks and leaks as our system ages.** The cost of a \$14 million bond would be approximately \$84/year for the owner of a home of average assessed value.”

The warning seems disingenuous because the Budget Committee and Council did not vote to use existing water fund money to pay for waterline projects.

At the [October 20 2021 meeting](#), Council learned that ODOT wanted West Linn to sign a binding IGA before December 2021 to demonstrate a commitment to pay ODOT approx. \$10.5 million for the Abernethy Bridge waterline.

The Finance Director said the City could “obtain a loan from the Oregon Infrastructure Bank that with 1% interest fee for the total loan amount plus other possible fees. Use of the LGIP or an OTIB loan would buy time for the City to determine how it would pay for the water line. “

According to documents presented last October, the waterline replacement would be eligible for Federal aid as follows:

“Some State and Federal OTIB funds require that a project is federal aid eligible, even if the project will not be subject to other federal requirements. Please specify if this project meets federal-aid eligibility requirements.

Yes, the water project is federal-aid eligible and meets all requirements for federal funding in coordination with (and as part of) the I-205 Abernethy bridge project”.

The written plan was to immediately start pursuing Federal, State and other funding resources and place a measure on the May ballot for the remaining amount.

I do not know if that happened. The former Mayor and City Council members reached out to the community to help lobby hard to obtain STIP funding and to save our Post Office. That would still be possible if we all Vote NO.

In my opinion, some of the questions in the June 2022 Community Survey on Capital Infrastructure Funding Projects questions seemed to foster the notion that we might lose our water if the \$14 million dollar bond ballot measure failed. Since, that is not true, it might have been more helpful to ask; “Do you think West Linn taxpayers should pay the total cost to replace the Abernethy waterline, even though the pipe has approximately twenty years of use left? Would you rather vote to pay the entire amount now or apply for a low-interest State loan in hopes of obtaining Federal and State infrastructure funds to reduce the cost?” and, “Would you be willing to help advocate for funding assistance?”

At [Council's July 25, 2022 meeting](#), all five Councilors seemed to be appalled at ODOT's new demand for \$14 million plus an unreasonably shortened timeframe

and expressed frustration with the fact that placing a measure on the November ballot would kill West Linn's chances of obtaining financial assistance.

But staff was strongly in favor of placing the measure on the November ballot anyway and offered assurance that "If the measure does not pass in November, it gives us time to look at next options, whether that is going out for a full faith and credit loan or an increase in water rates."

What does the community understand about the Abernethy waterline? Well, according to the [2022 Community Survey](#), approximately 14% have heard something about it, including the 3% who claimed to know about it.

Meanwhile, as of today, no draft notes are posted for Council's August 1, 2022 even though Council meetings that took place before and after August 1, 2022 include written notes. Why are no notes available for such an important matter? Please direct the City Manager to uphold your Council Rules requirement to post draft notes within two weeks.

It also did not help that the public notice published in the West Linn Tidings after Council voted to approve the ballot measure title language, did not include state mandated information about how to file an appeal, per State law. That would have been helpful to someone, like me, who finds the wording of the ballot title seems to be rather persuasive towards fostering an impression that voting against the measure could lead to the loss of, as stated, " (the City's only permanent source of daily drinking water)" The wording choice reminds me of when the State fined a former City Manager and Assistant City Manager for using persuasive language and images to further a different water related ballot measure in 2010.

**Please Vote NO on Measure 3-587.** Please give us a chance to lobby for Federal, State and other infrastructure funding.

Thank you for listening,

Teri Cummings, West Linn resident for 30 years